

By: King

S.B. No. 939

A BILL TO BE ENTITLED

AN ACT

relating to statutes of limitation and repose for certain claims arising out of residential construction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 16.008, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-2) and (a-3) to read as follows:

(a) Except as provided by Subsection (a-1) or (a-2), a person must bring suit for damages for a claim listed in Subsection (b) against a registered or licensed architect, engineer, interior designer, or landscape architect in this state, who designs, plans, or inspects the construction of an improvement to real property or equipment attached to real property, not later than 10 years after the substantial completion of the improvement or the beginning of operation of the equipment in an action arising out of a defective or unsafe condition of the real property, the improvement, or the equipment.

(a-2) With respect to any claim arising out of the design, planning, or inspection of a new residence, of an alteration of or repair or addition to an existing residence, or of an appurtenance to a residence, a person must bring suit for damages for a claim listed in Subsection (b) against a registered or licensed architect, engineer, interior designer, or landscape architect in this state, who designs, plans, or inspects the construction of an

1 improvement to real property or equipment attached to real
2 property, not later than eight years after the substantial
3 completion of the improvement or the beginning of operation of the
4 equipment in an action arising out of a defective or unsafe
5 condition of the real property, the improvement, or the equipment.

6 (a-3) For purposes of Subsection (a-2), "residence" has the
7 meaning assigned by Section 27.001, Property Code.

8 (c) If the claimant presents a written claim for damages,
9 contribution, or indemnity to the architect, engineer, interior
10 designer, or landscape architect within the applicable limitations
11 period, the period is extended for:

12 (1) two years from the date the claim is presented, for
13 a claim to which Subsection (a) applies; or

14 (2) one year from the date the claim is presented, for
15 a claim to which Subsection (a-1) or (a-2) applies.

16 SECTION 2. Section 16.009, Civil Practice and Remedies
17 Code, is amended by amending Subsections (a) and (c) and adding
18 Subsections (a-2), (a-3), and (a-4) to read as follows:

19 (a) Except as provided by Subsection (a-1) or (a-2), a
20 claimant must bring suit for damages for a claim listed in
21 Subsection (b) against a person who constructs or repairs an
22 improvement to real property not later than 10 years after the
23 substantial completion of the improvement in an action arising out
24 of a defective or unsafe condition of the real property or a
25 deficiency in the construction or repair of the improvement.

26 (a-2) Except as provided by this subsection, with respect to
27 any claim arising out of the design, construction, or repair of a

1 new residence, of an alteration of or repair or addition to an
2 existing residence, or of an appurtenance to a residence, a
3 claimant must bring suit for damages for a claim listed in
4 Subsection (b) against a person who constructs or repairs an
5 improvement to real property not later than eight years after the
6 substantial completion of the improvement in an action arising out
7 of a defective or unsafe condition of the real property or a
8 deficiency in the construction or repair of the improvement. If the
9 person being sued is a contractor who has provided a written
10 warranty for the residence that complies with Subsection (a-3), the
11 claimant must bring the suit not later than five years after the
12 substantial completion of the improvement.

13 (a-3) For purposes of Subsection (a-2), a written warranty
14 must provide a minimum period of:

- 15 (1) one year for workmanship and materials;
16 (2) two years for plumbing, electrical, heating, and
17 air-conditioning delivery systems; and
18 (3) five years for major structural components.

19 (a-4) For purposes of Subsection (a-2), "contractor" and
20 "residence" have the meanings assigned by Section 27.001, Property
21 Code.

22 (c) If the claimant presents a written claim for damages,
23 contribution, or indemnity to the person performing or furnishing
24 the construction or repair work during the applicable limitations
25 period, the period is extended for:

- 26 (1) two years from the date the claim is presented, for
27 a claim to which Subsection (a) applies; or

1 (2) one year from the date the claim is presented, for
2 a claim to which Subsection (a-1) or (a-2) applies.

3 SECTION 3. (a) Except as provided by this section, Section
4 16.008, Civil Practice and Remedies Code, as amended by this Act,
5 applies to a cause of action arising out of a design, plan, or
6 inspection of the construction of an improvement to real property
7 or equipment attached to real property that commences on or after
8 the effective date of this Act. Section 16.008, Civil Practice and
9 Remedies Code, as amended by this Act, does not apply to a cause of
10 action arising out of a design, plan, or inspection that commences
11 on or after the effective date of this Act under a contract entered
12 into before that date.

13 (b) A cause of action arising out of a design, plan, or
14 inspection of the construction of an improvement to real property
15 or equipment attached to real property that commenced before the
16 effective date of this Act or arising out of a design, plan, or
17 inspection of the construction of an improvement to real property
18 or equipment attached to real property that commences on or after
19 the effective date of this Act under a contract entered into before
20 that date is governed by the law applicable to the cause of action
21 immediately before the effective date of this Act, and that law is
22 continued in effect for that purpose.

23 SECTION 4. (a) Except as provided by this section, Section
24 16.009, Civil Practice and Remedies Code, as amended by this Act,
25 applies to a cause of action arising out of the design,
26 construction, or repair of an improvement to real property that
27 commences on or after the effective date of this Act. Section

1 16.009, Civil Practice and Remedies Code, as amended by this Act,
2 does not apply to a cause of action arising out of the design,
3 construction, or repair of an improvement to real property that
4 commences on or after the effective date of this Act under a
5 contract entered into before that date.

6 (b) A cause of action arising out of the design,
7 construction, or repair of an improvement to real property that
8 commenced before the effective date of this Act or arising out of
9 the design, construction, or repair of an improvement to real
10 property that commences on or after the effective date of this Act
11 under a contract entered into before that date is governed by the
12 law applicable to the cause of action immediately before the
13 effective date of this Act, and that law is continued in effect for
14 that purpose.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2023.