

BILL ANALYSIS

Senate Research Center
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H.B. 3069
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, public building owners have 12 years to sue architects, engineers, and contractors for defects. This is known as the statute of repose. The alleged defects must be found within 10 years of the building's completion, and building owners get an additional two years to sue for defects discovered in the 10th year.

H.B. 3069 would shorten the time public building owners can sue for defects from 10 years to eight years for public projects. Building owners would have an additional year (instead of an additional two years) to sue for defects discovered in the last year.

H.B. 3069 amends current law relating to statutes of limitation and repose for certain claims involving the construction or repair of an improvement to real property or equipment attached to real property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 16.008, Civil Practice and Remedies Code, by amending Subsections (a) and (c) and adding Subsection (a-1), as follows:

(a) Creates an exception as provided by Subsection (a-1) to the requirement that a person bring suit for damages for a claim listed in Subsection (b) (relating to application of this section to certain suits) against certain professionals, 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-1) Requires a governmental entity to 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 eight 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. Provides that this subsection does not apply to a claim arising out of:

- (1) a contract entered into by the Texas Department of Transportation (TxDOT);
- (2) a project that receives money from the state highway fund or a federal fund designated for highway and mass transit spending; or
- (3) a civil works project, as that term is defined under Section 2269.351 (Definitions), Government Code.

(c) Provides that if the claimant presents a written claim for damages, contribution, or indemnity to the architect, engineer, interior designer, or landscape architect within the applicable limitations period, rather than the 10-year limitations period, the period is extended for two years from the date the claim is presented, for a claim to which Subsection (a) applies or one year from the date the claim is presented, for a claim to which Subsection (a-1) applies. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 16.009, Civil Practice and Remedies Code, by amending Subsections (a), (c), and (d) and adding Subsection (a-1), as follows:

(a) Adds an exception as provided by Subsection (a-1) to the requirement that a claimant bring suit for damages for a claim listed in Subsection (b) (relating to application of this section to certain suits) against a person who constructs or repairs an improvement to real property not later than 10 years after the substantial completion of the improvement in an action arising out of a defective or unsafe condition of the real property, or a deficiency in the construction or repair of the improvement.

(a-1) Requires a governmental entity to bring suit for damages for a claim listed in Subsection (b) against a person who constructs or repairs an improvement to real property not later than eight years after the substantial completion of the improvement in an action arising out of a defective or unsafe condition of the real property or a deficiency in the construction or repair of the improvement. Provides that this subsection does not apply to a claim arising out of:

(1) a contract entered into by TxDOT;

(2) a project that receives money from the state highway fund or a federal fund designated for highway and mass transit spending; or

(3) a civil works project, as that term is defined under Section 2269.351, Government Code.

(c) Provides that if the claimant presents a written claim for damages, contribution, or indemnity to the person performing or furnishing the construction or repair work during the applicable limitations period, the period is extended for two years from the date the claim is presented, for a claim to which Subsection (a) applies or one year from the date the claim is presented, for a claim to which Subsection (a-1) applies. Makes conforming and nonsubstantive changes.

(d) Makes conforming changes to this subsection.

SECTION 3. (a) Provides that except as provided by this section, Section 16.008 (Architects, Engineers, Interior Designers, and Landscape Architects Furnishing Design, Planning, or Inspection of Construction of Improvements), Civil Practice and Remedies Code, as amended by this Act, applies to a cause of action arising out of a design, plan, or inspection of the construction of an improvement to real property or equipment attached to real property that commences on or after the effective date of this Act. Provides that Section 16.008, Civil Practice and Remedies Code, as amended by this Act, does not apply to a cause of action arising out of a design, plan, or inspection that commences on or after the effective date of this Act under a contract entered into before that date.

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

SECTION 4. (a) Provides that except as provided by this section, Section 16.009 (Persons Furnishing Construction or Repair of Improvements), Civil Practice and Remedies Code, as amended by this Act, applies to a cause of action arising out of construction or repair of an improvement to real property that commences on or after the effective date of this Act. Provides that Section 16.009, Civil Practice and Remedies Code, as amended by this Act, does not apply to a cause of action arising out of construction or repair of an improvement to real property that commences on or after the effective date of this Act under a contract entered into before that date.

(b) Provides that a cause of action arising out of construction or repair of an improvement to real property that commenced before the effective date of this Act or arising out of construction or repair of an improvement to real property that commences on or after the effective date of this Act under a contract entered into before that date is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. Effective date: upon passage or September 1, 2021.