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## OLR Bill Analysis

### sHB 5570

#### ***AN ACT CONCERNING THE APPLICABILITY OF THE STATUTE OF LIMITATIONS TO CONSTRUCTION AND DESIGN ACTIONS BROUGHT BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.***

#### **SUMMARY:**

This bill subjects the state and its political subdivisions to a 10-year statute of limitations for bringing certain actions against design professionals in connection with the improvement of real property. The affected design professionals are architects, professional engineers, and land surveyors.

The bill applies to actions against a design professional performing or furnishing the design, planning, supervision, observation of construction, or construction of, or land surveying in connection with, the improvement:

1. to recover damages for (a) any deficiency in performing these services, (b) injury to property or a person, or (c) wrongful death arising out of the deficiency or
2. for a contribution or indemnity brought as a result of such claims for damages.

The bill applies to actions in contract, tort, or otherwise.

Under the bill, the 10-year period for the state and its subdivisions runs from the substantial completion of the improvement. The improvement is substantially complete when (1) the owner or tenant first uses it or (2) it is first available for use after having been completed in accordance with the contract or agreement covering the improvement, including any agreed changes to the contract or agreement, whichever is earlier.

EFFECTIVE DATE: October 1, 2014, and applicable to actions accruing on or after that date.

## **BACKGROUND**

### ***Related Court Case***

Under the common law doctrine of *nullum tempus occurrit regi* (no time runs against the king), a statute of limitations does not apply to a state unless a law specifically provides that it does.

In *State of Connecticut v. Lombardo Brothers Mason Contractors, Inc., et al.*, 307 Conn. 412 (2012), the Connecticut Supreme Court unanimously held that this doctrine is part of the Connecticut common law and that the state could proceed with an action for damages against contractors of the UConn Law School library, notwithstanding the statute of limitations that would otherwise apply. It also held that the public works commissioner lacked statutory authority to waive the state's rights by contract, as he had done in this instance.

### ***Statute of Limitations for Nongovernmental Parties***

By law, the statute of limitations for actions by nongovernmental parties against design professionals is generally seven years after substantial completion of the improvement. But, in the case of an injury to property or persons or wrongful death arising from an injury when the injury occurred during the seventh year after substantial completion, an action in tort to recover damages may be brought within one year after the date of injury, but no more than eight years after the substantial completion of construction of the improvement.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/02/2014)