



Substitute Senate Bill No. 1032

Public Act No. 15-28

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.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2017*) (a) As used in this section: (1) "Construction-related work" means the design, construction, construction management, planning, construction administration, surveying, supervision, inspection or observation of construction of improvements to real property; and (2) "tolling agreement" means a written agreement between the state or a political subdivision of the state and (A) a person performing or furnishing construction-related work, (B) a surety, or (C) an insurer, by which the person, surety or insurer agrees to extend the limitation period within which the state or a political subdivision may bring an action or claim against such person, surety or insurer.

(b) For any improvement to real property substantially completed on or after October 1, 2017, and subject to any statutory or common law rules tolling limitations periods, no action or claim, whether in contract, in tort, or otherwise, to recover damages for any deficiency arising out of construction-related work, or for any injury to property,

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real or personal, or for any injury to the person, or bodily injury or wrongful death, arising out of any such deficiency, shall be brought by the state or any political subdivision of the state more than ten years after the date of substantial completion of such improvement.

(c) No action or claim described in subsection (b) of this section for an improvement to real property substantially completed prior to October 1, 2017, shall be brought by the state or any political subdivision of the state after October 1, 2027.

(d) For any improvement to real property substantially completed on or after October 1, 2017, and subject to any statutory or common law rules tolling limitations periods, an action or claim for indemnity or contribution arising out of construction-related work shall be brought by the state or any political subdivision of the state not more than ten years after the date of substantial completion of such improvement or not later than three years after the date of the determination of the action or claim against the state or political subdivision of the state that is seeking indemnification by either judgment or settlement, whichever occurs later. For any improvement to real property substantially completed prior to October 1, 2017, and subject to any statutory or common law rules tolling limitations periods, an action or claim for indemnity or contribution arising out of construction-related work shall be brought by the state or any political subdivision of the state not later than October 1, 2027, or not later than three years after the date of the determination of the action or claim against the state or political subdivision of the state that is seeking indemnification by either judgment or settlement, whichever occurs later.

(e) The limitations prescribed in subsections (b) to (d), inclusive, of this subsection shall not bar an action or claim (1) on a written warranty, guarantee or other agreement, including a tolling agreement, that expressly provides for a longer effective period; (2)

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based on wilful misconduct in connection with the performance or furnishing of construction-related work; (3) under any environmental remediation law or pursuant to any contract entered into by the state or any political subdivision of the state in carrying out its responsibilities under any environmental remediation law; or (4) pursuant to any contract for enclosure, removal or encapsulation of asbestos.

(f) For the purposes of subsections (b) to (d), inclusive, of this section, an improvement to real property shall be considered substantially complete when such real property is first (1) used by the state or any political subdivision of the state, or a tenant thereof; or (2) 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 occurs first, except that any public highway, bridge improvement or improvement to railroad right-of-way, ferry, port or airport infrastructure shall be considered substantially complete upon the issuance of a certificate of acceptance of the work relieving the contractor of maintenance responsibility.

(g) Except as provided in this section, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall be asserted against the state.

Approved June 4, 2015