

By: Hughes  
(Shine, Oliveira, Workman, Kacal)

S.B. No. 1215

A BILL TO BE ENTITLED

AN ACT

relating to responsibility for the consequences of defects in the plans, specifications, or related documents for the construction or repair of an improvement to real property.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 59 to read as follows:

CHAPTER 59. RESPONSIBILITY FOR DEFECTS IN PLANS AND SPECIFICATIONS

Sec. 59.001. APPLICABILITY. This chapter applies only to a contract for the construction or repair of an improvement to real property.

Sec. 59.002. DEFINITION. In this chapter, "contractor" means a person required to perform work under a contract.

Sec. 59.003. CONTRACTOR NOT RESPONSIBLE FOR CERTAIN DEFECTS. (a) A contractor is not responsible for the consequences of defects in and may not warranty the accuracy, adequacy, sufficiency, or suitability of plans, specifications, or other design or bid documents provided to the contractor by:

(1) the person with whom the contractor entered into the contract; or

(2) another person on behalf of the person with whom the contractor entered into the contract.

(b) A contractor must disclose to the owner a condition

1 discovered during construction that was not known or could not have  
2 reasonably been known at the time of design.

3 (c) A contractor who fails to disclose a condition as  
4 required by Subsection (b) may be liable for defects that result  
5 from the failure to disclose.

6 Sec. 59.004. WAIVER OF CHAPTER PROHIBITED. A person may not  
7 waive this chapter by any means. A purported waiver of this chapter  
8 is void.

9 SECTION 2. (a) The changes in law made by this Act apply  
10 only to a contract for the construction or repair of an improvement  
11 to real property entered into on or after the effective date of this  
12 Act. A contract entered into before the effective date of this Act  
13 is governed by the law in effect when the contract was entered into,  
14 and the former law is continued in effect for that purpose.

15 (b) An original contract for the construction or repair of  
16 an improvement to real property with the owner of an interest in  
17 real property that is entered into before the effective date of this  
18 Act, and a subcontract or purchase order for providing labor or  
19 materials associated with that original contract, whether the  
20 subcontract or purchase order is entered into before, on, or after  
21 the effective date of this Act, is governed by the law in effect  
22 when the original contract was entered into, and the former law is  
23 continued in effect for that purpose.

24 SECTION 3. This Act takes effect September 1, 2017.

COMMITTEE AMENDMENT NO. 1

Amend SB 1215 (engrossed) as follows:

(1) On page 1, line 16, strike the word "A", and before the word "contractor" insert "Except as provided by Sec. 59.004, a"; and

(2) On page 2, lines 6 through line 8, strike all language and substitute "Sec. 59.004. WAIVER OF CHAPTER. A person may not waive this chapter unless the contractor agrees to do so in writing with the person with whom the contractor entered the contract."

Oliveira