

Regular Session, 2012

SENATE BILL NO. 258

BY SENATOR APPEL

PRESCRIPTION. Provides relative to preemptive periods for certain actions involving surveying, design, and construction of immovables or improvements. (8/1/12)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 9:2772(A) and (B)(3) and to enact  
3 R.S. 9:2772(A)(1)(c), relative to preemptive periods for certain actions; to authorize  
4 the filing of certain contribution, indemnity or third-party claims; to provide certain  
5 terms, conditions and requirements; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. The introductory paragraph of R.S. 9:2772(A) and (B)(3) are hereby  
8 amended and reenacted and R.S. 9:2772(A)(1)(c) is hereby enacted to read as follows:

9 §2772. Preemptive period for actions involving deficiencies in surveying, design,  
10 supervision, or construction of immovables or improvements thereon;

11 A. **Except as otherwise provided in this Subsection, no** action, whether ex  
12 contractu, ex delicto, or otherwise, including but not limited to an action for failure  
13 to warn, to recover on a contract, or to recover damages, or otherwise arising out of  
14 an engagement of planning, construction, design, or building immovable or movable  
15 property which may include, without limitation, consultation, planning, designs,  
16 drawings, specification, investigation, evaluation, measuring, or administration  
17 related to any building, construction, demolition, or work, shall be brought against

1 any person performing or furnishing land surveying services, as such term is defined  
 2 in R.S. 37:682, including but not limited to those services preparatory to  
 3 construction, or against any person performing or furnishing the design, planning,  
 4 supervision, inspection, or observation of construction or the construction of  
 5 immovables, or improvement to immovable property, including but not limited to a  
 6 residential building contractor as defined in R.S. 37:2150.1(9):

7 (1)(a) More than five years after the date of registry in the mortgage office  
 8 of acceptance of the work by owner.

9 (b) If no such acceptance is recorded within six months from the date the  
 10 owner has occupied or taken possession of the improvement, in whole or in part,  
 11 more than five years after the improvement has been thus occupied by the owner.

12 **(c) If, within the five-year preemptive period described in Subparagraph**  
 13 **(a) of this Paragraph, a claim is brought against any person or entity included**  
 14 **within the provisions of this Subsection, then such person or entity shall have**  
 15 **ninety days from the date of service of the main demand or, in the case of a**  
 16 **third-party defendant, within ninety days from service of process of the third**  
 17 **party demand, to file a claim for contribution, indemnity or a third-party claim**  
 18 **against any other party.**

19 \* \* \*

20 B. (1)

21 \* \* \*

22 (3) **Except as otherwise provided in Subsection A, this** This preemptive  
 23 period shall extend to every demand, whether brought by direct action or for  
 24 contribution or indemnity or by third-party practice, and whether brought by the  
 25 owner or by any other person.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

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DIGEST

Appel (SB 258)

Present law provides that no action arising out of planning, construction, design or building of immovable or movable property may be brought against anyone providing land surveying services or services furnished for the design, planning, supervision, inspection or observation of construction or services for construction of immovables or improvement to immovable property, including a residential building contractor, may be brought more than five years after the date of registry in the mortgage office of acceptance of the work by the owner, or more than five years after the owner has taken possession of the improvement.

Present law provides that a five-year preemptive period extends to every demand arising under the present law, whether brought by direct action or for contribution or indemnity or by third-party practice, and whether brought by the owner or by any other person.

Proposed law adds exception that if, within the five-year preemptive period, a claim is brought against any person or entity included in the present law, then that person or entity has 90 days from date of service of the main demand or, in the case of a third-party defendant, 90 days from service of process of the third-party demand, to file a claim for contribution, indemnity or a third-party claim against any other party.

Effective August 1, 2012.

(Amends R.S. 9:2772(A) (intro para) and (B)(3); adds R.S. 9:2772(A)(1)(c))