

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

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

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

12 A. **Except as otherwise provided in this Subsection, no** action, whether ex
13 contractu, ex delicto, or otherwise, including but not limited to an action for failure
14 to warn, to recover on a contract, or to recover damages, or otherwise arising out of
15 an engagement of planning, construction, design, or building immovable or movable
16 property which may include, without limitation, consultation, planning, designs,
17 drawings, specification, investigation, evaluation, measuring, or administration
18 related to any building, construction, demolition, or work, shall be brought against
19 any person performing or furnishing land surveying services, as such term is defined
20 in R.S. 37:682, including but not limited to those services preparatory to

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

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

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

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

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18 B. (1)

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

24 * * *

25 E. The preemptive period provided by this Section shall not be asserted by
26 way of defense by a person in possession or control, as owner, lessor, tenant, or
27 ~~otherwise,~~ **other possessory interest,** of such an improvement at the time any
28 deficiency in such an improvement constitutes the proximate cause of the injury,
29 damage, or death sued upon with regard to any cause of action arising out of the
30 alleged delict, quasi delict, or obligation of any such person arising out of his

1 possession or control of the property.

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____