

SUBJECT: Limitations on filing claims against interior designers/landscape architects

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 5 ayes — Gray, Hilbert, Nixon, Roman, Zbranek
1 nay — Bosse
3 absent — Alvarado, Dutton, Goodman

WITNESSES: For —Lynn Nabers, Texas Association of Interior Design; Irving Schwartz; Marla Bommarito-Crouch, University of Texas at Austin Advisory Committee; Debbie Cullum, Acoustical Resources, Inc.; Jackie Depew, Spicewood Gallery and Design Studio; Pete Gasper; Olaf Harris; Earl Herring; Alan R. Lauck, The Lauck Group, Inc.; Janna Paulson; Patti Riley-Brown, Riley Brown, Inc.; Marilyn Roberts, The Etagere Interior Design; Andre Staffelbach
Against — Richard Hile, Texas Trial Lawyers Association

BACKGROUND : Suits against licensed architects and engineers based on defective or unsafe conditions in design, planning or inspection of improvements to real property must be filed within 10 years after substantial completion of the improvement to the property. Such a limitation is known as a statute of repose. The actions must be brought within 10 years no matter how long would take for the owner of the property to discover the defect.
Generally suits without specific limitations periods must be brought within four years after the cause of action accrues. The limitations period generally does not begin to run until the person bringing the suit knows or should have known of the circumstances giving rise to the cause of action.

DIGEST: CSHB 1456 would add licensed interior designers and landscape architects to the section setting a statute of limitation on suits against architects and engineers.

CSHB 1456 would take effect September 1, 1997 and apply to suits brought after January 1, 1998, regardless of when the cause of action giving rise to the claim accrued.

**SUPPORTERS
SAY:**

Interior designers and landscape architects are professional designers responsible for many of the same responsibilities concerning construction projects as architects and engineers. There are currently 8,700 licensed interior designers. They have been licensed by the Texas Board of Architectural Examiners since 1991. There are approximately 1,220 licensed landscape architects, and they have been subject to licensing requirements since 1969.

Interior designers and landscape architects perform many of the same duties as architects and engineers, yet they are not afforded the same protection against suits as architects and engineers. Persons who do essentially similar jobs should be treated similarly under the law. This bill would not limit the liability of interior designers and landscape architects; it would simply mean that they could not be sued for projects completed more than 10 years ago.

The 10-year limitations period is imposed because so many factors can affect the structures over time. After many years, geological events, such as land shifts, can affect structural integrity. After a certain number of years, it becomes impossible to determine if something was a structural defect or caused by the age of the structure.

The application of the statute of limitations to all suits filed after January 1, 1998, is necessary to ensure that, after that date, interior designers and landscape architects could not be held liable for projects completed before 1988. The extended period of time from the date this legislation would become effective until the time a suit must be filed would allow owners to have their property inspected to ensure that there are not any defective or unsafe conditions for which they would need to obtain relief from the interior designer or landscape architect.

**OPPONENTS
SAY:**

A statute of limitations restricting the right to bring a suit to a certain number of years rather than after the problem is discovered should only be used in limited circumstances. Hidden defects, especially structural defects, can often take years to discover. The work of interior designers and

landscape architects is less likely to be affected by geological factors than the work of architects and engineers as it relates to either the interior of the structure or to land not attached to the structure.

Any change to this statute of limitation should include a waiver of the statute of limitations if the defect is fraudulently concealed. Such a waiver is included in the statute of limitations provision for those who construct or repair improvements to real property in sec. 16.009 of the Civil Practices and Remedies Code.

NOTES:

The committee substitute to HB 1456 adds language covering landscape architects under the provisions of the bill.

The companion bill, SB 1690 by Cain, has been referred to the Senate Jurisprudence Committee.