

By: Wentworth

S.B. No. 561

A BILL TO BE ENTITLED

AN ACT

relating to damages in an action arising out of a deficiency in the construction or repair of an improvement to real property.

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

SECTION 1. Chapter 41, Civil Practice and Remedies Code, is amended by adding Section 41.014 to read as follows:

Sec. 41.014. DAMAGES FOR CONSTRUCTION DEFECT. (a) In this section, "construction defect" means a deficiency in the construction or repair of an improvement to real property.

(b) This section applies only to a claim against a person who constructed or repaired an improvement to real property to recover the cost of curing a construction defect.

(c) This section applies to a claim regardless of whether the claim is asserted by a person who contracted for the construction or repair.

(d) The amount of actual damages for the cost to cure a construction defect that might otherwise be awarded in a claim subject to this section is reduced by 10 percent for each anniversary of the date of substantial completion of the construction or repair that occurs before the date the action asserting the claim is filed. An award of exemplary damages, multiplied damages, or other damages that is computed on the basis of the amount awarded as damages for the cost to cure the construction defect must reflect any reduction of that amount under

1 this section.

2           SECTION 2. The change in law made by this Act applies only  
3 to construction or repair of an improvement to real property  
4 commenced on or after the effective date of this Act under a  
5 contract entered into on or after the effective date of this Act.  
6 Construction or repair of an improvement to real property under a  
7 contract entered into before the effective date of this Act is  
8 governed by the law in effect immediately before the effective date  
9 of this Act, and that law is continued in effect for that purpose.

10           SECTION 3. This Act takes effect September 1, 2011.