

SB 5080 - H COMM AMD
By Committee on Judiciary

NOT CONSIDERED 01/05/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature enacts this act to limit
4 the Washington supreme court decision in *Vern J. Oja and Assoc. v.*
5 *Washington Park Towers, Inc.*, 89 Wn.2d 72, 569 P.2d 1141 (1977),
6 which held that claims for damage to real property resulting from
7 construction activities on adjacent property do not accrue until the
8 construction project on the adjacent property is complete.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.16 RCW
10 to read as follows:

11 (1) Except as provided in subsection (2) of this section, actions
12 for damage to real property resulting from construction, alteration,
13 or repair on an adjacent property, whether alleging negligence,
14 strict liability, trespass, or any other cause of action against a
15 public entity using funds approved by the registered voters of its
16 jurisdiction for the construction of a transportation project, must
17 be commenced within the earlier of the following periods:

18 (a) Within three years after the property owner first discovered
19 the damage; or

20 (b) Within three years after completion of the construction,
21 alteration, or repair.

22 (2) Actions for such damage that: (a) Is known or reasonably
23 should have been known as of the effective date of this section; and
24 (b) is caused by a construction, alteration, or repair project that
25 is not complete as of the effective date of this section must be
26 commenced within three years of the effective date of this section.

27 (3) Nothing in this section may be construed as extending the
28 period for bringing a claim beyond the periods provided in RCW
29 4.16.300, 4.16.310, and 4.16.320, or barring a cause of action
30 against a public entity for the operation and maintenance of the
31 transportation project."

1 Correct the title.

EFFECT: Changes the intent section to provide that the Legislature intends to limit, rather than overrule, the Oja case. Strikes that part of the limitations period that referred to 3 years after the owner reasonably should have discovered the damage, thus providing that causes of action subject to the new section must be brought within the earlier of 3 years after discovery or 3 years after completion of construction. Provides that the causes of actions subject to the limitations period set forth in the new section are those brought against a public entity using funds approved by the registered voters of its jurisdiction for the construction of a transportation project. Provides that nothing in the new section may be construed to bar a cause of action against a public entity for the operation and maintenance of the transportation project.

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