

By Representative Cosgrove

1 A bill to be entitled
2 An act relating to the statute of repose;
3 amending s. 95.031, F.S.; exempting aircraft
4 and their component parts from the statute of
5 repose; providing for application; providing an
6 effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Subsection (2) of section 95.031, Florida
11 Statutes, is amended to read:

12 95.031 Computation of time.--Except as provided in
13 subsection (2) and in s. 95.051 and elsewhere in these
14 statutes, the time within which an action shall be begun under
15 any statute of limitations runs from the time the cause of
16 action accrues.

17 (2)(a) An action for fraud under s. 95.11(3) must be
18 begun within the period prescribed in this chapter, with the
19 period running from the time the facts giving rise to the
20 cause of action were discovered or should have been discovered
21 with the exercise of due diligence, instead of running from
22 any date prescribed elsewhere in s. 95.11(3), but in any event
23 an action for fraud under s. 95.11(3) must be begun within 12
24 years after the date of the commission of the alleged fraud,
25 regardless of the date the fraud was or should have been
26 discovered.

27 (b) An action for products liability under s. 95.11(3)
28 must be begun within the period prescribed in this chapter,
29 with the period running from the date that the facts giving
30 rise to the cause of action were discovered, or should have
31 been discovered with the exercise of due diligence, rather

1 than running from any other date prescribed elsewhere in s.
2 95.11(3), except as provided within this subsection. Under no
3 circumstances may a claimant commence an action for products
4 liability, including a wrongful death action or any other
5 claim arising from personal injury or property damage caused
6 by a product, to recover for harm allegedly caused by a
7 product with an expected useful life of 10 years or less, if
8 the harm was caused by exposure to or use of the product more
9 than 12 years after delivery of the product to its first
10 purchaser or lessee who was not engaged in the business of
11 selling or leasing the product or of using the product as a
12 component in the manufacture of another product. All products,
13 except those included within subparagraph 1. or subparagraph
14 2., are conclusively presumed to have an expected useful life
15 of 10 years or less.

16 1. ~~Aircraft used in commercial or contract carrying of~~
17 ~~passengers or freight,~~Vessels of more than 100 gross tons,
18 railroad equipment used in commercial or contract carrying of
19 passengers or freight, and improvements to real property,
20 including elevators and escalators, are not subject to the
21 statute of repose provided within this subsection.

22 2. Any product not listed in subparagraph 1. or
23 subparagraph 4., which the manufacturer specifically
24 warranted, through express representation or labeling, as
25 having an expected useful life exceeding 10 years, has an
26 expected useful life commensurate with the time period
27 indicated by the warranty or label. Under such circumstances,
28 no action for products liability may be brought after the
29 expected useful life of the product, or more than 12 years
30 after delivery of the product to its first purchaser or lessee
31 who was not engaged in the business of selling or leasing the

1 product or of using the product as a component in the
2 manufacture of another product, whichever is later.
3 3. With regard to those products listed in
4 subparagraph 1., except for escalators, elevators, and
5 improvements to real property, no action for products
6 liability may be brought more than 20 years after delivery of
7 the product to its first purchaser or lessor who was not
8 engaged in the business of selling or leasing the product or
9 of using the product as a component in the manufacture of
10 another product. However, if the manufacturer specifically
11 warranted, through express representation or labeling, that
12 the product has an expected useful life exceeding 20 years,
13 the repose period shall be the time period warranted in
14 representations or label.

15 4. Aircraft and their component parts are not subject
16 to the statute of repose provided within this subsection.

17 (c) The repose period prescribed in paragraph (b) does
18 not apply if the claimant was exposed to or used the product
19 within the repose period, but an injury caused by such
20 exposure or use did not manifest itself until after expiration
21 of the repose period.

22 (d) The repose period prescribed within paragraph (b)
23 is tolled for any period during which the manufacturer through
24 its officers, directors, partners, or managing agents had
25 actual knowledge that the product was defective in the manner
26 alleged by the claimant and took affirmative steps to conceal
27 the defect. Any claim of concealment under this section shall
28 be made with specificity and must be based upon substantial
29 factual and legal support. Maintaining the confidentiality of
30 trade secrets does not constitute concealment under this
31 section.

