

By Senator Forman

32-23-00

1 A bill to be entitled
2 An act relating to limitations on actions;
3 amending s. 95.031, F.S.; repealing a 12-year
4 statute of repose on actions brought to recover
5 for harm caused by products having a specified
6 expected useful life; repealing exceptions and
7 exemptions from such statute; repealing
8 provisions relating to the tolling of the
9 statute under specified circumstances;
10 providing an effective date.

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

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

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

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

31

1 ~~(b) An action for products liability under s. 95.11(3)~~
2 ~~must be begun within the period prescribed in this chapter,~~
3 ~~with the period running from the date that the facts giving~~
4 ~~rise to the cause of action were discovered, or should have~~
5 ~~been discovered with the exercise of due diligence, rather~~
6 ~~than running from any other date prescribed elsewhere in s.~~
7 ~~95.11(3), except as provided within this subsection. Under no~~
8 ~~circumstances may a claimant commence an action for products~~
9 ~~liability, including a wrongful death action or any other~~
10 ~~claim arising from personal injury or property damage caused~~
11 ~~by a product, to recover for harm allegedly caused by a~~
12 ~~product with an expected useful life of 10 years or less, if~~
13 ~~the harm was caused by exposure to or use of the product more~~
14 ~~than 12 years after delivery of the product to its first~~
15 ~~purchaser or lessee who was not engaged in the business of~~
16 ~~selling or leasing the product or of using the product as a~~
17 ~~component in the manufacture of another product. All products,~~
18 ~~except those included within subparagraph 1. or subparagraph~~
19 ~~2., are conclusively presumed to have an expected useful life~~
20 ~~of 10 years or less.~~

21 ~~1. Aircraft used in commercial or contract carrying of~~
22 ~~passengers or freight, vessels of more than 100 gross tons,~~
23 ~~railroad equipment used in commercial or contract carrying of~~
24 ~~passengers or freight, and improvements to real property,~~
25 ~~including elevators and escalators, are not subject to the~~
26 ~~statute of repose provided within this subsection.~~

27 ~~2. Any product not listed in subparagraph 1., which~~
28 ~~the manufacturer specifically warranted, through express~~
29 ~~representation or labeling, as having an expected useful life~~
30 ~~exceeding 10 years, has an expected useful life commensurate~~
31 ~~with the time period indicated by the warranty or label. Under~~

1 ~~such circumstances, no action for products liability may be~~
2 ~~brought after the expected useful life of the product, or more~~
3 ~~than 12 years after delivery of the product to its first~~
4 ~~purchaser or lessee who was not engaged in the business of~~
5 ~~selling or leasing the product or of using the product as a~~
6 ~~component in the manufacture of another product, whichever is~~
7 ~~later.~~

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

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

25 ~~(d) The repose period prescribed within paragraph (b)~~
26 ~~is tolled for any period during which the manufacturer through~~
27 ~~its officers, directors, partners, or managing agents had~~
28 ~~actual knowledge that the product was defective in the manner~~
29 ~~alleged by the claimant and took affirmative steps to conceal~~
30 ~~the defect. Any claim of concealment under this section shall~~
31 ~~be made with specificity and must be based upon substantial~~

