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

Section 1. Legislative findings and declarations.--The Legislature finds, declares, and determines that an effective alternative dispute resolution mechanism in certain construction defect matters should involve the claimant filing a notice of claim with the contractor, subcontractor, supplier, or design professional that the claimant asserts is responsible for the defect and provide the contractor, subcontractor, supplier, or design professional with an opportunity to resolve the claim without resort to further legal process.

Section 2. Definitions.--As used in this act, the term:

(1) "Action" means any civil action or arbitration proceeding for damages or indemnity asserting a claim for damage to or loss of a dwelling or personal property caused by an alleged construction defect. The term "action" does not include any civil action or arbitration proceeding asserting a claim for alleged personal injuries arising out of an alleged construction defect. However, if a civil action or arbitration proceeding asserts both a claim for damage to or loss of a dwelling or personal property caused by an alleged construction defect and a claim for alleged personal injuries arising out of an alleged construction defect, the action may not proceed with respect to the claim for damage to or loss of a dwelling or personal property until the claimant first complies with the requirements of this act.



56 (2) "Association" has the same meaning as set forth in s.
57 718.103(2), s. 719.103(2), s. 720.301(7), or s. 723.025, Florida
58 Statutes.

59 (3) "Claimant" means a homeowner, including a subsequent
60 purchaser, tenant, or association which asserts a claim against
61 a contractor, subcontractor, supplier, or design professional
62 concerning a construction defect. The term "claimant" does not
63 include a contractor, subcontractor, supplier, or design
64 professional.

65 (4) "Construction defect" means a deficiency in, or a
66 deficiency arising out of, the design, specifications,
67 surveying, planning, supervision, observation of construction,
68 or construction or remodeling of a dwelling resulting from:

69 (a) Defective material, products, or components used in
70 the construction or remodeling of a dwelling;

71 (b) A violation of the applicable codes in effect at the
72 time of construction or remodeling of a dwelling;

73 (c) A failure of the design of a dwelling to meet the
74 applicable professional standards of care at the time of
75 governmental approval; or

76 (d) A failure to construct or remodel a dwelling in
77 accordance with accepted trade standards for good and
78 workmanlike construction at the time of construction.

79 (5) "Contractor" means any person, firm, partnership,
80 corporation, association, or other organization that is legally
81 engaged in the business of designing, developing, constructing,
82 manufacturing, selling, or remodeling of a dwelling or
83 attachments thereto.



84 (6) "Design professional" means a person licensed in the
85 state as an architect, interior designer, landscape architect,
86 engineer, or surveyor.

87 (7) " Dwelling" means a single-family house, manufactured
88 or modular home, duplex, or unit in a multifamily residential
89 building designed for residential use and includes common areas
90 and improvements that are owned or maintained by an association
91 or by members of an association. A dwelling includes the
92 systems, other components, and improvements that are part of a
93 single-family house, manufactured or modular home, duplex, or
94 multifamily residential building at the time of completion of
95 construction.

96 (8) "Service" means personal service or delivery by
97 certified mail to the last known address of the addressee.

98 (9) "Subcontractor" means a contractor who performs work
99 on behalf of another contractor in the construction or
100 remodeling of a dwelling.

101 (10) "Supplier" means a person who provides materials,
102 equipment, or other supplies for the construction or remodeling
103 of a dwelling.

104 Section 3. Action; abatement.--If a claimant files an
105 action without first complying with the requirements of this
106 act, on motion by a party to the action, the court shall abate
107 the action, without prejudice, and the action may not proceed
108 until the claimant has complied with the requirements of this
109 act.

110 Section 4. Notice and opportunity to repair.--



111 (1) In every action brought against a contractor,
112 subcontractor, supplier, or design professional related to an
113 alleged construction defect, the claimant shall, no later than
114 60 days before filing an action, serve written notice of claim
115 on the contractor, subcontractor, supplier, or design
116 professional, as applicable. The notice of claim must describe
117 the claim in reasonable detail sufficient to determine the
118 general nature of each alleged construction defect and a
119 description of the damage or loss resulting from each alleged
120 construction defect, if known. The claimant shall endeavor to
121 serve the notice of claim within 15 days after the claimant's
122 discovery of the alleged construction defect but the claimant's
123 failure to serve the notice of claim within that 15-day period
124 does not bar the filing of an action under section 3 if the
125 claimant complies with the other requirements of this section.

126 (2) Within 5 business days after service of the notice of
127 claim required in subsection (1), the contractor, subcontractor,
128 supplier, or design professional may inspect the dwelling to
129 assess each alleged construction defect. The claimant shall
130 provide the contractor, subcontractor, supplier, or design
131 professional and its contractors or agents reasonable access to
132 the claimant's dwelling during normal working hours to inspect
133 the dwelling to determine the nature and cause of each alleged
134 construction defect and the nature and extent of any repairs or
135 replacements necessary to remedy each alleged construction
136 defect. The inspection may include destructive testing by mutual
137 agreement. Prior to performing any destructive testing, the
138 contractor, subcontractor, supplier, or design professional who



139 desires to perform the testing shall notify the claimant in
140 writing of the type of testing to be performed, the anticipated
141 damage to the dwelling which will be caused by the testing, and
142 the anticipated repairs that will be necessary to repair any
143 damage to the dwelling caused by the testing. The contractor,
144 subcontractor, supplier, or design professional performing the
145 testing shall be responsible, at his or her sole expense, for
146 repairing any damage to the dwelling caused by the testing.

147 (3) Within 10 days after service of the notice of claim
148 required in subsection (1), the contractor, subcontractor,
149 supplier, or design professional shall forward a copy of the
150 notice of claim to each subcontractor, supplier, and design
151 professional who it reasonably believes is responsible for each
152 alleged construction defect specified in the notice of claim and
153 shall include with the notice the specific alleged construction
154 defect for which it believes the subcontractor, supplier, or
155 design professional is responsible. Each such subcontractor,
156 supplier, and design professional may inspect the dwelling as
157 provided in subsection (2) within 5 business days after service
158 of a copy of the notice of claim to such subcontractor,
159 supplier, or design professional under this subsection.

160 (4) Within 5 business days following service of a copy of
161 the notice of claim to a subcontractor, supplier, or design
162 professional pursuant to subsection (3), each subcontractor,
163 supplier, or design professional who has been served a copy of
164 the notice of claim shall serve a written response to the
165 contractor, subcontractor, supplier, or design professional who
166 served a copy of the notice of claim. The written response shall



167 include a report of the scope of the inspection of the dwelling,
168 if any, the findings and results of the inspection, a statement
169 of whether the subcontractor, supplier, or design professional
170 is willing to make repairs to the dwelling or whether he or she
171 disputes the claim, a description of any repairs he or she is
172 willing to make to remedy the alleged construction defect, and a
173 timetable for the completion of such repairs.

174 (5) Within 25 days after service of the notice of claim
175 required in subsection (1), each contractor, subcontractor,
176 supplier, or design professional that has received a notice of
177 claim from the claimant shall serve a written response on the
178 claimant. The written response must provide:

179 (a) A written offer to remedy the alleged construction
180 defect at no cost to the claimant, including a report of the
181 scope of the inspection, the findings and results of the
182 inspection, a detailed description of the repairs necessary to
183 remedy the alleged construction defect, and a timetable for the
184 completion of such repairs;

185 (b) A written offer to compromise and settle the claim by
186 monetary payment to be paid within 30 days after the claimant's
187 acceptance of the offer; or

188 (c) A written statement that the contractor,
189 subcontractor, supplier, or design professional disputes the
190 claim and will not proceed further to remedy the alleged
191 construction defect or to compromise and settle the claim.

192
193 If the contractor, subcontractor, supplier, or design
194 professional's written response offers to remedy the alleged



195 construction defect pursuant to paragraph (a) or compromise and
196 settle the claim by monetary payment pursuant to paragraph (b),
197 the written response shall contain a statement that the claimant
198 shall be deemed to have accepted the offer if, within 15 days,
199 or 45 days for an association, following service of such written
200 response, the claimant does not serve a written rejection of the
201 offer on the contractor, subcontractor, supplier, or design
202 professional.

203 (6) If the contractor, subcontractor, supplier, or design
204 professional disputes the claim pursuant to paragraph (5)(c) and
205 will not remedy the alleged construction defect or compromise
206 and settle the claim, or does not respond to the claimant's
207 notice of claim within the time stated in subsection (5), the
208 claimant may, without further notice, proceed with an action
209 against the contractor, subcontractor, supplier, or design
210 professional for the claim described in the notice of claim.

211 (7) If the claimant intends to reject a settlement offer
212 made by the contractor, subcontractor, supplier, or design
213 professional pursuant to paragraph (5)(a) or paragraph (5)(b),
214 the claimant shall serve written notice of the claimant's
215 rejection on the contractor, subcontractor, supplier, or design
216 professional within 15 days, or 45 days for an association,
217 following service of the settlement offer. The claimant's
218 rejection shall contain the settlement offer with the word
219 "rejected" printed on the settlement offer. After service of the
220 rejection required by this subsection, the claimant may proceed
221 with an action against the contractor, subcontractor, supplier,



222 or design professional for the claims described in the notice of
223 claim required by subsection (1) without further notice.

224 (8) If the claimant accepts the offer of a contractor,
225 subcontractor, supplier, or design professional made pursuant to
226 paragraph (5)(a) or paragraph (5)(b) and the contractor,
227 subcontractor, supplier, or design professional does not proceed
228 to make the monetary payment or repair the alleged construction
229 defect within the agreed timetable and in the agreed manner, the
230 claimant may, without further notice, proceed with an action
231 against the contractor, subcontractor, supplier, or design
232 professional for the claim described in the notice of claim
233 required by subsection (1). If a claimant accepts a contractor,
234 subcontractor, supplier, or design professional's offer made
235 pursuant to paragraph (5)(a) or paragraph (5)(b) and the
236 contractor, subcontractor, supplier, or design professional
237 proceeds to make the monetary payment or repair the alleged
238 construction defect within the agreed time and in the agreed
239 manner, the claimant shall thereafter be barred from bringing or
240 proceeding with an action against the contractor, subcontractor,
241 supplier, or design professional for the claim described in the
242 notice of claim required by subsection (1).

243 (9) If the claimant accepts the offer of a contractor,
244 subcontractor, supplier, or design professional to repair an
245 alleged construction defect pursuant to paragraph (5)(a), the
246 claimant shall provide the contractor, subcontractor, supplier,
247 or design professional and its contractors or other agents
248 reasonable access to the claimant's dwelling during normal



249 working hours to perform and complete the repair by the agreed
250 timetable.

251 (10) The failure of a claimant or a contractor,
252 subcontractor, supplier, or design professional to follow the
253 procedures set forth in this section is admissible in an action.
254 However, this section does not prohibit or limit the claimant
255 from making any necessary emergency repairs to the claimant's
256 dwelling. In addition, the offer of a contractor, subcontractor,
257 supplier, or design professional to remedy an alleged
258 construction defect or to compromise and settle the claim by
259 monetary payment pursuant to paragraph (5)(a) or paragraph
260 (5)(b) does not constitute an admission of liability with
261 respect to the alleged construction defect.

262 (11) A claimant's written notice of claim under subsection
263 (1) tolls the applicable statute of limitations until the later
264 of:

265 (a) Sixty days after the contractor, subcontractor,
266 supplier, or design professional receives the notice of claim;
267 or

268 (b) Thirty days after the end of the repair timetable
269 stated in the offer of a contractor, subcontractor, supplier, or
270 design professional made pursuant to paragraph (5)(a) if the
271 claimant has accepted the offer. By stipulation of the parties,
272 the foregoing period may be extended and the statute of
273 limitations is tolled during the extension.

274 (12) The procedures set forth in this section apply to
275 each alleged construction defect. However, a claimant may



276 include multiple alleged construction defects in one notice of
277 claim pursuant to subsection (1).

278 (13) Sections 1 through 4 of this act do not:

279 (a) Bar or limit any rights including, without limitation,
280 the right of specific performance to the extent such right would
281 be available to the claimant in the absence of this act, causes
282 of action, or theories on which liability may be based except as
283 specifically provided in this act;

284 (b) Bar or limit any defense, or create any new defense,
285 except as specifically provided in this act; or

286 (c) Create any new rights, causes of action, or theories
287 on which liability may be based.

288 (14) To the extent that an arbitration clause in a
289 contract for the sale, design, construction, or remodeling of a
290 dwelling conflicts with this section, this section shall
291 control.

292 Section 5. Contract of sale; provisions.--

293 (1) Upon entering into a contract to sell, design,
294 construct, or remodel a dwelling, the contractor, subcontractor,
295 supplier, or design professional shall provide notice to the
296 owner of the dwelling of the contractor, subcontractor,
297 supplier, or design professional's right to offer to cure
298 construction defects or pay to settle alleged construction
299 defects before a claimant may commence an action against the
300 contractor, subcontractor, supplier, or design professional.
301 Such notice must be conspicuous and may be included as part of
302 the underlying contract.



303 (2) The notice required by subsection (1) must be in
304 substantially the following form:

305
306 FLORIDA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW
307 BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST
308 A CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL
309 FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS
310 BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE
311 CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL A
312 WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE
313 DEFECTIVE AND PROVIDE YOUR CONTRACTOR AND ANY SUBCONTRACTORS,
314 SUPPLIERS, OR DESIGN PROFESSIONALS THE OPPORTUNITY TO INSPECT
315 THE ALLEGED CONSTRUCTION DEFECTS AND MAKE AN OFFER TO REPAIR OR
316 PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED
317 TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR OR ANY
318 SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS. THERE ARE
319 STRICT DEADLINES AND PROCEDURES UNDER FLORIDA LAW.

320 Section 6. If any provision of this act or the application
321 thereof to any person or circumstance is held invalid, the
322 invalidity does not affect other provisions or applications of
323 this act which can be given effect without the invalid provision
324 or application, and to this end the provisions of this act are
325 declared severable.

326 Section 7. This act shall take effect upon becoming a law
327 and shall apply to all actions filed on or after the effective
328 date

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