

A bill to be entitled

An act relating to construction defects; amending s. 558.001, F.S.; revising legislative findings and declarations; amending s. 558.002, F.S.; revising definitions; amending s. 558.003, F.S.; providing requirements for filing actions alleging construction defects; requiring abatement, upon timely motion, of certain actions filed that do not comply with certain requirements; amending s. 558.004, F.S.; revising requirements, procedures, criteria, and limitations in provisions relating to notice and opportunity to repair construction defects in certain structures; providing requirements and procedures for making, accepting, or rejecting settlement offers; providing for consequences of certain actions relating to settlement offers; specifying legal obligation to make certain repairs or monetary payments under certain circumstances; providing a mutual duty to exchange certain discoverable evidence; providing requirements and limitations; amending s. 558.005, F.S.; revising certain contract content provisions; providing a notice form; providing application; providing severability; providing an effective date.

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

Section 1. Section 558.001, Florida Statutes, is amended to read:

558.001 Legislative findings and declaration.--The Legislature finds that it is beneficial to have an alternative

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30 method to resolve construction disputes that would reduce the
 31 need for litigation as well as protect the rights of homeowners.

32 An effective alternative dispute resolution mechanism in certain
 33 construction defect matters should involve the claimant filing a
 34 notice of claim with the contractor, subcontractor, supplier, or
 35 design professional that the claimant asserts is responsible for
 36 the defect, and should provide the contractor, subcontractor,
 37 supplier, or design professional with an opportunity to resolve
 38 the claim without resort to further legal process.

39 Section 2. Section 558.002, Florida Statutes, is amended
 40 to read:

41 558.002 Definitions.--As used in this chapter ~~act~~, the
 42 term:

43 (1) "Action" means any civil action or arbitration
 44 proceeding for damages or indemnity asserting a claim for damage
 45 to or loss of a dwelling or personal property caused by an
 46 alleged construction defect, but does not include any
 47 administrative action or any civil action or arbitration
 48 proceeding asserting a claim for alleged personal injuries
 49 arising out of an alleged construction defect.

50 (2) "Association" has the same meaning as in s.
 51 718.103(2), s. 719.103(2), s. 720.301(7), or s. 723.025.

52 (3) "Claimant" means a homeowner, including a subsequent
 53 purchaser, ~~tenant~~, or association, who asserts a claim for
 54 damages against a contractor, subcontractor, supplier, or design
 55 professional concerning a construction defect or a subsequent
 56 owner who asserts a claim for indemnification for such damages.
 57 The term does not include a contractor, subcontractor, supplier,
 58 or design professional.

59 (4) "Construction defect" means a deficiency in, or a
 60 deficiency arising out of, the design, specifications,
 61 surveying, planning, supervision, observation of construction,
 62 or construction, repair, alteration, or remodeling of a
 63 dwelling, any appurtenance to the dwelling, or the real property
 64 to which the dwelling or appurtenance is affixed resulting from:

65 (a) Defective material, products, or components used in
 66 the construction or remodeling;

67 (b) A violation of the applicable codes in effect at the
 68 time of construction or remodeling which gives rise to a cause
 69 of action pursuant to s. 553.84;

70 (c) A failure of the design of a dwelling to meet the
 71 applicable professional standards of care at the time of
 72 governmental approval; or

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

76 (5) "Contractor" means any person, as defined in s. 1.01,
 77 ~~firm, partnership, corporation, association, or other~~
 78 ~~organization~~ that is legally engaged in the business of
 79 designing, developing, constructing, manufacturing, repairing
 80 ~~selling~~, or remodeling dwellings or attachments thereto.

81 (6) "Design professional" means a person, as defined in s.
 82 1.01, licensed in this state as an architect, interior designer,
 83 landscape architect, engineer, or surveyor.

84 (7) "Dwelling" means a single-family house, manufactured
 85 or modular home, duplex, triplex, quadruplex, or other
 86 multifamily unit in a multifamily residential building designed
 87 for residential use in which title to each individual unit is

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88 transferred to the owner under a condominium or cooperative
 89 system and includes common areas and improvements that are owned
 90 or maintained by an association or by members of an association,
 91 and also includes the systems, other components, ~~and~~
 92 improvements, and other structures or facilities, including, but
 93 not limited to, recreational structures or facilities, that are
 94 appurtenant to and located on the real property on which the
 95 house, duplex, triplex, quadruplex, or other multifamily unit is
 96 located, but are not necessarily part of the structure at the
 97 time of completion of construction.

98 (8) "Service" means ~~personal service or~~ delivery by
 99 certified mail, return receipt requested, to the last known
 100 address of the addressee.

101 (9) "Subcontractor" means a person, as defined in s. 1.01,
 102 who is a contractor who performs labor and supplies material
 103 ~~work~~ on behalf of another contractor in the construction or
 104 remodeling of a dwelling.

105 (10) "Supplier" means a person, as defined in s. 1.01, who
 106 provides only materials, equipment, or other supplies for the
 107 construction or remodeling of a dwelling.

108 Section 3. Section 558.003, Florida Statutes, is amended
 109 to read:

110 558.003 Action; compliance abatement.--~~If~~ A claimant may
 111 not file files an action subject to this chapter without first
 112 complying with the requirements of this chapter. If a claimant
 113 files an action alleging a construction defect without first
 114 complying with the requirements of this chapter ~~act~~, on timely
 115 motion by a party to the action the court shall abate the

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116 action, without prejudice, and the action may not proceed until
 117 the claimant has complied with such requirements.

118 Section 4. Section 558.004, Florida Statutes, is amended
 119 to read:

120 558.004 Notice and opportunity to repair.--

121 (1) In actions brought alleging a ~~against a contractor,~~
 122 ~~subcontractor, supplier, or design professional related to an~~
 123 ~~alleged~~ construction defect, the claimant shall, at least no
 124 ~~later than~~ 60 days before filing an action involving a single-
 125 family home, an association representing 20 or fewer residential
 126 parcels, a manufactured or modular home, a duplex, a triplex, or
 127 a quadruplex, or at least 120 days before filing an action
 128 involving an association representing more than 20 residential
 129 parcel owners, serve written notice of claim on the contractor,
 130 subcontractor, supplier, or design professional, as applicable,
 131 which notice shall refer to this chapter. If the construction
 132 defect claim arises from work performed under a contract, the
 133 written notice of claim must be served on the person with whom
 134 the claimant contracted. The notice of claim must describe the
 135 claim in reasonable detail sufficient to determine the general
 136 nature of each alleged construction defect and a description of
 137 the damage or loss resulting from the defect, if known. The
 138 claimant shall endeavor to serve the notice of claim within 15
 139 days after discovery of an alleged defect, but the failure to
 140 serve notice of claim within 15 days does not bar the filing of
 141 an action, subject to s. 558.003. This subsection does not
 142 preclude a claimant from filing an action sooner than 60 days,
 143 or 120 days as applicable, after service of written notice as
 144 expressly provided in subsection (6), subsection (7), or

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145 subsection (8).

146 (2) Within 30 ~~5-business~~ days after receipt ~~service~~ of the
 147 notice of claim, ~~the contractor, subcontractor, supplier, or~~
 148 ~~design professional may inspect~~ involving a single-family home,
 149 an association representing 20 or fewer residential parcels, a
 150 manufactured or modular home, a duplex, a triplex, or a
 151 quadruplex, or within 50 days after receipt of the notice of
 152 claim involving an association representing more than 20
 153 residential parcels, the person receiving the notice of claim
 154 under subsection (1) is entitled to perform a reasonable
 155 inspection of the dwelling or of each unit subject to the claim
 156 to assess each alleged construction defect. An association's
 157 right to access property for either maintenance or repair
 158 includes the authority to grant access for the inspection. The
 159 claimant shall provide the person receiving the notice under
 160 subsection (1) and such person's ~~contractor, subcontractor,~~
 161 ~~supplier, or design professional~~ and its contractors or agents
 162 reasonable access to the dwelling during normal working hours to
 163 inspect the dwelling to determine the nature and cause of each
 164 alleged construction defect and the nature and extent of any
 165 repairs or replacements necessary to remedy each defect. The
 166 person receiving notice under subsection (1) shall reasonably
 167 coordinate the timing and manner of any and all inspections with
 168 the claimant to minimize the number of inspections. The
 169 inspection may include destructive testing by mutual agreement
 170 under the following reasonable terms and conditions:

171 (a) If the person receiving notice under subsection (1)
 172 determines that destructive testing is necessary to determine
 173 the nature and cause of the alleged defects, such person shall

174 notify the claimant in writing.

175 (b) The notice shall describe the destructive testing to
 176 be performed, the person selected to do the testing, the
 177 estimated anticipated damage and repairs to the dwelling
 178 resulting from the testing, the estimated amount of time
 179 necessary for the testing and to complete the repairs, and the
 180 financial responsibility offered for covering the costs of
 181 repairs.

182 (c) If the claimant promptly objects to the person
 183 selected to perform the destructive testing, the person
 184 receiving notice under subsection (1) shall provide the
 185 claimant with a list of three qualified persons from which the
 186 claimant may select one such person to perform the testing. The
 187 person selected to perform the testing shall operate as an
 188 agent or subcontractor of the person receiving notice under
 189 subsection (1) and shall communicate with, submit any reports
 190 to and be solely responsible to the person receiving notice.

191 (d) The testing shall be done at a mutually agreeable
 192 time.

193 (e) The claimant or a representative of the claimant may
 194 be present to observe the destructive testing.

195 (f) The destructive testing shall not render the
 196 dwelling uninhabitable.

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 198 In the event the claimant fails or refuses to agree to
 199 destructive testing, the claimant shall have no claim for
 200 damages which could have been avoided or mitigated had
 201 destructive testing been allowed when requested and had a
 202 feasible remedy been promptly implemented. ~~—Prior to~~

203 ~~performing any destructive testing, the person who desires to~~
 204 ~~perform the testing shall notify the claimant in writing of the~~
 205 ~~type of testing to be performed, the anticipated damage to the~~
 206 ~~dwelling which will be caused by the testing, and the~~
 207 ~~anticipated repairs that will be necessary to repair any damage~~
 208 ~~caused by the testing. The person performing the testing is~~
 209 ~~responsible for repairing any damage to the dwelling caused by~~
 210 ~~the testing.~~

211 (3) Within 10 days after receipt ~~service~~ of the notice of
 212 claim involving a single-family home, an association
 213 representing 20 or fewer residential parcels, a manufactured or
 214 modular home, a duplex, a triplex, or a quadruplex, or within 30
 215 days after receipt of the notice of claim involving an
 216 association representing more than 20 residential parcels, the
 217 person receiving the notice under subsection (1) may ~~contractor,~~
 218 ~~subcontractor, supplier, and design professional must~~ forward a
 219 copy of the notice of claim to each contractor, subcontractor,
 220 supplier, or design professional whom it reasonably believes is
 221 responsible for each defect specified in the notice of claim and
 222 shall note the specific defect for which it believes the
 223 particular contractor, subcontractor, supplier, or design
 224 professional is responsible. Each such contractor,
 225 subcontractor, supplier, and design professional may inspect the
 226 dwelling as provided in subsection (2) ~~within 5 business days~~
 227 ~~after receiving a copy of the notice.~~

228 (4) Within 15 ~~5-business~~ days after receiving a copy of
 229 the notice of claim pursuant to subsection (3) involving a
 230 single-family home, an association representing 20 or fewer
 231 residential parcels, a manufactured or modular home, a duplex, a

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232 triplex, or a quadruplex, or within 30 days after receipt of the
 233 copy of the notice of claim involving an association
 234 representing more than 20 residential parcels, the contractor,
 235 subcontractor, supplier, or design professional must serve a
 236 written response to the person ~~contractor, subcontractor,~~
 237 ~~supplier, or design professional~~ who forwarded served a copy of
 238 the notice of claim. The written response shall include a
 239 report, if any, of the scope of any inspection of the dwelling,
 240 the findings and results of the inspection, a statement of
 241 whether the contractor, subcontractor, supplier, or design
 242 professional is willing to make repairs to the dwelling or
 243 whether such ~~he or she~~ disputes the claim is disputed, a
 244 description of any repairs they are ~~he or she~~ is willing to make
 245 to remedy the alleged construction defect, and a timetable for
 246 the completion of such repairs.

247 (5) Within 45 ~~25~~ days after receiving the notice of claim
 248 involving a single-family home, an association representing 20
 249 or fewer residential parcels, a manufactured or modular home, a
 250 duplex, a triplex, or a quadruplex, or within 75 days after
 251 receipt of a copy of the notice of claim involving an
 252 association representing more than 20 residential parcels, the
 253 person who received notice under subsection (1) ~~each contractor,~~
 254 ~~subcontractor, supplier, or design professional~~ must serve a
 255 written response to the claimant. The response shall be served
 256 to the attention of the person who signed the notice of claim,
 257 unless otherwise designated in the notice of claim. The written
 258 response must provide:

259 (a) A written offer to remedy the alleged construction
 260 defect at no cost to the claimant, ~~including a report of the~~

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261 ~~scope of the inspection, the findings and results of the~~
 262 ~~inspection,~~ a detailed description of the proposed repairs
 263 necessary to remedy the defect, and a timetable for the
 264 completion of such repairs;

265 (b) A written offer to compromise and settle the claim by
 266 monetary payment and a timetable for making payment to be paid
 267 ~~within 30 days after the claimant's acceptance of the offer; or~~

268 (c) A written offer to compromise and settle the claim by
 269 a combination of repairs and monetary payment, including a
 270 detailed description of the proposed repairs and a timetable for
 271 the completion of such repairs and making payment; or

272 (d)(e) A written statement that the person ~~contractor,~~
 273 ~~subcontractor, supplier, or design professional~~ disputes the
 274 claim and will not remedy the defect or compromise and settle
 275 the claim.

276 ~~(6) If the contractor, subcontractor, supplier, or design~~
 277 ~~professional offers to remedy the alleged construction defect or~~
 278 ~~compromise and settle the claim by monetary payment, the written~~
 279 ~~response must contain a statement that the claimant shall be~~
 280 ~~deemed to have accepted the offer if, within 15 days, or 45 days~~
 281 ~~for an association, after service to the written response, the~~
 282 ~~claimant does not serve a written rejection of the offer on the~~
 283 ~~contractor, subcontractor, supplier, or design professional.~~

284 (6)(7) If the person receiving a notice of claim pursuant
 285 to subsection (1) ~~contractor, subcontractor, supplier, or design~~
 286 ~~professional~~ disputes the claim and will neither remedy the
 287 defect nor compromise and settle the claim, or does not respond
 288 to the claimant's notice of claim within the time provided in
 289 subsection (5), the claimant may, without further notice,

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290 proceed with an action against that person ~~the contractor,~~
 291 ~~subcontractor, supplier, or design professional~~ for the claim
 292 described in the notice of claim. Nothing in this chapter shall
 293 be construed to preclude a partial settlement or compromise of
 294 the claim as agreed to by the parties and, in that event, the
 295 claimant may, without further notice, proceed with an action on
 296 the unresolved portions of the claim.

297 (7)(8) A claimant who receives ~~rejects~~ a timely settlement
 298 offer must accept or reject the offer ~~made by~~ serving the
 299 ~~contractor, subcontractor, supplier, or design professional~~ must
 300 ~~serve~~ written notice of such acceptance or rejection on the
 301 person making the offer ~~contractor, subcontractor, supplier, or~~
 302 ~~design professional~~ within ~~15 days, or 45 days for an~~
 303 ~~association,~~ after receiving ~~service of~~ the settlement offer. If
 304 a claimant initiates an action without first accepting or
 305 rejecting the offer, the court shall abate the action upon
 306 timely motion until the claimant complies with this subsection.
 307 ~~The claimant's rejection must contain the settlement offer with~~
 308 ~~the word "rejected" printed on it. After service of the~~
 309 ~~rejection, the claimant may proceed with an action against the~~
 310 ~~contractor, subcontractor, supplier, or design professional for~~
 311 ~~the claims in the notice of claim without further notice.~~

312 (8)(9) If the claimant timely and properly accepts the
 313 offer to repair an alleged construction defect, the claimant
 314 shall provide the offeror and the offeror's agents reasonable
 315 access to the claimant's dwelling during normal working hours to
 316 perform the repair by the agreed-upon timetable as stated in the
 317 offer. If the offeror ~~of a contractor, subcontractor, supplier,~~
 318 ~~or design professional and the contractor, subcontractor,~~

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319 ~~supplier, or design professional~~ does not make the payment or
 320 repair the defect within the agreed time and in the agreed
 321 manner, except for reasonable delays beyond the control of the
 322 offeror, including, but not limited to, weather conditions,
 323 delivery of materials, claimant's actions, or issuance of any
 324 required permits, the claimant may, without further notice,
 325 proceed with an action against the offeror based upon
 326 ~~contractor, subcontractor, supplier, or design professional~~ for
 327 the claim in the notice of claim. If the offeror ~~a claimant~~
 328 ~~accepts a contractor's, subcontractor's, supplier's, or design~~
 329 ~~professional's offer and the contractor, subcontractor,~~
 330 ~~supplier, or design professional~~ makes payment or repairs the
 331 defect within the agreed time and in the agreed manner, the
 332 claimant is barred from proceeding with an action ~~against the~~
 333 ~~contractor, subcontractor, supplier, or design professional~~ for
 334 the claim described in the notice of claim or as otherwise
 335 provided in the accepted settlement offer.

336 ~~(10) If the claimant accepts the offer of a contractor,~~
 337 ~~subcontractor, supplier, or design professional to repair an~~
 338 ~~alleged construction defect, the claimant shall provide the~~
 339 ~~contractor, subcontractor, supplier, or design professional and~~
 340 ~~its contractors or other agents reasonable access to the~~
 341 ~~claimant's dwelling during normal working hours to perform the~~
 342 ~~repair by the agreed-upon timetable as stated in the offer.~~

343 ~~(9)(11) The failure of a claimant or a contractor,~~
 344 ~~subcontractor, supplier, or design professional to follow the~~
 345 ~~procedures in this section is admissible in an action. However,~~
 346 This section does not prohibit or limit the claimant from making
 347 any necessary emergency repairs to the dwelling as are required

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348 to protect the health, safety, and welfare of the claimant. In
 349 addition, ~~any the offer of a contractor, subcontractor,~~
 350 ~~supplier, or design professional~~ to remedy an alleged
 351 construction defect or to compromise and settle the claim by
 352 monetary payment does not constitute an admission of liability
 353 with respect to the defect and is not admissible in an action to
 354 show the existence of a defect.

355 ~~(10)(12)~~ A claimant's mailing of the written notice of
 356 claim under subsection (1) tolls the applicable statute of
 357 limitations relating to any person covered by this chapter and
 358 any bond surety until the later of:

359 (a) Ninety ~~Sixty~~ days, or 120 days, as applicable, after
 360 receipt of the contractor, subcontractor, supplier, or design
 361 ~~professional receives~~ the notice of claim pursuant to subsection
 362 (1); or

363 (b) Thirty days after the end of the repair period or
 364 payment period stated in the offer, if the claimant has accepted
 365 the offer. By stipulation of the parties, the period may be
 366 extended and the statute of limitations is tolled during the
 367 extension.

368 ~~(11)(13)~~ The procedures in this chapter section apply to
 369 each alleged construction defect. However, a claimant may
 370 include multiple defects in one notice of claim. The initial
 371 list of construction defects may be amended by the claimant to
 372 identify additional or new construction defects as they become
 373 known to the claimant. The court shall allow the action to
 374 proceed to trial only as to alleged construction defects that
 375 were noticed and for which the claimant has complied with this
 376 chapter and as to construction defects reasonably related to, or

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377 caused by, the construction defects previously noticed. Nothing
 378 in this subsection shall preclude subsequent or further actions.

379 ~~(12)(14) This chapter does Sections 558.001-558.003 of~~
 380 ~~this act do not:~~

381 (a) Bar or limit any rights, including the right of
 382 specific performance to the extent such right would be available
 383 in the absence of this act, any causes of action, or any
 384 theories on which liability may be based, except as specifically
 385 provided in this chapter act;

386 (b) Bar or limit any defense, or create any new defense,
 387 except as specifically provided in this chapter act; or

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

390 (13) The person receiving notice of claim under subsection
 391 (1) shall be deemed, for insurance purposes, to have been
 392 legally obligated to make the repairs or the monetary payment as
 393 if the claimant had recovered a judgment against such person in
 394 the amount of the cost of the repairs, and the amount of the
 395 monetary payment, if any, if the claimant has accepted the
 396 offer.

397 ~~(14)(15)~~ To the extent that an arbitration clause in a
 398 contract for the sale, design, construction, or remodeling of a
 399 dwelling conflicts with this section, this section shall
 400 control.

401 (15) Upon request, the claimant and the person receiving
 402 notice pursuant to subsection (1) shall have a mutual duty to
 403 exchange all available discoverable evidence relating to the
 404 construction defects, including, but not limited to, expert
 405 reports, photographs, information received pursuant to

406 subsection (4), and videotapes, if any. In the event of
 407 subsequent litigation, any party who failed to provide such
 408 evidence shall be subject to such sanctions as the court may
 409 impose for a discovery violation. Expert reports exchanged
 410 between the parties may not be used in any subsequent litigation
 411 for any purpose, unless the expert, or a person affiliated with
 412 the expert, testifies as a witness or the report is used or
 413 relied upon by an expert who testifies on behalf of the party
 414 for whom the report was prepared.

415 Section 5. Section 558.005, Florida Statutes, is amended
 416 to read:

417 558.005 ~~Contract of sale;~~ provisions; application.--

418 (1) Except as otherwise provided in subsections (3) and
 419 (4), the provisions of this chapter shall control every contract
 420 for the design, construction, or remodeling of a dwelling
 421 entered into on or after July 1, 2004, which contains the notice
 422 as set forth in subsection (2) and is conspicuously set forth in
 423 capitalized letters ~~Upon entering into a contract for the sale,~~
 424 ~~design, construction, or remodeling of a dwelling, the~~
 425 ~~contractor, subcontractor, supplier, or design professional~~
 426 ~~shall provide notice to the owner of the dwelling of the~~
 427 ~~contractor's, subcontractor's, supplier's, or design~~
 428 ~~professional's right to offer to cure construction defects or~~
 429 ~~pay to settle alleged construction defects before a claimant may~~
 430 ~~commence an action against the contractor, subcontractor,~~
 431 ~~supplier, or design professional. Such notice must be~~
 432 ~~conspicuous and may be included as part of the contract.~~

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

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CHAPTER 558 NOTICE OF CLAIM

CHAPTER 558, FLORIDA STATUTES LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY BRING ANY LEGAL ACTION ~~FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST A CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL~~ FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU BRING ANY LEGAL ACTION ~~FILE YOUR LAWSUIT~~, YOU MUST DELIVER TO THE OTHER PARTY TO THIS CONTRACT ~~CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL~~ A WRITTEN NOTICE REFERRING TO CHAPTER 558 OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE SUCH PERSON ~~YOUR CONTRACTOR AND ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS~~ THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND TO CONSIDER MAKING ~~MAKE~~ AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER WHICH MAY BE MADE ~~BY THE CONTRACTOR OR ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS~~. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THIS FLORIDA LAW WHICH MUST BE MET AND FOLLOWED TO PROTECT YOUR INTERESTS.

(3) After receipt of the initial notice of claim, a claimant and the person receiving notice under s. 558.004(1) may, by written mutual agreement, alter the procedure for the notice of claim process described in this chapter.

(4) This chapter applies to all actions accruing on or after July 1, 2004, and all actions commenced on or after such date, regardless of the date of sale, issuance of a certificate of occupancy or its equivalent, or substantial completion of the dwelling. Notwithstanding the notice requirements of this

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464 section for contracts entered into on or after July 1, 2004,
465 this chapter applies to all actions accruing before July 1,
466 2004, but not yet commenced as of July 1, 2004, and failure to
467 include the notice requirements of this section in a contract
468 entered into prior to July 1, 2004, does not operate to bar the
469 procedures of this chapter from applying to all such actions.

470 Section 6. If any provision of this act or the application
471 thereof to any person or circumstance is held invalid, the
472 invalidity does not affect other provisions or applications of
473 this act which can be given effect without the invalid provision
474 or application, and to this end the provisions of this act are
475 declared severable.

476 Section 7. This act shall take effect July 1, 2004.