

Bill No. CS for SB 3046

Amendment No. \_\_\_\_ Barcode 192948

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

**Senate Amendment (with title amendment)**

On page 2, line 1, through page 5, line 3, delete those lines

and insert:

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 method to resolve construction disputes that would reduce the need for litigation as well as protect the rights of homeowners. 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 should provide the contractor, subcontractor, supplier, or design professional with an opportunity to resolve the claim without resort to further legal process.

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

3 558.002 Definitions.--As used in this chapter act, the  
4 term:

5 (1) "Action" means any civil action or arbitration  
6 proceeding for damages or indemnity asserting a claim for  
7 damage to or loss of a dwelling or personal property caused by  
8 an alleged construction defect, but does not include any  
9 administrative or civil action or arbitration proceeding  
10 asserting a claim for alleged personal injuries arising out of  
11 an alleged construction defect.

12 (2) "Association" has the same meaning as in s.  
13 718.103(2), s. 719.103(2), s. 720.301(7), or s. 723.025.

14 (3) "Claimant" means a homeowner, including a  
15 subsequent purchaser, ~~tenant~~, or association, who asserts a  
16 claim for damages against a contractor, subcontractor,  
17 supplier, or design professional concerning a construction  
18 defect or a subsequent owner who asserts a claim for  
19 indemnification for such damages. The term does not include a  
20 contractor, subcontractor, supplier, or design professional.

21 (4) "Construction defect" means a deficiency in, or a  
22 deficiency arising out of, the design, specifications,  
23 surveying, planning, supervision, observation of construction,  
24 or construction, repair, alteration, or remodeling of a  
25 dwelling, any appurtenance to the dwelling, or the real  
26 property to which the dwelling or appurtenance is affixed  
27 resulting from:

28 (a) Defective material, products, or components used  
29 in the construction or remodeling;

30 (b) A violation of the applicable codes in effect at  
31 the time of construction or remodeling which gives rise to a

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1 cause of action pursuant to s. 553.84;

2 (c) A failure of the design of a dwelling to meet the  
3 applicable professional standards of care at the time of  
4 governmental approval; or

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

8 (5) "Contractor" means any person, as defined in s.  
9 1.01, firm, partnership, corporation, association, or other  
10 organization that is legally engaged in the business of  
11 designing, developing, constructing, manufacturing, repairing,  
12 selling, or remodeling dwellings or attachments thereto.

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

16 (7) "Dwelling" means a single-family house,  
17 manufactured or modular home, duplex, triplex, quadruplex, or  
18 other multifamily unit in a multifamily residential building  
19 designed for residential use in which title to each individual  
20 unit is transferred to the owner under a condominium or  
21 cooperative system and includes common areas and improvements  
22 that are owned or maintained by an association or by members  
23 of an association, and also includes the systems, other  
24 components, ~~and~~ improvements, and other structures or  
25 facilities, including, but not limited to, recreational  
26 structures or facilities, that are appurtenant to and located  
27 on the real property on which the house, duplex, triplex,  
28 quadruplex, or other multifamily unit is located, but are not  
29 necessarily part of the structure at the time of completion of  
30 construction.

31 (8) "Service" means ~~personal service or~~ delivery by

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1 certified mail, return receipt requested, to the last known  
2 address of the addressee.

3 (9) "Subcontractor" means a person, as defined in s.  
4 1.01, who is a contractor who performs labor and supplies  
5 material work on behalf of another contractor in the  
6 construction or remodeling of a dwelling.

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

10 Section 3. Section 558.003, Florida Statutes, is  
11 amended to read:

12 558.003 Action; compliance abatement.--If A claimant  
13 may not file files an action subject to this chapter without  
14 first complying with the requirements of this chapter. If a  
15 claimant files an action alleging a construction defect  
16 without first complying with the requirements of this chapter  
17 act, on timely motion by a party to the action the court shall  
18 abate the action, without prejudice, and the action may not  
19 proceed until the claimant has complied with such  
20 requirements.

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23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page 1, lines 3 through 10, delete those lines

26

27 and insert:

28 amending s. 558.001, F.S.; revising legislative  
29 findings and declarations; amending s. 558.002,  
30 F.S.; revising definitions; amending s.

31 558.003, F.S.; providing requirements for

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filing actions alleging construction defects;  
requiring abatement, upon timely motion, of  
certain actions filed that do not comply with  
certain requirements;