

ENROLLED

HB 1089, Engrossed 1

2006 Legislature

1 A bill to be entitled
2 An act relating to construction contracting; amending s.
3 95.11, F.S.; revising commencement periods for actions
4 founded on the design, planning, or construction of
5 improvements to real property; amending s. 718.618, F.S.,
6 relating to converter reserve accounts and warranties;
7 limiting applicability to certain improvements; providing
8 an effective date.

9
10 WHEREAS, architects, engineers, and contractors of an
11 improvement to real property may find themselves named as
12 defendants in a damage suit many years after the improvement was
13 completed and occupied, and

14 WHEREAS, to permit the bringing of such actions without an
15 appropriate limitation as to time places the defendant in an
16 unreasonable, if not impossible, position with respect to
17 asserting a defense, and

18 WHEREAS, architects, engineers, and contractors have no
19 control over an owner whose neglect in maintaining an
20 improvement may cause dangerous or unsafe conditions to develop
21 over a period of years, who uses an improvement for purposes for
22 which it was not designed, or who makes alterations or changes
23 that, years afterward, may be determined to be unsafe or
24 defective and that may appear to be a part of the original
25 improvement, and

26 WHEREAS, liability insurance for the engineer, architect,
27 or contractor is more difficult and more expensive to obtain the

ENROLLED

HB 1089, Engrossed 1

2006 Legislature

28 | longer he or she is exposed to potential liability after an
29 | improvement to real property has been completed, and

30 | WHEREAS, Florida currently limits the liability exposure of
31 | architects, engineers, and contractors to a period of 15 years
32 | after completion of an improvement to real property, and

33 | WHEREAS, liability insurance coverage is increasingly
34 | difficult and more expensive to acquire to cover a period of
35 | more than 10 years after an improvement to real property is
36 | completed, especially for small and medium-sized architecture,
37 | engineering, and construction firms, and

38 | WHEREAS, liability insurance coverage for work on
39 | residential construction projects, such as condominiums, is
40 | generally not available to cover a period of more than 10 years
41 | after the improvement to real property is completed, and

42 | WHEREAS, the increased cost of such insurance coverage and
43 | liability exposure adds to the total cost of construction and is
44 | ultimately borne by residential and commercial property owners,
45 | and

46 | WHEREAS, Florida's current 15-year limit on liability is
47 | considerably longer than most other states, some of which have
48 | adopted limits as low as 5 years and most of which have adopted
49 | a 10-year limit, and

50 | WHEREAS, the best interest of the people of the state will
51 | be served by reducing the period of time an engineer, architect,
52 | or contractor may be exposed to potential liability after an
53 | improvement has been completed, and

ENROLLED
 HB 1089, Engrossed 1

2006 Legislature

54 WHEREAS, a recent increase in the conversion of completed
 55 or partially completed buildings to condominiums has caused
 56 confusion regarding the scope of the warranties specified in
 57 sections 718.203 and 718.618, Florida Statutes, and necessitates
 58 the clarification of these statutes, NOW, THEREFORE,

59
 60 Be It Enacted by the Legislature of the State of Florida:

61
 62 Section 1. Paragraph (c) of subsection (3) of section
 63 95.11, Florida Statutes, is amended to read:

64 95.11 Limitations other than for the recovery of real
 65 property.--Actions other than for recovery of real property
 66 shall be commenced as follows:

67 (3) WITHIN FOUR YEARS.--

68 (c) An action founded on the design, planning, or
 69 construction of an improvement to real property, with the time
 70 running from the date of actual possession by the owner, the
 71 date of the issuance of a certificate of occupancy, the date of
 72 abandonment of construction if not completed, or the date of
 73 completion or termination of the contract between the
 74 professional engineer, registered architect, or licensed
 75 contractor and his or her employer, whichever date is latest;
 76 except that, when the action involves a latent defect, the time
 77 runs from the time the defect is discovered or should have been
 78 discovered with the exercise of due diligence. In any event, the
 79 action must be commenced within 10 ~~15~~ years after the date of
 80 actual possession by the owner, the date of the issuance of a

ENROLLED

HB 1089, Engrossed 1

2006 Legislature

81 certificate of occupancy, the date of abandonment of
82 construction if not completed, or the date of completion or
83 termination of the contract between the professional engineer,
84 registered architect, or licensed contractor and his or her
85 employer, whichever date is latest.

86 Section 2. Subsection (9) is added to section 718.618,
87 Florida Statutes, to read:

88 718.618 Converter reserve accounts; warranties.--

89 (9) This section applies only to the conversion of
90 existing improvements where construction of the improvement was
91 commenced prior to its designation by the developer as a
92 condominium. In such circumstances, s. 718.203 does not apply.

93 Section 3. The amendments to s. 95.11(3)(c), Florida
94 Statutes, made by this act shall apply to any action commenced
95 on or after July 1, 2006, regardless of when the cause of action
96 accrued, except that any action that would not have been barred
97 under s. 95.11(3)(c), Florida Statutes, prior to the amendments
98 made by this act may be commenced before July 1, 2007, and if it
99 is not commenced by that date and is barred by the amendments to
100 s. 95.11(3)(c), Florida Statutes, made by this act, it shall be
101 barred.

102 Section 4. This act shall take effect July 1, 2006.