

Bill No. SB 1940

Barcode 533994

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (King) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

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

(3) WITHIN FOUR YEARS.--

(c) An action founded on the design, planning, or construction of an improvement to real property, with the time running from the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest;

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1 except that, when the action involves a latent defect, the  
 2 time runs from the time the defect is discovered or should  
 3 have been discovered with the exercise of due diligence. In  
 4 any event, the action must be commenced within 10 ~~15~~ years  
 5 after the date of actual possession by the owner, the date of  
 6 the issuance of a certificate of occupancy, the date of  
 7 abandonment of construction if not completed, or the date of  
 8 completion or termination of the contract between the  
 9 professional engineer, registered architect, or licensed  
 10 contractor and his or her employer, whichever date is latest.

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

13 718.618 Converter reserve accounts; warranties.--

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

18 Section 3. The amendments to s. 95.11(3)(c), Florida  
 19 Statutes, made by this act shall apply to any action commenced  
 20 on or after July 1, 2006, regardless of when the cause of  
 21 action accrued, except that any action that would not have  
 22 been barred under s. 95.11(3)(c), Florida Statutes, prior to  
 23 the amendments made by this act may be commenced before July  
 24 1, 2007, and if it is not commenced by that date and is barred  
 25 by the amendments to s. 95.11(3)(c), Florida Statutes, made by  
 26 this act, it shall be barred.

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

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

31 And the title is amended as follows:

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1 Delete everything before the enacting clause

2

3 and insert:

4 A bill to be entitled

5 An act relating to construction contracting;  
6 amending s. 95.11, F.S.; revising commencement  
7 periods for actions founded on the design,  
8 planning, or construction of improvements to  
9 real property; amending s. 718.618, F.S.,  
10 relating to converter reserve accounts and  
11 warranties; limiting applicability to certain  
12 improvements; providing an effective date.

13

14 WHEREAS, architects, engineers, and contractors of an  
15 improvement to real property may find themselves named as  
16 defendants in a damage suit many years after the improvement  
17 was completed and occupied, and

18 WHEREAS, to permit the bringing of such actions without  
19 an appropriate limitation as to time places the defendant in  
20 an unreasonable, if not impossible, position with respect to  
21 asserting a defense, and

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

30 WHEREAS, liability insurance for the engineer,  
31 architect, or contractor is more difficult and more expensive

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1 to obtain the longer he or she is exposed to potential  
2 liability after an improvement to real property has been  
3 completed, and

4 WHEREAS, Florida currently limits the liability  
5 exposure of architects, engineers, and contractors to a period  
6 of 15 years after completion of an improvement to real  
7 property, and

8 WHEREAS, liability insurance coverage is increasingly  
9 difficult and more expensive to acquire to cover a period of  
10 more than 10 years after an improvement to real property is  
11 completed, especially for small and medium-sized architecture,  
12 engineering, and construction firms, and

13 WHEREAS, liability insurance coverage for work on  
14 residential construction projects, such as condominiums, is  
15 generally not available to cover a period of more than 10  
16 years after the improvement to real property is completed, and

17 WHEREAS, the increased cost of such insurance coverage  
18 and liability exposure adds to the total cost of construction  
19 and is ultimately borne by residential and commercial property  
20 owners, and

21 WHEREAS, Florida's current 15-year limit on liability  
22 is considerably longer than most other states, some of which  
23 have adopted limits as low as 5 years and most of which have  
24 adopted a 10-year limit, and

25 WHEREAS, the best interest of the people of the state  
26 will be served by reducing the period of time an engineer,  
27 architect, or contractor may be exposed to potential liability  
28 after an improvement has been completed, and

29 WHEREAS, a recent increase in the conversion of  
30 completed or partially completed buildings to condominiums has  
31 caused confusion regarding the scope of the warranties

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1 specified in sections 718.203 and 718.618, Florida Statutes,  
2 and necessitates the clarification of these statutes, NOW,  
3 THEREFORE,

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