

By Senator Clary

4-1079-06

1 A bill to be entitled
2 An act relating to real property improvements;
3 amending s. 95.11, F.S.; decreasing the period
4 within which actions based upon certain
5 improvements to real property may be filed;
6 amending s. 718.203, F.S.; clarifying
7 provisions related to warranties of fitness on
8 work or materials in condominiums which are
9 supplied by contractors; establishing
10 requirements for the designation of an
11 improvement as a condominium before certain
12 warranties apply; amending s. 718.618, F.S.;
13 providing for the applicability of certain
14 provisions related to the conversion of
15 properties to condominium ownership; providing
16 for the applicability of specified changes made
17 by the act to limitations on actions under s.
18 95.11, F.S.; providing an effective date.

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

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22 Section 1. Paragraph (c) of subsection (3) of section
23 95.11, Florida Statutes, is amended to read:

24 95.11 Limitations other than for the recovery of real
25 property.--Actions other than for recovery of real property
26 shall be commenced as follows:

27 (3) WITHIN FOUR YEARS.--

28 (c) An action founded on the design, planning, or
29 construction of an improvement to real property, with the time
30 running from the date of actual possession by the owner, the
31 date of the issuance of a certificate of occupancy, the date

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

16 Section 2. Subsections (2), (6), and (7) of section
17 718.203, Florida Statutes, are amended to read:

18 718.203 Warranties.--

19 (2) The contractor, and all subcontractors and
20 suppliers, grant to the developer and to the purchaser of each
21 unit implied warranties of fitness as to the work performed or
22 materials supplied by them, pursuant to the work or materials
23 specifications in their respective contracts or any amendments
24 to such contracts, as follows:

25 (a) For a period of 3 years from the date of
26 completion of construction of a building or improvement, a
27 warranty as to the roof and structural components of the
28 building or improvement and mechanical and plumbing elements
29 serving a building or an improvement, except mechanical
30 elements serving only one unit.

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1 (b) For a period of 1 year after completion of all
2 construction, a warranty as to all other improvements and
3 materials.

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5 Such warranties apply only to a building or improvement that
6 is designated as a condominium in the construction contract
7 between the developer and the contractor or any amendments to
8 that contract.

9 ~~(6) Nothing in this section affects a condominium as~~
10 ~~to which rights are established by contracts for sale of 10~~
11 ~~percent or more of the units in the condominium by the~~
12 ~~developer to prospective unit owners prior to July 1, 1974, or~~
13 ~~as to condominium buildings on which construction has been~~
14 ~~commenced prior to July 1, 1974.~~

15 ~~(6)(7)~~ Residential condominiums may be covered by an
16 insured warranty program underwritten by a licensed insurance
17 company registered in this state, provided that such warranty
18 program meets the minimum requirements of this chapter; to the
19 degree that such warranty program does not meet the minimum
20 requirements of this chapter, such requirements shall apply.

21 Section 3. Subsection (9) is added to s. 718.618,
22 Florida Statutes, to read:

23 718.618 Converter reserve accounts; warranties.--

24 (9) This section applies to the conversion on an
25 existing improvement if construction of the improvement
26 started before it was designated by the developer as a
27 condominium. Section 718.203 does not apply to such a
28 conversion.

29 Section 4. Section 95.11(3)(c), Florida Statutes, as
30 amended by this act, applies to any action commenced on or
31 after July 1, 2006, regardless of when the cause of action

1 accrued. However, an action that would not have been barred by
2 that section before July 1, 2006, may be commenced before July
3 1, 2007, but if such action is not commenced by that date and
4 it is barred by section 95.11(3)(c), Florida Statutes, as
5 amended by this act, it is forever barred.

6 Section 5. This act shall take effect July 1, 2006.

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9 SENATE SUMMARY

10 Revises provisions relating to certain warranties and
11 limitations on actions pertaining to improvements on real
12 property. Decreases the period within which actions based
13 upon improvements to real property may be filed and
14 provides for applicability of such changes. Clarifies
15 certain provisions related to warranties of fitness on
16 work performed on materials supplied by contractors on
17 condominiums. Provides requirements for the designation
18 of an improvement as a condominium before certain
19 warranties apply. Provides for the applicability of
20 certain provisions related to the conversion of
21 properties to condominium ownership.
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