

1 A bill to be entitled
 2 An act relating to design professionals; creating s.
 3 558.0035, F.S.; limiting the liability of architects,
 4 interior designers, landscape architects, engineers, and
 5 surveyors for construction defects resulting from the
 6 performance of a contract; prohibiting such contract from
 7 limiting the liability of a design professional under
 8 certain circumstances; specifying that provisions do not
 9 apply to certain claims; amending ss. 471.023, 472.021,
 10 481.219, and 481.319, F.S.; conforming provisions to
 11 changes made by the act; providing that the act does not
 12 apply to contracts or agreements entered into, or
 13 professional services performed, before a specified date;
 14 providing an effective date.

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

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 18 Section 1. Section 558.0035, Florida Statutes, is created
 19 to read:

20 558.0035 Limitation of liability.-

21 (1) A claimant contracting for the professional services
 22 of a design professional does not have a cause of action in tort
 23 against the design professional for the recovery of economic
 24 damages resulting from a construction defect.

25 (2) If the contract requires professional liability
 26 insurance, the contract may not limit the liability of the
 27 design professional to an amount less than the liability
 28 insurance amount required by the contract.

29 (3) This section does not apply to a claim for economic
 30 damages:

31 (a) Resulting from personal injury or damage to property
 32 other than the property that is the subject of the contract.

33 (b) Involving a contract requiring professional liability
 34 insurance if the contracting party does not maintain the
 35 insurance coverage required by the contract.

36 Section 2. Subsection (3) of section 471.023, Florida
 37 Statutes, is amended to read:

38 471.023 Certification of business organizations.—

39 (3) Except as provided in s. 558.0035, the fact that a
 40 licensed engineer practices through a business organization does
 41 not relieve the licensee from personal liability for negligence,
 42 misconduct, or wrongful acts committed by him or her.
 43 Partnerships and all partners shall be jointly and severally
 44 liable for the negligence, misconduct, or wrongful acts
 45 committed by their agents, employees, or partners while acting
 46 in a professional capacity. Any officer, agent, or employee of a
 47 business organization other than a partnership shall be
 48 personally liable and accountable only for negligent acts,
 49 wrongful acts, or misconduct committed by him or her or
 50 committed by any person under his or her direct supervision and
 51 control, while rendering professional services on behalf of the
 52 business organization. The personal liability of a shareholder
 53 or owner of a business organization, in his or her capacity as
 54 shareholder or owner, shall be no greater than that of a
 55 shareholder-employee of a corporation incorporated under chapter
 56 607. The business organization shall be liable up to the full

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57 | value of its property for any negligent acts, wrongful acts, or
58 | misconduct committed by any of its officers, agents, or
59 | employees while they are engaged on its behalf in the rendering
60 | of professional services.

61 | Section 3. Subsection (3) of section 472.021, Florida
62 | Statutes, is amended to read:

63 | 472.021 Certification of partnerships and corporations.—

64 | (3) Except as provided in s. 558.0035, the fact that any
65 | registered surveyor and mapper practices through a corporation
66 | or partnership shall not relieve the registrant from personal
67 | liability for negligence, misconduct, or wrongful acts committed
68 | by him or her. Partnerships and all partners shall be jointly
69 | and severally liable for the negligence, misconduct, or wrongful
70 | acts committed by their agents, employees, or partners while
71 | acting in a professional capacity. Any officer, agent, or
72 | employee of a business organization other than a partnership
73 | shall be personally liable and accountable only for negligent
74 | acts, wrongful acts, or misconduct committed by him or her or
75 | committed by any person under his or her direct supervision and
76 | control while rendering professional services on behalf of the
77 | business organization. The personal liability of a shareholder
78 | or owner of a business organization, in his or her capacity as
79 | shareholder or owner, shall be no greater than that of a
80 | shareholder-employee of a corporation incorporated under chapter
81 | 607. The business organization shall be liable up to the full
82 | value of its property for any negligent acts, wrongful acts, or
83 | misconduct committed by any of its officers, agents, or
84 | employees while they are engaged on its behalf in the rendering

85 of professional services.

86 Section 4. Subsection (11) of section 481.219, Florida
87 Statutes, is amended to read:

88 481.219 Certification of partnerships, limited liability
89 companies, and corporations.—

90 (11) No corporation, limited liability company, or
91 partnership shall be relieved of responsibility for the conduct
92 or acts of its agents, employees, or officers by reason of its
93 compliance with this section. However, except as provided in s.
94 558.0035, the architect who signs and seals the construction
95 documents and instruments of service shall be liable for the
96 professional services performed, and the interior designer who
97 signs and seals the interior design drawings, plans, or
98 specifications shall be liable for the professional services
99 performed.

100 Section 5. Subsection (6) of section 481.319, Florida
101 Statutes, is amended to read:

102 481.319 Corporate and partnership practice of landscape
103 architecture; certificate of authorization.—

104 (6) Except as provided in s. 558.0035, the fact that
105 registered landscape architects practice landscape architecture
106 through a corporation or partnership as provided in this section
107 shall not relieve any landscape architect from personal
108 liability for his or her professional acts.

109 Section 6. This act does not apply to contracts or
110 agreements entered into, or professional services performed,
111 before July 1, 2010.

112 Section 7. This act shall take effect July 1, 2010.