

ENROLLED

CS/CS/HB 875

2018 Legislature

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An act relating to limitations of actions other than for the recovery of real property; amending s. 95.11, F.S.; authorizing the commencement, within a specified timeframe, of counterclaims, cross-claims, and third-party claims after the pleading to which such claims relate; specifying that certain corrections and repairs do not extend the period of time within which an action must be commenced; providing applicability; providing an effective date.

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

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 of the contract or termination of the contract

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26 | between the professional engineer, registered architect, or
27 | licensed contractor and his or her employer, whichever date is
28 | latest; except that, when the action involves a latent defect,
29 | the time runs from the time the defect is discovered or should
30 | have been discovered with the exercise of due diligence. In any
31 | event, the action must be commenced within 10 years after the
32 | date of actual possession by the owner, the date of the issuance
33 | of a certificate of occupancy, the date of abandonment of
34 | construction if not completed, or the date of completion of the
35 | contract or termination of the contract between the professional
36 | engineer, registered architect, or licensed contractor and his
37 | or her employer, whichever date is latest. However,
38 | counterclaims, cross-claims, and third-party claims that arise
39 | out of the conduct, transaction, or occurrence set out or
40 | attempted to be set out in a pleading may be commenced up to 1
41 | year after the pleading to which such claims relate is served,
42 | even if such claims would otherwise be time barred. With respect
43 | to actions founded on the design, planning, or construction of
44 | an improvement to real property, if such construction is
45 | performed pursuant to a duly issued building permit and if a
46 | local enforcement agency, state enforcement agency, or special
47 | inspector, as those terms are defined in s. 553.71, has issued a
48 | final certificate of occupancy or certificate of completion,
49 | then as to the construction which is within the scope of such
50 | building permit and certificate, the correction of defects to

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51 completed work or repair of completed work, whether performed
52 under warranty or otherwise, does not extend the period of time
53 within which an action must be commenced. Completion of the
54 contract means the later of the date of final performance of all
55 the contracted services or the date that final payment for such
56 services becomes due without regard to the date final payment is
57 made.

58 Section 2. The amendments to s. 95.11(3)(c), Florida
59 Statutes, made by this act shall apply to any action commenced
60 on or after July 1, 2018, regardless of when the cause of action
61 accrued, except that any action that would not have been barred
62 under s. 95.11(3)(c), Florida Statutes, prior to the amendments
63 made by this act may be commenced before July 1, 2019, and if it
64 is not commenced by that date and is barred by the amendments to
65 s. 95.11(3)(c), Florida Statutes, made by this act, it shall be
66 barred.

67 Section 3. This act shall take effect July 1, 2018.