

By Senator Wright

14-01462A-19

20191246__

1 A bill to be entitled
2 An act relating to construction defects; amending s.
3 558.001, F.S.; revising legislative findings;
4 providing applicability; amending s. 558.002, F.S.;
5 deleting terms; creating s. 558.0045, F.S.; providing
6 applicability; requiring courts to require parties in
7 actions involving construction defects to take part in
8 nonbinding arbitration; providing requirements for the
9 arbitration; requiring an arbitrator to include
10 certain information in his or her award if he or she
11 makes certain findings; authorizing parties to agree
12 to be bound by the arbitration award; authorizing a
13 party that does not agree to be bound by the award to
14 proceed with certain actions; providing construction;
15 requiring a jury verdict and a final judgment to
16 contain specified information in certain proceedings;
17 specifying that claims against certain parties are
18 subject to certain mandatory nonbinding arbitration;
19 providing applicability relating to insureds and
20 insurance carriers; repealing s. 558.003, F.S.,
21 relating to action and compliance; repealing s.
22 558.004, F.S., relating to notice and opportunity to
23 repair; repealing s. 558.005, F.S., relating to
24 contract provisions and applicability; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 558.001, Florida Statutes, is amended to

14-01462A-19

20191246__

30 read:

31 558.001 Legislative findings and declaration.—The
32 Legislature finds that it is beneficial to have an effective and
33 cost-efficient ~~alternative~~ method to resolve construction
34 disputes that would reduce ~~the need for~~ litigation as well as
35 protect the rights of property owners. An effective alternative
36 dispute resolution mechanism in ~~certain~~ construction defect
37 matters should involve the claimant and the ~~filing a notice of~~
38 ~~claim with the~~ contractor, subcontractor, supplier, or design
39 professional that the claimant asserts is responsible for the
40 defect, and should provide the claimant and the contractor,
41 subcontractor, supplier, or design professional, and the insurer
42 of the contractor, subcontractor, supplier, or design
43 professional, with an opportunity to resolve the claim through
44 meaningful arbitration of the claim ~~confidential settlement~~
45 ~~negotiations~~ without resort to extended litigation. This chapter
46 does not preclude resolution of claims through settlement
47 negotiations ~~further legal process~~.

48 Section 2. Subsections (2), (4), and (9) of section
49 558.002, Florida Statutes, are amended to read:

50 558.002 Definitions.—As used in this chapter, the term:
51 ~~(2) "Association" has the same meaning as in s. 718.103(2),~~
52 ~~s. 719.103(2), s. 720.301(9), or s. 723.075.~~

53 ~~(4) "Completion of a building or improvement" means~~
54 ~~issuance of a certificate of occupancy, whether temporary or~~
55 ~~otherwise, that allows for occupancy or use of the entire~~
56 ~~building or improvement, or an equivalent authorization issued~~
57 ~~by the governmental body having jurisdiction. In jurisdictions~~
58 ~~where no certificate of occupancy or equivalent authorization is~~

14-01462A-19

20191246

59 ~~issued, the term means substantial completion of construction,~~
60 ~~finishing, and equipping of the building or improvement~~
61 ~~according to the plans and specifications.~~

62 ~~(9) "Service" means delivery by certified mail with a~~
63 ~~United States Postal Service record of evidence of delivery or~~
64 ~~attempted delivery to the last known address of the addressee,~~
65 ~~by hand delivery, or by delivery by any courier with written~~
66 ~~evidence of delivery.~~

67 Section 3. Section 558.0045, Florida Statutes, is created
68 to read:

69 558.0045 Construction defect litigation; special
70 requirements.—

71 (1) This section applies to all actions involving
72 construction defects, including civil suits and arbitrations.

73 (2) In any action involving construction defects, the court
74 shall require that the parties take part in nonbinding
75 arbitration. Such arbitration must be conducted in accordance
76 with chapter 682, except as otherwise provided in this section.
77 The mandatory arbitration must take place once all proper
78 parties have been joined in the action, but not later than 180
79 days after the action is brought.

80 (3) If the arbitrator finds in favor of a claimant as to
81 one or more parties on the construction defect claim, the award
82 must include a detailed description of the nature of the defect
83 and of the monetary amount awarded against each separate party,
84 including the monetary amount of the award attributable to each
85 of the following:

86 (a) Repairing or replacing the party's own defective work.

87 (b) Repairing or replacing other nondefective property

14-01462A-19

20191246__

88 damaged by that party's defective work.

89 (c) Other damages being awarded against the party.

90 (4) Any party to the arbitration may agree in writing to be
91 bound by the arbitration award as to claims between the parties.
92 Such election to be bound must be exercised within 30 days after
93 the arbitration award. If a party does not agree to be bound by
94 the arbitration award, such party may proceed with the civil
95 action on the unresolved portions of the claim. This chapter may
96 not be construed to preclude a partial settlement or compromise
97 of the claim as agreed to by the parties before or after the
98 arbitration.

99 (5) With regard to any parties who do not agree to be bound
100 by the arbitration and who proceed to trial in the action, the
101 jury verdict and final judgment must include a detailed
102 description of the nature of the defect and of the monetary
103 amount awarded against each separate party, including the
104 monetary amount of the award attributable to each of the
105 following:

106 (a) Repairing or replacing the party's own defective work.

107 (b) Repairing or replacing other nondefective property
108 damaged by that party's defective work.

109 (c) Other damages being awarded against the party.

110 (6) Any claims against parties joined after the 180-day
111 period set forth in subsection (2) are also subject to mandatory
112 nonbinding arbitration under subsections (2) and (3).

113 (7) This chapter does not affect the rights and duties of
114 insureds and insurance carriers under their policies, but any
115 defense, with or without a reservation of rights, provided by an
116 insurer to a party, including any party asserting additional

14-01462A-19

20191246__

117 insured status, in proceedings subject to this chapter and in
118 any action involving a construction defect applies only to the
119 scope of work of its named insured.

120 Section 4. Section 558.003, Florida Statutes, is repealed.

121 Section 5. Section 558.004, Florida Statutes, is repealed.

122 Section 6. Section 558.005, Florida Statutes, is repealed.

123 Section 7. This act shall take effect July 1, 2019.