

1 A bill to be entitled
 2 An act relating to limitations of actions other than
 3 for the recovery of real property; amending s. 95.11,
 4 F.S.; revising the time period to bring actions for
 5 certain improvements to real property; providing
 6 exceptions; providing definitions; providing
 7 applicability; providing an effective date.

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

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 11 Section 1. Paragraph (c) of subsection (3) of section
 12 95.11, Florida Statutes, is amended to read:

13 95.11 Limitations other than for the recovery of real
 14 property.—Actions other than for recovery of real property shall
 15 be commenced as follows:

16 (3) WITHIN FOUR YEARS.—

17 (c) An action founded on the design, planning, or
 18 construction of an improvement to real property: ~~with~~

19 1. The time running from 45 days after ~~the date of actual~~
 20 ~~possession by the owner,~~ the date of completion of the
 21 improvement or the issuance of a certificate of occupancy, the
 22 date of abandonment of construction if the improvement is not
 23 completed, except:

24 a. If the action involves a latent defect, the action must
 25 be commenced within 7 years, and the time begins to run 45 days

26 after the completion of the improvement or the date of
27 abandonment of construction if the improvement is not completed.

28 b. If the action alleges a material violation and the
29 person alleging the material violation can show by clear and
30 convincing evidence that the engineer, architect, or contractor,
31 or the engineer's, architect's, or contractor's employer, had
32 actual knowledge of the material violation at the time of the
33 design, planning, or construction of the improvement, the action
34 must be commenced within 15 years, and the time begins to run 45
35 days after the completion of the improvement or the date of
36 abandonment of construction if the improvement is not completed.
37 ~~or the date of completion of the contract or termination of the~~
38 ~~contract between the professional engineer, registered~~
39 ~~architect, or licensed contractor and his or her employer,~~
40 ~~whichever date is latest; except that, when the action involves~~
41 ~~a latent defect, the time runs from the time the defect is~~
42 ~~discovered or should have been discovered with the exercise of~~
43 ~~due diligence. In any event, the action must be commenced within~~
44 ~~10 years after the date of actual possession by the owner, the~~
45 ~~date of the issuance of a certificate of occupancy, the date of~~
46 ~~abandonment of construction if not completed, or the date of~~
47 ~~completion of the contract or termination of the contract~~
48 ~~between the professional engineer, registered architect, or~~
49 ~~licensed contractor and his or her employer, whichever date is~~
50 ~~latest. However,~~

51 2. Counterclaims, cross-claims, and third-party claims
52 that arise out of the conduct, transaction, or occurrence set
53 out or attempted to be set out in a pleading may be commenced up
54 to 1 year after the pleading to which such claims relate is
55 served, even if such claims would otherwise be time barred.

56 3. As used in this paragraph, the term:

57 a. "Completion of the improvement" means the issuance of
58 the certificate of occupancy or certificate of completion for
59 the improvement, or the closing of the building permit for the
60 improvement, as described in s. 553.79(17)(a), if the
61 improvement is not required to have a certificate of occupancy
62 or certificate of completion.

63 b. "Material violation" means a violation of the Florida
64 Building Code that exists within a completed building,
65 structure, or facility which may reasonably result, or has
66 resulted, in death or personal injury to a person or significant
67 damage to the building, structure, facility, or its system, or
68 to the performance of a building, structure, facility, or its
69 system.

70 c. "Performance" means that a building, structure,
71 facility, or its system functions as it is intended and is able
72 to be used for its designed purpose.

73 d. "Significant damage" means a level of adverse impact to
74 a building, structure, facility, or its system which results or
75 could reasonably result in economic damage or loss that exceeds

76 the common expectations, and the cost of restoring the damage or
 77 preventing such damage to the building, structure, facility, or
 78 its system would equal or exceed 25 percent of the market value
 79 of the building, structure, facility, or its system if built in
 80 accordance with the Florida Building Code. The term does not
 81 include Florida Building Code violations that are cosmetic,
 82 minimal, or inconsequential to the overall performance of a
 83 building, structure, facility, or its systems. ~~With respect to~~
 84 ~~actions founded on the design, planning, or construction of an~~
 85 ~~improvement to real property, if such construction is performed~~
 86 ~~pursuant to a duly issued building permit and if a local~~
 87 ~~enforcement agency, state enforcement agency, or special~~
 88 ~~inspector, as those terms are defined in s. 553.71, has issued a~~
 89 ~~final certificate of occupancy or certificate of completion,~~
 90 ~~then as to the construction which is within the scope of such~~
 91 ~~building permit and certificate, the correction of defects to~~
 92 ~~completed work or repair of completed work, whether performed~~
 93 ~~under warranty or otherwise, does not extend the period of time~~
 94 ~~within which an action must be commenced. Completion of the~~
 95 ~~contract means the later of the date of final performance of all~~
 96 ~~the contracted services or the date that final payment for such~~
 97 ~~services becomes due without regard to the date final payment is~~
 98 ~~made.~~

99 Section 2. The amendments to s. 95.11(3)(c), Florida
 100 Statutes, made by this act apply to any action commenced on or

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101 after July 1, 2022, regardless of when the cause of action
102 accrued, except that any action that would not have been barred
103 under s. 95.11(3)(c), Florida Statutes, before the amendments
104 made by this act must be commenced before July 1, 2023. If the
105 action is not commenced by July 1, 2023, and is barred by the
106 amendments to s. 95.11(3)(c), Florida Statutes, made by this
107 act, then the action is barred.

108 Section 3. This act shall take effect July 1, 2022.