

By Senator Hutson

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1 A bill to be entitled
2 An act relating to causes of action based on
3 improvements to real property; amending s. 95.11,
4 F.S.; revising the time in which an action founded on
5 the design, planning, or construction of an
6 improvement to real property must be commenced;
7 revising the date on which the statute of limitations
8 period begins; providing for the calculation of the
9 statute of limitations period for multi-dwelling
10 buildings; amending s. 553.84, F.S.; defining the term
11 "material violation"; conforming provisions to changes
12 made by the act; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (c) of subsection (3) of section
17 95.11, Florida Statutes, is amended to read:

18 95.11 Limitations other than for the recovery of real
19 property.—Actions other than for recovery of real property shall
20 be commenced as follows:

21 (3) WITHIN FOUR YEARS.—

22 (c)1. An action founded on the design, planning, or
23 construction of an improvement to real property, with the time
24 running from ~~the date of actual possession by the owner,~~ the
25 date of the issuance of a temporary certificate of occupancy,
26 the date of the issuance of a certificate of occupancy, the date
27 of the issuance of a certificate of completion, the date of
28 abandonment of construction if not completed, or the date of
29 completion of the contract or termination of the contract

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30 between the professional engineer, registered architect, or
31 licensed contractor and his or her employer, whichever date is
32 earliest ~~latest~~; except that, when the action involves a latent
33 defect, the time runs from the time the defect is discovered or
34 should have been discovered with the exercise of due diligence.

35 2. In any event, the action must be commenced within 7 ~~10~~
36 years after the date of ~~actual possession by the owner, the date~~
37 ~~of the issuance of a temporary certificate of occupancy, the~~
38 date of the issuance of a certificate of occupancy, or the date
39 of the issuance of a certificate of completion, whichever date
40 is earliest. If a temporary certificate of occupancy, a
41 certificate of occupancy, or a certificate of completion has not
42 been issued, the action must be commenced within 7 years after
43 the date of abandonment of construction if not completed, or the
44 date of completion of the contract or termination of the
45 contract between the professional engineer, registered
46 architect, or licensed contractor and his or her employer,
47 whichever date is earliest ~~latest~~.

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

54 4. With respect to actions founded on the design, planning,
55 or construction of an improvement to real property, if such
56 construction is performed pursuant to a duly issued building
57 permit and if a local enforcement agency, state enforcement
58 agency, or special inspector, as those terms are defined in s.

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59 553.71, has issued a final certificate of occupancy or
60 certificate of completion, then as to the construction which is
61 within the scope of such building permit and certificate, the
62 correction of defects to completed work or repair of completed
63 work, whether performed under warranty or otherwise, does not
64 extend the period of time within which an action must be
65 commenced. Completion of the contract means the later of the
66 date of final performance of all the contracted services or the
67 date that final payment for such services becomes due without
68 regard to the date final payment is made.

69 5. Notwithstanding any provision of this section to the
70 contrary, each dwelling unit within a multi-dwelling building
71 must be considered its own improvement for purposes of
72 determining the limitations period set forth in this paragraph.

73 Section 2. Section 553.84, Florida Statutes, is amended to
74 read:

75 553.84 Statutory civil action.—Notwithstanding any other
76 remedies available, any person or party, in an individual
77 capacity or on behalf of a class of persons or parties, damaged
78 as a result of a material violation of this part or the Florida
79 Building Code~~7~~ has a cause of action in any court of competent
80 jurisdiction against the person or party who committed the
81 material violation; however, if the person or party obtains the
82 required building permits and any local government or public
83 agency with authority to enforce the Florida Building Code
84 approves the plans, if the construction project passes all
85 required inspections under the code, and if there is no personal
86 injury or damage to property other than the property that is the
87 subject of the permits, plans, and inspections, this section

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88 does not apply unless the person or party knew or should have
89 known that the material violation existed. For purposes of this
90 section, the term "material violation" means a Florida Building
91 Code violation that exists within a completed building,
92 structure, or facility which may reasonably result, or has
93 resulted, in physical harm to a person or significant damage to
94 the performance of a building or its systems.

95 Section 3. This act shall take effect upon becoming a law.