

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.

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 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
 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,
55 planning, or construction of an improvement to real property, if
56 such construction is performed pursuant to a duly issued
57 building permit and if a local enforcement agency, state
58 enforcement agency, or special inspector, as those terms are
59 defined in s. 553.71, has issued a final certificate of
60 occupancy or certificate of completion, then as to the
61 construction which is within the scope of such building permit
62 and certificate, the correction of defects to completed work or
63 repair of completed work, whether performed under warranty or
64 otherwise, does not extend the period of time within which an
65 action must be commenced. Completion of the contract means the
66 later of the date of final performance of all the contracted
67 services or the date that final payment for such services
68 becomes due without regard to the date final payment is made.

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