

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 applicability; providing an
 13 effective date.

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

16
 17 Section 1. Paragraph (c) of subsection (3) of section
 18 95.11, Florida Statutes, is amended to read:

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

22 (3) WITHIN FOUR YEARS.—

23 (c)1. An action founded on the design, planning, or
 24 construction of an improvement to real property, with the time
 25 running from ~~the date of actual possession by the owner,~~ the

26 | date of the issuance of a temporary certificate of occupancy,
 27 | the date of the issuance of a certificate of occupancy, the date
 28 | of the issuance of a certificate of completion, the date of
 29 | abandonment of construction if not completed, or the date of
 30 | completion of the contract or termination of the contract
 31 | between the professional engineer, registered architect, or
 32 | licensed contractor and his or her employer, whichever date is
 33 | earliest ~~latest~~; except that, when the action involves a latent
 34 | defect, the time runs from the time the defect is discovered or
 35 | should have been discovered with the exercise of due diligence.

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

49 | 3. However, counterclaims, cross-claims, and third-party
 50 | claims that arise out of the conduct, transaction, or occurrence

51 set out or attempted to be set out in a pleading may be
 52 commenced up to 1 year after the pleading to which such claims
 53 relate is served, even if such claims would otherwise be time
 54 barred.

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

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

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

76 553.84 Statutory civil action.—Notwithstanding any other
77 remedies available, any person or party, in an individual
78 capacity or on behalf of a class of persons or parties, damaged
79 as a result of a material violation of this part or the Florida
80 Building Code~~,~~ has a cause of action in any court of competent
81 jurisdiction against the person or party who committed the
82 material violation; however, if the person or party obtains the
83 required building permits and any local government or public
84 agency with authority to enforce the Florida Building Code
85 approves the plans, if the construction project passes all
86 required inspections under the code, and if there is no personal
87 injury or damage to property other than the property that is the
88 subject of the permits, plans, and inspections, this section
89 does not apply unless the person or party knew or should have
90 known that the material violation existed. For purposes of this
91 section, the term "material violation" means a Florida Building
92 Code violation that exists within a completed building,
93 structure, or facility which may reasonably result, or has
94 resulted, in physical harm to a person or significant damage to
95 the performance of a building or its systems.

96 Section 3. The amendments to s. 95.11(3)(c), Florida
97 Statutes, made by this act apply to any action commenced on or
98 after the effective date of this act, regardless of when the
99 cause of action accrued, except that any action that would not
100 have been barred under s. 95.11(3)(c), Florida Statutes, before

CS/HB 85

2023

101 the amendments made by this act must be commenced on or before
102 July 1, 2024. If the action is not commenced by July 1, 2024,
103 and is barred by the amendments to s. 95.11(3)(c), Florida
104 Statutes, made by this act, then the action is barred.

105 Section 4. This act shall take effect upon becoming a law.