

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 events after which the statute of
 8 limitations and repose periods begin to run; providing
 9 exceptions for model homes and improvements with
 10 multiple buildings; amending s. 553.84, F.S.; limiting
 11 an actionable violation under the Florida Building
 12 Code to a material violation; providing definitions;
 13 providing applicability; providing an 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) 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 the authority having jurisdiction issues ~~of the issuance of~~
27 | a temporary certificate of occupancy, a certificate of
28 | occupancy, or a certificate of completion, or 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 | In any event, the action must be commenced within 7 ~~10~~ years
37 | after the date the authority having jurisdiction issues a
38 | temporary certificate of occupancy, of actual possession by the
39 | ~~owner, the date of the issuance of~~ a certificate of occupancy,
40 | or a certificate of completion, or the date of abandonment of
41 | construction if not completed, ~~or the date of completion of the~~
42 | ~~contract or termination of the contract between the professional~~
43 | ~~engineer, registered architect, or licensed contractor and his~~
44 | ~~or her employer, whichever date is earliest latest~~. However,
45 | counterclaims, cross-claims, and third-party claims that arise
46 | out of the conduct, transaction, or occurrence set out or
47 | attempted to be set out in a pleading may be commenced up to 1
48 | year after the pleading to which such claims relate is served,
49 | even if such claims would otherwise be time barred. With respect
50 | to actions founded on the design, planning, or construction of

51 an improvement to real property, if such construction is
52 performed pursuant to a duly issued building permit and if the
53 authority having jurisdiction ~~a local enforcement agency, state~~
54 ~~enforcement agency, or special inspector, as those terms are~~
55 ~~defined in s. 553.71,~~ has issued a temporary final certificate
56 of occupancy, a certificate of occupancy, or a certificate of
57 completion, then as to the construction which is within the
58 scope of such building permit and certificate, the correction of
59 defects to completed work or repair of completed work, whether
60 performed under warranty or otherwise, does not extend the
61 period of time within which an action must be commenced. If a
62 newly constructed single-dwelling residential building is used
63 as a model home, the time begins to run from the date that a
64 deed is recorded first transferring title to another party.
65 Notwithstanding any provision of this section to the contrary,
66 if the improvement to real property consists of the design,
67 planning, or construction of multiple buildings, each building
68 must be considered its own improvement for purposes of
69 determining the limitations period set forth in this paragraph
70 ~~Completion of the contract means the later of the date of final~~
71 ~~performance of all the contracted services or the date that~~
72 ~~final payment for such services becomes due without regard to~~
73 ~~the date final payment is made.~~

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/CS/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.