

CHAPTER 2023-22

Committee Substitute for Senate Bill No. 360

An act relating to causes of action based on improvements to real property; amending s. 95.11, F.S.; revising the time in which an action founded on the design, planning, or construction of an improvement to real property must be commenced; revising the date on which the statute of limitations period begins; providing for the calculation of the statute of limitations period for multi-dwelling buildings; amending s. 553.84, F.S.; defining the term “material violation”; conforming provisions to changes made by the act; providing applicability; providing an effective date.

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

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

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

(3) WITHIN FOUR YEARS.—

(c) An action founded on the design, planning, or construction of an improvement to real property, with the time running from ~~the date of actual possession by the owner, the date the authority having jurisdiction issues of the issuance of a temporary certificate of occupancy, a certificate of occupancy, or a certificate of completion, or the date of abandonment of construction if not completed, or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is earliest~~ latest; except that, when the action involves a latent defect, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, the action must be commenced within ~~7~~ 10 years after the date the authority having jurisdiction issues a temporary certificate of occupancy, of actual possession by the owner, the date of the issuance of a certificate of occupancy, or a certificate of completion, or the date of abandonment of construction if not completed, ~~or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is earliest~~ latest. However, counterclaims, cross-claims, and third-party claims that arise out of the conduct, transaction, or occurrence set out or attempted to be set out in a pleading may be commenced up to 1 year after the pleading to which such claims relate is served, even if such claims would otherwise be time barred. With respect to actions founded on the design, planning, or construction of an improvement to real property, if such construction is performed pursuant to a duly issued building permit and if the authority having jurisdiction a local enforcement agency, state enforcement agency, or special inspector, as those terms are

~~defined in s. 553.71, has issued a temporary final certificate of occupancy, a certificate of occupancy, or a certificate of completion, then as to the construction which is within the scope of such building permit and certificate, the correction of defects to completed work or repair of completed work, whether performed under warranty or otherwise, does not extend the period of time within which an action must be commenced. If a newly constructed single-dwelling residential building is used as a model home, the time begins to run from the date that a deed is recorded first transferring title to another party. Notwithstanding any provision of this section to the contrary, if the improvement to real property consists of the design, planning, or construction of multiple buildings, each building must be considered its own improvement for purposes of determining the limitations period set forth in this paragraph. Completion of the contract means the later of the date of final performance of all the contracted services or the date that final payment for such services becomes due without regard to the date final payment is made.~~

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

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

Section 3. The amendments to s. 95.11(3)(c), Florida Statutes, made by this act apply to any action commenced on or after the effective date of this act, regardless of when the cause of action accrued, except that any action that would not have been barred under s. 95.11(3)(c), Florida Statutes, before the amendments made by this act must be commenced on or before July 1, 2024. If the action is not commenced by July 1, 2024, and is barred by the amendments to s. 95.11 (3)(c), Florida Statutes, made by this act, then the action is barred.

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

Approved by the Governor April 13, 2023.

Filed in Office Secretary of State April 13, 2023.