A bill to be entitled

An act relating to limitations of actions other than for the recovery of real property; amending s. 95.11, F.S.; revising the period to bring actions for certain improvements to real property; providing exceptions; providing definitions; 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~~

1. the time running from ~~the date of actual possession by the owner,~~ 45 days after the date of completion of the improvement ~~the issuance of a certificate of occupancy,~~ or the date of abandonment of construction if the improvement is not completed, except: ~~, or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his~~

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~~or her employer, whichever date is 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 10 years after the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, 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 latest~~.

a. If the action involves a latent defect, the action must be commenced within 7 years, and the time begins to run 45 days after the completion of the improvement or the date of abandonment of construction if the improvement is not completed.

b. If the action alleges a material violation and the person alleging the material violation can show by clear and convincing evidence that the engineer, architect, or contractor or his or her employer had actual knowledge of the material violation at the time of the design, planning, or construction of the improvement, the action must be commenced within 15 years, and the time begins to run 45 days after the completion of the improvement or the date of abandonment of construction, if the improvement is not completed.

2. ~~However,~~ counterclaims, cross-claims, and third-party

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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.

3. As used in this paragraph:

a. "Completion of an improvement" means issuance of the certificate of occupancy or certificate of completion for the improvement, or closing of the building permit for the improvement, as defined in s. 553.79(17)(a), if the improvement is not required to have a certificate of occupancy or certificate of completion.

b. "Material violation" means a violation of the Florida Building Code that exists within a completed building, structure, or facility which may reasonably result, or has resulted, in death or personal injury to a person or significant damage to the building, structure, facility, or its system, or the performance of a building, structure, facility, or its system.

c. "Performance" means that the building, structure, facility or system functions as it is intended and is able to be used for its designed purpose.

d. "Significant damage" means a level of adverse impact to a building, structure, facility, or its system that results or could reasonably result in economic damage or loss that

exceeds the common expectations, and the cost of restoring the damage or preventing such damage to the building, structure, facility, or its system would equal or exceed 25 percent of the market value of the building, structure, facility, or its system if built in accordance with the Florida Building Code. It does not include Florida Building Code violations that are cosmetic, minimal, or inconsequential to the overall performance of a building, structure, facility, or its systems. ~~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 a local enforcement agency, state enforcement agency, or special inspector, as those terms are defined in s. 553.71, has issued a final certificate of occupancy or 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. 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. The amendments to s. 95.11(3)(c), Florida Statutes, made by this act shall apply to any action commenced

on or after July 1, 2022, 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, prior to the amendments made by this act may be commenced before July 1, 2023, and if it is not commenced by that date and is barred by the amendments to s. 95.11(3)(c), Florida Statutes, made by this act, it shall be barred.

Section 3. This act shall take effect July 1, 2022.