

Committee on Regulated Industries

CS/CS/CS/HB 87 — Construction Defect Claims

by Judiciary Committee; Business and Professions Subcommittee; Civil Justice Subcommittee; and Rep. Passidomo and others (CS/SB 418 by Regulated Industries Committee and Senator Richter)

The bill amends ch. 558, F.S., relating to construction defect claims. The bill contains a legislative finding that the opportunity to resolve claims without legal process should be extended to insurers of a contractor, subcontractor, supplier, or design professional and contains a finding that the settlement negotiations should be confidential. The bill revises the definition of “completion of a building or improvement” to include a temporary certificate of occupancy.

The bill amends requirements for filing a notice of claim. The notice must describe the claim in reasonable detail and must sufficiently identify the location of the defect to enable the responding party to locate the defect without undue burden. It does not require destructive or other testing.

The bill provides that a written response to a claim must include one or more offers or statements that the respondent disputes the claim, or that the respondent will remedy the claim, compromise and settle the claim by means of a combination of repairs and monetary payments, or await a determination by an insurer.

The bill states that providing a copy of a notice of claim to a person’s insurer does not constitute a claim for insurance purposes unless the insurance policy specifies otherwise.

The bill provides requirements for the exchange of documents by the parties and provides that a party may assert any claim of privilege recognized under Florida law respecting any of the disclosure obligations mandated by ch. 558, F.S.

The bill amends s. 718.203, F.S., and s. 719.203, F.S., regarding condominiums and cooperatives respectively, to provide that completion of a building or improvement includes issuance of a temporary or other certificate of occupancy, that allows for occupancy or use of the entire building or improvement.

If approved by the Governor, these provisions take effect October 1, 2015.

Vote: Senate 35-4; House 112-0