

By the Committees on Judiciary; and Regulated Industries; and
Senator Negrón

590-04412-10

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1 A bill to be entitled
2 An act relating to design professionals; creating s.
3 558.0035, F.S.; providing for limited liability for
4 engineers, surveyors and mappers, architects, interior
5 designers, and registered landscape architects as a
6 result of construction defects resulting from the
7 performance of a contract; providing exceptions;
8 providing that the limitation of liability for the
9 design professional does not apply if a contract
10 requires professional liability insurance and the
11 contracting party fails to maintain insurance, or if
12 the liability of the design professional is limited in
13 the contract to an amount less than the insurance
14 coverage required by the contract; amending ss.
15 471.023, 472.021, 481.219, and 481.319, F.S.;
16 conforming sections to the limitation of liability for
17 certain design professionals provided in s. 558.0035,
18 F.S.; providing cross-references to s. 558.0035, F.S.;
19 providing that the act does not affect contracts or
20 agreements entered into, or professional services
21 performed, before July 1, 2010; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Section 558.0035, Florida Statutes, is created
27 to read:

28 558.0035 Limitation of liability.—

29 (1) A claimant contracting for the professional services of

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30 a design professional does not have a cause of action in tort
31 against the design professional for the recovery of economic
32 damages resulting from a construction defect.

33 (2) This section does not apply to claims for economic
34 damages resulting from personal injury or damage to property
35 other than the property that is the subject of the contract.

36 (3) This section does not apply if the contract requires
37 professional liability insurance and the contracting party fails
38 to maintain insurance coverage as specified in the contract or
39 if the liability of the design professional is limited in the
40 contract to an amount less than the liability insurance coverage
41 required by the contract.

42 Section 2. Subsection (3) of section 471.023, Florida
43 Statutes, is amended to read:

44 471.023 Certification of business organizations.—

45 (3) Except as provided in s. 558.0035, the fact that a
46 licensed engineer practices through a business organization does
47 not relieve the licensee from personal liability for negligence,
48 misconduct, or wrongful acts committed by him or her.

49 Partnerships and all partners shall be jointly and severally
50 liable for the negligence, misconduct, or wrongful acts
51 committed by their agents, employees, or partners while acting
52 in a professional capacity. Any officer, agent, or employee of a
53 business organization other than a partnership shall be
54 personally liable and accountable only for negligent acts,
55 wrongful acts, or misconduct committed by him or her or
56 committed by any person under his or her direct supervision and
57 control, while rendering professional services on behalf of the
58 business organization. The personal liability of a shareholder

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59 or owner of a business organization, in his or her capacity as
60 shareholder or owner, shall be no greater than that of a
61 shareholder-employee of a corporation incorporated under chapter
62 607. The business organization shall be liable up to the full
63 value of its property for any negligent acts, wrongful acts, or
64 misconduct committed by any of its officers, agents, or
65 employees while they are engaged on its behalf in the rendering
66 of professional services.

67 Section 3. Subsection (3) of section 472.021, Florida
68 Statutes, is amended to read:

69 472.021 Certification of partnerships and corporations.—

70 (3) Except as provided in s. 558.0035, the fact that any
71 registered surveyor and mapper practices through a corporation
72 or partnership shall not relieve the registrant from personal
73 liability for negligence, misconduct, or wrongful acts committed
74 by him or her. Partnerships and all partners shall be jointly
75 and severally liable for the negligence, misconduct, or wrongful
76 acts committed by their agents, employees, or partners while
77 acting in a professional capacity. Any officer, agent, or
78 employee of a business organization other than a partnership
79 shall be personally liable and accountable only for negligent
80 acts, wrongful acts, or misconduct committed by him or her or
81 committed by any person under his or her direct supervision and
82 control while rendering professional services on behalf of the
83 business organization. The personal liability of a shareholder
84 or owner of a business organization, in his or her capacity as
85 shareholder or owner, shall be no greater than that of a
86 shareholder-employee of a corporation incorporated under chapter
87 607. The business organization shall be liable up to the full

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88 value of its property for any negligent acts, wrongful acts, or
89 misconduct committed by any of its officers, agents, or
90 employees while they are engaged on its behalf in the rendering
91 of professional services.

92 Section 4. Subsection (11) of section 481.219, Florida
93 Statutes, is amended to read:

94 481.219 Certification of partnerships, limited liability
95 companies, and corporations.—

96 (11) No corporation, limited liability company, or
97 partnership shall be relieved of responsibility for the conduct
98 or acts of its agents, employees, or officers by reason of its
99 compliance with this section. However, except as provided in s.
100 558.0035, the architect who signs and seals the construction
101 documents and instruments of service shall be liable for the
102 professional services performed, and the interior designer who
103 signs and seals the interior design drawings, plans, or
104 specifications shall be liable for the professional services
105 performed.

106 Section 5. Subsection (6) of section 481.319, Florida
107 Statutes, is amended to read:

108 481.319 Corporate and partnership practice of landscape
109 architecture; certificate of authorization.—

110 (6) Except as provided in s. 558.0035, the fact that
111 registered landscape architects practice landscape architecture
112 through a corporation or partnership as provided in this section
113 shall not relieve any landscape architect from personal
114 liability for his or her professional acts.

115 Section 6. This act does not apply to contracts or
116 agreements entered into, or professional services performed,

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117 before July 1, 2010.

118 Section 7. This act shall take effect July 1, 2010.