

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 result  
 6       of construction defects resulting from the performance of  
 7       a contract; providing that, if a contract requires  
 8       professional liability insurance, the contract may not  
 9       limit the liability of the design professional in a manner  
 10      that is inconsistent with the insurance requirements;  
 11      providing exceptions to the limitation of liability of the  
 12      design professional; amending ss. 471.023, 472.021,  
 13      481.219, and 481.319, F.S.; conforming sections to the  
 14      limitation of liability for certain design professionals  
 15      provided in s. 558.0035, F.S.; providing cross-references  
 16      to s. 558.0035, F.S.; providing that the act does not  
 17      affect contracts or agreements entered into, or  
 18      professional services performed, before a specified date;  
 19      providing an effective date.

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

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 23           Section 1.   Section 558.0035, Florida Statutes, is created  
 24 to read:

25           558.0035 Limitation of liability.-

26           (1) A claimant contracting for the professional services  
 27 of a design professional does not have a cause of action in tort  
 28 against any design professional who performs professional

29 services within the scope of the claimant's contract for the  
 30 recovery of economic damages resulting from a construction  
 31 defect.

32 (2) If the contract requires professional liability  
 33 insurance, the contract may not limit the liability of the  
 34 design professional in a manner that is inconsistent with such  
 35 insurance requirements.

36 (3) This section does not apply:

37 (a) To claims for economic damages resulting from personal  
 38 injury or damage to property other than the property that is the  
 39 subject of the contract; or

40 (b) If the contract requires professional liability  
 41 insurance and the contracting party fails to maintain insurance  
 42 coverage as specified in the contract.

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

45 471.023 Certification of business organizations.—

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

50 Partnerships and all partners shall be jointly and severally  
 51 liable for the negligence, misconduct, or wrongful acts  
 52 committed by their agents, employees, or partners while acting  
 53 in a professional capacity. Any officer, agent, or employee of a  
 54 business organization other than a partnership shall be  
 55 personally liable and accountable only for negligent acts,  
 56 wrongful acts, or misconduct committed by him or her or

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

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

70 472.021 Certification of partnerships and corporations.—

71 (3) Except as provided in s. 558.0035, the fact that any  
72 registered surveyor and mapper practices through a corporation  
73 or partnership shall not relieve the registrant from personal  
74 liability for negligence, misconduct, or wrongful acts committed  
75 by him or her. Partnerships and all partners shall be jointly  
76 and severally liable for the negligence, misconduct, or wrongful  
77 acts committed by their agents, employees, or partners while  
78 acting in a professional capacity. Any officer, agent, or  
79 employee of a business organization other than a partnership  
80 shall be personally liable and accountable only for negligent  
81 acts, wrongful acts, or misconduct committed by him or her or  
82 committed by any person under his or her direct supervision and  
83 control while rendering professional services on behalf of the  
84 business organization. The personal liability of a shareholder

85 or owner of a business organization, in his or her capacity as  
 86 shareholder or owner, shall be no greater than that of a  
 87 shareholder-employee of a corporation incorporated under chapter  
 88 607. The business organization shall be liable up to the full  
 89 value of its property for any negligent acts, wrongful acts, or  
 90 misconduct committed by any of its officers, agents, or  
 91 employees while they are engaged on its behalf in the rendering  
 92 of professional services.

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

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

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

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

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

111 (6) Except as provided in s. 558.0035, the fact that  
 112 registered landscape architects practice landscape architecture

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113 through a corporation or partnership as provided in this section  
114 shall not relieve any landscape architect from personal  
115 liability for his or her professional acts.

116 Section 6. This act does not apply to contracts or  
117 agreements entered into, or professional services performed,  
118 before July 1, 2011.

119 Section 7. This act shall take effect July 1, 2011.