CS for CS for SB 536

By the Committees on Community Affairs; and Judiciary; and Senator Passidomo

	578-02921-18 2018536c2
1	A bill to be entitled
2	An act relating to limitations of actions other than
3	for the recovery of real property; amending s. 95.11,
4	F.S.; authorizing the commencement, within a specified
5	timeframe, of counterclaims, cross-claims, and third-
6	party claims that arise out of the conduct,
7	transaction or occurrence set out or attempted to be
8	set out in a pleading for which such claims relate;
9	specifying that certain corrections and repairs do not
10	extend the period of time within which an action must
11	be commenced; providing applicability; providing an
12	effective date.
13	
14	Be It Enacted by the Legislature of the State of Florida:
15	
16	Section 1. Paragraph (c) of subsection (3) of section
17	95.11, Florida Statutes, is amended to read:
18	95.11 Limitations other than for the recovery of real
19	property.—Actions other than for recovery of real property shall
20	be commenced as follows:
21	(3) WITHIN FOUR YEARS
22	(c) An action founded on the design, planning, or
23	construction of an improvement to real property, with the time
24	running from the date of actual possession by the owner, the
25	date of the issuance of a certificate of occupancy, the date of
26	abandonment of construction if not completed, or the date of
27	completion <u>of the contract</u> or termination of the contract
28	between the professional engineer, registered architect, or
29	licensed contractor and his or her employer, whichever date is

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30latest; except that, when the action involves a latent defect,31the time runs from the time the defect is discovered or should32have been discovered with the exercise of due diligence. In any33event, the action must be commenced within 10 years after the34date of actual possession by the owner, the date of the issuance35of a certificate of occupancy, the date of abandonment of36construction if not completed, or the date of completion of the37contract or termination of the contract between the professional38engineer, registered architect, or licensed contractor and his39or her employer, whichever date is latest. However,40counterclaims, cross-claims, and third-party claims that arise41out of the conduct, transaction or occurrence set out or42attempted to be set out in a pleading may be commenced up to 143year after the pleading to which such claims relate is served,44even if such claims would otherwise be time barred. With respect45to actions founded on the design, planning, or construction of46an improvement agency, state enforcement agency, or special47inspector, as those terms are defined in s. 553.71, has issued a48final certificate of occupancy or certificate of completion,49then as to the construction which is within the scope of such40building permit and certificate, the correction of defects to41completed work or repair of completed work, whether performed42under warranty or otherwise, does not		578-02921-18 2018536c2
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 <u>of the contract</u> or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest. <u>However</u> , <u>counterclaims</u> , cross-claims, and third-party claims that arise <u>out of the conduct</u> , 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 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	30	latest; except that, when the action involves a latent defect,
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-	55	within which an action must be commenced. Completion of the
57 the contracted services or the date that final payment for such	56	contract means the later of the date of final performance of all
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58 services becomes due without regard to the date final payment is	58	services becomes due without regard to the date final payment is

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59	made.
60	Section 2. The amendments to s. 95.11(3)(c), Florida
61	Statutes, made by this act shall apply to any action commenced
62	on or after July 1, 2018, regardless of when the cause of action
63	accrued, except that any action that would not have been barred
64	under s. 95.11(3)(c), Florida Statutes, prior to the amendments
65	made by this act may be commenced before July 1, 2019, and if it
66	is not commenced by that date and is barred by the amendments to
67	s. 95.11(3)(c), Florida Statutes, made by this act, it shall be
68	barred.
69	Section 3. This act shall take effect July 1, 2018.
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