



725808

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2010	.	
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The Committee on Judiciary (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 558.0035 of the Florida Statutes is
created to read:

558.0035 Limitation of liability.-

(1) A claimant contracting for the professional services of
a design professional does not have a cause of action in tort
against the design professional for the recovery of economic
damages resulting from a construction defect.

(2) This section does not apply to claims for economic
damages resulting from personal injury or damage to property



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14 other than the property that is the subject of the contract.

15 (3) This section does not apply if the contract requires
16 professional liability insurance and the contracting party fails
17 to maintain insurance coverage as specified in the contract or
18 if the liability of the design professional is limited in the
19 contract to an amount less than the liability insurance coverage
20 required by the contract.

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

23 471.023 Certification of business organizations.-

24 (3) Except as provided in s. 558.0035, the fact that a
25 licensed engineer practices through a business organization does
26 not relieve the licensee from personal liability for negligence,
27 misconduct, or wrongful acts committed by him or her.
28 Partnerships and all partners shall be jointly and severally
29 liable for the negligence, misconduct, or wrongful acts
30 committed by their agents, employees, or partners while acting
31 in a professional capacity. Any officer, agent, or employee of a
32 business organization other than a partnership shall be
33 personally liable and accountable only for negligent acts,
34 wrongful acts, or misconduct committed by him or her or
35 committed by any person under his or her direct supervision and
36 control, while rendering professional services on behalf of the
37 business organization. The personal liability of a shareholder
38 or owner of a business organization, in his or her capacity as
39 shareholder or owner, shall be no greater than that of a
40 shareholder-employee of a corporation incorporated under chapter
41 607. The business organization shall be liable up to the full
42 value of its property for any negligent acts, wrongful acts, or



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43 misconduct committed by any of its officers, agents, or
44 employees while they are engaged on its behalf in the rendering
45 of professional services.

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

48 472.021 Certification of partnerships and corporations.—

49 (3) Except as provided in s. 558.0035, the fact that any
50 registered surveyor and mapper practices through a corporation
51 or partnership shall not relieve the registrant from personal
52 liability for negligence, misconduct, or wrongful acts committed
53 by him or her. Partnerships and all partners shall be jointly
54 and severally liable for the negligence, misconduct, or wrongful
55 acts committed by their agents, employees, or partners while
56 acting in a professional capacity. Any officer, agent, or
57 employee of a business organization other than a partnership
58 shall be personally liable and accountable only for negligent
59 acts, wrongful acts, or misconduct committed by him or her or
60 committed by any person under his or her direct supervision and
61 control while rendering professional services on behalf of the
62 business organization. The personal liability of a shareholder
63 or owner of a business organization, in his or her capacity as
64 shareholder or owner, shall be no greater than that of a
65 shareholder-employee of a corporation incorporated under chapter
66 607. The business organization shall be liable up to the full
67 value of its property for any negligent acts, wrongful acts, or
68 misconduct committed by any of its officers, agents, or
69 employees while they are engaged on its behalf in the rendering
70 of professional services.

71 Section 4. Subsection (11) of section 481.219, Florida



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72 Statutes, is amended to read:

73 481.219 Certification of partnerships, limited liability
74 companies, and corporations.—

75 (11) No corporation, limited liability company, or
76 partnership shall be relieved of responsibility for the conduct
77 or acts of its agents, employees, or officers by reason of its
78 compliance with this section. However, except as provided in s.
79 558.0035, the architect who signs and seals the construction
80 documents and instruments of service shall be liable for the
81 professional services performed, and the interior designer who
82 signs and seals the interior design drawings, plans, or
83 specifications shall be liable for the professional services
84 performed.

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

87 481.319 Corporate and partnership practice of landscape
88 architecture; certificate of authorization.—

89 (6) Except as provided in s. 558.0035, the fact that
90 registered landscape architects practice landscape architecture
91 through a corporation or partnership as provided in this section
92 shall not relieve any landscape architect from personal
93 liability for his or her professional acts.

94 Section 6. This act does not apply to contracts or
95 agreements entered into, or professional services performed,
96 before July 1, 2010.

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

98
99 ===== T I T L E A M E N D M E N T =====

100 And the title is amended as follows:



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101 Delete everything before the enacting clause
102 and insert:

103 A bill to be entitled
104 An act relating to design professionals; creating s.
105 558.0035, F.S.; providing for limited liability for
106 engineers, surveyors and mappers, architects, interior
107 designers, and registered landscape architects as a
108 result of construction defects resulting from the
109 performance of a contract; providing exceptions;
110 providing that the limitation of liability for the
111 design professional does not apply if a contract
112 requires professional liability insurance and the
113 contracting party fails to maintain insurance, or if
114 the liability of the design professional is limited in
115 the contract to an amount less than the insurance
116 coverage required by the contract; amending ss.
117 471.023, 472.021, 481.219, and 481.319, F.S;
118 conforming sections to the limitation of liability for
119 certain design professionals provided in s. 558.0035,
120 F.S.; providing cross-references to s. 558.0035, F.S.;
121 providing that the act does not affect contracts or
122 agreements entered into, or professional services
123 performed, before July 1, 2010; providing an effective
124 date.