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5 THINGS YOU SHOULD KNOW ABOUT THE PROPOSED REVISIONS TO FLORIDA'S CONSTRUCTION DEFECT STATUTE

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A new bill making its way through the Florida Legislature, SB 736, if enacted into law, will significantly affect future construction defect claims. Here is what you should know:

1. **Four Year Statute of Repose**. The law will effectively eliminate the 10-year latent defect exception to the statute of repose. A 4-year statute of repose will apply to all construction claims, regardless of whether the construction defect is patent (apparent by reasonable inspection) or latent (not readily discernible and obvious).
2. **Settlement Offers and Supplemental Offers**. The law allows the contractor to make an offer to repair the defects and if the claimant rejects the offer, the contractor can make a supplemental offer. If the claimant rejects the offer, they must explain in detail why they are rejecting the offer and list exact reasons. If the claimant rejects a supplemental offer, it cannot collect attorney's fees unless it proves that additional repairs beyond the settlement offer were necessary. If a settlement offer is accepted, the claimant must contract with licensed contractors to remedy the defects, the party making the offer must make payments directly to the contractor, and the repairs must be completed within 12 months of the agreement.
3. **Use of Experts**. The court will now be required to appoint an expert to inspect the alleged defect and report back to the court and the parties.
4. **Duty to Repair the Defect**. A new provision will impose a duty to repair the construction defect after the claimant receives compensation to complete the repair. If the claimant does not use the funds to fully repair the defect, the claimant can be liable to any purchaser of the property for any resulting damages.
5. R**equired Notice to Mortgagee or Assignee**. The claimant must provide notice of the alleged defects and repairs to the mortgagee or assignee.

Should you have any questions or concerns about your construction defect claims, please do not hesitate to reach out to Jeffrey S. Wertman or other team member on the firm's Construction Team.

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