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Top 5 Things You Should Know About Florida's Construction Defect Statute

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Chapter 558 of the Florida Statutes, otherwise known as "Florida's Construction Defect Statute" requires an owner to send a written notice to contractors, subcontractors, developers, suppliers and design professionals which identifies any construction or design defects associated with a construction project. Florida's Construction Defect Statute is a complex web of notices, cross-notices, deadlines and inspections which can be confusing to the construction industry and the lawyers who represent construction clients. Below are the top five things you should know about Florida's Construction Defect Statute.

1. The written notice which identifies the construction or design defects must be served 60 days before the owner files an action seeking recovery for a construction or design defect. If the action involves an association representing 20 or more units, the notice must be served 120 days before filing the action.
2. If the owner fails to serve the required notice, any action seeking recovery of a construction or design defect will be stayed or abated until the parties comply with the provisions of Florida's Construction Defect Statute.
3. A contractor, subcontractor, supplier or design professional has 45 days from receipt of the owner's written notice to respond. An association with 20 or more units has 75 days to respond. The response must include one of the following: a written offer to repair the defect; a written offer to settle with a monetary payment; a written offer to settle the claim with a combination of repairs and monetary payment; a written denial of the claim; or a written statement that a monetary payment will be made pending any insurance available.
4. Contractors, subcontractors, suppliers, and design professionals are permitted upon reasonable notice to inspect the property, conduct destructive testing and even examine documents which would be discoverable in any legal action concerning the defect.
5. Florida's Construction Defect Statute will not prevent the owner from making any emergency repairs necessary to protect his/her health, safety and welfare.