Florida's Notice and Opportunity to Repair Construction Defects

- Florida's time requirements differ somewhat for associations representing 20 or fewer residential parcels (20 ≤) than for associations representing more than 20 residential parcels (20>) – 558.004
- "Dwelling" is not particularly defined in the statute, but appears to include single-family house, duplex, triplex, a quadruplex, a manufactured or modular home and an association representing residential parcels – 558.004(1)
- Any offer or failure to offer to remedy defect does not constitute an admission of liability with respect to defect and is not admissible in a filed action – 558.004(9)
- Court shall allow action to proceed to trial only as to alleged defects that were noticed and for which claimant has complied with these requirements – 558.004(11)

	Claimant	Contractor/Subcontractor (C/S)
Notice of claim	Must serve written notice of claim on C/S at least 60 days before filing action For 20>, must serve written notice at least 120 days before filing action – 558.004(1) Shall endeavor to serve notice of claim within 15 days after discovery of alleged defect – 558.004(1)	Must serve written response to claimant within 45 days after receiving notice of claim – 558.004(5) For 20>, must serve written response to claimant within 75 days after receiving notice of claim – 558.004(5) Within 10 days after receipt of notice of claim, may forward copy of notice to each contractor, subcontractor, supplier or design professional whom it reasonably believes is responsible for each defect – 558.004(3) For 20>, has 30 days after receipt of notice to forward on to contractor, subs, etc.
After notice of claim	Must provide C/S with reasonable access to dwelling during normal working hours to inspect and determine nature and extent of defect – 558.004(2)	Entitled to reasonable inspection within 30 days after receipt of notice of claim For 20>, entitled to reasonable inspection within 50 days after receipt of notice of claim – 558.004(2) Must reasonably coordinate timing and manner of inspection with claimant
Recipient of copy of notice of claim		Shall serve written response to C/S within 15 days of receiving copy of notice of claim – 558.004(4) For 20>, shall serve written response to C/S within 30 days after receiving copy of notice of claim
If destructive testing is necessary		Must notify claimant in writing – 558.004(2)(a) Notice shall describe destructive testing to be performed, person selected to do testing, estimated damage and repairs from testing, estimated time to complete, and financial responsibility offered for covering costs of repairs – 558.004(2)(b)

	Claimant	Contractor/Subcontractor (C/S)
Claimant rejects person to perform destructive testing		Must provide claimant with list of three qualified persons from which claimant may select – 558.004(c)
Claimant refuses to agree to destructive testing	Shall have no claim for damages which could be avoided or mitigated had testing been allowed – 558.004(f)	
C/S response	Must accept or reject a timely settlement offer within 45 days of receiving offer – 558.004(7)	Response shall include: written offer to remedy defect at no cost to claimant; written offer to compromise and settle by monetary payment that does not obligate insurer; written offer to compromise and settle claim by combination of repairs and monetary payment that does not obligate insurer; written statement that C/S disputes claim and will not remedy defect or compromise; or written statement that monetary payment, including insurance proceeds, will be determined by insurer within 30 days of forwarding notice of claim to insurer – 558.004(5)(a-e)
C/S disputes claim or fails to respond	May proceed with action without further notice – 558.004(6)	
C/S's offer to repair accepted	Must provide reasonable access to dwelling during normal working hours – 558.004(8)	
Claimant accepts C/S's offer but C/S fails to perform	May proceed with action – 558.004(8)	
Claimant accepts offer and C/S fulfills offer	Barred from bringing action for claim described in notice of claim – 558.004(8)	

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