

By the Committee on Civil Justice & Claims and  
Representative Thrasher

1                                   A bill to be entitled  
2           An act relating to evidence; amending s.  
3           90.803, F.S.; providing additional exceptions  
4           to the prohibition against hearsay evidence;  
5           providing an effective date.  
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7 Be It Enacted by the Legislature of the State of Florida:  
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9           Section 1. Subsection (22) of section 90.803, Florida  
10 Statutes, 1996 Supplement, is amended to read:

11           90.803 Hearsay exceptions; availability of declarant  
12 immaterial.--The provision of s. 90.802 to the contrary  
13 notwithstanding, the following are not inadmissible as  
14 evidence, even though the declarant is available as a witness:

15           (22) FORMER TESTIMONY.--Former testimony given by the  
16 declarant:

17           (a) At a civil trial, when used in a retrial of such  
18 ~~said~~ trial involving identical parties and the same facts; or-

19           (b) As a witness at another hearing of the same or a  
20 different proceeding, or in a deposition taken in compliance  
21 with law in the course of the same or a different proceeding,  
22 if:

23           1. The testimony is the statement of a person whose  
24 fault is an issue in the action, in either an individual or a  
25 representative capacity; a statement of which he or she has  
26 manifested his or her adoption or belief in its truth; a  
27 statement by a person specifically authorized by him or her to  
28 make a statement concerning the subject; a statement by his or  
29 her agent or servant concerning a matter within the scope of  
30 the agency or employment thereof, made during the existence of  
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1 the relationship; or a statement by a co-conspirator made  
2 during the course, and in furtherance, of the conspiracy;  
3 2. The testimony is used in a civil trial to establish  
4 the degree of fault of such person, or to establish the  
5 authenticity of documentary evidence relevant to the degree of  
6 fault of such person;  
7 3. The testimony is not inadmissible pursuant to the  
8 court's discretion under s. 90.402 or s. 90.403; and  
9 4.a. The party against whom the testimony is now  
10 offered, or another person, had an opportunity and similar  
11 motive to develop the testimony by direct, cross, or redirect  
12 examination; or  
13 b. The testimony, when given, was a statement against  
14 interest.

15 Section 2. This act shall take effect July 1, 1997.  
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