

By the Committee on Civil Justice & Claims and
Representatives Clemons, Thrasher, Ritter and Flanagan

1 A bill to be entitled
2 An act relating to negligence; amending s.
3 768.76, F.S.; revising language with respect to
4 collateral sources of indemnity to redefine the
5 term "collateral sources" with respect to
6 negligence actions; amending s. 768.81, F.S.;
7 revising language with respect to the
8 applicability of joint and several liability to
9 certain actions; providing that certain
10 employers participating in a worker's
11 compensation eligibility program shall not be
12 considered a party in a negligence action and
13 shall not be listed as a tortfeasor on certain
14 jury verdicts; providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (2) of section 768.76, Florida
19 Statutes, is amended to read:

20 768.76 Collateral sources of indemnity.--

21 (2) For purposes of this section:

22 (a) "Collateral sources" means any payments made to
23 the claimant, or made on the claimant's behalf, by or pursuant
24 to:

25 1. The United States Social Security Act, except Title
26 XVIII and Title XIX; any federal, state, or local income
27 disability act; or any other public programs providing medical
28 expenses, disability payments, or other similar benefits,
29 except those prohibited by federal law and those expressly
30 excluded by law as collateral sources.

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1 2. Any health, sickness, or income disability
2 insurance; automobile accident insurance that provides health
3 benefits or income disability coverage; and any other similar
4 insurance benefits, except life insurance benefits available
5 to the claimant, whether purchased by her or him or provided
6 by others.

7 3. Any contract or agreement of any group,
8 organization, partnership, or corporation to provide, pay for,
9 or reimburse the costs of hospital, medical, dental, or other
10 health care services.

11 4. Any contractual or voluntary wage continuation plan
12 provided by employers or by any other system intended to
13 provide wages during a period of disability.

14 5. Any compensation received or payable under worker's
15 compensation as defined in s. 440.02(6).

16 (b) Notwithstanding any other provision of this
17 section, benefits received under Medicare, or any other
18 federal program providing for a Federal Government lien on or
19 right of reimbursement from the plaintiff's recovery, ~~the~~
20 ~~Workers' Compensation Law,~~ the Medicaid program of Title XIX
21 of the Social Security Act or from any medical services
22 program administered by the Department of Health and
23 Rehabilitative Services shall not be considered a collateral
24 source.

25 Section 2. Subsection (5) of section 768.81, Florida
26 Statutes, is amended, present subsection (6) is renumbered as
27 subsection (7) and a new subsection (6) is added to said
28 section to read:

29 768.81 Comparative fault.--

30 (5) WORKER'S COMPENSATION.--For the purposes of this
31 section, an employer as defined in s. 440.02(14),

1 participating in a worker's compensation eligibility program,
2 shall not be considered a party in a negligence action and
3 shall not be listed as a tortfeasor on the jury verdict form
4 with respect to accidents arising out of work performed in the
5 course and scope of employment, as described in s. 440.09. Any
6 payments made by an employer covered by worker's compensation
7 shall be considered collateral sources as provided in s.
8 768.76.~~APPLICABILITY OF JOINT AND SEVERAL~~
9 ~~LIABILITY.--Notwithstanding the provisions of this section,~~
10 ~~the doctrine of joint and several liability applies to all~~
11 ~~actions in which the total amount of damages does not exceed~~
12 ~~\$25,000.~~

13 (6) APPLICABILITY OF JOINT AND SEVERAL
14 LIABILITY.--Notwithstanding the provisions of this section,
15 the doctrine of joint and several liability shall not apply to
16 that portion of economic damages in excess of \$250,000.

17 Section 3. This act shall take effect October 1 of the
18 year in which enacted.

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20 HOUSE SUMMARY

21
22 Revises language with respect to the definition of the
23 term "collateral sources" to include reference to any
24 compensation received or payable under worker's
25 compensation. Revises a provision of law with respect to
26 joint and several liability to provide that joint and
27 several liability shall not apply to that portion of
28 economic damages in excess of \$250,000 and to provide
29 that an employer participating in a worker's compensation
30 eligibility program shall not be considered a party in a
31 negligence action and shall not be listed as a tortfeasor
on the jury verdict form with respect to accidents
arising out of work performed in the course and scope of
employment.