

Bill No. CS for CS for CS for SB 1202

Amendment No. Barcode 130808

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senator Brown-Waite moved the following amendment:

Senate Amendment

On page 96, lines 12-23, delete those lines

and insert: 768.79 or the Florida Rules of Civil Procedure. Sections 400.429-400.4303 provide the exclusive remedy for a cause of action for recovery of damages for the personal injury or death of a resident arising out of negligence or a violation of rights specified in s. 400.022. This section does not preclude theories of recovery not arising out of negligence or s. 400.428 which are available to a resident or to the agency. The provisions of chapter 766 do not apply to any cause of action brought under ss. 400.429-400.4303.~~Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided~~

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1 ~~in this section are in addition to and cumulative with other~~
2 ~~legal and administrative remedies available to a resident or~~
3 ~~to the agency.~~
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