

By Representative Bense

1                                   A bill to be entitled  
2           An act relating to restoring confidence in the  
3           judicial system; creating s. 43.291, F.S.;  
4           specifying membership composition and  
5           requirements of judicial nominating  
6           commissions; providing limitations; providing  
7           for terms; abolishing prior offices; providing  
8           for suspension or removal; requiring racial,  
9           ethnic, gender, and geographical diversity of  
10          commission memberships; repealing s. 43.29,  
11          F.S., relating to judicial nominating  
12          commissions; reenacting ss. 3, 6, 9, 10, 11,  
13          12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,  
14          24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and  
15          35 of ch. 99-225, Laws of Florida, which amend  
16          ss. 44.104, 95.031, 90.407, 768.095, 768.075,  
17          768.72, 768.73, 768.81, 324.021, 400.023,  
18          400.029, and 400.629, F.S., and create ss.  
19          47.025, 768.1257, 768.1256, 768.096, 768.0705,  
20          768.36, 768.725, 768.735, 768.736, 768.737, and  
21          768.098, F.S.; providing for voluntary trial  
22          resolution upon the agreement of parties to a  
23          civil dispute; providing for the appointment  
24          and compensation of a trial resolution judge;  
25          providing guidelines for conducting a voluntary  
26          trial resolution; providing for enforcement and  
27          appeal; providing for expedited trials;  
28          providing that certain venue provisions in a  
29          contract for improvement to real property are  
30          void; specifying appropriate venue for actions  
31          against resident contractors, subcontractors,

1 sub-subcontractors, and materialmen; requiring  
2 the clerk of courts to report certain  
3 information on negligence cases to the Office  
4 of the State Courts Administrator; imposing a  
5 12-year statute of repose on actions brought to  
6 recover for harm caused by products with a  
7 specified expected useful life; exempting  
8 certain categories of products from the statute  
9 of repose; imposing variable repose periods  
10 based on specific warranties by the  
11 manufacturer; providing an exception for  
12 certain injuries; providing for tolling under  
13 particular circumstances; specifying the date  
14 by which certain actions must be brought or be  
15 otherwise barred by the statute of repose;  
16 providing limitations on the admissibility of  
17 subsequent remedial measures; providing  
18 exceptions; requiring the finder of fact, in  
19 certain product defect actions, to consider  
20 circumstances that existed at the time of  
21 manufacture; providing a government rules  
22 defense with respect to certain products  
23 liability actions; providing for rebuttable  
24 presumptions; providing an exception; providing  
25 an employer with a presumption against  
26 negligent hiring under specified conditions in  
27 an action for civil damages resulting from an  
28 intentional tort committed by an employee;  
29 revising the conditions under which an employer  
30 is immune from civil liability for disclosing  
31 information regarding an employee to a

1 prospective employer; providing a presumption  
2 against liability for criminal acts for  
3 convenience business under specified  
4 conditions; delineating the duty owed to  
5 trespassers by a person or organization owning  
6 or controlling an interest in real property;  
7 providing definitions; providing for the  
8 avoidance of liability to discovered and  
9 undiscovered trespassers under described  
10 circumstances; providing immunity from certain  
11 liability arising out of the attempt to commit  
12 or the commission of a felony; prohibiting a  
13 plaintiff from recovering damages if plaintiff  
14 is more than a specified percentage at fault  
15 due to the influence of alcoholic beverages or  
16 drugs; providing for evidentiary standards for  
17 an award of punitive damages; revising  
18 provisions with respect to claims for punitive  
19 damages in civil actions; requiring clear and  
20 convincing evidence of gross negligence or  
21 intentional misconduct to support the recovery  
22 of such damages; providing definitions;  
23 providing criteria for the imposition of  
24 punitive damages with respect to employers,  
25 principals, corporations, or other legal  
26 entities for the conduct of an employee or  
27 agent; providing for the application of the  
28 section; revising provisions with respect to  
29 limitations on punitive damages; providing  
30 monetary limitations; providing for the effect  
31 of certain previous punitive damages awards;

1 providing for the application of the section;  
2 providing that ss. 768.72(2)-(4), 768.725, and  
3 768.73, F.S., relating to punitive damages, are  
4 inapplicable to specified causes of action;  
5 limiting the amount of punitive damages that  
6 may be awarded to a claimant in certain civil  
7 actions involving abuse or arising under ch.  
8 400, F.S.; providing that ss. 768.725 and  
9 768.73, F.S., relating to punitive damages, do  
10 not apply to intoxicated defendants; providing  
11 for application of punitive damages statutes to  
12 arbitration; providing for the apportionment of  
13 damages on the basis of joint and several  
14 liability when a party's fault exceeds certain  
15 percentages; limiting the applicability of  
16 joint and several liability based on the amount  
17 of damages; providing for the allocation of  
18 fault to a nonparty; requiring that such fault  
19 must be proved by a preponderance of the  
20 evidence; providing the lessor of a motor  
21 vehicle under certain rental agreements shall  
22 be deemed the owner of the vehicle for the  
23 purpose of determining liability for the  
24 operation of the vehicle within certain limits;  
25 providing for the liability of the owner of a  
26 motor vehicle who loans the vehicle to certain  
27 users; limiting the liability of employers in a  
28 joint employment relationship under specific  
29 circumstances; providing exceptions and  
30 limitations; relating to actions brought on  
31 behalf of nursing home residents; providing

1           that a party to any such action may not recover  
2           attorney's fees unless parties submit to  
3           mediation; specifying requirements for such  
4           mediation; providing for application; providing  
5           a standard for an award of punitive damages;  
6           relating to actions brought on behalf of  
7           assisted living care facility residents;  
8           providing that a party to any such action may  
9           not recover attorney's fees unless parties  
10          submit to mediation; specifying requirements  
11          for such mediation; providing for application;  
12          providing a standard for an award of punitive  
13          damages; relating to actions brought on behalf  
14          of adult family care home residents; providing  
15          that a party to any such action may not recover  
16          attorney's fees unless parties submit to  
17          mediation; specifying requirements for such  
18          mediation; providing for application; providing  
19          a standard for an award of punitive damages;  
20          requiring the Office of Program Policy Analysis  
21          and Government Accountability to contract with  
22          an actuarial firm to conduct an actuarial  
23          analysis of expected reductions in judgments  
24          and related costs resulting from litigation  
25          reforms; specifying the basis and due date for  
26          the actuarial report; providing a declaration  
27          of intent pertaining to the constitutional  
28          prerogatives of the judiciary; providing for  
29          severability; providing an effective date.

30          WHEREAS, it is the sense of the Legislature, and its  
31          finding, that a crisis exists in public confidence in our

1 civil justice system. The public has expressed continuing  
2 concern over frivolous lawsuits, delay and inefficiency in  
3 resolving claims, and ineffective or insufficient incentives  
4 to settle claims. There exists a present public necessity to  
5 restore citizens' faith in the justice system, and

6 WHEREAS, the Legislature believes and finds that making  
7 the composition of judicial nominating commissions more  
8 geographically diverse and accountable to the electorate will  
9 help restore public confidence, and

10 WHEREAS, the crisis in public confidence in our civil  
11 justice system is exacerbated by doctrines which require a  
12 person to pay more than his or her fair share of a loss, base  
13 liability on what one owns rather than what one does wrong,  
14 encourage irresponsible conduct and discourage personal  
15 responsibility, and impede citizen productivity and  
16 well-being, and

17 WHEREAS, the inequities, imbalances, and disincentives  
18 plaguing our judicial system for almost three decades have  
19 contributed directly and substantially to at least four crises  
20 identified by the Legislature, in addition to the crisis in  
21 public confidence presently existing, and

22 WHEREAS, the seeds of the imbalances in the civil  
23 justice system took root in 1973, when the Supreme Court in  
24 Hoffman v. Jones dramatically altered Florida's fault-based  
25 system and permitted a plaintiff to recover damages in tort  
26 even if 99 percent responsible for the plaintiff's own loss,  
27 yet retained the doctrine of joint and several liability,  
28 under which defendants are required to pay more than their  
29 fair share of a loss, and

30 WHEREAS, shortly after Hoffman, the Court greatly  
31 expanded the liability of Florida retailers and manufacturers

1 of products by adopting the doctrine of strict liability,  
2 which imposes liability without fault, and

3           WHEREAS, for the next twenty years following these  
4 decisions, the number of tort filings in Florida rose  
5 dramatically, far in excess of the state's increase in  
6 population, and

7           WHEREAS, as noted above, the Legislature was forced to  
8 declare crises at least four different times in the civil  
9 litigation system, in 1975, 1976, 1986, and 1988, and

10           WHEREAS, in 1985 the Florida Supreme Court found in  
11 Walt Disney World v. Wood that the Legislature was the  
12 appropriate body to determine the continued viability, if any,  
13 of joint and several liability, and

14           WHEREAS, in the Fabre v. Marin in 1993, the Supreme  
15 Court reaffirmed the principal that one's liability should be  
16 based on one's fault, and

17           WHEREAS, from 1997 through 1999, the Legislature  
18 conducted comprehensive, exhaustive legislative hearings,  
19 which revealed that many of the same inequities and imbalances  
20 in the tort system which had arisen during the past three  
21 decades, and which had prompted at least four different  
22 crises, continued to persist in the system, and

23           WHEREAS, those exhaustive legislative hearings further  
24 revealed that many of the states against which Florida  
25 competed for economic development had made improvements in  
26 their civil system which placed Florida at a competitive  
27 disadvantage with those states, and

28           WHEREAS, an empirical economic analysis demonstrated  
29 that the productivity of individual citizens is enhanced in  
30 states where civil justice reforms are enacted, and diminished  
31 in states where liability-enhancing measures are enacted, and

1 a separate analysis demonstrated that Floridians stood to gain  
2 one billion dollars in savings if Florida enacted certain  
3 civil justice reforms, and

4         WHEREAS, since the hearings in 1997 through 1999,  
5 citizens of the State of Texas have actually realized billions  
6 of dollars in savings as a result of civil justice reforms,  
7 and

8         WHEREAS, the Legislature finds that the scourge of  
9 drunk driving has been and remains a matter of paramount state  
10 concern, which should be addressed in every manner reasonably  
11 possible, and

12         WHEREAS, a critical sector of Florida's society and  
13 economy, the care of the elderly, is in the midst of a  
14 catastrophic crisis arising in substantial part from the  
15 present civil litigation system, and

16         WHEREAS, economic indicators point to the likelihood of  
17 a weakened economy both at the state and national level, which  
18 could serve to exacerbate the inequities and imbalances in the  
19 civil justice system, and threaten the economic well-being of  
20 Florida's citizens, and

21         WHEREAS, the Legislature finds and declares that in  
22 view of the history of Florida's tort system since 1973, the  
23 present crisis in public confidence, the present crisis in  
24 nursing home litigation, and the lingering inequities in the  
25 civil justice system which could further deepen the present  
26 crises, it is of paramount importance to enact proactive  
27 comprehensive legislation which will help to remedy the  
28 inefficiencies and imbalances in Florida's civil justice  
29 system, which will serve to enhance economic productivity in  
30 the state, improve the fairness and predictability of the  
31



1 system, and enhance the overall well-being of all Florida's  
2 citizens, and

3 WHEREAS, the Legislature further finds and declares  
4 that the civil justice system must strike a careful balance  
5 ensuring that tort victims are fairly compensated for their  
6 injuries, while maintaining fairness, common sense, and  
7 predictability to the system, encouraging responsible conduct,  
8 and demanding personal accountability for irresponsible  
9 conduct. This delicate balance, affecting every element of  
10 Florida's society and economy, can best be accomplished  
11 through comprehensive legislative action, and

12 WHEREAS, the Legislature further finds and declares  
13 that the constituent elements of this legislation are properly  
14 and integrally connected to civil justice reform by serving to  
15 balance all competing interests and improving the efficiency  
16 of the litigation system, enhancing the fairness and  
17 predictability of standards of conduct for all Florida's  
18 citizens, and moving Florida closer to a fault-based system as  
19 contemplated and encouraged by the Supreme Court in *Fabre v.*  
20 *Marin and Walt Disney World v. Wood*, NOW, THEREFORE,

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Section 43.291, Florida Statutes, is  
25 created to read:

26 43.291 Judicial nominating commissions.--

27 (1) Each judicial nominating commission established  
28 pursuant to s. 11(d), Art. V of the State Constitution shall  
29 consist of nine members appointed by the Governor, each of  
30 whom shall be a resident of the territorial jurisdiction  
31 served by the commission to which the member is appointed.

1 Five members shall be members in good standing of The Florida  
2 Bar who are actively engaged in the practice of law and four  
3 members shall not be members of The Florida Bar.

4 (2)(a) In making such appointments, the Governor shall  
5 seek to ensure that the members of the commissions reflect the  
6 racial, ethnic, and gender diversity of the population within  
7 the territorial jurisdiction of the court for which  
8 nominations will be considered.

9 (b) In appointing members for judicial circuits of  
10 this state, the Governor shall appoint at least one  
11 commissioner from each county within the judicial circuit and  
12 such commissioner shall reside within the county from which he  
13 or she is appointed.

14 (c) In appointing members for court of appeals  
15 districts of this state, the Governor shall appoint at least  
16 one commissioner from each judicial circuit within the  
17 district and such commissioner shall reside within the  
18 judicial circuit from which he or she is appointed.

19 (d) In appointing members for the Supreme Court  
20 Judicial Nominating Commission, the Governor shall appoint at  
21 least one commissioner from each court of appeals district  
22 within the state and such commissioner shall reside within the  
23 court of appeals district from which he or she is appointed.

24 (3) No justice or judge may be a member of a judicial  
25 nominating commission. A member of a judicial nominating  
26 commission may hold public office other than judicial office.  
27 A member of a judicial nominating commission is not eligible  
28 for appointment to the state judicial office for which the  
29 commission has the authority to make nominations, either  
30 during such term of membership or for a period of 2 years  
31

1 thereafter. All acts of a judicial nominating commission  
2 shall be made with concurrence of a majority of its members.

3 (4) All members shall be appointed for a term to end  
4 concurrently with the term to which the Governor was elected.  
5 The terms of all members shall be concurrent, and the terms  
6 may commence at any time following the inauguration of the  
7 Governor as a result of a general election. If a member is  
8 unable to complete his or her term, the Governor shall appoint  
9 another individual, qualified under the same subsection of  
10 this section as the member previously appointed, to fill the  
11 remainder of the member's term. All terms shall end at  
12 midnight on the evening prior to the next inauguration of a  
13 Governor following a general election. A member of a judicial  
14 nominating commission may be suspended by the Governor for  
15 cause pursuant to uniform rules of procedure established by  
16 the Executive Office of the Governor consistent with s. 7,  
17 Art. IV of the State Constitution and thereafter removed by  
18 the Senate.

19 (5) The office of any member of any judicial  
20 nominating commission appointed pursuant to s. 43.29 prior to  
21 the effective date of this act is abolished upon the effective  
22 date of this act and is replaced by those offices created  
23 pursuant to subsection (1). Any member of a judicial  
24 nominating commission who will not complete a 4-year term  
25 because of enactment of this section may be reappointed by the  
26 Governor.

27 Section 2. Section 43.29, Florida Statutes, is  
28 repealed.

29 Section 3. Sections 3, 6, 9, 10, 11, 12, 13, 14, 15,  
30 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,  
31

1 31, 32, 33, 34, and 35, of chapter 99-225, Laws of Florida,  
2 are reenacted to read:

3 Section 3. Section 44.104, Florida Statutes, is  
4 amended to read:

5 44.104 Voluntary binding arbitration and voluntary  
6 trial resolution.--

7 (1) Two or more opposing parties who are involved in a  
8 civil dispute may agree in writing to submit the controversy  
9 to voluntary binding arbitration, or voluntary trial  
10 resolution, in lieu of litigation of the issues involved,  
11 prior to or after a lawsuit has been filed, provided no  
12 constitutional issue is involved.

13 (2) If the parties have entered into an agreement  
14 which provides in voluntary binding arbitration for a method  
15 for appointing ~~the appointment~~ of one or more arbitrators, or  
16 which provides in voluntary trial resolution a method for  
17 appointing a member of The Florida Bar in good standing for  
18 more than 5 years to act as trial resolution judge, the court  
19 shall proceed with the appointment as prescribed, ~~except that~~.  
20 However, in voluntary binding arbitration at least one of the  
21 arbitrators, who shall serve as the chief arbitrator, shall  
22 meet the qualifications and training requirements adopted  
23 pursuant to s. 44.106. In the absence of an agreement, or if  
24 the agreement method fails or for any reason cannot be  
25 followed, the court, on application of a party, shall appoint  
26 one or more qualified arbitrators, or the trial resolution  
27 judge, as the case requires.

28 (3) The arbitrators or trial resolution judge shall be  
29 compensated by the parties according to their agreement, ~~but~~  
30 ~~not at an amount less than \$75 per day~~.

31

1           (4) Within 10 days after ~~of~~ the submission of the  
2 request for binding arbitration, or voluntary trial  
3 resolution, the court shall provide for the appointment of the  
4 arbitrator or arbitrators, or trial resolution judge, as the  
5 case requires. Once appointed, the arbitrators or trial  
6 resolution judge shall notify the parties of the time and  
7 place for the hearing.

8           (5) Application for voluntary binding arbitration or  
9 voluntary trial resolution shall be filed and fees paid to the  
10 clerk of court as if for complaints initiating civil actions.  
11 The clerk of the court shall handle and account for these  
12 matters in all respects as if they were civil actions, except  
13 that the clerk of court shall keep separate the records of the  
14 applications for voluntary binding arbitration and the records  
15 of the applications for voluntary trial resolution from all  
16 other civil actions.

17           (6) Filing of the application for binding arbitration  
18 or voluntary trial resolution will toll the running of the  
19 applicable statutes of limitation.

20           (7) The chief arbitrator or trial resolution judge may  
21 ~~shall have such power to~~ administer oaths or affirmation and  
22 ~~to~~ conduct the proceedings as the rules of court shall  
23 provide. At the request of any party, the chief arbitrator or  
24 trial resolution judge shall issue subpoenas for the  
25 attendance of witnesses and for the production of books,  
26 records, documents, and other evidence and may apply to the  
27 court for orders compelling attendance and production.  
28 Subpoenas shall be served and shall be enforceable in the  
29 manner provided by law.

30           (8) A voluntary binding arbitration ~~The~~ hearing shall  
31 be conducted by all of the arbitrators, but a majority may

1 determine any question and render a final decision. A trial  
2 resolution judge shall conduct a voluntary trial resolution  
3 hearing. The trial resolution judge may determine any  
4 question and render a final decision.

5 (9) The Florida Evidence Code shall apply to all  
6 proceedings under this section.

7 (10) An appeal of a voluntary binding arbitration  
8 decision shall be taken to the circuit court and shall be  
9 limited to review on the record and not de novo, of:

10 (a) Any alleged failure of the arbitrators to comply  
11 with the applicable rules of procedure or evidence.

12 (b) Any alleged partiality or misconduct by an  
13 arbitrator prejudicing the rights of any party.

14 (c) Whether the decision reaches a result contrary to  
15 the Constitution of the United States or of the State of  
16 Florida.

17 (11) Any party may enforce a final decision rendered  
18 in a voluntary trial by filing a petition for final judgment  
19 in the circuit court in the circuit in which the voluntary  
20 trial took place. Upon entry of final judgment by the circuit  
21 court, any party may appeal to the appropriate appellate  
22 court. Factual findings determined in the voluntary trial are  
23 not subject to appeal.

24 (12) The harmless error doctrine shall apply in all  
25 appeals. No further review shall be permitted unless a  
26 constitutional issue is raised.

27 (13)~~(11)~~ If no appeal is taken within the time  
28 provided by rules promulgated by the Supreme Court, then the  
29 decision shall be referred to the presiding judge in the case,  
30 or if one has not been assigned, then to the chief judge of  
31 the circuit for assignment to a circuit judge, who shall enter

1 such orders and judgments as are required to carry out the  
2 terms of the decision, which orders shall be enforceable by  
3 the contempt powers of the court and for which judgments  
4 execution shall issue on request of a party.

5 ~~(14)(12)~~ This section shall not apply to any dispute  
6 involving child custody, visitation, or child support, or to  
7 any dispute which involves the rights of a third party not a  
8 party to the arbitration or voluntary trial resolution when  
9 the third party would be an indispensable party if the dispute  
10 were resolved in court or when the third party notifies the  
11 chief arbitrator or the trial resolution judge that the third  
12 party would be a proper party if the dispute were resolved in  
13 court, that the third party intends to intervene in the action  
14 in court, and that the third party does not agree to proceed  
15 under this section.

16 Section 6. Expedited trials.--Upon the joint  
17 stipulation of the parties to any civil case, the court may  
18 conduct an expedited trial as provided in this section. Where  
19 two or more plaintiffs or defendants have a unity of interest,  
20 such as a husband and wife, they shall be considered one party  
21 for the purpose of this section. Unless otherwise ordered by  
22 the court or agreed to by the parties with approval of the  
23 court, an expedited trial shall be conducted as follows:

24 (1) All discovery shall be completed within 60 days  
25 after the court enters an order adopting the joint expedited  
26 trial stipulation.

27 (2) All interrogatories and requests for production  
28 must be served within 10 days after the court enters the order  
29 adopting the joint expedited trial stipulation, and all  
30 responses must be served within 20 days after receipt.

31

1       (3) The court shall determine the number of  
2 depositions required.

3       (4) The case may be tried to a jury.

4       (5) The case may be tried within 30 days after the  
5 60-day discovery cutoff, if such schedule would not impose an  
6 undue burden on the court calendar.

7       (6) The trial must be limited to 1 day.

8       (7) The jury selection must be limited to 1 hour.

9       (8) The plaintiff will have no more than 3 hours to  
10 present its case, including the opening, all testimony and  
11 evidence, and the closing.

12       (9) The defendant will have no more than 3 hours to  
13 present its case, including the opening, all testimony and  
14 evidence, and the closing.

15       (10) The jury may be given "plain language" jury  
16 instructions at the beginning of the trial as well as a "plain  
17 language" jury verdict form. The parties must agree to the  
18 jury instructions and verdict form.

19       (11) The parties may introduce a verified written  
20 report of any expert and an affidavit of the expert's  
21 curriculum vitae instead of calling the expert to testify at  
22 trial.

23       (12) At trial the parties may use excerpts from  
24 depositions, including video depositions, regardless of where  
25 the deponent lives or whether the deponent is available to  
26 testify.

27       (13) Except as otherwise provided in this section, the  
28 Florida Evidence Code and the Florida Rules of Civil Procedure  
29 apply.

30       (14) The court may refuse to grant continuances of the  
31 trial absent extraordinary circumstances.



1           Section 9. Section 47.025, Florida Statutes, is  
2 created to read:

3           47.025 Actions against contractors.--Any venue  
4 provision in a contract for improvement to real property which  
5 requires legal action involving a resident contractor,  
6 subcontractor, sub-subcontractor, or materialman, as defined  
7 in part I of chapter 713, to be brought outside this state is  
8 void as a matter of public policy. To the extent that the  
9 venue provision in the contract is void under this section,  
10 any legal action arising out of that contract shall be brought  
11 only in this state in the county where the defendant resides,  
12 where the cause of action accrued, or where the property in  
13 litigation is located, unless, after the dispute arises, the  
14 parties stipulate to another venue.

15           Section 10. Through the state's uniform case reporting  
16 system, the clerk of court shall report to the Office of the  
17 State Courts Administrator, beginning in 2003, information  
18 from each settlement or jury verdict and final judgment in  
19 negligence cases as defined in section 768.81(4), Florida  
20 Statutes, as the President of the Senate and the Speaker of  
21 the House of Representatives deem necessary from time to time.  
22 The information shall include, but need not be limited  
23 to: the name of each plaintiff and defendant; the verdict;  
24 the percentage of fault of each; the amount of economic  
25 damages and noneconomic damages awarded to each plaintiff,  
26 identifying those damages that are to be paid jointly and  
27 severally and by which defendants; and the amount of any  
28 punitive damages to be paid by each defendant.

29           Section 11. Effective July 1, 1999, subsection (2) of  
30 section 95.031, Florida Statutes, is amended to read:

31

1           95.031 Computation of time.--Except as provided in  
2 subsection (2) and in s. 95.051 and elsewhere in these  
3 statutes, the time within which an action shall be begun under  
4 any statute of limitations runs from the time the cause of  
5 action accrues.

6           (2)(a) ~~An action~~ Actions for ~~products liability and~~  
7 fraud under s. 95.11(3) must be begun within the period  
8 prescribed in this chapter, with the period running from the  
9 time the facts giving rise to the cause of action were  
10 discovered or should have been discovered with the exercise of  
11 due diligence, instead of running from any date prescribed  
12 elsewhere in s. 95.11(3), but in any event an action for fraud  
13 under s. 95.11(3) must be begun within 12 years after the date  
14 of the commission of the alleged fraud, regardless of the date  
15 the fraud was or should have been discovered.

16           (b) An action for products liability under s. 95.11(3)  
17 must be begun within the period prescribed in this chapter,  
18 with the period running from the date that the facts giving  
19 rise to the cause of action were discovered, or should have  
20 been discovered with the exercise of due diligence, rather  
21 than running from any other date prescribed elsewhere in s.  
22 95.11(3), except as provided within this subsection. Under no  
23 circumstances may a claimant commence an action for products  
24 liability, including a wrongful death action or any other  
25 claim arising from personal injury or property damage caused  
26 by a product, to recover for harm allegedly caused by a  
27 product with an expected useful life of 10 years or less, if  
28 the harm was caused by exposure to or use of the product more  
29 than 12 years after delivery of the product to its first  
30 purchaser or lessee who was not engaged in the business of  
31 selling or leasing the product or of using the product as a

1 component in the manufacture of another product. All products,  
2 except those included within subparagraph 1. or subparagraph  
3 2., are conclusively presumed to have an expected useful life  
4 of 10 years or less.

5 1. Aircraft used in commercial or contract carrying of  
6 passengers or freight, vessels of more than 100 gross tons,  
7 railroad equipment used in commercial or contract carrying of  
8 passengers or freight, and improvements to real property,  
9 including elevators and escalators, are not subject to the  
10 statute of repose provided within this subsection.

11 2. Any product not listed in subparagraph 1., which  
12 the manufacturer specifically warranted, through express  
13 representation or labeling, as having an expected useful life  
14 exceeding 10 years, has an expected useful life commensurate  
15 with the time period indicated by the warranty or label. Under  
16 such circumstances, no action for products liability may be  
17 brought after the expected useful life of the product, or more  
18 than 12 years after delivery of the product to its first  
19 purchaser or lessee who was not engaged in the business of  
20 selling or leasing the product or of using the product as a  
21 component in the manufacture of another product, whichever is  
22 later.

23 3. With regard to those products listed in  
24 subparagraph 1., except for escalators, elevators, and  
25 improvements to real property, no action for products  
26 liability may be brought more than 20 years after delivery of  
27 the product to its first purchaser or lessor who was not  
28 engaged in the business of selling or leasing the product or  
29 of using the product as a component in the manufacture of  
30 another product. However, if the manufacturer specifically  
31 warranted, through express representation or labeling, that

1 the product has an expected useful life exceeding 20 years,  
2 the repose period shall be the time period warranted in  
3 representations or label.

4 (c) The repose period prescribed in paragraph (b) does  
5 not apply if the claimant was exposed to or used the product  
6 within the repose period, but an injury caused by such  
7 exposure or use did not manifest itself until after expiration  
8 of the repose period.

9 (d) The repose period prescribed within paragraph (b)  
10 is tolled for any period during which the manufacturer through  
11 its officers, directors, partners, or managing agents had  
12 actual knowledge that the product was defective in the manner  
13 alleged by the claimant and took affirmative steps to conceal  
14 the defect. Any claim of concealment under this section shall  
15 be made with specificity and must be based upon substantial  
16 factual and legal support. Maintaining the confidentiality of  
17 trade secrets does not constitute concealment under this  
18 section.

19 Section 12. (1) The amendments to section 95.031(2),  
20 Florida Statutes, made by this act shall apply to any action  
21 commenced on or after the effective date of that section,  
22 regardless of when the cause of action accrued, except that  
23 any action for products liability which would not have been  
24 barred under section 95.031(2), Florida Statutes, prior to the  
25 amendments to that section made by this act may be commenced  
26 before July 1, 2003, and, if it is not commenced by that date  
27 and is barred by the amendments to section 95.031(2), Florida  
28 Statutes, made by this act, it shall be barred.

29 (2) This section shall take effect July 1, 1999.

30 Section 13. Section 90.407, Florida Statutes, is  
31 amended to read:

1           90.407 Subsequent remedial measures.--Evidence of  
2 measures taken after an injury or harm caused by an event,  
3 which measures if taken before ~~the event~~ ~~it occurred~~ would  
4 have made injury or harm ~~the event~~ less likely to occur, is  
5 not admissible to prove negligence, the existence of a product  
6 defect, or culpable conduct in connection with the event. This  
7 rule does not require the exclusion of evidence of subsequent  
8 remedial measures when offered for another purpose, such as  
9 proving ownership, control, or the feasibility of  
10 precautionary measures, if controverted, or impeachment.

11           Section 14. Section 768.1257, Florida Statutes, is  
12 created to read:

13           768.1257 State-of-the-art defense for products  
14 liability.--In an action based upon defective design, brought  
15 against the manufacturer of a product, the finder of fact  
16 shall consider the state of the art of scientific and  
17 technical knowledge and other circumstances that existed at  
18 the time of manufacture, not at the time of loss or injury.

19           Section 15. Section 768.1256, Florida Statutes, is  
20 created to read:

21           768.1256 Government rules defense.--

22           (1) In a product liability action brought against a  
23 manufacturer or seller for harm allegedly caused by a product,  
24 there is a rebuttable presumption that the product is not  
25 defective or unreasonably dangerous and the manufacturer or  
26 seller is not liable if, at the time the specific unit of the  
27 product was sold or delivered to the initial purchaser or  
28 user, the aspect of the product that allegedly caused the  
29 harm:

30  
31

1       (a) Complied with federal or state codes, statutes,  
2 rules, regulations, or standards relevant to the event causing  
3 the death or injury;

4       (b) The codes, statutes, rules, regulations, or  
5 standards are designed to prevent the type of harm that  
6 allegedly occurred; and

7       (c) Compliance with the codes, statutes, rules,  
8 regulations, or standards is required as a condition for  
9 selling or distributing the product.

10       (2) In a product liability action as described in  
11 subsection (1), there is a rebuttable presumption that the  
12 product is defective or unreasonably dangerous and the  
13 manufacturer or seller is liable if the manufacturer or seller  
14 did not comply with the federal or state codes, statutes,  
15 rules, regulations, or standards which:

16       (a) Were relevant to the event causing the death or  
17 injury;

18       (b) Are designed to prevent the type of harm that  
19 allegedly occurred; and

20       (c) Require compliance as a condition for selling or  
21 distributing the product.

22       (3) This section does not apply to an action brought  
23 for harm allegedly caused by a drug that is ordered off the  
24 market or seized by the Federal Food and Drug Administration.

25       Section 16. Section 768.096, Florida Statutes, is  
26 created to read:

27       768.096 Employer presumption against negligent  
28 hiring.--

29       (1) In a civil action for the death of, or injury or  
30 damage to, a third person caused by the intentional tort of an  
31 employee, such employee's employer is presumed not to have

1 been negligent in hiring such employee if, before hiring the  
2 employee, the employer conducted a background investigation of  
3 the prospective employee and the investigation did not reveal  
4 any information that reasonably demonstrated the unsuitability  
5 of the prospective employee for the particular work to be  
6 performed or for the employment in general. A background  
7 investigation under this section must include:  
8       (a) Obtaining a criminal background investigation on  
9 the prospective employee under subsection (2);  
10       (b) Making a reasonable effort to contact references  
11 and former employers of the prospective employee concerning  
12 the suitability of the prospective employee for employment;  
13       (c) Requiring the prospective employee to complete a  
14 job application form that includes questions concerning  
15 whether he or she has ever been convicted of a crime,  
16 including details concerning the type of crime, the date of  
17 conviction and the penalty imposed, and whether the  
18 prospective employee has ever been a defendant in a civil  
19 action for intentional tort, including the nature of the  
20 intentional tort and the disposition of the action;  
21       (d) Obtaining, with written authorization from the  
22 prospective employee, a check of the driver's license record  
23 of the prospective employee if such a check is relevant to the  
24 work the employee will be performing and if the record can  
25 reasonably be obtained; or  
26       (e) Interviewing the prospective employee.  
27       (2) To satisfy the criminal-background-investigation  
28 requirement of this section, an employer must request and  
29 obtain from the Department of Law Enforcement a check of the  
30 information as reported and reflected in the Florida Crime  
31 Information Center system as of the date of the request.

1           (3) The election by an employer not to conduct the  
2 investigation specified in subsection (1) does not raise any  
3 presumption that the employer failed to use reasonable care in  
4 hiring an employee.

5           Section 17. Section 768.095, Florida Statutes, is  
6 amended to read:

7           768.095 Employer immunity from liability; disclosure  
8 of information regarding former or current employees.--An  
9 employer who discloses information about a former or current  
10 employee ~~employee's job performance~~ to a prospective employer  
11 of the former or current employee upon request of the  
12 prospective employer or of the former or current employee is  
13 ~~presumed to be acting in good faith and, unless lack of good~~  
14 ~~faith is shown by clear and convincing evidence, is immune~~  
15 from civil liability for such disclosure or its consequences  
16 unless it is shown by clear and convincing evidence. ~~For~~  
17 ~~purposes of this section, the presumption of good faith is~~  
18 ~~rebutted upon a showing~~ that the information disclosed by the  
19 former or current employer was knowingly false ~~or deliberately~~  
20 ~~misleading, was rendered with malicious purpose, or violated~~  
21 any civil right of the former or current employee protected  
22 under chapter 760.

23           Section 18. Section 768.0705, Florida Statutes, is  
24 created to read:

25           768.0705 Limitation on premises liability.--The owner  
26 or operator of a convenience business that substantially  
27 implements the applicable security measures listed in ss.  
28 812.173 and 812.174 shall gain a presumption against liability  
29 in connection with criminal acts that occur on the premises  
30 and that are committed by third parties who are not employees  
31



1 or agents of the owner or operator of the convenience  
2 business.

3 Section 19. Section 768.075, Florida Statutes, is  
4 amended to read:

5 768.075 Immunity from liability for injury to  
6 trespassers on real property.--

7 (1) A person or organization owning or controlling an  
8 interest in real property, or an agent of such person or  
9 organization, shall not be held liable for any civil damages  
10 for death of or injury or damage to a trespasser upon the  
11 property ~~resulting from or arising by reason of the~~  
12 ~~trespasser's commission of the offense of trespass as~~  
13 ~~described in s. 810.08 or s. 810.09,~~ when such trespasser was  
14 under the influence of alcoholic beverages with a  
15 blood-alcohol level of 0.08 ~~0.10~~ percent or higher, when such  
16 trespasser was under the influence of any chemical substance  
17 set forth in s. 877.111, when such trespasser was illegally  
18 under the influence of any substance controlled under chapter  
19 893, or if the trespasser is affected by any of the aforesaid  
20 substances to the extent that her or his normal faculties are  
21 impaired. ~~For the purposes of this section, voluntary~~  
22 ~~intoxication or impediment of faculties by use of alcohol or~~  
23 ~~any of the aforementioned substances shall not excuse a party~~  
24 ~~bringing an action or on whose behalf an action is brought~~  
25 ~~from proving the elements of trespass.~~ However, the person or  
26 organization owning or controlling the interest in real  
27 property shall not be immune from liability if gross  
28 negligence or intentional ~~willful and wanton~~ misconduct on the  
29 part of such person or organization or agent thereof is a  
30 proximate cause of the death of or injury or damage to the  
31 trespasser.

1       (2) A person or organization owning or controlling an  
2 interest in real property, or an agent of such person or  
3 organization, is not liable for any civil damages for the  
4 death of or injury or damage to any discovered or undiscovered  
5 trespasser, except as provided in paragraphs (3)(a), (b), and  
6 (c), and regardless of whether the trespasser was intoxicated  
7 or otherwise impaired.

8       (3)(a) As used in this subsection, the term:

9       1. "Invitation" means that the visitor entering the  
10 premises has an objectively reasonable belief that he or she  
11 has been invited or is otherwise welcome on that portion of  
12 the real property where injury occurs.

13       2. "Discovered trespasser" means a person who enters  
14 real property without invitation, either express or implied,  
15 and whose actual physical presence was detected, within 24  
16 hours preceding the accident, by the person or organization  
17 owning or controlling an interest in real property or to whose  
18 actual physical presence the person or organization owning or  
19 controlling an interest in real property was alerted by a  
20 reliable source within 24 hours preceding the accident. The  
21 status of a person who enters real property shall not be  
22 elevated to that of an invitee, unless the person or  
23 organization owning or controlling an interest in real  
24 property has issued an express invitation to enter the  
25 property or has manifested a clear intent to hold the property  
26 open to use by persons pursuing purposes such as those pursued  
27 by the person whose status is at issue.

28       3. "Undiscovered trespasser" means a person who enters  
29 property without invitation, either express or implied, and  
30 whose actual physical presence was not detected, within 24  
31

1 hours preceding the accident, by the person or organization  
2 owning or controlling an interest in real property.

3 (b) To avoid liability to undiscovered trespassers, a  
4 person or organization owning or controlling an interest in  
5 real property must refrain from intentional misconduct that  
6 proximately causes injury to the undiscovered trespasser, but  
7 has no duty to warn of dangerous conditions. To avoid  
8 liability to discovered trespassers, a person or organization  
9 owning or controlling an interest in real property must  
10 refrain from gross negligence or intentional misconduct that  
11 proximately causes injury to the discovered trespasser, and  
12 must warn the trespasser of dangerous conditions that are  
13 known to the person or organization owning or controlling an  
14 interest in real property but that are not readily observable  
15 by others.

16 (c) This subsection shall not be interpreted or  
17 construed to alter the common law as it pertains to the  
18 "attractive nuisance doctrine."

19 (4) A person or organization owning or controlling an  
20 interest in real property, or an agent of such person or  
21 organization, shall not be held liable for negligence that  
22 results in the death of, injury to, or damage to a person who  
23 is attempting to commit a felony or who is engaged in the  
24 commission of a felony on the property.

25 Section 20. Section 768.36, Florida Statutes, is  
26 created to read:

27 768.36 Alcohol or drug defense.--

28 (1) As used in this section, the term:

29 (a) "Alcoholic beverage" means distilled spirits and  
30 any beverage that contains 0.5 percent or more alcohol by  
31 volume as determined in accordance with s. 561.01(4)(b).

1        (b) "Drug" means any chemical substance set forth in  
2 s. 877.111 or any substance controlled under chapter 893. The  
3 term does not include any drug or medication obtained pursuant  
4 to a prescription as defined in s. 893.02 which was taken in  
5 accordance with the prescription, or any medication that is  
6 authorized under state or federal law for general distribution  
7 and use without a prescription in treating human diseases,  
8 ailments, or injuries and that was taken in the recommended  
9 dosage.

10       (2) In any civil action, a plaintiff may not recover  
11 any damages for loss or injury to his or her person or  
12 property if the trier of fact finds that, at the time the  
13 plaintiff was injured:

14       (a) The plaintiff was under the influence of any  
15 alcoholic beverage or drug to the extent that the plaintiff's  
16 normal faculties were impaired or the plaintiff had a blood or  
17 breath alcohol level of 0.08 percent or higher; and

18       (b) As a result of the influence of such alcoholic  
19 beverage or drug the plaintiff was more than 50 percent at  
20 fault for his or her own harm.

21       Section 21. Section 768.725, Florida Statutes, is  
22 created to read:

23       768.725 Punitive damages; burden of proof.--In all  
24 civil actions, the plaintiff must establish at trial, by clear  
25 and convincing evidence, its entitlement to an award of  
26 punitive damages. The "greater weight of the evidence" burden  
27 of proof applies to a determination of the amount of damages.

28       Section 22. Section 768.72, Florida Statutes, is  
29 amended to read:

30       768.72 Pleading in civil actions; claim for punitive  
31 damages.--

1           (1) In any civil action, no claim for punitive damages  
2 shall be permitted unless there is a reasonable showing by  
3 evidence in the record or proffered by the claimant which  
4 would provide a reasonable basis for recovery of such damages.  
5 The claimant may move to amend her or his complaint to assert  
6 a claim for punitive damages as allowed by the rules of civil  
7 procedure. The rules of civil procedure shall be liberally  
8 construed so as to allow the claimant discovery of evidence  
9 which appears reasonably calculated to lead to admissible  
10 evidence on the issue of punitive damages. No discovery of  
11 financial worth shall proceed until after the pleading  
12 concerning punitive damages is permitted.

13           (2) A defendant may be held liable for punitive  
14 damages only if the trier of fact, based on clear and  
15 convincing evidence, finds that the defendant was personally  
16 guilty of intentional misconduct or gross negligence. As used  
17 in this section, the term:

18           (a) "Intentional misconduct" means that the defendant  
19 had actual knowledge of the wrongfulness of the conduct and  
20 the high probability that injury or damage to the claimant  
21 would result and, despite that knowledge, intentionally  
22 pursued that course of conduct, resulting in injury or damage.

23           (b) "Gross negligence" means that the defendant's  
24 conduct was so reckless or wanting in care that it constituted  
25 a conscious disregard or indifference to the life, safety, or  
26 rights of persons exposed to such conduct.

27           (3) In the case of an employer, principal,  
28 corporation, or other legal entity, punitive damages may be  
29 imposed for the conduct of an employee or agent only if the  
30 conduct of the employee or agent meets the criteria specified  
31 in subsection (2) and:

1       (a) The employer, principal, corporation, or other  
2 legal entity actively and knowingly participated in such  
3 conduct;

4       (b) The officers, directors, or managers of the  
5 employer, principal, corporation, or other legal entity  
6 knowingly condoned, ratified, or consented to such conduct; or

7       (c) The employer, principal, corporation, or other  
8 legal entity engaged in conduct that constituted gross  
9 negligence and that contributed to the loss, damages, or  
10 injury suffered by the claimant.

11       (4) The provisions of this section shall be applied to  
12 all causes of action arising after the effective date of this  
13 act.

14       Section 23. Section 768.73, Florida Statutes, is  
15 amended to read:

16       768.73 Punitive damages; limitation.--

17       (1)(a) Except as provided in paragraphs (b) and (c),  
18 an award of punitive damages may not exceed the greater of:

19       1. Three times the amount of compensatory damages  
20 awarded to each claimant entitled thereto, consistent with the  
21 remaining provisions of this section; or

22       2. The sum of \$500,000.~~In any civil action based on~~  
23 ~~negligence, strict liability, products liability, misconduct~~  
24 ~~in commercial transactions, professional liability, or breach~~  
25 ~~of warranty, and involving willful, wanton, or gross~~  
26 ~~misconduct, the judgment for the total amount of punitive~~  
27 ~~damages awarded to a claimant may not exceed three times the~~  
28 ~~amount of compensatory damages awarded to each person entitled~~  
29 ~~thereto by the trier of fact, except as provided in paragraph~~  
30 ~~(b). However, this subsection does not apply to any class~~  
31 ~~action.~~

1           (b) Where the fact finder determines that the wrongful  
2 conduct proven under this section was motivated solely by  
3 unreasonable financial gain and determines that the  
4 unreasonably dangerous nature of the conduct, together with  
5 the high likelihood of injury resulting from the conduct, were  
6 actually known by the managing agent, director, officer, or  
7 other person responsible for making policy decisions on behalf  
8 of the defendant, it may award an amount of punitive damages  
9 not to exceed the greater of:

10           1. Four times the amount of compensatory damages  
11 awarded to each claimant entitled thereto, consistent with the  
12 remaining provisions of this section; or

13           2. The sum of \$2,000,000.~~If any award for punitive~~  
14 ~~damages exceeds the limitation specified in paragraph (a), the~~  
15 ~~award is presumed to be excessive and the defendant is~~  
16 ~~entitled to remittitur of the amount in excess of the~~  
17 ~~limitation unless the claimant demonstrates to the court by~~  
18 ~~clear and convincing evidence that the award is not excessive~~  
19 ~~in light of the facts and circumstances which were presented~~  
20 ~~to the trier of fact.~~

21           (c) Where the fact finder determines that at the time  
22 of injury the defendant had a specific intent to harm the  
23 claimant and determines that the defendant's conduct did in  
24 fact harm the claimant, there shall be no cap on punitive  
25 damages.

26           (d)~~(e)~~ This subsection is not intended to prohibit an  
27 appropriate court from exercising its jurisdiction under s.  
28 768.74 in determining the reasonableness of an award of  
29 punitive damages that is less than three times the amount of  
30 compensatory damages.

31

1       (2)(a) Except as provided in paragraph (b), punitive  
2 damages may not be awarded against a defendant in a civil  
3 action if that defendant establishes, before trial, that  
4 punitive damages have previously been awarded against that  
5 defendant in any state or federal court in any action alleging  
6 harm from the same act or single course of conduct for which  
7 the claimant seeks compensatory damages. For purposes of a  
8 civil action, the term "the same act or single course of  
9 conduct" includes acts resulting in the same manufacturing  
10 defects, acts resulting in the same defects in design, or  
11 failure to warn of the same hazards, with respect to similar  
12 units of a product.

13       (b) In subsequent civil actions involving the same act  
14 or single course of conduct for which punitive damages have  
15 already been awarded, if the court determines by clear and  
16 convincing evidence that the amount of prior punitive damages  
17 awarded was insufficient to punish that defendant's behavior,  
18 the court may permit a jury to consider an award of subsequent  
19 punitive damages. In permitting a jury to consider awarding  
20 subsequent punitive damages, the court shall make specific  
21 findings of fact in the record to support its conclusion. In  
22 addition, the court may consider whether the defendant's act  
23 or course of conduct has ceased. Any subsequent punitive  
24 damage awards must be reduced by the amount of any earlier  
25 punitive damage awards rendered in state or federal court.

26       (3) The claimant attorney's fees, if payable from the  
27 judgment, are, to the extent that the fees are based on the  
28 punitive damages, calculated based on the final judgment for  
29 punitive damages. This subsection does not limit the payment  
30 of attorney's fees based upon an award of damages other than  
31 punitive damages.



1       ~~(4)(2)~~ The jury may neither be instructed nor informed  
2 as to the provisions of this section.

3       (5) The provisions of this section shall be applied to  
4 all causes of action arising after the effective date of this  
5 act.

6           Section 24. Section 768.735, Florida Statutes, is  
7 created to read:

8           768.735 Punitive damages; exceptions; limitation.--

9           (1) Sections 768.72(2)-(4), 768.725, and 768.73 do not  
10 apply to any civil action based upon child abuse, abuse of the  
11 elderly, or abuse of the developmentally disabled or any civil  
12 action arising under chapter 400. Such actions are governed by  
13 applicable statutes and controlling judicial precedent.

14           (2)(a) In any civil action based upon child abuse,  
15 abuse of the elderly, or abuse of the developmentally  
16 disabled, or actions arising under chapter 400 and involving  
17 the award of punitive damages, the judgment for the total  
18 amount of punitive damages awarded to a claimant may not  
19 exceed three times the amount of compensatory damages awarded  
20 to each person entitled thereto by the trier of fact, except  
21 as provided in paragraph (b). This subsection does not apply  
22 to any class action.

23           (b) If any award for punitive damages exceeds the  
24 limitation specified in paragraph (a), the award is presumed  
25 to be excessive and the defendant is entitled to remittitur of  
26 the amount in excess of the limitation unless the claimant  
27 demonstrates to the court by clear and convincing evidence  
28 that the award is not excessive in light of the facts and  
29 circumstances that were presented to the trier of fact.

30           (c) This subsection is not intended to prohibit an  
31 appropriate court from exercising its jurisdiction under s.

1 768.74 in determining the reasonableness of an award of  
2 punitive damages which is less than three times the amount of  
3 compensatory damages.

4 (d) The jury may not be instructed or informed as to  
5 the provisions of this section.

6 Section 25. Section 768.736, Florida Statutes, is  
7 created to read:

8 768.736 Punitive damages; exceptions for  
9 intoxication.--Sections 768.725 and 768.73 do not apply to any  
10 defendant who, at the time of the act or omission for which  
11 punitive damages are sought, was under the influence of any  
12 alcoholic beverage or drug to the extent that the defendant's  
13 normal faculties were impaired, or who had a blood or breath  
14 alcohol level of 0.08 percent or higher.

15 Section 26. Section 768.737, Florida statutes, is  
16 created to read:

17 768.737 Punitive damages; application in  
18 arbitration.--Where punitive damages are available as a remedy  
19 in an arbitration proceeding, ss. 768.72, 768.725, and 768.73  
20 apply. When an award of punitive damages is made in an  
21 arbitration proceeding, the arbitrator who renders the award  
22 must issue a written opinion setting forth the conduct which  
23 gave rise to the award and how the arbitrator applied the  
24 standards in s. 768.72 to such conduct.

25 Section 27. Subsections (3), (4), (5), and (6) of  
26 section 768.81, Florida Statutes, are amended to read:

27 768.81 Comparative fault.--

28 (3) APPORTIONMENT OF DAMAGES.--In cases to which this  
29 section applies, the court shall enter judgment against each  
30 party liable on the basis of such party's percentage of fault  
31

1 and not on the basis of the doctrine of joint and several  
2 liability, except as provided in paragraphs (a), (b), and (c):

3 (a) Where a plaintiff is found to be at fault, the  
4 following shall apply:

5 1. Any defendant found 10 percent or less at fault  
6 shall not be subject to joint and several liability.

7 2. For any defendant found more than 10 percent but  
8 less than 25 percent at fault, joint and several liability  
9 shall not apply to that portion of economic damages in excess  
10 of \$200,000.

11 3. For any defendant found at least 25 percent but not  
12 more than 50 percent at fault, joint and several liability  
13 shall not apply to that portion of economic damages in excess  
14 of \$500,000.

15 4. For any defendant found more than 50 percent at  
16 fault, joint and several liability shall not apply to that  
17 portion of economic damages in excess of \$1,000,000.

18  
19 For any defendant under subparagraph 2., subparagraph 3., or  
20 subparagraph 4., the amount of economic damages calculated  
21 under joint and several liability shall be in addition to the  
22 amount of economic and noneconomic damages already apportioned  
23 to that defendant based on that defendant's percentage of  
24 fault.

25 (b) Where a plaintiff is found to be without fault,  
26 the following shall apply:

27 1. Any defendant found less than 10 percent at fault  
28 shall not be subject to joint and several liability.

29 2. For any defendant found at least 10 percent but  
30 less than 25 percent at fault, joint and several liability  
31

1 shall not apply to that portion of economic damages in excess  
2 of \$500,000.

3 3. For any defendant found at least 25 percent but not  
4 more than 50 percent at fault, joint and several liability  
5 shall not apply to that portion of economic damages in excess  
6 of \$1,000,000.

7 4. For any defendant found more than 50 percent at  
8 fault, joint and several liability shall not apply to that  
9 portion of economic damages in excess of \$2,000,000.

10

11 For any defendant under subparagraph 2., subparagraph 3., or  
12 subparagraph 4., the amount of economic damages calculated  
13 under joint and several liability shall be in addition to the  
14 amount of economic and noneconomic damages already apportioned  
15 to that defendant based on that defendant's percentage of  
16 fault.

17 (c) With respect to any defendant whose percentage of  
18 fault is less than the fault of a particular plaintiff, the  
19 doctrine of joint and several liability shall not apply to any  
20 damages imposed against the defendant. ~~provided that with~~  
21 ~~respect to any party whose percentage of fault equals or~~  
22 ~~exceeds that of a particular claimant, the court shall enter~~  
23 ~~judgment with respect to economic damages against that party~~  
24 ~~on the basis of the doctrine of joint and several liability.~~

25 (d) In order to allocate any or all fault to a  
26 nonparty, a defendant must affirmatively plead the fault of a  
27 nonparty and, absent a showing of good cause, identify the  
28 nonparty, if known, or describe the nonparty as specifically  
29 as practicable, either by motion or in the initial responsive  
30 pleading when defenses are first presented, subject to

31

1 amendment any time before trial in accordance with the Florida  
2 Rules of Civil Procedure.

3 (e) In order to allocate any or all fault to a  
4 nonparty and include the named or unnamed nonparty on the  
5 verdict form for purposes of apportioning damages, a defendant  
6 must prove at trial, by a preponderance of the evidence, the  
7 fault of the nonparty in causing the plaintiff's injuries.

8 (4) APPLICABILITY.--

9 (a) This section applies to negligence cases. For  
10 purposes of this section, "negligence cases" includes, but is  
11 not limited to, civil actions for damages based upon theories  
12 of negligence, strict liability, products liability,  
13 professional malpractice whether couched in terms of contract  
14 or tort, or breach of warranty and like theories. In  
15 determining whether a case falls within the term "negligence  
16 cases," the court shall look to the substance of the action  
17 and not the conclusory terms used by the parties.

18 (b) This section does not apply to any action brought  
19 by any person to recover actual economic damages resulting  
20 from pollution, to any action based upon an intentional tort,  
21 or to any cause of action as to which application of the  
22 doctrine of joint and several liability is specifically  
23 provided by chapter 403, chapter 498, chapter 517, chapter  
24 542, or chapter 895.

25 ~~(5) APPLICABILITY OF JOINT AND SEVERAL~~  
26 ~~LIABILITY.-- Notwithstanding the provisions of this section,~~  
27 ~~the doctrine of joint and several liability applies to all~~  
28 ~~actions in which the total amount of damages does not exceed~~  
29 ~~\$25,000.~~

30 (5)(6) Notwithstanding anything in law to the  
31 contrary, in an action for damages for personal injury or

1 wrongful death arising out of medical malpractice, whether in  
2 contract or tort, when an apportionment of damages pursuant to  
3 this section is attributed to a teaching hospital as defined  
4 in s. 408.07, the court shall enter judgment against the  
5 teaching hospital on the basis of such party's percentage of  
6 fault and not on the basis of the doctrine of joint and  
7 several liability.

8 Section 28. Effective July 1, 1999, paragraph (b) of  
9 subsection (9) of section 324.021, Florida Statutes, is  
10 amended, and paragraph (c) is added to that subsection, to  
11 read:

12 324.021 Definitions; minimum insurance required.--The  
13 following words and phrases when used in this chapter shall,  
14 for the purpose of this chapter, have the meanings  
15 respectively ascribed to them in this section, except in those  
16 instances where the context clearly indicates a different  
17 meaning:

18 (9) OWNER; OWNER/LESSOR.--

19 (b) Owner/lessor.--Notwithstanding any other provision  
20 of the Florida Statutes or existing case law:7

21 1. The lessor, under an agreement to lease a motor  
22 vehicle for 1 year or longer which requires the lessee to  
23 obtain insurance acceptable to the lessor which contains  
24 limits not less than \$100,000/\$300,000 bodily injury liability  
25 and \$50,000 property damage liability or not less than  
26 \$500,000 combined property damage liability and bodily injury  
27 liability, shall not be deemed the owner of said motor vehicle  
28 for the purpose of determining financial responsibility for  
29 the operation of said motor vehicle or for the acts of the  
30 operator in connection therewith; further, this subparagraph  
31 ~~paragraph~~ shall be applicable so long as the insurance meeting

1 these requirements is in effect. The insurance meeting such  
2 requirements may be obtained by the lessor or lessee,  
3 provided, if such insurance is obtained by the lessor, the  
4 combined coverage for bodily injury liability and property  
5 damage liability shall contain limits of not less than \$1  
6 million and may be provided by a lessor's blanket policy.

7 2. The lessor, under an agreement to rent or lease a  
8 motor vehicle for a period of less than 1 year, shall be  
9 deemed the owner of the motor vehicle for the purpose of  
10 determining liability for the operation of the vehicle or the  
11 acts of the operator in connection therewith only up to  
12 \$100,000 per person and up to \$300,000 per incident for bodily  
13 injury and up to \$50,000 for property damage. If the lessee or  
14 the operator of the motor vehicle is uninsured or has any  
15 insurance with limits less than \$500,000 combined property  
16 damage and bodily injury liability, the lessor shall be liable  
17 for up to an additional \$500,000 in economic damages only  
18 arising out of the use of the motor vehicle. The additional  
19 specified liability of the lessor for economic damages shall  
20 be reduced by amounts actually recovered from the lessee, from  
21 the operator, and from any insurance or self-insurance  
22 covering the lessee or operator. Nothing in this subparagraph  
23 shall be construed to affect the liability of the lessor for  
24 its own negligence.

25 3. The owner who is a natural person and loans a motor  
26 vehicle to any permissive user shall be liable for the  
27 operation of the vehicle or the acts of the operator in  
28 connection therewith only up to \$100,000 per person and up to  
29 \$300,000 per incident for bodily injury and up to \$50,000 for  
30 property damage. If the permissive user of the motor vehicle  
31 is uninsured or has any insurance with limits less than

1 \$500,000 combined property damage and bodily injury liability,  
2 the owner shall be liable for up to an additional \$500,000 in  
3 economic damages only arising out of the use of the motor  
4 vehicle. The additional specified liability of the owner for  
5 economic damages shall be reduced by amounts actually  
6 recovered from the permissive user and from any insurance or  
7 self-insurance covering the permissive user. Nothing in this  
8 subparagraph shall be construed to affect the liability of the  
9 owner for his or her own negligence.

10 (c) Application.--

11 1. The limits on liability in subparagraphs (b)2. and  
12 (b)3. do not apply to an owner of motor vehicles that are used  
13 for commercial activity in the owner's ordinary course of  
14 business, other than a rental company that rents or leases  
15 motor vehicles. For purposes of this paragraph, the term  
16 "rental company" includes only an entity that is engaged in  
17 the business of renting or leasing motor vehicles to the  
18 general public and that rents or leases a majority of its  
19 motor vehicles to persons with no direct or indirect  
20 affiliation with the rental company. The term also includes a  
21 motor vehicle dealer that provides temporary replacement  
22 vehicles to its customers for up to 10 days.

23 2. Furthermore, with respect to commercial motor  
24 vehicles as defined in s. 627.732, the limits on liability in  
25 subparagraphs (b)2. and (b)3. do not apply if, at the time of  
26 the incident, the commercial motor vehicle is being used in  
27 the transportation of materials found to be hazardous for the  
28 purposes of the Hazardous Materials Transportation  
29 Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et  
30 seq., and that is required pursuant to such act to carry

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1 placards warning others of the hazardous cargo, unless at the  
2 time of lease or rental either:

3 a. The lessee indicates in writing that the vehicle  
4 will not be used to transport materials found to be hazardous  
5 for the purposes of the Hazardous Materials Transportation  
6 Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et  
7 seq.; or

8 b. The lessee or other operator of the commercial  
9 motor vehicle has in effect insurance with limits of at least  
10 \$5,000,000 combined property damage and bodily injury  
11 liability.

12 Section 29. Section 768.098, Florida Statutes, is  
13 created to read:

14 768.098 Limitation of liability for employee  
15 leasing.--

16 (1) An employer in a joint employment relationship  
17 pursuant to s. 468.520 shall not be liable for the tortious  
18 actions of another employer in that relationship, or for the  
19 tortious actions of any jointly employed employee under that  
20 relationship, provided that:

21 (a) The employer seeking to avoid liability pursuant  
22 to this section did not authorize or direct the tortious  
23 action;

24 (b) The employer seeking to avoid liability pursuant  
25 to this section did not have actual knowledge of the tortious  
26 conduct and fail to take appropriate action;

27 (c) The employer seeking to avoid liability pursuant  
28 to this section did not have actual control over the  
29 day-to-day job duties of the jointly employed employee who has  
30 committed a tortious act nor actual control over the portion  
31 of a job site at which or from which the tortious conduct

1 arose or at which and from which a jointly employed employee  
2 worked, and that said control was assigned to the other  
3 employer under the contract;

4 (d) The employer seeking to avoid liability pursuant  
5 to this section is expressly absolved in the written contract  
6 forming the joint employment relationship of control over the  
7 day-to-day job duties of the jointly employed employee who has  
8 committed a tortious act, and actual control over the portion  
9 of the job site at which or from which the tortious conduct  
10 arose or at which and from which the jointly employed employee  
11 worked, and that said control was assigned to the other  
12 employer under the contract; and

13 (e) Complaints, allegations, or incidents of any  
14 tortious misconduct or workplace safety violations, regardless  
15 of the source, are required to be reported to the employer  
16 seeking to avoid liability pursuant to this section by all  
17 other joint employers under the written contract forming the  
18 joint employment relationship, and that the employer seeking  
19 to avoid liability pursuant to this section did not fail to  
20 take appropriate action as a result of receiving any such  
21 report related to a jointly employed employee who has  
22 committed a tortious act.

23 (2) An employer seeking to avoid liability pursuant to  
24 this section shall not be presumed to have actual control over  
25 the day-to-day job duties of the jointly employed employee who  
26 has committed a tortious act, nor actual control over the  
27 portion of a job site at which or from which that employee  
28 worked, based solely upon the fact that the employee at issue  
29 is a leased employee.

30 (3) This section shall not alter any responsibilities  
31 of the joint employer who has actual control over the

1 day-to-day job duties of the jointly employed employee and who  
2 has actual control over the portion of a job site at which or  
3 from which the employee is employed, which arises from s.  
4 768.096.

5 Section 30. Subsections (6), (7), and (8) are added to  
6 section 400.023, Florida Statutes, to read:

7 400.023 Civil enforcement.--

8 (6) To recover attorney's fees under this section, the  
9 following conditions precedent must be met:

10 (a) Within 120 days after the filing of a responsive  
11 pleading or defensive motion to a complaint brought under this  
12 section and before trial, the parties or their designated  
13 representatives shall meet in mediation to discuss the issues  
14 of liability and damages in accordance with this paragraph for  
15 the purpose of an early resolution of the matter.

16 1. Within 60 days after the filing of the responsive  
17 pleading or defensive motion, the parties shall:

18 a. Agree on a mediator. If the parties cannot agree on  
19 a mediator, the defendant shall immediately notify the court,  
20 which shall appoint a mediator within 10 days after such  
21 notice.

22 b. Set a date for mediation.

23 c. Prepare an order for the court that identifies the  
24 mediator, the scheduled date of the mediation, and other terms  
25 of the mediation. Absent any disagreement between the parties,  
26 the court may issue the order for the mediation submitted by  
27 the parties without a hearing.

28 2. The mediation must be concluded within 120 days  
29 after the filing of a responsive pleading or defensive motion.  
30 The date may be extended only by agreement of all parties  
31 subject to mediation under this subsection.

1           3. The mediation shall be conducted in the following  
2 manner:

3           a. Each party shall ensure that all persons necessary  
4 for complete settlement authority are present at the  
5 mediation.

6           b. Each party shall mediate in good faith.

7           4. All aspects of the mediation which are not  
8 specifically established by this subsection must be conducted  
9 according to the rules of practice and procedure adopted by  
10 the Supreme Court of this state.

11           (b) If the parties do not settle the case pursuant to  
12 mediation, the last offer of the defendant made at mediation  
13 shall be recorded by the mediator in a written report that  
14 states the amount of the offer, the date the offer was made in  
15 writing, and the date the offer was rejected. If the matter  
16 subsequently proceeds to trial under this section and the  
17 plaintiff prevails but is awarded an amount in damages,  
18 exclusive of attorney's fees, which is equal to or less than  
19 the last offer made by the defendant at mediation, the  
20 plaintiff is not entitled to recover any attorney's fees.

21           (c) This subsection applies only to claims for  
22 liability and damages and does not apply to actions for  
23 injunctive relief.

24           (d) This subsection applies to all causes of action  
25 that accrue on or after October 1, 1999.

26           (7) Discovery of financial information for the purpose  
27 of determining the value of punitive damages may not be had  
28 unless the plaintiff shows the court by proffer or evidence in  
29 the record that a reasonable basis exists to support a claim  
30 for punitive damages.

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1       (8) In addition to any other standards for punitive  
2 damages, any award of punitive damages must be reasonable in  
3 light of the actual harm suffered by the resident and the  
4 egregiousness of the conduct that caused the actual harm to  
5 the resident.

6           Section 31. Section 400.429, Florida statutes, is  
7 amended to read:

8           400.429 Civil actions to enforce rights.--

9           (1) Any person or resident whose rights as specified  
10 in this part are violated shall have a cause of action against  
11 any facility owner, administrator, or staff responsible for  
12 the violation. The action may be brought by the resident or  
13 his or her guardian, or by a person or organization acting on  
14 behalf of a resident with the consent of the resident or his  
15 or her guardian, or by the personal representative of the  
16 estate of a deceased resident when the cause of death resulted  
17 from a violation of the decedent's rights, to enforce such  
18 rights. The action may be brought in any court of competent  
19 jurisdiction to enforce such rights and to recover actual  
20 damages, and punitive damages when malicious, wanton, or  
21 willful disregard of the rights of others can be shown. Any  
22 plaintiff who prevails in any such action may be entitled to  
23 recover reasonable attorney's fees, costs of the action, and  
24 damages, unless the court finds that the plaintiff has acted  
25 in bad faith, with malicious purpose, and that there was a  
26 complete absence of a justiciable issue of either law or fact.  
27 A prevailing defendant may be entitled to recover reasonable  
28 attorney's fees pursuant to s. 57.105. The remedies provided  
29 in this section are in addition to and cumulative with other  
30 legal and administrative remedies available to a resident or  
31 to the agency.

1           (2) To recover attorney's fees under this section, the  
2 following conditions precedent must be met:

3           (a) Within 120 days after the filing of a responsive  
4 pleading or defensive motion to a complaint brought under this  
5 section and before trial, the parties or their designated  
6 representatives shall meet in mediation to discuss the issues  
7 of liability and damages in accordance with this paragraph for  
8 the purpose of an early resolution of the matter.

9           1. Within 60 days after the filing of the responsive  
10 pleading or defensive motion, the parties shall:

11           a. Agree on a mediator. If the parties cannot agree on  
12 a mediator, the defendant shall immediately notify the court,  
13 which shall appoint a mediator within 10 days after such  
14 notice.

15           b. Set a date for mediation.

16           c. Prepare an order for the court that identifies the  
17 mediator, the scheduled date of the mediation, and other terms  
18 of the mediation. Absent any disagreement between the parties,  
19 the court may issue the order for the mediation submitted by  
20 the parties without a hearing.

21           2. The mediation must be concluded within 120 days  
22 after the filing of a responsive pleading or defensive motion.  
23 The date may be extended only by agreement of all parties  
24 subject to mediation under this subsection.

25           3. The mediation shall be conducted in the following  
26 manner:

27           a. Each party shall ensure that all persons necessary  
28 for complete settlement authority are present at the  
29 mediation.

30           b. Each party shall mediate in good faith.

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1           4. All aspects of the mediation which are not  
2 specifically established by this subsection must be conducted  
3 according to the rules of practice and procedure adopted by  
4 the Supreme Court of this state.

5           (b) If the parties do not settle the case pursuant to  
6 mediation, the last offer of the defendant made at mediation  
7 shall be recorded by the mediator in a written report that  
8 states the amount of the offer, the date the offer was made in  
9 writing, and the date the offer was rejected. If the matter  
10 subsequently proceeds to trial under this section and the  
11 plaintiff prevails but is awarded an amount in damages,  
12 exclusive of attorney's fees, which is equal to or less than  
13 the last offer made by the defendant at mediation, the  
14 plaintiff is not entitled to recover any attorney's fees.

15           (c) This subsection applies only to claims for  
16 liability and damages and does not apply to actions for  
17 injunctive relief.

18           (d) This subsection applies to all causes of action  
19 that accrue on or after October 1, 1999.

20           (3) Discovery of financial information for the purpose  
21 of determining the value of punitive damages may not be had  
22 unless the plaintiff shows the court by proffer or evidence in  
23 the record that a reasonable basis exists to support a claim  
24 for punitive damages.

25           (4) In addition to any other standards for punitive  
26 damages, any award of punitive damages must be reasonable in  
27 light of the actual harm suffered by the resident and the  
28 egregiousness of the conduct that caused the actual harm to  
29 the resident.

30           Section 32. Section 400.629, Florida Statutes, 1998  
31 Supplement, is amended to read:

1           400.629 Civil actions to enforce rights.--  
2           (1) Any person or resident whose rights as specified  
3 in this part are violated has a cause of action against any  
4 adult family-care home, provider, or staff responsible for the  
5 violation. The action may be brought by the resident or the  
6 resident's guardian, or by a person or organization acting on  
7 behalf of a resident with the consent of the resident or the  
8 resident's guardian, to enforce the right. The action may be  
9 brought in any court of competent jurisdiction to enforce such  
10 rights and to recover actual damages, and punitive damages  
11 when malicious, wanton, or willful disregard of the rights of  
12 others can be shown. Any plaintiff who prevails in any such  
13 action is entitled to recover reasonable attorney's fees,  
14 costs of the action, and damages, unless the court finds that  
15 the plaintiff has acted in bad faith or with malicious purpose  
16 or that there was a complete absence of a justiciable issue of  
17 either law or fact. A prevailing defendant is entitled to  
18 recover reasonable attorney's fees pursuant to s. 57.105. The  
19 remedies provided in this section are in addition to other  
20 legal and administrative remedies available to a resident or  
21 to the agency.

22           (2) To recover attorney's fees under this section, the  
23 following conditions precedent must be met:

24           (a) Within 120 days after the filing of a responsive  
25 pleading or defensive motion to a complaint brought under this  
26 section and before trial, the parties or their designated  
27 representatives shall meet in mediation to discuss the issues  
28 of liability and damages in accordance with this paragraph for  
29 the purpose of an early resolution of the matter.

30           1. Within 60 days after the filing of the responsive  
31 pleading or defensive motion, the parties shall:



1           a. Agree on a mediator. If the parties cannot agree on  
2 a mediator, the defendant shall immediately notify the court,  
3 which shall appoint a mediator within 10 days after such  
4 notice.

5           b. Set a date for mediation.

6           c. Prepare an order for the court that identifies the  
7 mediator, the scheduled date of the mediation, and other terms  
8 of the mediation. Absent any disagreement between the parties,  
9 the court may issue the order for the mediation submitted by  
10 the parties without a hearing.

11           2. The mediation must be concluded within 120 days  
12 after the filing of a responsive pleading or defensive motion.  
13 The date may be extended only by agreement of all parties  
14 subject to mediation under this subsection.

15           3. The mediation shall be conducted in the following  
16 manner:

17           a. Each party shall ensure that all persons necessary  
18 for complete settlement authority are present at the  
19 mediation.

20           b. Each party shall mediate in good faith.

21           4. All aspects of the mediation which are not  
22 specifically established by this subsection must be conducted  
23 according to the rules of practice and procedure adopted by  
24 the Supreme Court of this state.

25           (b) If the parties do not settle the case pursuant to  
26 mediation, the last offer of the defendant made at mediation  
27 shall be recorded by the mediator in a written report that  
28 states the amount of the offer, the date the offer was made in  
29 writing, and the date the offer was rejected. If the matter  
30 subsequently proceeds to trial under this section and the  
31 plaintiff prevails but is awarded an amount in damages,

1 exclusive of attorney's fees, which is equal to or less than  
2 the last offer made by the defendant at mediation, the  
3 plaintiff is not entitled to recover any attorney's fees.

4 (c) This subsection applies only to claims for  
5 liability and damages and does not apply to actions for  
6 injunctive relief.

7 (d) This subsection applies to all causes of action  
8 that accrue on or after October 1, 1999.

9 (3) Discovery of financial information for the purpose  
10 of determining the value of punitive damages may not be had  
11 unless the plaintiff shows the court by proffer or evidence in  
12 the record that a reasonable basis exists to support a claim  
13 for punitive damages.

14 (4) In addition to any other standards for punitive  
15 damages, any award of punitive damages must be reasonable in  
16 light of the actual harm suffered by the resident and the  
17 egregiousness of the conduct that caused the actual harm to  
18 the resident.

19 Section 33. (1) The Office of Program Policy Analysis  
20 and Government Accountability shall, after issuing a request  
21 for proposals, contract with a national independent actuarial  
22 firm to conduct an actuarial analysis, consistent with  
23 generally accepted actuarial practices, of the expected  
24 reduction in liability judgments, settlements, and related  
25 costs resulting from the provisions of this act. The analysis  
26 shall be based on credible loss cost data derived from  
27 settlement or adjudication of liability claims accruing after  
28 the effective date of this act. The analysis shall include an  
29 estimate of the percentage decrease in such judgments,  
30 settlements, and costs by type of coverage affected by this

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1 act, including the time period when such savings or reductions  
2 are expected.

3 (2) The report shall be completed and submitted to the  
4 Office of Program Policy Analysis and Government  
5 Accountability by March 1, 2007.

6 Section 34. It is the intent of this act and the  
7 Legislature to accord the utmost comity and respect to the  
8 constitutional prerogatives of Florida's judiciary, and  
9 nothing in this act should be construed as any effort to  
10 impinge upon those prerogatives. To that end, should any court  
11 of competent jurisdiction enter a final judgment concluding or  
12 declaring that any provision of this act improperly encroaches  
13 upon the authority of the Florida Supreme Court to determine  
14 the rules of practice and procedure in Florida courts, the  
15 Legislature hereby declares its intent that any such provision  
16 be construed as a request for rule change pursuant to s. 2,  
17 Art. 5 of the State Constitution and not as a mandatory  
18 legislative directive.

19 Section 35. If any provision of this act or the  
20 application thereof to any person or circumstance is held  
21 invalid, the invalidity does not affect other provisions or  
22 applications of the act which can be given effect without the  
23 invalid provision or application, and to this end the  
24 provisions of this act are declared severable. Section 43.29,  
25 Florida Statutes, is repealed.

26 Section 4. This act shall take effect October 1, 2001.  
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HOUSE SUMMARY

Revises the judicial nominating commission member appointment process. Reenacts sections 3, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35 of chapter 99-225, Laws of Florida, relating to civil actions. See bill for details.