

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Council for Healthy Communities offered the following:

**Amendment to Amendment (132133)**

On page 15, line 29 through page 17, line 3  
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 10. Effective July 1, 2001, and applying to  
causes of action accruing on or after that date, section  
400.0238, Florida Statutes, is created to read:

400.0238 Punitive damages; limitation.--

(1)(a) Except as provided in paragraph (b), an award  
of punitive damages may not exceed the greater of:

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

2. The sum of \$1 million.

(b) Where the fact finder determines beyond a  
reasonable doubt that at the time of injury the wrongful  
conduct proven under this section was motivated primarily by  
unreasonable financial gain and determines that the

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1 unreasonably dangerous nature of the conduct, together with  
2 the high likelihood of injury resulting from the conduct, was  
3 actually known by the managing agent, director, officer, or  
4 other person responsible for making policy decisions on behalf  
5 of the defendant, or at the time of injury the defendant had a  
6 specific intent to harm the claimant and the finder of fact  
7 determines by clear and convincing evidence that the  
8 defendant's conduct did in fact harm the claimant, there shall  
9 be no cap on punitive damages.

10 (c) This subsection is not intended to prohibit an  
11 appropriate court from exercising its jurisdiction under s.  
12 768.74 in determining the reasonableness of an award of  
13 punitive damages that is less than three times the amount of  
14 compensatory damages.

15 (2) The claimant's attorney's fees, if payable from  
16 the judgment, are, to the extent that the fees are based on  
17 the punitive damages, calculated based on the final judgment  
18 for punitive damages. This subsection does not limit the  
19 payment of attorney's fees based upon an award of damages  
20 other than punitive damages.

21 (3) The jury may neither be instructed nor informed as  
22 to the provisions of this section.

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