

By Senator Diaz de la Portilla

32-22A-01

1 A bill to be entitled
2 An act relating to the City of Hialeah;
3 providing for the relief of Jose Pena, as
4 Personal Representative of the Estate of Carmen
5 Pena, deceased, and individually, as surviving
6 father of Katherine Pena and Richard Pena,
7 minor children of Carmen Pena and Jose Pena,
8 deceased; providing for the relief of Johannes
9 Pena, surviving son of Carmen Pena; providing
10 for an appropriation to compensate them for the
11 death of Carmen Pena, Katherine Pena, and
12 Richard Pena as a result of the negligence of
13 the City of Hialeah; providing an effective
14 date.

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16 WHEREAS, on October 21, 1990, Carmen Pena was driving
17 her family car on West 68th Street, near West 26th Drive in
18 the City of Hialeah, and

19 WHEREAS, riding as passengers in Carmen Pena's car on
20 October 21, 1990, were 6-year old Katherine Pena, minor child
21 of Carmen Pena and Jose Pena, 12-year old Richard Pena, minor
22 child of Carmen Pena and Jose Pena, 16-year old Johannes Pena,
23 minor child of Carmen Pena and Jose Pena, and Jose Pena,
24 ex-husband of Carmen Pena and father of minor children
25 Katherine Pena, Richard Pena, and Johannes Pena, and

26 WHEREAS, on October 21, 1990, the vehicle being driven
27 by Carmen Pena left the roadway on which she was traveling and
28 hit a dangerously large drop-off as she was attempting to
29 return to the road, which caused Carmen Pena to lose control
30 of her vehicle and veer into a canal, and

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1 WHEREAS, as a result of the accident, Carmen Pena,
2 Katherine Pena, and Richard Pena were killed, and

3 WHEREAS, on July 15, 1991, a complaint was filed on
4 behalf of the Estates of Carmen Pena, Katherine Pena, and
5 Richard Pena, and on behalf of the surviving father, Jose
6 Pena, and on behalf of the surviving son, Johannes Pena, and

7 WHEREAS, in the complaint, the City of Hialeah was
8 charged with failing to properly inspect and maintain the
9 roadway and shoulder of the roadway, allowing a large and
10 dangerous drop-off to occur on the shoulder, and

11 WHEREAS, on October 28, 1994, the jury returned a
12 verdict against the City of Hialeah finding the City of
13 Hialeah to be 75 percent negligent and Carmen Pena to be 25
14 percent negligent, and

15 WHEREAS, final judgments were entered for Johannes Pena
16 in the amount of \$187,500 for the loss of his mother, Carmen
17 Pena; for Jose Pena in the amount of \$78,395.84 for the loss
18 of his daughter, Katherine Pena; for Jose Pena in the amount
19 of \$242,199.65 for the loss of his son, Richard Pena; and for
20 Jose Pena in the amount of \$784,570.04 for the Estate of
21 Carmen Pena, and

22 WHEREAS, the total amount of the final judgments is
23 \$1,292,665.53, and

24 WHEREAS, costs were awarded in the amount of \$8,395.61,
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26 WHEREAS, the total amount of the net final judgment is
27 \$1,301,061.14, and

28 WHEREAS, the City of Hialeah has paid \$200,000 in
29 accordance with the limits set forth in section 768.28,
30 Florida Statutes, leaving an unpaid judgment in the amount of
31 \$1,101,061.14, NOW, THEREFORE,

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

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3 Section 1. The facts stated in the preamble to this
4 act are found and declared to be true.

5 Section 2. The City of Hialeah is authorized and
6 directed to appropriate from funds of the city not otherwise
7 appropriated and to draw a warrant in the sum of \$592,965.65
8 payable to Jose Pena, as Personal Representative of the Estate
9 of Carmen Pena, as compensation for the death of Carmen Pena.

10 Section 3. The City of Hialeah is authorized and
11 directed to appropriate from funds of the city not otherwise
12 appropriated and to draw a warrant in the sum of \$320,595.49
13 payable to Jose Pena, individually, to compensate him for the
14 death of his daughter, Katherine Pena, a minor, and his son,
15 Richard Pena, a minor.

16 Section 4. The City of Hialeah is authorized and
17 directed to appropriate from funds of the city not otherwise
18 appropriated and to draw a warrant in the sum of \$187,500
19 payable to Johammes Pena, surviving son of Carmen Pena, to
20 compensate him for the death of his mother, Carmen Pena, due
21 to the negligence of the City of Hialeah.

22 Section 5. This act shall take effect upon becoming a
23 law.

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