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House Joint Resolution

A joint resolution proposing the creation of Section 22 of Article X of the State Constitution to provide a cap on noneconomic damages in tort cases, to provide for court supervision of share of damages actually paid to claimants, and to provide a fair share rule for payment of damages.

Be It Resolved by the Legislature of the State of Florida:

That the creation of Section 22 of Article X of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2004:

ARTICLE X
MISCELLANEOUS

SECTION 22. Cap on noneconomic damages; court supervision of share of damages actually paid to claimants; fair share rule.--

(a) Pursuant to general law, noneconomic damages in tort cases shall be limited to \$250,000, which amount may be adjusted on an annual basis to reflect inflation. The provisions of this section shall not be deemed as a denial of access to courts as set forth in Section 21 of Article I.

(b) In any lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any lawsuit in which the attorney for a party



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30 claims a financial stake in the outcome by virtue of a
31 contingent fee, the court shall have the power to restrict the
32 payment of a claimant's damage recovery to such attorney and to
33 redirect such damages to the claimant based upon the interests
34 of justice and principles of equity. In no event shall the
35 total of all contingent fees for representing all claimants in a
36 lawsuit exceed the following limits:

37 (1) Forty percent of the first \$50,000 recovered by the
38 claimant or claimants.

39 (2) Thirty-three and one third percent of the next \$50,000
40 recovered by the claimant or claimants.

41 (3) Twenty-five percent of the next \$500,000 recovered by
42 the claimant or claimants.

43 (4) Fifteen percent of any amount by which the recovery of
44 the claimant or claimants is in excess of \$600,000.

45 (c) The limitations in subsection (b) shall apply whether
46 the recovery is by judgment, settlement, mediation, arbitration,
47 or any other form of dispute resolution. In a lawsuit involving
48 a minor or incompetent person, a court retains the authority to
49 authorize or approve a fee that is less than the maximum
50 permitted under this section.

51 (d) In any lawsuit, each party shall be liable for that
52 party's several share of any damages only and not for the share
53 of any other person. Each party shall be liable only for the
54 amount of damages allocated to such party in direct proportion
55 to such party's percentage of responsibility. A separate
56 judgment shall be rendered against each such party for the
57 amount allocated to such party. For the purposes of this



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58 subsection, the trier of fact shall determine the proportion of
59 responsibility of each party for the claimant's harm.

60 BE IT FURTHER RESOLVED that the title and substance of the
61 amendment proposed herein shall appear on the ballot as follows:

62 LIMITING NONECONOMIC DAMAGES; COURT SUPERVISION OF DAMAGES PAID
63 TO CLAIMANTS; FAIR SHARE RULE

64 Proposes the creation of Section 22 of Article X of the
65 State Constitution to provide a limitation of \$250,000 on
66 noneconomic damages in tort cases, which amount may be annually
67 adjusted for inflation as provided by general law. Proposes
68 that the court shall supervise the arrangements for payment of
69 damages to protect against conflicts of interest that may have
70 the effect of reducing the amount of damages awarded that are
71 actually paid to claimants. Proposes a limitation on the total
72 of all contingent fees for representing all claimants in a
73 lawsuit and provides that such limits shall apply whether the
74 recovery is by judgment, settlement, mediation, arbitration, or
75 any other form of dispute resolution. Proposes that in any
76 lawsuit, each party shall be liable for that party's several
77 share of any damages only and not for the share of any other
78 person.