

HB 0423

2004

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

12  
 13           WHEREAS, on October 21, 1990, Carmen Pena was driving her  
 14          family car on West 68th Street, near West 26th Drive in the City  
 15          of Hialeah, and

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

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

28           WHEREAS, as a result of the accident, Carmen Pena,  
 29          Katherine Pena, and Richard Pena were killed, and

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30 WHEREAS, on July 15, 1991, a complaint was filed on behalf  
 31 of the Estates of Carmen Pena, Katherine Pena, and Richard Pena,  
 32 and on behalf of the surviving father, Jose Pena, and on behalf  
 33 of the surviving son, Johannes Pena, and

34 WHEREAS, in the complaint, the City of Hialeah was charged  
 35 with failing to properly inspect and maintain the roadway and  
 36 shoulder of the roadway, allowing a large and dangerous drop-off  
 37 to occur on the shoulder, and

38 WHEREAS, on October 28, 1994, the jury returned a verdict  
 39 against the City of Hialeah finding the City of Hialeah to be 75  
 40 percent negligent and Carmen Pena to be 25 percent negligent,  
 41 and

42 WHEREAS, final judgments were entered for Johannes Pena in  
 43 the amount of \$187,500 for the loss of his mother, Carmen Pena;  
 44 for Jose Pena in the amount of \$78,395.84 for the loss of his  
 45 daughter, Katherine Pena; for Jose Pena in the amount of  
 46 \$242,199.65 for the loss of his son, Richard Pena; and for Jose  
 47 Pena in the amount of \$784,570.04 for the Estate of Carmen Pena,  
 48 and

49 WHEREAS, the total amount of the final judgments is  
 50 \$1,292,665.53, and

51 WHEREAS, costs were awarded in the amount of \$8,395.61, and

52 WHEREAS, the total amount of the net final judgment is  
 53 \$1,301,061.14, and

54 WHEREAS, the City of Hialeah has paid \$200,000 in  
 55 accordance with the limits set forth in section 768.28, Florida  
 56 Statutes, leaving an unpaid judgment in the amount of  
 57 \$1,101,061.14, NOW, THEREFORE,

58  
 59 Be It Enacted by the Legislature of the State of Florida:

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

Section 2. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant payable to Jose Pena, as Personal Representative of the Estate of Carmen Pena, for the total amount of \$592,965.65, for injuries and damages sustained due to the death of Carmen Pena.

Section 3. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant payable to Jose Pena, individually, for the total amount of \$320,595.49 for injuries and damages sustained due to the death of his daughter, Katherine Pena, a minor, and his son, Richard Pena, a minor.

Section 4. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant payable to Johammes Pena, surviving son of Carmen Pena, for the total amount of \$187,500 for injuries and damages sustained due to the death of his mother, Carmen Pena, due to the negligence of the City of Hialeah.

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