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A bill to be entitled  
 An act relating to class action lawsuits; creating s.  
 774.01, F.S.; providing requirements for capacity to file  
 a class action; limiting actions to Florida residents;  
 providing exceptions; providing requirements for monetary  
 relief; providing for nonmonetary relief; requiring a  
 specified statement from a class member claiming monetary  
 relief; providing for discovery prior to filing such  
 statement; providing requirements for judgments; creating  
 s. 774.02, F.S.; requiring a specified demand to cure  
 notice prior to filing a class action; providing for a  
 cure period; providing for inspection of goods or evidence  
 relevant to a claim; requiring that a plaintiff plead and  
 prove specified elements relating to cure period;  
 providing specified defenses to a cause of action;  
 providing an effective date.

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

Section 1. Section 774.01, Florida Statutes, is created to  
 read:

774.01 Capacity to sue.--

(1)(a) In any action asserting the right to class action  
 status, the claimant class with capacity to sue shall be limited  
 to residents of this state at the time of the alleged  
 misconduct, except as provided in paragraph (b).

(b) Prior to issuance of the certification order, the  
 court may expand a class to include any nonresident whose claim

29 is recognized within the claimant's state of residence and is  
 30 not time barred, but whose rights cannot be asserted because the  
 31 claimant's state of residence lacks personal jurisdiction over  
 32 the defendant or defendants.

33 (2)(a) Class action claimants must allege and prove actual  
 34 damages in order to obtain any monetary relief. However, class  
 35 action claimants may seek to obtain, if appropriate, nonmonetary  
 36 relief, including injunctive relief and orders or declaratory  
 37 relief and orders or judgments enjoining wrongful conduct,  
 38 regardless of whether the class action claimants can prove any  
 39 actual monetary damages. Nothing in this section or in s. 774.02  
 40 shall be construed to in any way limit or restrict the  
 41 availability of such nonmonetary relief.

42 (b) Prior to the entry of a judgment against a defendant,  
 43 the court shall require each class member claiming entitlement  
 44 to monetary relief to submit a statement in a form prescribed by  
 45 the court identifying the specific dollar amount requested and  
 46 providing information regarding the injury and damages.

47 (c) Prior to submitting the form described in paragraph  
 48 (b), the defendant shall be required to answer interrogatories  
 49 and provide documentation to the class action claimant in its  
 50 possession, as required by the court.

51 (d) No judgment shall be entered until the trier of fact  
 52 has determined the amount of money, if any, owed to each class  
 53 member based upon his or her individual proof. The amount of any  
 54 judgment shall not exceed the sum of money owed to each class  
 55 member in the aggregate. The judgment shall identify each member  
 56 of the class and his or her individual monetary award.

57 Section 2. Section 774.02, Florida Statutes, is created to  
 58 read:

59 774.02 Demand to cure notice; opportunity to cure.--

60 (1) As a prerequisite to filing a class action lawsuit, a  
 61 complainant shall present the person alleged to have committed  
 62 the alleged misconduct with a demand to cure notice advising the  
 63 person of the specific complaint in reasonable detail and:

64 (a) If the complainant will seek damages, the amount of  
 65 the loss suffered by the complainant as a result of the alleged  
 66 misconduct.

67 (b) If the complainant will seek any nonmonetary relief,  
 68 the remedy the complainant is seeking.

69  
 70 The required demand to cure notice must be submitted in writing  
 71 and provided at least 60 days prior to filing suit.

72 (2) The complainant submitting the demand to cure notice  
 73 must state at the time of giving notice that the complainant is  
 74 acting on behalf of a class. No class action shall be filed  
 75 unless the person alleged to have committed the misconduct is  
 76 given the required demand to cure notice.

77 (3) During the 60-day period, the person presented with a  
 78 demand to cure notice may request in writing that the  
 79 complainant permit inspection of the goods or other evidence  
 80 relevant to the claim in a reasonable manner and at a reasonable  
 81 time and place. The complainant must grant any reasonable  
 82 request to inspect in order to satisfy the obligation to permit  
 83 a reasonable opportunity to cure.

84           (4) When suit is filed, the plaintiff must plead and prove  
85 the following elements:

86           (a) That the party gave the defendant a reasonable  
87 opportunity to cure the alleged misconduct.

88           (b) That the defendant failed to cure.

89           (5) It is an absolute defense to a cause of action under  
90 this chapter if:

91           (a) The complainant did not provide the defendant with a  
92 demand to cure notice;

93           (b) The complainant denied the defendant a reasonable  
94 opportunity to inspect; or

95           (c) The defendant tendered to the complainant the damages  
96 sought or the remedy proposed.

97           Section 3. This act shall take effect July 1, 2005.