Florida Senate - 2005

CS for SB 2564

 ${\bf By}$ the Committee on Judiciary; and Senators Webster, King and Clary

590-2254-05

-	
1	A bill to be entitled
2	An act relating to class action lawsuits;
3	creating s. 774.01, F.S.; providing
4	requirements for capacity to file a class
5	action; limiting actions to Florida residents;
б	providing exceptions; providing requirements
7	for monetary relief; eliminating private class
8	action recovery of statutory penalties and
9	other forms of monetary relief other than
10	actual damages; providing monetary relief;
11	providing for availability of nonmonetary
12	relief; providing an effective date.
13	
14	Be It Enacted by the Legislature of the State of Florida:
15	
16	Section 1. Section 774.01, Florida Statutes, is
17	created to read:
18	774.01 Capacity to sue
19	(1)(a) In any action asserting the right to class
20	action status, the claimant class with capacity to sue shall
21	be limited to residents of this state at the time of the
22	alleged misconduct, except as provided in paragraph (b).
23	(b) Prior to issuance of the certification order, the
24	court may expand a class to include any nonresident whose
25	claim is recognized within the claimant's state of residence
26	and is not time-barred, but whose rights cannot be asserted
27	because the claimant's state of residence lacks personal
28	jurisdiction over the defendant or defendants. In addition,
29	the claimant class may include nonresidents if the conduct
30	giving rise to the claim occurred in or emanated from this
31	state.

1

CODING: Words stricken are deletions; words <u>underlined</u> are additions.

1	(2) Notwithstanding any law to the contrary, in order
2	to maintain a class action seeking monetary relief, the class
3	must allege and prove actual damages. In any such class
4	action, the monetary recovery shall be limited to the amount
5	of actual damages. Nothing in this section shall be construed
б	to limit or restrict the ability of the Attorney General to
7	bring a class action for the recovery of statutory penalties,
8	if otherwise authorized by law. However, class action
9	claimants may seek to obtain, if appropriate, nonmonetary
10	relief, including injunctive relief and orders or declaratory
11	relief and orders or judgments enjoining wrongful conduct,
12	regardless of whether the class action claimants can prove any
13	actual monetary damages. Nothing in this section shall be
14	construed to in any way limit or restrict the availability of
15	such nonmonetary relief.
16	Section 2. This act shall take effect July 1, 2005.
17	
18	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19	COMMITTEE SUBSTITUTE FOR <u>Senate Bill 2564</u>
20	
21	The committee substitute removes provisions from the
22	underlying bill which would have required notice to a defendant and an opportunity to cure alleged misconduct during
23	a 60-day period before a lawsuit is filed seeking class status.
24	
25	
26	
27	
28	
29	
30	
31	
	2

CODING: Words stricken are deletions; words <u>underlined</u> are additions.