Bill No. <u>HB 145</u>

## Barcode 912970

	CHAMBER ACTION <u>Senate</u> <u>House</u>
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11	Senator Aronberg moved the following amendment:
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13	Senate Amendment (with title amendment)
14	On line 13, through
15	line 74, delete those lines
16	
17	and insert:
18	(3) APPORTIONMENT OF DAMAGESIn cases to which this
19	section applies, the trier of fact shall apportion the total
20	fault for the plaintiff's damages among the plaintiff, the
21	defendants to that action, and any released persons who have
22	settled with the plaintiff, and the court shall enter judgment
23	against each party liable on the basis of such party's
24	percentage of fault and not on the basis of the doctrine of
25	joint and several liability <u>. A defendant in the action has a</u>
26	right to join a person who may be amenable to judgment to the
27	plaintiff in that action, notwithstanding any applicable
28	statutes of limitations, within 120 days after service of the
29	complaint on that defendant. The person so joined is
30	thereafter a defendant to the action and, if fault is
31	apportioned to the joined person, the joined person shall be
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1	adjudged legally liable to the plaintiff for its share of the
2	damages. All presuit requirements and any tolling provisions
3	set forth therein are applicable to any defendant choosing to
4	join a person to the action. Notwithstanding any other
5	provision of law, there shall be no setoffs in actions to
6	which this section applies., except as provided in paragraphs
7	<del>(a), (b), and (c):</del>
8	(a) Where a plaintiff is found to be at fault, the
9	following shall apply:
10	1. Any defendant found 10 percent or less at fault
11	shall not be subject to joint and several liability.
12	2. For any defendant found more than 10 percent but
13	less than 25 percent at fault, joint and several liability
14	shall not apply to that portion of economic damages in excess
15	<del>of \$200,000.</del>
16	3. For any defendant found at least 25 percent but not
17	more than 50 percent at fault, joint and several liability
18	shall not apply to that portion of economic damages in excess
19	<del>of \$500,000.</del>
20	4. For any defendant found more than 50 percent at
21	fault, joint and several liability shall not apply to that
22	portion of economic damages in excess of \$1 million.
23	
24	For any defendant under subparagraph 2., subparagraph 3., or
25	subparagraph 4., the amount of economic damages calculated
26	under joint and several liability shall be in addition to the
27	amount of economic and noneconomic damages already apportioned
28	to that defendant based on that defendant's percentage of
29	fault.
30	(b) Where a plaintiff is found to be without fault,
31	the following shall apply: 2
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1 Any defendant found less than 10 percent at fault 2 shall not be subject to joint and several liability. 3 2. For any defendant found at least 10 percent but 4 less than 25 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess 5 б of \$500,000. 7 3. For any defendant found at least 25 percent but not more than 50 percent at fault, joint and several liability 8 shall not apply to that portion of economic damages in excess 9 10 of \$1 million. 11 4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that 12 13 portion of economic damages in excess of \$2 million. 14 15 For any defendant under subparagraph 2., subparagraph 3., or 16 subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the 17 18 amount of economic and noneconomic damages already apportioned 19 to that defendant based on that defendant's percentage of fault. 20 21 (c) With respect to any defendant whose percentage of 22 fault is less than the fault of a particular plaintiff, the doctrine of joint and several liability shall not apply to any 23 2.4 damages imposed against the defendant. 25 (d) In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a 26 27 nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically 28 29 as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to 30 31 amendment any time before trial in accordance with the Florida 3 3:51 PM 03/28/06 h014500c-27-j02

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1 | Rules of Civil Procedure. (e) In order to allocate any or all fault to a nonparty and include the named or unnamed nonparty on the verdict form for purposes of apportioning damages, a defendant must prove at trial, by a preponderance of the evidence, the б fault of the nonparty in causing the plaintiff's injuries. ====== T I T L E A M E N D M E N T =============== And the title is amended as follows: On line 3, after the second semicolon, insert: providing for apportionment of fault; providing for joinder of parties;