

By the Committee on Judiciary; and Senator Baker

590-2333-06

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A bill to be entitled  
An act relating to class action lawsuits;  
providing requirements for capacity to file a  
class action; limiting actions to Florida  
residents; providing exceptions; eliminating  
private class action recovery of statutory  
penalties in certain actions unless actual  
damages are alleged and proven; providing that  
the Attorney General's ability to seek  
statutory penalties is not affected; providing  
for availability of nonmonetary relief;  
providing for no effect on class action  
lawsuits involving civil rights laws; providing  
an effective date.

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

Section 1. Capacity to sue.--

(1)(a) In any action asserting the right to class  
action status, the claimant class having 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)1. Before issuing a class certification order, the  
court hearing an action asserting the right to class action  
status may expand a class to include any nonresident whose  
claim is recognized within the claimant's state of residence  
and is not time-barred, but whose rights cannot be asserted  
because the claimant's state of residence lacks personal  
jurisdiction over the defendant or defendants.

1           2. In addition, the claimant class may include  
2 nonresidents if the conduct giving rise to the claim occurred  
3 in or emanated from this state.

4           (2) Notwithstanding any law to the contrary, in order  
5 to maintain a class action seeking statutory penalties under  
6 chapters 320, 501, 520, and 521, Florida Statutes, the class  
7 action claimants must allege and prove actual damages. This  
8 section does not limit or restrict the ability of the Attorney  
9 General to bring a class action for the recovery of statutory  
10 penalties, if otherwise authorized by law. However, class  
11 action claimants may seek to obtain, if appropriate,  
12 nonmonetary relief, including injunctive relief, orders or  
13 declaratory relief, and orders or judgments enjoining wrongful  
14 conduct, regardless of whether the class action claimants can  
15 prove any actual monetary damages. This section does not in  
16 any way limit or restrict the availability of such nonmonetary  
17 relief.

18           (3) This section does not affect any class action  
19 lawsuits involving federal or state civil rights laws.

20           Section 2. This act shall take effect July 1, 2006.

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22           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
23           COMMITTEE SUBSTITUTE FOR  
24           Senate Bill 2304

25           The committee substitute limits the scope of the requirement  
26           that class action plaintiffs allege and prove actual damages.  
27           The requirement applies only to cases involving claims for  
28           statutory penalties under chs. 320, 501, 520, and 521, F.S.  
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