

HB 635

2006

1 A bill to be entitled

2 An act relating to limitations on the waiver of sovereign
3 immunity; amending s. 768.28, F.S.; allowing a state
4 agency or subdivision to settle and pay a judgment in an
5 amount that exceeds the limits on the waiver, without
6 requiring a claim bill, if both parties agree to the
7 settlement; providing that such a settlement or payment
8 does not waive the agency's or subdivision's defense of
9 sovereign immunity or increase the limits of its
10 liability; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (5) of section 768.28, Florida
15 Statutes, is amended to read:

16 768.28 Waiver of sovereign immunity in tort actions;
17 recovery limits; limitation on attorney fees; statute of
18 limitations; exclusions; indemnification; risk management
19 programs.--

20 (5) The state and its agencies and subdivisions shall be
21 liable for tort claims in the same manner and to the same extent
22 as a private individual under like circumstances, but liability
23 shall not include punitive damages or interest for the period
24 before judgment. Neither the state nor its agencies or
25 subdivisions shall be liable to pay a claim or a judgment by any
26 one person which exceeds the sum of \$100,000 or any claim or
27 judgment, or portions thereof, which, when totaled with all
28 other claims or judgments paid by the state or its agencies or

29 subdivisions arising out of the same incident or occurrence,
 30 exceeds the sum of \$200,000. Notwithstanding the limited waiver
 31 of sovereign immunity provided in this subsection, a claim may
 32 be made and a judgment rendered in excess of these amounts, and
 33 the claim or judgment may be settled and paid from insurance
 34 proceeds or otherwise available funds in whole or in part by the
 35 state or an agency or subdivision thereof, including for an
 36 amount in excess of the limits of liability specified in this
 37 subsection, without further act of the Legislature. However, if
 38 the state or an agency or subdivision thereof does not agree to
 39 pay that portion of a judgment rendered against it which is in
 40 excess of the limits of liability specified in this subsection,
 41 ~~a judgment or judgments may be claimed and rendered in excess of~~
 42 ~~these amounts and may be settled and paid pursuant to this act~~
 43 ~~up to \$100,000 or \$200,000, as the case may be; and that portion~~
 44 ~~of the judgment which ~~that~~ exceeds these amounts may be reported~~
 45 ~~to the Legislature, but may be paid in part or in whole only by~~
 46 ~~further act of the Legislature. Neither ~~Notwithstanding the~~~~
 47 ~~limited waiver of sovereign immunity provided herein, the state~~
 48 ~~or an agency or subdivision thereof may agree, within the limits~~
 49 ~~of insurance coverage provided, to settle a claim made or a~~
 50 ~~judgment rendered against it without further action by the~~
 51 ~~Legislature, but the state nor an ~~or~~ agency or subdivision~~
 52 ~~thereof shall ~~not~~ be deemed to have waived any defense of~~
 53 ~~sovereign immunity or to have increased the limits of its~~
 54 ~~liability as a result of its obtaining insurance coverage for~~
 55 ~~tortious acts in excess of the \$100,000 or \$200,000 waiver~~
 56 ~~provided above or as a result of its having agreed to a~~

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57 | settlement or to pay a judgment in an amount exceeding the
58 | limitations of liability. The limitations of liability set forth
59 | in this subsection shall apply to the state and its agencies and
60 | subdivisions whether or not the state or its agencies or
61 | subdivisions possessed sovereign immunity before July 1, 1974.

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