

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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19 Section 1. Capacity to sue.--

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

HB 7259

2006
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24 (b)1. Before issuing a class certification order, the
25 court hearing an action asserting the right to class action
26 status may expand a class to include any nonresident whose claim
27 is recognized within the claimant's state of residence and is
28 not time barred, but whose rights cannot be asserted because the
29 claimant's state of residence lacks personal jurisdiction over
30 the defendant or defendants.

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

34 (2) Notwithstanding any law to the contrary, in order to
35 maintain a class action seeking statutory penalties under
36 chapters 320, 501, 520, and 521, Florida Statutes, the class
37 action claimants must allege and prove actual damages. This
38 section does not limit or restrict the ability of the Attorney
39 General to bring a class action for the recovery of statutory
40 penalties, if otherwise authorized by law. However, class action
41 claimants may seek to obtain, if appropriate, nonmonetary
42 relief, including injunctive relief, orders or declaratory
43 relief, and orders or judgments enjoining wrongful conduct,
44 regardless of whether the class action claimants can prove any
45 actual monetary damages. This section does not in any way limit
46 or restrict the availability of such nonmonetary relief.

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

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