

1 A bill to be entitled
 2 An act relating to damages in personal injury actions;
 3 creating s. 768.755, F.S.; providing for the
 4 calculation of damages; specifying that certain
 5 evidence may not be used for certain purposes;
 6 providing that a difference between the amount
 7 originally billed by a health care provider who has
 8 provided medical or health care services to the
 9 claimant and the actual amount remitted to the
 10 provider is not recoverable; limiting the amount of
 11 damages in certain actions involving liens or
 12 subrogation claims by certain payors; providing a
 13 directive to the Division of Law Revision and
 14 Information; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 768.755, Florida Statutes, is created
 19 to read:

20 768.755 Damages recoverable for cost of medical or health
 21 care services; evidence of amount of damages; applicability.-

22 (1) (a) In a personal injury or wrongful death action to
 23 which this part applies, damages for the cost of medical or
 24 health care services provided to a claimant shall be calculated
 25 as follows:

26 1. For such medical or health care services provided by a

27 particular health care provider to the claimant which are paid
28 for by the claimant and for which an outstanding balance is not
29 due the provider, the actual amount remitted to the provider is
30 the maximum amount recoverable. Any difference between the
31 amount originally billed by a health care provider who has
32 provided medical or health care services to the claimant and the
33 actual amount remitted to the provider is not recoverable or
34 admissible into evidence.

35 2. For such medical or health care services provided by a
36 particular health care provider to the claimant which are paid
37 for by a governmental or commercial insurance payor and for
38 which an outstanding balance is not due the provider, other than
39 a copay or deductible owed by the claimant, the actual amount
40 remitted to the provider by the governmental or commercial
41 insurance payor and a copay or deductible owed by the claimant
42 is the maximum amount recoverable. Any difference between the
43 amount originally billed by a health care provider who has
44 provided medical or health care services to the claimant and the
45 actual amount remitted to the provider is not recoverable or
46 admissible into evidence.

47 3. For such medical or health care services provided to
48 the claimant for which an outstanding balance is claimed to be
49 due the provider, the parties may introduce into evidence:

50 a. Amounts the provider routinely accepts as payment from
51 governmental or commercial insurance payors for identical or
52 substantially similar medical or health care services.

53 b. Amounts billed by the provider for the services
54 provided to the claimant, including those amounts billed under
55 an agreement between the provider and the claimant or the
56 claimant's representative.

57 c. Amounts the provider received in compensation, if any,
58 for the sale of the agreement between the provider and the
59 claimant or the claimant's representative under which the
60 medical or health care services were provided to the claimant.

61 (b) In an action in which there is more than one health
62 care provider who has provided medical or health care services
63 to the claimant, the evidence admissible under this subsection
64 as to a provider with no outstanding balance due may not be used
65 as evidence regarding the reasonableness of the amounts billed
66 by any of the other health care providers who have an
67 outstanding balance due.

68 (2) Individual contracts between providers and licensed
69 commercial insurers or licensed health maintenance organizations
70 are not subject to discovery or disclosure in an action under
71 this part, and such information is not admissible into evidence
72 in an action to which this section applies.

73 (3) Notwithstanding any provision of this section, if
74 Medicaid, Medicare, or a payor regulated under the Florida
75 Insurance Code has covered or is covering the cost of a
76 claimant's medical or health care services and has given notice
77 of assertion of a lien or subrogation claim for past medical
78 expenses in the action, the amount of the lien or subrogation

79 claim, in addition to the amount of any copayments or
80 deductibles paid or payable by the claimant, is the maximum
81 amount recoverable and admissible into evidence with respect to
82 the covered services.

83 (4) This section applies only to those actions for
84 personal injury or wrongful death to which this part applies
85 arising on or after the effective date of this act and has no
86 other application or effect regarding compensation paid to
87 providers of medical or health care services.

88 Section 2. The Division of Law Revision and Information is
89 directed to replace the phrase "the effective date of this act"
90 wherever it occurs in s. 768.755, Florida Statutes, as created
91 by this act, with the date this act becomes a law.

92 Section 3. This act shall take effect upon becoming a law.