

By Senator Brandes

24-01000A-21

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1                   A bill to be entitled  
2           An act relating to offers of judgment; amending s.  
3           768.79, F.S.; authorizing parties to serve exclusive  
4           offers of judgment; specifying that parties serving  
5           exclusive offers of judgment are not required to  
6           specify an amount being offered for attorney fees and  
7           costs; providing construction; authorizing certain  
8           offerings of judgment require both individuals to  
9           either accept or reject the offer; providing  
10          requirements relating to grounds for challenging the  
11          validity of offers; defining the term "judgment  
12          obtained" as it relates to exclusive offers of  
13          judgment; providing applicability; providing an  
14          effective date.

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

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18           Section 1. Present subsections (3) through (8) of section  
19           768.79, Florida Statutes, are redesignated as subsections (5)  
20           through (10), respectively, new subsections (3) and (4) are  
21           added to that section, and subsection (2) and present  
22           subsections (3), (4), and (6) of that section are amended, to  
23           read:

24           768.79 Offer of judgment and demand for judgment.—

25           (2) The making of an offer of settlement which is not  
26           accepted does not preclude the making of a subsequent offer.

27           (3) Parties may serve an exclusive offer of judgment  
28           identifying only the total amount of indemnity or damages and  
29           stipulating to entitlement to attorney fees and costs to be

24-01000A-21

2021686\_\_

30 determined at a later time by the parties or the court. A party  
31 -serving an exclusive offer of judgment is not required to  
32 specify an amount being offered for attorney fees and costs.

33 (4) An offer must:

34 (a) Be in writing and state that it is being made pursuant  
35 to this section.

36 (b) Name the party making it and the party to whom it is  
37 being made.

38 (c) State with particularity the amount offered to settle a  
39 claim for punitive damages, if any.

40 (d) State its total amount.

41  
42 The offer shall be construed as including all damages which may  
43 be awarded in a final judgment unless it is an exclusive offer  
44 of judgment. An exclusive offer of judgment shall be construed  
45 as including all damages, if any, that may be awarded in a final  
46 judgment, not including any amount that may be awarded for  
47 attorney fees, costs, or interest.

48 (5)~~(3)~~ The offer shall be served upon the party to whom it  
49 is made, but it shall not be filed unless it is accepted or  
50 unless filing is necessary to enforce the provisions of this  
51 section. In an action relating to damages to real property that  
52 is jointly owned by two individuals who are insureds, an offer  
53 of judgment which is served on both insureds may require that  
54 both insureds either accept or reject the offer.

55 (6)~~(4)~~ An offer shall be accepted by filing a written  
56 acceptance with the court within 30 days after service. Upon  
57 filing of both the offer and acceptance, the court has full  
58 jurisdiction to enforce the settlement agreement. Within 30 days

24-01000A-21

2021686\_\_

59 after service of an offer of judgment, the offeree must notify  
60 the offeror of any grounds for challenging the validity of the  
61 offer. The grounds for challenging the validity of the offer  
62 must be in writing and stated with specificity to enable the  
63 offeror to reevaluate the offer and make corrections, if  
64 warranted. If the offeree fails to timely notify the offeror in  
65 writing of the grounds for challenging the validity of the  
66 offer, the offeree waives the right to object to the validity of  
67 the offer.

68 (8)~~(6)~~ Upon motion made by the offeror within 30 days after  
69 the entry of judgment or after voluntary or involuntary  
70 dismissal, the court shall determine the following:

71 (a) If a defendant serves an offer which is not accepted by  
72 the plaintiff, and if the judgment obtained by the plaintiff is  
73 at least 25 percent less than the amount of the offer, the  
74 defendant shall be awarded reasonable costs, including  
75 investigative expenses, and attorney's fees, calculated in  
76 accordance with the guidelines promulgated by the Supreme Court,  
77 incurred from the date the offer was served, and the court shall  
78 set off such costs in attorney's fees against the award. When  
79 such costs and attorney's fees total more than the amount of the  
80 judgment, the court shall enter judgment for the defendant  
81 against the plaintiff for the amount of the costs and fees, less  
82 the amount of the award to the plaintiff.

83 (b) If a plaintiff serves an offer which is not accepted by  
84 the defendant, and if the judgment obtained by the plaintiff is  
85 at least 25 percent more than the amount of the offer, the  
86 plaintiff shall be awarded reasonable costs, including  
87 investigative expenses, and attorney's fees, calculated in

24-01000A-21

2021686\_\_

88 accordance with the guidelines promulgated by the Supreme Court,  
89 incurred from the date the offer was served.

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91 For purposes of the determination required by paragraph (a), the  
92 term "judgment obtained" means the amount of the net judgment  
93 entered, plus any postoffer collateral source payments received  
94 or due as of the date of the judgment, plus any postoffer  
95 settlement amounts by which the verdict was reduced. For  
96 purposes of the determination required by paragraph (b), the  
97 term "judgment obtained" means the amount of the net judgment  
98 entered, plus any postoffer settlement amounts by which the  
99 verdict was reduced. However, for purposes of determinations  
100 required by paragraph (a) or paragraph (b), whenever the offer  
101 is an exclusive offer of judgment, the term "judgment obtained"  
102 means the total amount of damages recovered, if any, but does  
103 not include any amount awarded for attorney fees, costs, or  
104 interest.

105 Section 2. This act applies to all offers of judgment  
106 served on or after July 1, 2021.

107 Section 3. This act shall take effect July 1, 2021.