

By the Committees on Rules; Community Affairs; and Judiciary;
and Senator Gruters

595-03325-22

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1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; increasing the statutory limits on
4 liability for tort claims against the state and its
5 agencies and subdivisions; revising authorizations
6 relating to settlements of claims made or judgments
7 rendered in excess of the sovereign immunity limits;
8 revising exceptions relating to instituting actions on
9 claims against the state or one of its agencies and to
10 the statute of limitations for such claims; reenacting
11 ss. 45.061, 110.504, 111.071, 163.01, 190.043,
12 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,
13 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251,
14 381.0056, 393.075, 395.1055, 403.706, 409.993,
15 455.221, 455.32, 456.009, 456.076, 471.038, 472.006,
16 497.167, 513.118, 548.046, 556.106, 589.19, 723.0611,
17 760.11, 766.1115, 766.112, 768.1355, 768.295, 944.713,
18 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34,
19 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261,
20 F.S., to incorporate the amendments made to s. 768.28,
21 F.S., in references thereto; providing applicability;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (5), paragraph (a) of subsection (6),
27 and subsection (14) of section 768.28, Florida Statutes, are
28 amended to read:

29 768.28 Waiver of sovereign immunity in tort actions;

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30 recovery limits; civil liability for damages caused during a
31 riot; limitation on attorney fees; statute of limitations;
32 exclusions; indemnification; risk management programs.—

33 (5) (a) 1. The state and its agencies and subdivisions are
34 ~~shall be~~ liable for tort claims in the same manner and to the
35 same extent as a private individual under like circumstances,
36 but liability does ~~shall~~ not include punitive damages or
37 interest for the period before judgment. ~~Neither~~ The total
38 liability of the state, ~~nor~~ its agencies, and its ~~or~~
39 subdivisions shall be liable to pay a claim or a judgment is
40 limited to the amounts specified in this subparagraph:

41 a. For a county or municipality that has a population of
42 50,000 or less, including any constitutional officer of such
43 county, \$200,000 per claim and \$300,000 per occurrence.

44 b. For state universities, public colleges, subdivisions,
45 and other entities with sovereign immunity that are not a state
46 agency, county, county constitutional officer, or municipality,
47 \$200,000 per claim and \$300,000 per occurrence.

48 c. For a county or municipality that has a population of
49 more than 50,000 and up to 250,000, including any constitutional
50 officer of such county, \$300,000 per claim and \$400,000 per
51 occurrence.

52 d. For the state or a state agency or a county or a
53 municipality having a population of more than 250,000, including
54 any constitutional officer of such county, \$400,000 per claim
55 and \$600,000 per occurrence.

56
57 If more than one governmental entity is responsible for the
58 damages, the total liability for all of the entities to pay a

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59 claim or judgment may not exceed the amount for the entity
60 having the highest liability limit.

61 2. A claim may be settled and paid within the amounts
62 authorized by this paragraph, and a judgment may be entered in
63 excess of the amounts in this paragraph. However, the ~~by any one~~
64 person which exceeds the sum of \$200,000 or any claim or
65 judgment, or portions thereof, which, when totaled with all
66 other claims or judgments paid by the state or its agencies or
67 subdivisions arising out of the same incident or occurrence,
68 exceeds the sum of \$300,000. However, a judgment or judgments
69 may be claimed and rendered in excess of these amounts and may
70 be settled and paid pursuant to this act up to \$200,000 or
71 \$300,000, as the case may be; and that portion of the judgment
72 that exceeds these amounts may be reported to the Legislature,
73 and ~~but~~ may be paid in part or in whole ~~only~~ by further act of
74 the Legislature.

75 (b) Notwithstanding the limited waiver of sovereign
76 immunity provided in paragraph (a), a ~~herein, the state or an~~
77 agency or subdivision of the state thereof may agree, ~~within the~~
78 limits of insurance coverage provided, to settle a claim made or
79 a judgment rendered against it in excess of the waiver provided
80 in paragraph (a) without further action by the Legislature., ~~but~~
81 The state or agency or subdivision thereof does shall not wave
82 be deemed to have waived any defense of sovereign immunity or
83 increase ~~to have increased~~ the limits of its liability as a
84 result of its obtaining insurance coverage for tortious acts in
85 excess of the amounts specified in paragraph (a) ~~\$200,000 or~~
86 \$300,000 waiver provided above.

87 (c) The limitations of liability set forth in this

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88 subsection ~~shall~~ apply to the state and its agencies and
89 subdivisions whether or not the state or its agencies or
90 subdivisions possessed sovereign immunity before July 1, 1974.

91 (d) ~~(b)~~ A municipality has a duty to allow the municipal law
92 enforcement agency to respond appropriately to protect persons
93 and property during a riot or an unlawful assembly based on the
94 availability of adequate equipment to its municipal law
95 enforcement officers and relevant state and federal laws. If the
96 governing body of a municipality or a person authorized by the
97 governing body of the municipality breaches that duty, the
98 municipality is civilly liable for any damages, including
99 damages arising from personal injury, wrongful death, or
100 property damages proximately caused by the municipality's breach
101 of duty. The sovereign immunity recovery limits in paragraph (a)
102 do not apply to an action under this paragraph.

103 (6) (a) An action may not be instituted on a claim against
104 the state or one of its agencies or subdivisions unless the
105 claimant presents the claim in writing to the appropriate
106 agency, and also, except as to any claim against a municipality,
107 county, or the Florida Space Authority, presents such claim in
108 writing to the Department of Financial Services, within 3 years
109 after such claim accrues and the Department of Financial
110 Services or the appropriate agency denies the claim in writing;
111 except that, if:

112 1. Such claim is for contribution pursuant to s. 768.31, it
113 must be so presented within 6 months after the judgment against
114 the tortfeasor seeking contribution has become final by lapse of
115 time for appeal or after appellate review or, if there is no
116 such judgment, within 6 months after the tortfeasor seeking

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117 contribution has either discharged the common liability by
118 payment or agreed, while the action is pending against her or
119 him, to discharge the common liability; ~~or~~

120 2. Such action is for wrongful death, the claimant must
121 present the claim in writing to the Department of Financial
122 Services within 2 years after the claim accrues; or

123 3. Such action arises from a violation of s. 794.011
124 involving a victim who was younger than the age of 16 at the
125 time of the act, the claimant may present the claim in writing
126 at any time pursuant to s. 95.11(9).

127 (14) Every claim against the state or one of its agencies
128 or subdivisions for damages for a negligent or wrongful act or
129 omission pursuant to this section shall be forever barred unless
130 the civil action is commenced by filing a complaint in the court
131 of appropriate jurisdiction within 4 years after such claim
132 accrues; except that:

133 (a) An action for contribution must be commenced within the
134 limitations provided in s. 768.31(4); ~~and~~

135 (b) An action for damages arising from medical malpractice
136 or wrongful death must be commenced within the limitations for
137 such actions in s. 95.11(4); and

138 (c) An action arising from acts constituting a violation of
139 s. 794.011 involving a victim who was younger than the age of 16
140 at the time of the act may be commenced at any time pursuant to
141 s. 95.11(9).

142 Section 2. Sections 45.061, 110.504, 111.071, 163.01,
143 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,
144 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,
145 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,

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148 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34,
149 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, Florida
150 Statutes, are reenacted for the purpose of incorporating the
151 amendments made by this act to s. 768.28, Florida Statutes, in
152 references thereto.

153 Section 3. This act applies to claims accruing on or after
154 October 1, 2022.

155 Section 4. This act shall take effect October 1, 2022.