



LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/14/2023	.	
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The Committee on Judiciary (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 57.104, Florida Statutes, is amended to
read:

57.104 Computation of attorney ~~attorneys'~~ fees.-

(1) In any action in which attorney ~~attorneys'~~ fees are to
be determined or awarded by the court, the court shall consider,
among other things, time and labor of any legal assistants who
contributed nonclerical, meaningful legal support to the matter



12 involved and who are working under the supervision of an
13 attorney. For purposes of this section "legal assistant" means a
14 person, who under the supervision and direction of a licensed
15 attorney engages in legal research, and case development or
16 planning in relation to modifications or initial proceedings,
17 services, processes, or applications; or who prepares or
18 interprets legal documents or selects, compiles, and uses
19 technical information from references such as digests,
20 encyclopedias, or practice manuals and analyzes and follows
21 procedural problems that involve independent decisions.

22 (2) In any action in which attorney fees are determined or
23 awarded by the court, there is a strong presumption that a
24 lodestar fee is sufficient and reasonable. This presumption may
25 be overcome only in a rare and exceptional circumstance with
26 evidence that competent counsel could not otherwise be retained.

27 Section 2. Section 86.121, Florida Statutes, is created to
28 read:

29 86.121 Attorney fees; actions for declaratory relief to
30 determine insurance coverage after denial of claim.—In an action
31 brought under this chapter for declaratory relief to determine
32 insurance coverage after the insurer has made a denial of a
33 claim:

34 (1) Either party is entitled to the summary procedure
35 provided in s. 51.011, and the court shall advance the cause on
36 the calendar.

37 (2) The court shall award reasonable attorney fees to the
38 named insured, omnibus insured, or named beneficiary under a
39 policy issued by the insurer, upon rendition of a declaratory
40 judgment in favor of the named insured, omnibus insured, or



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41 named beneficiary. This right may not be transferred to,
42 assigned to, or acquired in any other manner by anyone other
43 than a named or omnibus insured or a named beneficiary. A
44 defense offered by an insurer pursuant to a reservation of
45 rights does not constitute a denial of a claim. Such fees are
46 limited to those incurred in the action brought under this
47 chapter for declaratory relief to determine coverage of
48 insurance issued under the Florida Insurance Code.

49 Section 3. Subsections (3), (4), and (10) of section 95.11,
50 Florida Statutes, are amended, and subsection (12) is added to
51 that section, to read:

52 95.11 Limitations other than for the recovery of real
53 property.—Actions other than for recovery of real property shall
54 be commenced as follows:

55 (3) WITHIN FOUR YEARS.—

56 (a) ~~An action founded on negligence.~~

57 ~~(b)~~ An action relating to the determination of paternity,
58 with the time running from the date the child reaches the age of
59 majority.

60 (b)~~(e)~~ An action founded on the design, planning, or
61 construction of an improvement to real property, with the time
62 running from the date of actual possession by the owner, the
63 date of the issuance of a certificate of occupancy, the date of
64 abandonment of construction if not completed, or the date of
65 completion of the contract or termination of the contract
66 between the professional engineer, registered architect, or
67 licensed contractor and his or her employer, whichever date is
68 latest; except that, when the action involves a latent defect,
69 the time runs from the time the defect is discovered or should



70 have been discovered with the exercise of due diligence. In any
71 event, the action must be commenced within 10 years after the
72 date of actual possession by the owner, the date of the issuance
73 of a certificate of occupancy, the date of abandonment of
74 construction if not completed, or the date of completion of the
75 contract or termination of the contract between the professional
76 engineer, registered architect, or licensed contractor and his
77 or her employer, whichever date is latest. However,
78 counterclaims, cross-claims, and third-party claims that arise
79 out of the conduct, transaction, or occurrence set out or
80 attempted to be set out in a pleading may be commenced up to 1
81 year after the pleading to which such claims relate is served,
82 even if such claims would otherwise be time barred. With respect
83 to actions founded on the design, planning, or construction of
84 an improvement to real property, if such construction is
85 performed pursuant to a duly issued building permit and if a
86 local enforcement agency, state enforcement agency, or special
87 inspector, as those terms are defined in s. 553.71, has issued a
88 final certificate of occupancy or certificate of completion,
89 then as to the construction which is within the scope of such
90 building permit and certificate, the correction of defects to
91 completed work or repair of completed work, whether performed
92 under warranty or otherwise, does not extend the period of time
93 within which an action must be commenced. Completion of the
94 contract means the later of the date of final performance of all
95 the contracted services or the date that final payment for such
96 services becomes due without regard to the date final payment is
97 made.

98 (c) ~~(d)~~ An action to recover public money or property held



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99 by a public officer or employee, or former public officer or
100 employee, and obtained during, or as a result of, his or her
101 public office or employment.

102 (d)~~(e)~~ An action for injury to a person founded on the
103 design, manufacture, distribution, or sale of personal property
104 that is not permanently incorporated in an improvement to real
105 property, including fixtures.

106 (e)~~(f)~~ An action founded on a statutory liability.

107 (f)~~(g)~~ An action for trespass on real property.

108 (g)~~(h)~~ An action for taking, detaining, or injuring
109 personal property.

110 (h)~~(i)~~ An action to recover specific personal property.

111 (i)~~(j)~~ A legal or equitable action founded on fraud.

112 (j)~~(k)~~ A legal or equitable action on a contract,
113 obligation, or liability not founded on a written instrument,
114 including an action for the sale and delivery of goods, wares,
115 and merchandise, and on store accounts.

116 (k)~~(l)~~ An action to rescind a contract.

117 (l)~~(m)~~ An action for money paid to any governmental
118 authority by mistake or inadvertence.

119 (m)~~(n)~~ An action for a statutory penalty or forfeiture.

120 (n)~~(o)~~ An action for assault, battery, false arrest,
121 malicious prosecution, malicious interference, false
122 imprisonment, or any other intentional tort, except as provided
123 in subsections (4), (5), and (7).

124 (o)~~(p)~~ Any action not specifically provided for in these
125 statutes.

126 (p)~~(q)~~ An action alleging a violation, other than a willful
127 violation, of s. 448.110.



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128 (4) WITHIN TWO YEARS.—
129 (a) An action founded on negligence.
130 (b)~~(a)~~ An action for professional malpractice, other than
131 medical malpractice, whether founded on contract or tort;
132 provided that the period of limitations shall run from the time
133 the cause of action is discovered or should have been discovered
134 with the exercise of due diligence. However, the limitation of
135 actions herein for professional malpractice shall be limited to
136 persons in privity with the professional.
137 (c)~~(b)~~ An action for medical malpractice shall be commenced
138 within 2 years from the time the incident giving rise to the
139 action occurred or within 2 years from the time the incident is
140 discovered, or should have been discovered with the exercise of
141 due diligence; however, in no event shall the action be
142 commenced later than 4 years from the date of the incident or
143 occurrence out of which the cause of action accrued, except that
144 this 4-year period shall not bar an action brought on behalf of
145 a minor on or before the child's eighth birthday. An "action for
146 medical malpractice" is defined as a claim in tort or in
147 contract for damages because of the death, injury, or monetary
148 loss to any person arising out of any medical, dental, or
149 surgical diagnosis, treatment, or care by any provider of health
150 care. The limitation of actions within this subsection shall be
151 limited to the health care provider and persons in privity with
152 the provider of health care. In those actions covered by this
153 paragraph in which it can be shown that fraud, concealment, or
154 intentional misrepresentation of fact prevented the discovery of
155 the injury the period of limitations is extended forward 2 years
156 from the time that the injury is discovered or should have been



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157 discovered with the exercise of due diligence, but in no event
158 to exceed 7 years from the date the incident giving rise to the
159 injury occurred, except that this 7-year period shall not bar an
160 action brought on behalf of a minor on or before the child's
161 eighth birthday. This paragraph shall not apply to actions for
162 which ss. 766.301-766.316 provide the exclusive remedy.

163 (d)~~(e)~~ An action to recover wages or overtime or damages or
164 penalties concerning payment of wages and overtime.

165 (e)~~(d)~~ An action for wrongful death.

166 (f)~~(e)~~ An action founded upon a violation of any provision
167 of chapter 517, with the period running from the time the facts
168 giving rise to the cause of action were discovered or should
169 have been discovered with the exercise of due diligence, but not
170 more than 5 years from the date such violation occurred.

171 (g)~~(f)~~ An action for personal injury caused by contact with
172 or exposure to phenoxy herbicides while serving either as a
173 civilian or as a member of the Armed Forces of the United States
174 during the period January 1, 1962, through May 7, 1975; the
175 period of limitations shall run from the time the cause of
176 action is discovered or should have been discovered with the
177 exercise of due diligence.

178 (h)~~(g)~~ An action for libel or slander.

179 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS
180 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph
181 (4) (e) ~~(4) (d)~~, an action for wrongful death seeking damages
182 authorized under s. 768.21 brought against a natural person for
183 an intentional tort resulting in death from acts described in s.
184 782.04 or s. 782.07 may be commenced at any time. This
185 subsection shall not be construed to require an arrest, the



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186 filing of formal criminal charges, or a conviction for a
187 violation of s. 782.04 or s. 782.07 as a condition for filing a
188 civil action.

189 (12) FOR ACTIONS INVOLVING SERVICEMEMBERS.—Any action
190 involving a servicemember as defined in s. 250.01 is subject to
191 the provisions of s. 250.5201 and part IV of chapter 250, which
192 includes the Servicemembers Civil Relief Act, 50 U.S.C. ss. 501
193 et seq., providing for protections to members of the United
194 States Armed Forces, the United States Reserve Forces, or the
195 National Guard during terms of federal or state active duty
196 which materially affect the servicemember's ability to appear.

197 Section 4. Section 624.155, Florida Statutes, is amended to
198 read:

199 624.155 Civil remedy.—

200 (1) Any person may bring a civil action against an insurer
201 when such person is damaged:

202 (a) By a violation of any of the following provisions by
203 the insurer:

- 204 1. Section 626.9541(1) (i), (o), or (x);
- 205 2. Section 626.9551;
- 206 3. Section 626.9705;
- 207 4. Section 626.9706;
- 208 5. Section 626.9707; or
- 209 6. Section 627.7283.

210 (b) By the commission of any of the following acts by the
211 insurer:

- 212 1. Not attempting in good faith to settle claims when,
213 under all the circumstances, it could and should have done so,
214 had it acted fairly and honestly toward its insured and with due



215 regard for her or his interests;
216 2. Making claims payments to insureds or beneficiaries not
217 accompanied by a statement setting forth the coverage under
218 which payments are being made; or

219 3. Except as to liability coverages, failing to promptly
220 settle claims, when the obligation to settle a claim has become
221 reasonably clear, under one portion of the insurance policy
222 coverage in order to influence settlements under other portions
223 of the insurance policy coverage.

224
225 Notwithstanding the provisions of the above to the contrary, a
226 person pursuing a remedy under this section need not prove that
227 such act was committed or performed with such frequency as to
228 indicate a general business practice.

229 (2) Any party may bring a civil action against an
230 unauthorized insurer if such party is damaged by a violation of
231 s. 624.401 by the unauthorized insurer.

232 (3) (a) As a condition precedent to bringing an action under
233 this section, the department and the authorized insurer must
234 have been given 60 days' written notice of the violation. Notice
235 to the authorized insurer must be provided by the department to
236 the e-mail address designated by the insurer under s. 624.422.

237 (b) The notice shall be on a form provided by the
238 department and shall state with specificity the following
239 information, and such other information as the department may
240 require:

241 1. The statutory provision, including the specific language
242 of the statute, which the authorized insurer allegedly violated.

243 2. The facts and circumstances giving rise to the



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244 violation.

245 3. The name of any individual involved in the violation.

246 4. Reference to specific policy language that is relevant
247 to the violation, if any. If the person bringing the civil
248 action is a third party claimant, she or he shall not be
249 required to reference the specific policy language if the
250 authorized insurer has not provided a copy of the policy to the
251 third party claimant pursuant to written request.

252 5. A statement that the notice is given in order to perfect
253 the right to pursue the civil remedy authorized by this section.

254 (c) No action shall lie if, within 60 days after the
255 insurer receives notice from the department in accordance with
256 this subsection, the damages are paid or the circumstances
257 giving rise to the violation are corrected.

258 (d) The authorized insurer that is the recipient of a
259 notice filed pursuant to this section shall report to the
260 department on the disposition of the alleged violation.

261 (e) The applicable statute of limitations for an action
262 under this section shall be tolled for a period of:

263 1. Sixty days after the insurer receives from the
264 department the notice required by this subsection.

265 2. Sixty days after the date appraisal is invoked pursuant
266 to paragraph (f).

267 (f) A notice required under this subsection may not be
268 filed within 60 days after appraisal is invoked by any party in
269 a residential property insurance claim.

270 (4) (a) An action for bad faith involving a liability
271 insurance claim, including any such action brought under the
272 common law, shall not lie if the insurer tenders the lesser of



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273 the policy limits or the amount demanded by the claimant within
274 90 days after receiving actual notice of a claim which is
275 accompanied by sufficient evidence to support the amount of the
276 claim.

277 (b) If an insurer does not tender the lesser of the policy
278 limits or the amount demanded by the claimant within the 90-day
279 timeframe provided in paragraph (a), the existence of the 90-day
280 timeframe and that no bad faith action could lie had the insurer
281 tendered the lesser of policy limits or the amount demanded by
282 the claimant pursuant to paragraph (a) is inadmissible in any
283 action seeking to establish bad faith on the part of the
284 insurer.

285 (c) If the insurer fails to tender pursuant to paragraph
286 (a) within the 90-day period, any applicable statute of
287 limitations is extended for an additional 90 days.

288 (5) In any bad faith action, whether such action is brought
289 under this section or is based on the common-law remedy for bad
290 faith:

291 (a) Mere negligence alone is insufficient to constitute bad
292 faith.

293 (b)1. The insured, claimant, and representative of the
294 insured or claimant have a duty to act in good faith in
295 furnishing information regarding the claim, in making demands of
296 the insurer, in setting deadlines, and in attempting to settle
297 the claim. This duty does not create a separate cause of action,
298 but may only be considered pursuant to subparagraph 2.

299 2. In any action for bad faith against an insurer, the
300 trier of fact may consider whether the insured, claimant, or
301 representative of the insured or claimant did not act in good



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302 faith pursuant to this paragraph, in which case the trier of
303 fact may reasonably reduce the amount of damages awarded against
304 the insurer.

305 (6) If two or more third-party claimants have competing
306 claims arising out of a single occurrence, which in total may
307 exceed the available policy limits of one or more of the insured
308 parties who may be liable to the third-party claimants, an
309 insurer is not liable beyond the available policy limits for
310 failure to pay all or any portion of the available policy limits
311 to one or more of the third-party claimants if, within 90 days
312 after receiving notice of the competing claims in excess of the
313 available policy limits, the insurer complies with either
314 paragraph (a) or paragraph (b).

315 (a) The insurer files an interpleader action under the
316 Florida Rules of Civil Procedure. If the claims of the competing
317 third-party claimants are found to be in excess of the policy
318 limits, the third-party claimants are entitled to a prorated
319 share of the policy limits as determined by the trier of fact.
320 An insurer's interpleader action does not alter or amend the
321 insurer's obligation to defend its insured.

322 (b) Pursuant to binding arbitration that has been agreed to
323 by the insurer and the third-party claimants, the insurer makes
324 the entire amount of the policy limits available for payment to
325 the competing third-party claimants before a qualified
326 arbitrator agreed to by the insurer and such third-party
327 claimants at the expense of the insurer. The third-party
328 claimants are entitled to a prorated share of the policy limits
329 as determined by the arbitrator, who must consider the
330 comparative fault, if any, of each third-party claimant, and the



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331 total likely outcome at trial based upon the total of the
332 economic and noneconomic damages submitted to the arbitrator for
333 consideration. A third-party claimant whose claim is resolved by
334 the arbitrator must execute and deliver a general release to the
335 insured party whose claim is resolved by the proceeding.

336 (7)~~(4)~~ Upon adverse adjudication at trial or upon appeal,
337 the authorized insurer shall be liable for damages, together
338 with court costs and reasonable attorney ~~attorney's~~ fees
339 incurred by the plaintiff.

340 (8)~~(5)~~ ~~No~~ Punitive damages may not ~~shall~~ be awarded under
341 this section unless the acts giving rise to the violation occur
342 with such frequency as to indicate a general business practice
343 and these acts are:

- 344 (a) Willful, wanton, and malicious;
345 (b) In reckless disregard for the rights of any insured; or
346 (c) In reckless disregard for the rights of a beneficiary
347 under a life insurance contract.

348
349 Any person who pursues a claim under this subsection shall post
350 in advance the costs of discovery. Such costs shall be awarded
351 to the authorized insurer if no punitive damages are awarded to
352 the plaintiff.

353 (9)~~(6)~~ This section does ~~shall~~ not ~~be construed to~~
354 authorize a class action suit against an authorized insurer or a
355 civil action against the commission, the office, or the
356 department or any of their employees, or to create a cause of
357 action when an authorized health insurer refuses to pay a claim
358 for reimbursement on the ground that the charge for a service
359 was unreasonably high or that the service provided was not



360 medically necessary.

361 ~~(10)(7)~~ In the absence of expressed language to the
362 contrary, this section shall not be construed to authorize a
363 civil action or create a cause of action against an authorized
364 insurer or its employees who, in good faith, release information
365 about an insured or an insurance policy to a law enforcement
366 agency in furtherance of an investigation of a criminal or
367 fraudulent act relating to a motor vehicle theft or a motor
368 vehicle insurance claim.

369 ~~(11)(8)~~ The civil remedy specified in this section does not
370 preempt any other remedy or cause of action provided for
371 pursuant to any other statute or pursuant to the common law of
372 this state. Any person may obtain a judgment under either the
373 common-law remedy of bad faith or this statutory remedy, but is
374 ~~shall not be~~ entitled to a judgment under both remedies. This
375 section does ~~shall not be construed to~~ create a common-law cause
376 of action. The damages recoverable pursuant to this section
377 shall include those damages which are a reasonably foreseeable
378 result of a specified violation of this section by the
379 authorized insurer and may include an award or judgment in an
380 amount that exceeds the policy limits.

381 ~~(12)(9)~~ A surety issuing a payment or performance bond on
382 the construction or maintenance of a building or roadway project
383 is not an insurer for purposes of subsection (1).

384 Section 5. Section 768.0427, Florida Statutes, is created
385 to read:

386 768.0427 Admissibility of evidence to prove medical
387 expenses in personal injury or wrongful death actions;
388 disclosure of letters of protection; recovery of past and future



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389 medical expenses damages.-

390 (1) DEFINITIONS.-As used in this section, the term:

391 (a) "Factoring company" means a person who purchases a
392 health care provider's accounts receivable at a discount below
393 the invoice value of such accounts.

394 (b) "Health care coverage" means any third-party health
395 care or disability services financing arrangement, including,
396 but not limited to, arrangements with entities certified or
397 authorized under federal law or under the Florida Insurance
398 Code; state or federal health care benefit programs; workers'
399 compensation; and personal injury protection.

400 (c) "Health care provider" means any of the following
401 professionals and entities, and professionals and entities
402 similarly licensed in another jurisdiction:

403 1. A provider as defined in s. 408.803.

404 2. A clinical laboratory providing services in this state
405 or services to health care providers in this state, if the
406 clinical laboratory is certified by the Centers for Medicare and
407 Medicaid Services under the federal Clinical Laboratory
408 Improvement Amendments and the federal rules adopted thereunder.

409 3. A federally qualified health center as defined in 42
410 U.S.C. s. 1396d(1)(2)(B), as that definition existed on the
411 effective date of this act.

412 4. A health care practitioner as defined in s. 456.001.

413 5. A health care professional licensed under part IV of
414 chapter 468.

415 6. A home health aide as defined in s. 400.462.

416 7. A provider licensed under chapter 394 or chapter 397 and
417 its clinical and nonclinical staff providing inpatient or



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418 outpatient services.

419 8. A continuing care facility licensed under chapter 651.

420 9. A pharmacy permitted under chapter 465.

421 (d) "Letter of protection" means any arrangement by which a
422 health care provider renders treatment in exchange for a promise
423 of payment for the claimant's medical expenses from any judgment
424 or settlement of a personal injury or wrongful death action. The
425 term includes any such arrangement, regardless of whether
426 referred to as a letter of protection.

427 (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE
428 EXPENSES.—Evidence offered to prove the amount of damages for
429 past or future medical treatment or services in a personal
430 injury or wrongful death action is admissible as provided in
431 this subsection.

432 (a) Evidence offered to prove the amount of damages for
433 past medical treatment or services that have been satisfied is
434 limited to evidence of the amount actually paid, regardless of
435 the source of payment.

436 (b) Evidence offered to prove the amount necessary to
437 satisfy unpaid charges for incurred medical treatment or
438 services shall include, but is not limited to, evidence as
439 provided in this paragraph.

440 1. If the claimant has health care coverage other than
441 Medicare or Medicaid, evidence of the amount which such health
442 care coverage is obligated to pay the health care provider to
443 satisfy the charges for the claimant's incurred medical
444 treatment or services, plus the claimant's share of medical
445 expenses under the insurance contract or regulation.

446 2. If the claimant has health care coverage but obtains



447 treatment under a letter of protection or otherwise does not
448 submit charges for any health care provider's medical treatment
449 or services to health care coverage, evidence of the amount the
450 claimant's health care coverage would pay the health care
451 provider to satisfy the past unpaid medical charges under the
452 insurance contract or regulation, plus the claimant's share of
453 medical expenses under the insurance contract or regulation, had
454 the claimant obtained medical services or treatment pursuant to
455 the health care coverage.

456 3. If the claimant does not have health care coverage or
457 has health care coverage through Medicare or Medicaid, evidence
458 of 120 percent of the Medicare reimbursement rate in effect on
459 the date of the claimant's incurred medical treatment or
460 services, or, if there is no applicable Medicare rate for a
461 service, 170 percent of the applicable state Medicaid rate.

462 4. If the claimant obtains medical treatment or services
463 under a letter of protection and the health care provider
464 subsequently transfers the right to receive payment under the
465 letter of protection to a third party, evidence of the amount
466 the third party paid or agreed to pay the health care provider
467 in exchange for the right to receive payment pursuant to the
468 letter of protection.

469 5. Any evidence of reasonable amounts billed to the
470 claimant for medically necessary treatment or medically
471 necessary services provided to the claimant.

472 (c) Evidence offered to prove the amount of damages for any
473 future medical treatment or services the claimant will receive
474 shall include, but is not limited to, evidence as provided in
475 this paragraph.



476 1. If the claimant has health care coverage other than
477 Medicare or Medicaid, or is eligible for any such health care
478 coverage, evidence of the amount for which the future charges of
479 health care providers could be satisfied if submitted to such
480 health care coverage, plus the claimant's share of medical
481 expenses under the insurance contract or regulation.

482 2. If the claimant does not have health care coverage or
483 has health care coverage through Medicare or Medicaid, or is
484 eligible for such health care coverage, evidence of 120 percent
485 of the Medicare reimbursement rate in effect at the time of
486 trial for the medical treatment or services the claimant will
487 receive, or, if there is no applicable Medicare rate for a
488 service, 170 percent of the applicable state Medicaid rate.

489 3. Any evidence of reasonable future amounts to be billed
490 to the claimant for medically necessary treatment or medically
491 necessary services.

492 (d) This subsection does not impose an affirmative duty
493 upon any party to seek a reduction in billed charges to which
494 the party is not contractually entitled.

495 (e) Individual contracts between providers and authorized
496 commercial insurers or authorized health maintenance
497 organizations are not subject to discovery or disclosure and are
498 not admissible into evidence.

499 (3) LETTERS OF PROTECTION; REQUIRED DISCLOSURES.—In a
500 personal injury or wrongful death action, as a condition
501 precedent to asserting any claim for medical expenses for
502 treatment rendered under a letter of protection, the claimant
503 must disclose:

504 (a) A copy of the letter of protection.



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505 (b) All billings for the claimant's medical expenses, which
506 must be itemized and, to the extent applicable, coded according
507 to:

508 1. For health care providers billing at the provider level,
509 the American Medical Association's Current Procedural
510 Terminology (CPT), or the Healthcare Common Procedure Coding
511 System (HCPCS), in effect on the date the services were
512 rendered.

513 2. For health care providers billing at the facility level
514 for expenses incurred in a clinical or outpatient setting,
515 including when billing through an Ambulatory Payment
516 Classification (APC) or Enhanced Ambulatory Patient Grouping
517 (EAPG), the International Classification of Diseases (ICD)
518 diagnosis code and, if applicable, the American Medical
519 Association's Current Procedural Terminology (CPT), in effect on
520 the date the services were rendered.

521 3. For health care providers billing at the facility level
522 for expenses incurred in an inpatient setting, including when
523 billing through a Diagnosis Related Group (DRG), the
524 International Classification of Diseases (ICD) diagnosis and
525 procedure codes in effect on the date in which the claimant is
526 discharged.

527 (c) If the health care provider sells the accounts
528 receivable for the claimant's medical expenses to a factoring
529 company or other third party:

530 1. The name of the factoring company or other third party
531 who purchased such accounts.

532 2. The dollar amount for which the factoring company or
533 other third party purchased such accounts, including any



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534 discount provided below the invoice amount.

535 (d) Whether the claimant, at the time medical treatment was
536 rendered, had health care coverage and, if so, the identity of
537 such coverage.

538 (e) Whether the claimant was referred for treatment under a
539 letter of protection and, if so, the identity of the person who
540 made the referral. If the referral is made by the claimant's
541 attorney, disclosure of the referral is permitted, and evidence
542 of such referral is admissible notwithstanding s. 90.502.

543 Moreover, in such situation, the financial relationship between
544 a law firm and a medical provider, including the number of
545 referrals, frequency, and financial benefit obtained, is
546 relevant to the issue of the bias of a testifying medical
547 provider.

548 (4) DAMAGES RECOVERABLE FOR MEDICAL TREATMENT OR SERVICE
549 EXPENSES.—The damages that may be recovered by a claimant in a
550 personal injury or wrongful death action for the reasonable and
551 necessary cost or value of medical care rendered may not include
552 any amount in excess of the evidence of medical treatment and
553 services expenses admitted pursuant to subsection (2), and also
554 may not exceed the sum of the following:

555 (a) Amounts actually paid by or on behalf of the claimant
556 to a health care provider who rendered medical treatment or
557 services;

558 (b) Amounts necessary to satisfy charges for medical
559 treatment or services that are due and owing but at the time of
560 trial are not yet satisfied; and

561 (c) Amounts necessary to provide for any reasonable and
562 necessary medical treatment or services the claimant will



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563 receive in the future.

564 Section 6. Section 768.0701, Florida Statutes, is created
565 to read:

566 768.0701 Premises liability for criminal acts of third
567 parties.—Notwithstanding s. 768.81(4), in an action for damages
568 against the owner, lessor, operator, or manager of commercial or
569 real property brought by a person lawfully on the property who
570 was injured by the criminal act of a third party, the trier of
571 fact must consider the fault of all persons who contributed to
572 the injury.

573 Section 7. Section 768.0706, Florida Statutes, is created
574 to read:

575 768.0706 Multifamily residential property safety and
576 security; presumption against liability.—

577 (1) As used in this section, the term:

578 (a) "Crime prevention through environmental design" has the
579 same meaning as in s. 163.503(6).

580 (b) "Multifamily residential property" means a residential
581 building, or group of residential buildings, such as apartments,
582 townhouses, or condominiums, consisting of at least five
583 dwelling units on a particular parcel.

584 (c) "Parcel" means real property for which a distinct
585 parcel identification number is assigned to the property by the
586 property appraiser for the county in which the property is
587 located.

588 (2) The owner or principal operator of a multifamily
589 residential property which substantially implements the
590 following security measures on that property, and demonstrates
591 substantial implementation, has a presumption against liability



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592 in connection with criminal acts that occur on the premises
593 which are committed by third parties who are not employees or
594 agents of the owner or operator:

595 (a)1. A security camera system at points of entry and exit
596 which records, and maintains as retrievable for at least 30
597 days, video footage to assist in offender identification and
598 apprehension.

599 2. A lighted parking lot illuminated at an intensity of at
600 least an average of 1.8 foot-candles per square foot at 18
601 inches above the surface from dusk until dawn or controlled by
602 photocell or any similar electronic device that provides light
603 from dusk until dawn.

604 3. Lighting in walkways, laundry rooms, common areas, and
605 porches. Such lighting must be illuminated from dusk until dawn
606 or controlled by photocell or any similar electronic device that
607 provides light from dusk until dawn.

608 4. At least a 1-inch deadbolt in each dwelling unit door.

609 5. A locking device on each window, each exterior sliding
610 door, and any other doors not used for community purposes.

611 6. Locked gates with key or fob access along pool fence
612 areas.

613 7. A peephole or door viewer on each dwelling unit door
614 that does not include a window or that does not have a window
615 next to the door.

616 (b) By January 1, 2025, the owner or principal operator of
617 a multifamily residential property has a crime prevention
618 through environmental design assessment that is no more than 3
619 years old completed for the property. Such assessment must be
620 performed by a law enforcement agency or a Florida Crime



621 Prevention Through Environmental Design Practitioner designated
622 by the Florida Crime Prevention Training Institute of the
623 Department of Legal Affairs. The owner or principal operator
624 must remain in substantial compliance with the assessment for
625 purposes of this paragraph.

626 (c)1. By January 1, 2025, the owner or principal operator
627 of a multifamily residential property provides proper crime
628 deterrence and safety training to its current employees. After
629 January 1, 2025, the owner or principal operator must provide
630 such training to an employee within 60 days after his or her
631 hire date for purposes of this paragraph.

632 2. For purposes of this paragraph, "proper crime deterrence
633 and safety training" means training which trains and
634 familiarizes employees with the security principles, devices,
635 measures, and standards set forth under paragraph (a), and which
636 is reviewed at least every 3 years and updated as necessary. The
637 owner or principal operator may request a law enforcement agency
638 or the Florida Crime Prevention Through Environmental Design
639 Practitioner performing the assessment under paragraph (b) to
640 review the training curriculum.

641 (3) The Florida Crime Prevention Training Institute of the
642 Department of Legal Affairs shall develop a proposed curriculum
643 or best practices for owners or principal operators to implement
644 such training. The state has no liability in connection with
645 providing a proposed training curriculum under this subsection.

646 (4) This section does not establish a private cause of
647 action.

648 Section 8. Subsection (2) of section 768.81, Florida
649 Statutes, is amended, and subsection (6) is added to that



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650 section, to read:

651 768.81 Comparative fault.—

652 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,
653 contributory fault chargeable to the claimant diminishes
654 proportionately the amount awarded as economic and noneconomic
655 damages for an injury attributable to the claimant's
656 contributory fault, but does not bar recovery, subject to
657 subsection (6).

658 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to
659 which this section applies, any party found to be greater than
660 50 percent at fault for his or her own harm may not recover any
661 damages. This subsection does not apply to an action for damages
662 for personal injury or wrongful death arising out of medical
663 negligence pursuant to chapter 766.

664 Section 9. Section 626.9373, Florida Statutes, is repealed.

665 Section 10. Section 627.428, Florida Statutes, is repealed.

666 Section 11. Paragraphs (a) and (j) of subsection (1) of
667 section 475.01, Florida Statutes, are amended to read:

668 475.01 Definitions.—

669 (1) As used in this part:

670 (a) "Broker" means a person who, for another, and for a
671 compensation or valuable consideration directly or indirectly
672 paid or promised, expressly or impliedly, or with an intent to
673 collect or receive a compensation or valuable consideration
674 therefor, appraises, auctions, sells, exchanges, buys, rents, or
675 offers, attempts or agrees to appraise, auction, or negotiate
676 the sale, exchange, purchase, or rental of business enterprises
677 or business opportunities or any real property or any interest
678 in or concerning the same, including mineral rights or leases,



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679 or who advertises or holds out to the public by any oral or
680 printed solicitation or representation that she or he is engaged
681 in the business of appraising, auctioning, buying, selling,
682 exchanging, leasing, or renting business enterprises or business
683 opportunities or real property of others or interests therein,
684 including mineral rights, or who takes any part in the procuring
685 of sellers, purchasers, lessors, or lessees of business
686 enterprises or business opportunities or the real property of
687 another, or leases, or interest therein, including mineral
688 rights, or who directs or assists in the procuring of prospects
689 or in the negotiation or closing of any transaction which does,
690 or is calculated to, result in a sale, exchange, or leasing
691 thereof, and who receives, expects, or is promised any
692 compensation or valuable consideration, directly or indirectly
693 therefor; and all persons who advertise rental property
694 information or lists. A broker renders a professional service
695 and is a professional within the meaning of s. 95.11(4)(b) ~~s.~~
696 ~~95.11(4)(a)~~. Where the term "appraise" or "appraising" appears
697 in the definition of the term "broker," it specifically excludes
698 those appraisal services which must be performed only by a
699 state-licensed or state-certified appraiser, and those appraisal
700 services which may be performed by a registered trainee
701 appraiser as defined in part II. The term "broker" also includes
702 any person who is a general partner, officer, or director of a
703 partnership or corporation which acts as a broker. The term
704 "broker" also includes any person or entity who undertakes to
705 list or sell one or more timeshare periods per year in one or
706 more timeshare plans on behalf of any number of persons, except
707 as provided in ss. 475.011 and 721.20.



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708 (j) "Sales associate" means a person who performs any act
709 specified in the definition of "broker," but who performs such
710 act under the direction, control, or management of another
711 person. A sales associate renders a professional service and is
712 a professional within the meaning of s. 95.11(4)(b) ~~s.~~
713 ~~95.11(4)(a)~~.

714 Section 12. Paragraph (h) of subsection (1) of section
715 475.611, Florida Statutes, is amended to read:

716 475.611 Definitions.—

717 (1) As used in this part, the term:

718 (h) "Appraiser" means any person who is a registered
719 trainee real estate appraiser, a licensed real estate appraiser,
720 or a certified real estate appraiser. An appraiser renders a
721 professional service and is a professional within the meaning of
722 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

723 Section 13. Subsection (7) of section 517.191, Florida
724 Statutes, is amended to read:

725 517.191 Injunction to restrain violations; civil penalties;
726 enforcement by Attorney General.—

727 (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an
728 enforcement action brought under this section based on a
729 violation of any provision of this chapter or any rule or order
730 issued under this chapter shall be brought within 6 years after
731 the facts giving rise to the cause of action were discovered or
732 should have been discovered with the exercise of due diligence,
733 but not more than 8 years after the date such violation
734 occurred.

735 Section 14. Subsection (2) of section 627.441, Florida
736 Statutes, is amended to read:



737 627.441 Commercial general liability policies; coverage to
738 contractors for completed operations.—

739 (2) A liability insurer must offer coverage at an
740 appropriate additional premium for liability arising out of
741 current or completed operations under an owner-controlled
742 insurance program for any period beyond the period for which the
743 program provides liability coverage, as specified in s.
744 255.0517(2) (b). The period of such coverage must be sufficient
745 to protect against liability arising out of an action brought
746 within the time limits provided in s. 95.11(3) (b) ~~s.~~
747 ~~95.11(3) (c)~~.

748 Section 15. Subsection (4) of section 624.123, Florida
749 Statutes, is amended to read:

750 624.123 Certain international health insurance policies;
751 exemption from code.—

752 (4) Any international health insurance policy or
753 application solicited, provided, entered into, issued, or
754 delivered pursuant to this subsection is exempt from all
755 provisions of the insurance code, except that such policy,
756 contract, or agreement is subject to the provisions of ss.
757 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,
758 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,
759 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

760 Section 16. Subsection (4) of section 624.488, Florida
761 Statutes, is amended to read:

762 624.488 Applicability of related laws.—In addition to other
763 provisions of the code cited in ss. 624.460-624.488:

764 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
765 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428~~,



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766 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
767 627.913, and 627.918;

768
769 apply to self-insurance funds. Only those sections of the code
770 that are expressly and specifically cited in ss. 624.460-624.489
771 apply to self-insurance funds.

772 Section 17. Paragraph (b) of subsection (3) of section
773 627.062, Florida Statutes, is amended to read:

774 627.062 Rate standards.—

775 (3)

776 (b) Individual risk rates and modifications to existing
777 approved forms are not subject to this part or part II, except
778 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
779 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
780 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
781 627.4265, and 627.427, ~~and 627.428~~, but are subject to all other
782 applicable provisions of this code and rules adopted thereunder.

783 Section 18. Section 627.401, Florida Statutes, is amended
784 to read:

785 627.401 Scope of this part.—No provision of this part of
786 this chapter applies to:

787 (1) Reinsurance.

788 (2) Policies or contracts not issued for delivery in this
789 state nor delivered in this state, except as otherwise provided
790 in this code.

791 (3) Wet marine and transportation insurance, except ss.
792 627.409 and, ~~627.420, and 627.428~~.

793 (4) Title insurance, except ss. 627.406, 627.415, 627.416,
794 627.419, and 627.427, ~~and 627.428~~.



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795 (5) Credit life or credit disability insurance, except s.
796 627.419(5) ~~ss. 627.419(5) and 627.428.~~

797 Section 19. Subsection (8) of section 627.727, Florida
798 Statutes, is amended to read:

799 627.727 Motor vehicle insurance; uninsured and underinsured
800 vehicle coverage; insolvent insurer protection.—

801 ~~(8) The provisions of s. 627.428 do not apply to any action~~
802 ~~brought pursuant to this section against the uninsured motorist~~
803 ~~insurer unless there is a dispute over whether the policy~~
804 ~~provides coverage for an uninsured motorist proven to be liable~~
805 ~~for the accident.~~

806 Section 20. Subsection (8) of section 627.736, Florida
807 Statutes, is amended to read:

808 627.736 Required personal injury protection benefits;
809 exclusions; priority; claims.—

810 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—
811 With respect to any dispute under the provisions of ss. 627.730-
812 627.7405 between the insured and the insurer, or between an
813 assignee of an insured's rights and the insurer, the provisions
814 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in
815 subsections (10) and (15), and except that any attorney fees
816 recovered must:

817 (a) Comply with prevailing professional standards;

818 (b) Not overstate or inflate the number of hours reasonably
819 necessary for a case of comparable skill or complexity; and

820 (c) Represent legal services that are reasonable and
821 necessary to achieve the result obtained.

822

823 Upon request by either party, a judge must make written



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824 findings, substantiated by evidence presented at trial or any
825 hearings associated therewith, that any award of attorney fees
826 complies with this subsection. ~~Notwithstanding s. 627.428,~~
827 Attorney fees recovered under ss. 627.730-627.7405 must be
828 calculated without regard to a contingency risk multiplier.

829 Section 21. Section 627.756, Florida Statutes, is amended
830 to read:

831 627.756 Bonds for construction contracts; attorney fees in
832 case of suit.—

833 (1) In a suit ~~Section 627.428~~ applies to suits brought by
834 an owner, a contractor, a subcontractor, a laborer, or a
835 materialman ~~owners, contractors, subcontractors, laborers, and~~
836 ~~materialmen~~ against a surety insurer under payment or
837 performance bonds written by the insurer under the laws of this
838 state to indemnify against pecuniary loss by breach of a
839 building or construction contract, upon the rendition of a
840 judgment or decree by any of the courts of this state against
841 the surety insurer and in favor of the owner, contractor,
842 subcontractor, laborer, or materialman, the trial court or, in
843 the event of an appeal in which the owner, contractor,
844 subcontractor, laborer, or materialman prevails, the appellate
845 court, shall adjudge or decree against the surety insurer and in
846 favor of the owner, contractor, subcontractor, laborer, or
847 materialman a reasonable sum as fees or compensation for the
848 attorney prosecuting the suit in which the recovery is had.
849 ~~Owners, contractors, subcontractors, laborers, and materialmen~~
850 ~~shall be deemed to be insureds or beneficiaries for the purposes~~
851 ~~of this section.~~

852 (2) A surety who issues a bid, performance, or payment bond



853 in connection with construction activities where hazardous
854 substances exist or are discovered is liable under ss. 376.308
855 and 403.727 only to the extent provided in this subsection. In
856 case of a default, the surety is liable only for the cost of
857 completion of the contract work in accordance with the plans and
858 specifications, less the balance of funds remaining to be paid
859 under the contract, up to the penal sum of the bond. The surety
860 is not liable on a bond to indemnify or compensate the obligee
861 for loss or liability arising from personal injury or property
862 damage, whether or not caused by a breach of the bonded
863 contract. Further, a right of action does not accrue on a bond
864 to or for the use of any person other than the obligee named in
865 the bond.

866 Section 22. Subsection (4) of section 628.6016, Florida
867 Statutes, is amended to read:

868 628.6016 Applicability of related laws.—In addition to
869 other provisions of the code cited in ss. 628.6011–628.6018:

870 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
871 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~
872 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
873 627.913, and 627.918; and

874
875 apply to assessable mutual insurers; however, ss. 628.255,
876 628.411, and 628.421 do not apply. No section of the code not
877 expressly and specifically cited in ss. 628.6011–628.6018
878 applies to assessable mutual insurers. The term “assessable
879 mutual insurer” shall be substituted for the term “commercial
880 self-insurer” as appropriate.

881 Section 23. Section 631.70, Florida Statutes, is repealed.



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882 Section 24. Section 631.926, Florida Statutes, is repealed.

883 Section 25. Subsection (11) of section 632.638, Florida
884 Statutes, is amended to read:

885 632.638 Applicability of other code provisions.—In addition
886 to other provisions contained or referred to in this chapter,
887 the following chapters and provisions of this code apply to
888 fraternal benefit societies, to the extent applicable and not in
889 conflict with the express provisions of this chapter and the
890 reasonable implications thereof:

891 ~~(11) Section 627.428;~~

892 Section 26. The Division of Law Revision is directed to
893 replace the phrase "the effective date of this act" wherever it
894 occurs in this act with the date this act becomes a law.

895 Section 27. The amendments made by this act to s. 95.11,
896 Florida Statutes, apply to causes of action accruing after the
897 effective date of this act.

898 Section 28. This act shall not be construed to impair any
899 right under an insurance contract in effect on or before the
900 effective date of this act. To the extent that this act affects
901 a right under an insurance contract, this act applies to an
902 insurance contract issued or renewed after the effective date of
903 this act.

904 Section 29. Except as otherwise expressly provided in this
905 act, this act shall apply to causes of action filed after the
906 effective date of this act.

907 Section 30. This act shall take effect upon becoming a law.

908
909 ===== T I T L E A M E N D M E N T =====

910 And the title is amended as follows:



911 Delete everything before the enacting clause
912 and insert:

913 A bill to be entitled
914 An act relating to civil remedies; amending s. 57.104,
915 F.S.; creating a rebuttable presumption that a
916 lodestar fee is a sufficient and reasonable attorney
917 fee in most civil actions; providing an exception;
918 creating s. 86.121, F.S.; authorizing a court to award
919 attorney fees in certain declaratory actions;
920 prohibiting the transfer, assignment, or acquisition
921 of the right to such attorney fees except by specified
922 persons; providing construction; amending s. 95.11,
923 F.S.; reducing the statute of limitations for
924 negligence actions; providing applicability of certain
925 provisions to actions involving servicemembers;
926 amending s. 624.155, F.S.; providing standards for bad
927 faith actions; providing for the distribution of
928 proceeds when two or more third-party claims arising
929 out of a single occurrence exceed policy limits;
930 creating s. 768.0427, F.S.; providing definitions;
931 providing standards for the admissibility of evidence
932 to prove the cost of damages for medical expenses in
933 certain civil actions; requiring certain disclosures
934 with respect to claims for medical expenses for
935 treatment rendered under letters of protection;
936 specifying the damages that may be recovered by a
937 claimant for the reasonable and necessary cost of
938 medical care; creating s. 768.0701, F.S.; requiring
939 the trier of fact to consider the fault of certain



940 persons who contribute to an injury; creating s.
941 768.0706, F.S.; providing definitions; providing that
942 the owner or principal operator of a multifamily
943 residential property which substantially implements
944 specified security measures on that property has a
945 presumption against liability for negligence in
946 connection with certain criminal acts that occur on
947 the premises; requiring the Florida Crime Prevention
948 Training Institute of the Department of Legal Affairs
949 to develop a proposed curriculum or best practices for
950 owners or principal operators; providing construction;
951 amending s. 768.81, F.S.; providing that a party in a
952 negligence action who is at fault by a specified
953 amount may not recover damages under a comparative
954 negligence action; providing applicability; repealing
955 ss. 626.9373 and 627.428, F.S., relating to attorney
956 fees awarded against surplus lines insurers and
957 insurers, respectively; amending s. 627.756, F.S.;
958 providing for the award of costs and attorney fees in
959 certain actions; amending ss. 475.01, 475.611,
960 517.191, 627.441, 624.123, 624.488, 627.062, 627.401,
961 627.727, 627.736, 628.6016, and 632.638, F.S.;
962 conforming cross-references and provisions to changes
963 made by the act; repealing ss. 631.70 and 631.926,
964 F.S., relating to attorney fees; providing a directive
965 to the Division of Law Revision; providing
966 applicability and construction; providing an effective
967 date.