



344956

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2023	.	
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The Committee on Fiscal Policy (Hutson) recommended the following:

1 **Senate Substitute for Amendment (209768) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

8 57.104 Computation of attorney ~~attorneys'~~ fees.—

9 (1) In any action in which attorney ~~attorneys'~~ fees are to
10 be determined or awarded by the court, the court shall consider,



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

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

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

30 86.121 Attorney fees; actions for declaratory relief to
31 determine insurance coverage after total coverage denial of
32 claim.-

33 (1) In an action brought for declaratory relief in state or
34 federal court to determine insurance coverage after the insurer
35 has made a total coverage denial of a claim:

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

39 (b) The court shall award reasonable attorney fees to the



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

51 (2) This section does not apply to any action arising under
52 a residential or commercial property insurance policy.

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

56 95.11 Limitations other than for the recovery of real
57 property.—Actions other than for recovery of real property shall
58 be commenced as follows:

59 (3) WITHIN FOUR YEARS.—

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

61 (a)~~(b)~~ An action relating to the determination of
62 paternity, with the time running from the date the child reaches
63 the age of majority.

64 (b)~~(e)~~ An action founded on the design, planning, or
65 construction of an improvement to real property, with the time
66 running from the date of actual possession by the owner, the
67 date of the issuance of a certificate of occupancy, the date of
68 abandonment of construction if not completed, or the date of



69 completion of the contract or termination of the contract
70 between the professional engineer, registered architect, or
71 licensed contractor and his or her employer, whichever date is
72 latest; except that, when the action involves a latent defect,
73 the time runs from the time the defect is discovered or should
74 have been discovered with the exercise of due diligence. In any
75 event, the action must be commenced within 10 years after the
76 date of actual possession by the owner, the date of the issuance
77 of a certificate of occupancy, the date of abandonment of
78 construction if not completed, or the date of completion of the
79 contract or termination of the contract between the professional
80 engineer, registered architect, or licensed contractor and his
81 or her employer, whichever date is latest. However,
82 counterclaims, cross-claims, and third-party claims that arise
83 out of the conduct, transaction, or occurrence set out or
84 attempted to be set out in a pleading may be commenced up to 1
85 year after the pleading to which such claims relate is served,
86 even if such claims would otherwise be time barred. With respect
87 to actions founded on the design, planning, or construction of
88 an improvement to real property, if such construction is
89 performed pursuant to a duly issued building permit and if a
90 local enforcement agency, state enforcement agency, or special
91 inspector, as those terms are defined in s. 553.71, has issued a
92 final certificate of occupancy or certificate of completion,
93 then as to the construction which is within the scope of such
94 building permit and certificate, the correction of defects to
95 completed work or repair of completed work, whether performed
96 under warranty or otherwise, does not extend the period of time
97 within which an action must be commenced. Completion of the



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98 contract means the later of the date of final performance of all
99 the contracted services or the date that final payment for such
100 services becomes due without regard to the date final payment is
101 made.

102 (c)~~(d)~~ An action to recover public money or property held
103 by a public officer or employee, or former public officer or
104 employee, and obtained during, or as a result of, his or her
105 public office or employment.

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

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

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

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

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

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

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

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

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

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

124 (n)~~(o)~~ An action for assault, battery, false arrest,
125 malicious prosecution, malicious interference, false
126 imprisonment, or any other intentional tort, except as provided



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127 in subsections (4), (5), and (7).

128 ~~(o)~~ Any action not specifically provided for in these
129 statutes.

130 ~~(p)~~ An action alleging a violation, other than a willful
131 violation, of s. 448.110.

132 (4) WITHIN TWO YEARS.—

133 (a) An action founded on negligence.

134 ~~(b)~~ An action for professional malpractice, other than
135 medical malpractice, whether founded on contract or tort;
136 provided that the period of limitations shall run from the time
137 the cause of action is discovered or should have been discovered
138 with the exercise of due diligence. However, the limitation of
139 actions herein for professional malpractice shall be limited to
140 persons in privity with the professional.

141 ~~(c)~~ An action for medical malpractice shall be commenced
142 within 2 years from the time the incident giving rise to the
143 action occurred or within 2 years from the time the incident is
144 discovered, or should have been discovered with the exercise of
145 due diligence; however, in no event shall the action be
146 commenced later than 4 years from the date of the incident or
147 occurrence out of which the cause of action accrued, except that
148 this 4-year period shall not bar an action brought on behalf of
149 a minor on or before the child's eighth birthday. An "action for
150 medical malpractice" is defined as a claim in tort or in
151 contract for damages because of the death, injury, or monetary
152 loss to any person arising out of any medical, dental, or
153 surgical diagnosis, treatment, or care by any provider of health
154 care. The limitation of actions within this subsection shall be
155 limited to the health care provider and persons in privity with



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156 the provider of health care. In those actions covered by this
157 paragraph in which it can be shown that fraud, concealment, or
158 intentional misrepresentation of fact prevented the discovery of
159 the injury the period of limitations is extended forward 2 years
160 from the time that the injury is discovered or should have been
161 discovered with the exercise of due diligence, but in no event
162 to exceed 7 years from the date the incident giving rise to the
163 injury occurred, except that this 7-year period shall not bar an
164 action brought on behalf of a minor on or before the child's
165 eighth birthday. This paragraph shall not apply to actions for
166 which ss. 766.301-766.316 provide the exclusive remedy.

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

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

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

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

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

183 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS
184 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph



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185 (4) (e) ~~(4) (d)~~, an action for wrongful death seeking damages
186 authorized under s. 768.21 brought against a natural person for
187 an intentional tort resulting in death from acts described in s.
188 782.04 or s. 782.07 may be commenced at any time. This
189 subsection shall not be construed to require an arrest, the
190 filing of formal criminal charges, or a conviction for a
191 violation of s. 782.04 or s. 782.07 as a condition for filing a
192 civil action.

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

202 Section 4. Section 624.155, Florida Statutes, is amended to
203 read:

204 624.155 Civil remedy.—

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

207 (a) By a violation of any of the following provisions by
208 the insurer:

- 209 1. Section 626.9541(1) (i), (o), or (x);
- 210 2. Section 626.9551;
- 211 3. Section 626.9705;
- 212 4. Section 626.9706;
- 213 5. Section 626.9707; or



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214 6. Section 627.7283.

215 (b) By the commission of any of the following acts by the
216 insurer:

217 1. Not attempting in good faith to settle claims when,
218 under all the circumstances, it could and should have done so,
219 had it acted fairly and honestly toward its insured and with due
220 regard for her or his interests;

221 2. Making claims payments to insureds or beneficiaries not
222 accompanied by a statement setting forth the coverage under
223 which payments are being made; or

224 3. Except as to liability coverages, failing to promptly
225 settle claims, when the obligation to settle a claim has become
226 reasonably clear, under one portion of the insurance policy
227 coverage in order to influence settlements under other portions
228 of the insurance policy coverage.

229
230 Notwithstanding the provisions of the above to the contrary, a
231 person pursuing a remedy under this section need not prove that
232 such act was committed or performed with such frequency as to
233 indicate a general business practice.

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

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

242 (b) The notice shall be on a form provided by the



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243 department and shall state with specificity the following
244 information, and such other information as the department may
245 require:

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

248 2. The facts and circumstances giving rise to the
249 violation.

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

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

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

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

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

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

268 1. Sixty days after the insurer receives from the
269 department the notice required by this subsection.

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



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

275 (4) (a) An action for bad faith involving a liability
276 insurance claim, including any such action brought under the
277 common law, shall not lie if the insurer tenders the lesser of
278 the policy limits or the amount demanded by the claimant within
279 90 days after receiving actual notice of a claim which is
280 accompanied by sufficient evidence to support the amount of the
281 claim.

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

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

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

296 (a) Mere negligence alone is insufficient to constitute bad
297 faith.

298 (b)1. The insured, claimant, and representative of the
299 insured or claimant have a duty to act in good faith in
300 furnishing information regarding the claim, in making demands of



301 the insurer, in setting deadlines, and in attempting to settle
302 the claim. This duty does not create a separate cause of action,
303 but may only be considered pursuant to subparagraph 2.

304 2. In any action for bad faith against an insurer, the
305 trier of fact may consider whether the insured, claimant, or
306 representative of the insured or claimant did not act in good
307 faith pursuant to this paragraph, in which case the trier of
308 fact may reasonably reduce the amount of damages awarded against
309 the insurer.

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

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

327 (b) Pursuant to binding arbitration that has been agreed to
328 by the insurer and the third-party claimants, the insurer makes
329 the entire amount of the policy limits available for payment to



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330 the competing third-party claimants before a qualified
331 arbitrator agreed to by the insurer and such third-party
332 claimants at the expense of the insurer. The third-party
333 claimants are entitled to a prorated share of the policy limits
334 as determined by the arbitrator, who must consider the
335 comparative fault, if any, of each third-party claimant, and the
336 total likely outcome at trial based upon the total of the
337 economic and noneconomic damages submitted to the arbitrator for
338 consideration. A third-party claimant whose claim is resolved by
339 the arbitrator must execute and deliver a general release to the
340 insured party whose claim is resolved by the proceeding.

341 (7)(4) Upon adverse adjudication at trial or upon appeal,
342 the authorized insurer shall be liable for damages, together
343 with court costs and reasonable attorney ~~attorney's~~ fees
344 incurred by the plaintiff.

345 (8)(5) ~~No~~ Punitive damages may not ~~shall~~ be awarded under
346 this section unless the acts giving rise to the violation occur
347 with such frequency as to indicate a general business practice
348 and these acts are:

- 349 (a) Willful, wanton, and malicious;
350 (b) In reckless disregard for the rights of any insured; or
351 (c) In reckless disregard for the rights of a beneficiary
352 under a life insurance contract.

353
354 Any person who pursues a claim under this subsection shall post
355 in advance the costs of discovery. Such costs shall be awarded
356 to the authorized insurer if no punitive damages are awarded to
357 the plaintiff.

358 (9)(6) This section does ~~shall~~ not ~~be construed to~~



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359 authorize a class action suit against an authorized insurer or a
360 civil action against the commission, the office, or the
361 department or any of their employees, or to create a cause of
362 action when an authorized health insurer refuses to pay a claim
363 for reimbursement on the ground that the charge for a service
364 was unreasonably high or that the service provided was not
365 medically necessary.

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

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

386 (12)~~(9)~~ A surety issuing a payment or performance bond on
387 the construction or maintenance of a building or roadway project



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388 is not an insurer for purposes of subsection (1).

389 Section 5. Section 624.1552, Florida Statutes, is created
390 to read:

391 624.1552 Civil actions involving an insurance contract;
392 applicability of offer of judgment provisions.—The provisions of
393 s. 768.79 apply to any civil action involving an insurance
394 contract.

395 Section 6. Section 768.0427, Florida Statutes, is created
396 to read:

397 768.0427 Admissibility of evidence to prove medical
398 expenses in personal injury or wrongful death actions;
399 disclosure of letters of protection; recovery of past and future
400 medical expenses damages.—

401 (1) DEFINITIONS.—As used in this section, the term:

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

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

411 (c) "Health care provider" means any of the following
412 professionals and entities, and professionals and entities
413 similarly licensed in another jurisdiction:

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

415 2. A clinical laboratory providing services in this state
416 or services to health care providers in this state, if the



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417 clinical laboratory is certified by the Centers for Medicare and
418 Medicaid Services under the federal Clinical Laboratory
419 Improvement Amendments and the federal rules adopted thereunder.

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

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

424 5. A health care professional licensed under part IV of
425 chapter 468.

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

427 7. A provider licensed under chapter 394 or chapter 397 and
428 its clinical and nonclinical staff providing inpatient or
429 outpatient services.

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

431 9. A pharmacy permitted under chapter 465.

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

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

443 (a) Evidence offered to prove the amount of damages for
444 past medical treatment or services that have been satisfied is
445 limited to evidence of the amount actually paid, regardless of



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446 the source of payment.

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

451 1. If the claimant has health care coverage other than
452 Medicare or Medicaid, evidence of the amount which such health
453 care coverage is obligated to pay the health care provider to
454 satisfy the charges for the claimant's incurred medical
455 treatment or services, plus the claimant's share of medical
456 expenses under the insurance contract or regulation.

457 2. If the claimant has health care coverage but obtains
458 treatment under a letter of protection or otherwise does not
459 submit charges for any health care provider's medical treatment
460 or services to health care coverage, evidence of the amount the
461 claimant's health care coverage would pay the health care
462 provider to satisfy the past unpaid medical charges under the
463 insurance contract or regulation, plus the claimant's share of
464 medical expenses under the insurance contract or regulation, had
465 the claimant obtained medical services or treatment pursuant to
466 the health care coverage.

467 3. If the claimant does not have health care coverage or
468 has health care coverage through Medicare or Medicaid, evidence
469 of 120 percent of the Medicare reimbursement rate in effect on
470 the date of the claimant's incurred medical treatment or
471 services, or, if there is no applicable Medicare rate for a
472 service, 170 percent of the applicable state Medicaid rate.

473 4. If the claimant obtains medical treatment or services
474 under a letter of protection and the health care provider



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475 subsequently transfers the right to receive payment under the
476 letter of protection to a third party, evidence of the amount
477 the third party paid or agreed to pay the health care provider
478 in exchange for the right to receive payment pursuant to the
479 letter of protection.

480 5. Any evidence of reasonable amounts billed to the
481 claimant for medically necessary treatment or medically
482 necessary services provided to the claimant.

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

487 1. If the claimant has health care coverage other than
488 Medicare or Medicaid, or is eligible for any such health care
489 coverage, evidence of the amount for which the future charges of
490 health care providers could be satisfied if submitted to such
491 health care coverage, plus the claimant's share of medical
492 expenses under the insurance contract or regulation.

493 2. If the claimant does not have health care coverage or
494 has health care coverage through Medicare or Medicaid, or is
495 eligible for such health care coverage, evidence of 120 percent
496 of the Medicare reimbursement rate in effect at the time of
497 trial for the medical treatment or services the claimant will
498 receive, or, if there is no applicable Medicare rate for a
499 service, 170 percent of the applicable state Medicaid rate.

500 3. Any evidence of reasonable future amounts to be billed
501 to the claimant for medically necessary treatment or medically
502 necessary services.

503 (d) This subsection does not impose an affirmative duty



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504 upon any party to seek a reduction in billed charges to which
505 the party is not contractually entitled.

506 (e) Individual contracts between providers and authorized
507 commercial insurers or authorized health maintenance
508 organizations are not subject to discovery or disclosure and are
509 not admissible into evidence.

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

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

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

519 1. For health care providers billing at the provider level,
520 the American Medical Association's Current Procedural
521 Terminology (CPT), or the Healthcare Common Procedure Coding
522 System (HCPCS), in effect on the date the services were
523 rendered.

524 2. For health care providers billing at the facility level
525 for expenses incurred in a clinical or outpatient setting,
526 including when billing through an Ambulatory Payment
527 Classification (APC) or Enhanced Ambulatory Patient Grouping
528 (EAPG), the International Classification of Diseases (ICD)
529 diagnosis code and, if applicable, the American Medical
530 Association's Current Procedural Terminology (CPT), in effect on
531 the date the services were rendered.

532 3. For health care providers billing at the facility level



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533 for expenses incurred in an inpatient setting, including when
534 billing through a Diagnosis Related Group (DRG), the
535 International Classification of Diseases (ICD) diagnosis and
536 procedure codes in effect on the date in which the claimant is
537 discharged.

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

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

543 2. The dollar amount for which the factoring company or
544 other third party purchased such accounts, including any
545 discount provided below the invoice amount.

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

549 (e) Whether the claimant was referred for treatment under a
550 letter of protection and, if so, the identity of the person who
551 made the referral. If the referral is made by the claimant's
552 attorney, disclosure of the referral is permitted, and evidence
553 of such referral is admissible notwithstanding s. 90.502.
554 Moreover, in such situation, the financial relationship between
555 a law firm and a medical provider, including the number of
556 referrals, frequency, and financial benefit obtained, is
557 relevant to the issue of the bias of a testifying medical
558 provider.

559 (4) DAMAGES RECOVERABLE FOR MEDICAL TREATMENT OR SERVICE
560 EXPENSES.—The damages that may be recovered by a claimant in a
561 personal injury or wrongful death action for the reasonable and



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562 necessary cost or value of medical care rendered may not include
563 any amount in excess of the evidence of medical treatment and
564 services expenses admitted pursuant to subsection (2), and also
565 may not exceed the sum of the following:

566 (a) Amounts actually paid by or on behalf of the claimant
567 to a health care provider who rendered medical treatment or
568 services;

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

572 (c) Amounts necessary to provide for any reasonable and
573 necessary medical treatment or services the claimant will
574 receive in the future.

575 Section 7. Section 768.0701, Florida Statutes, is created
576 to read:

577 768.0701 Premises liability for criminal acts of third
578 parties.—Notwithstanding s. 768.81(4), in an action for damages
579 against the owner, lessor, operator, or manager of commercial or
580 real property brought by a person lawfully on the property who
581 was injured by the criminal act of a third party, the trier of
582 fact must consider the fault of all persons who contributed to
583 the injury.

584 Section 8. Section 768.0706, Florida Statutes, is created
585 to read:

586 768.0706 Multifamily residential property safety and
587 security; presumption against liability.—

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

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



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591 (b) "Multifamily residential property" means a residential
592 building, or group of residential buildings, such as apartments,
593 townhouses, or condominiums, consisting of at least five
594 dwelling units on a particular parcel.

595 (c) "Parcel" means real property for which a distinct
596 parcel identification number is assigned to the property by the
597 property appraiser for the county in which the property is
598 located.

599 (2) The owner or principal operator of a multifamily
600 residential property which substantially implements the
601 following security measures on that property has a presumption
602 against liability in connection with criminal acts that occur on
603 the premises which are committed by third parties who are not
604 employees or agents of the owner or operator:

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

609 2. A lighted parking lot illuminated at an intensity of at
610 least an average of 1.8 foot-candles per square foot at 18
611 inches above the surface from dusk until dawn or controlled by
612 photocell or any similar electronic device that provides light
613 from dusk until dawn.

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

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

619 5. A locking device on each window, each exterior sliding



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620 door, and any other doors not used for community purposes.

621 6. Locked gates with key or fob access along pool fence
622 areas.

623 7. A peephole or door viewer on each dwelling unit door
624 that does not include a window or that does not have a window
625 next to the door.

626 (b) By January 1, 2025, the owner or principal operator of
627 a multifamily residential property has a crime prevention
628 through environmental design assessment that is no more than 3
629 years old completed for the property. Such assessment must be
630 performed by a law enforcement agency or a Florida Crime
631 Prevention Through Environmental Design Practitioner designated
632 by the Florida Crime Prevention Training Institute of the
633 Department of Legal Affairs. The owner or principal operator
634 must remain in substantial compliance with the assessment for
635 purposes of this paragraph.

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

642 2. For purposes of this paragraph, "proper crime deterrence
643 and safety training" means training which trains and
644 familiarizes employees with the security principles, devices,
645 measures, and standards set forth under paragraph (a), and which
646 is reviewed at least every 3 years and updated as necessary. The
647 owner or principal operator may request a law enforcement agency
648 or the Florida Crime Prevention Through Environmental Design



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649 Practitioner performing the assessment under paragraph (b) to
650 review the training curriculum.

651 (3) For purposes of establishing the presumption against
652 liability under subsection (2), the burden of proof is on the
653 owner or principal operator to demonstrate that the owner or
654 principal operator has substantially implemented the security
655 measures specified in subsection (2).

656 (4) The Florida Crime Prevention Training Institute of the
657 Department of Legal Affairs shall develop a proposed curriculum
658 or best practices for owners or principal operators to implement
659 such training. The state has no liability in connection with
660 providing a proposed training curriculum under this subsection.

661 (5) This section does not establish a private cause of
662 action.

663 Section 9. Subsection (2) of section 768.81, Florida
664 Statutes, is amended, and subsection (6) is added to that
665 section, to read:

666 768.81 Comparative fault.—

667 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,
668 contributory fault chargeable to the claimant diminishes
669 proportionately the amount awarded as economic and noneconomic
670 damages for an injury attributable to the claimant's
671 contributory fault, but does not bar recovery, subject to
672 subsection (6).

673 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to
674 which this section applies, any party found to be greater than
675 50 percent at fault for his or her own harm may not recover any
676 damages. This subsection does not apply to an action for damages
677 for personal injury or wrongful death arising out of medical



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678 negligence pursuant to chapter 766.

679 Section 10. Section 626.9373, Florida Statutes, is
680 repealed.

681 Section 11. Section 627.428, Florida Statutes, is repealed.

682 Section 12. Subsection (1) of section 627.756, Florida
683 Statutes, is amended to read:

684 627.756 Bonds for construction contracts; attorney fees in
685 case of suit.—

686 (1) In a suit ~~Section 627.428~~ applies to suits brought by
687 an owner, a contractor, a subcontractor, a laborer, or a
688 materialman ~~owners, contractors, subcontractors, laborers, and~~
689 ~~materialmen~~ against a surety insurer under payment or
690 performance bonds written by the insurer under the laws of this
691 state to indemnify against pecuniary loss by breach of a
692 building or construction contract, upon the rendition of a
693 judgment or decree by any of the courts of this state against
694 the surety insurer and in favor of the owner, contractor,
695 subcontractor, laborer, or materialman, the trial court or, in
696 the event of an appeal in which the owner, contractor,
697 subcontractor, laborer, or materialman prevails, the appellate
698 court, shall adjudge or decree against the surety insurer and in
699 favor of the owner, contractor, subcontractor, laborer, or
700 materialman a reasonable sum as fees or compensation for the
701 attorney prosecuting the suit in which the recovery is had.
702 ~~Owners, contractors, subcontractors, laborers, and materialmen~~
703 ~~shall be deemed to be insureds or beneficiaries for the purposes~~
704 ~~of this section.~~

705 Section 13. Paragraphs (a) and (j) of subsection (1) of
706 section 475.01, Florida Statutes, are amended to read:



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707 475.01 Definitions.—
708 (1) As used in this part:
709 (a) "Broker" means a person who, for another, and for a
710 compensation or valuable consideration directly or indirectly
711 paid or promised, expressly or impliedly, or with an intent to
712 collect or receive a compensation or valuable consideration
713 therefor, appraises, auctions, sells, exchanges, buys, rents, or
714 offers, attempts or agrees to appraise, auction, or negotiate
715 the sale, exchange, purchase, or rental of business enterprises
716 or business opportunities or any real property or any interest
717 in or concerning the same, including mineral rights or leases,
718 or who advertises or holds out to the public by any oral or
719 printed solicitation or representation that she or he is engaged
720 in the business of appraising, auctioning, buying, selling,
721 exchanging, leasing, or renting business enterprises or business
722 opportunities or real property of others or interests therein,
723 including mineral rights, or who takes any part in the procuring
724 of sellers, purchasers, lessors, or lessees of business
725 enterprises or business opportunities or the real property of
726 another, or leases, or interest therein, including mineral
727 rights, or who directs or assists in the procuring of prospects
728 or in the negotiation or closing of any transaction which does,
729 or is calculated to, result in a sale, exchange, or leasing
730 thereof, and who receives, expects, or is promised any
731 compensation or valuable consideration, directly or indirectly
732 therefor; and all persons who advertise rental property
733 information or lists. A broker renders a professional service
734 and is a professional within the meaning of s. 95.11(4)(b) ~~s.~~
735 ~~95.11(4)(a)~~. Where the term "appraise" or "appraising" appears



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736 in the definition of the term "broker," it specifically excludes
737 those appraisal services which must be performed only by a
738 state-licensed or state-certified appraiser, and those appraisal
739 services which may be performed by a registered trainee
740 appraiser as defined in part II. The term "broker" also includes
741 any person who is a general partner, officer, or director of a
742 partnership or corporation which acts as a broker. The term
743 "broker" also includes any person or entity who undertakes to
744 list or sell one or more timeshare periods per year in one or
745 more timeshare plans on behalf of any number of persons, except
746 as provided in ss. 475.011 and 721.20.

747 (j) "Sales associate" means a person who performs any act
748 specified in the definition of "broker," but who performs such
749 act under the direction, control, or management of another
750 person. A sales associate renders a professional service and is
751 a professional within the meaning of s. 95.11(4)(b) ~~s.~~
752 ~~95.11(4)(a)~~.

753 Section 14. Paragraph (h) of subsection (1) of section
754 475.611, Florida Statutes, is amended to read:

755 475.611 Definitions.—

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

757 (h) "Appraiser" means any person who is a registered
758 trainee real estate appraiser, a licensed real estate appraiser,
759 or a certified real estate appraiser. An appraiser renders a
760 professional service and is a professional within the meaning of
761 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

762 Section 15. Subsection (7) of section 517.191, Florida
763 Statutes, is amended to read:

764 517.191 Injunction to restrain violations; civil penalties;



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765 enforcement by Attorney General.—

766 (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an
767 enforcement action brought under this section based on a
768 violation of any provision of this chapter or any rule or order
769 issued under this chapter shall be brought within 6 years after
770 the facts giving rise to the cause of action were discovered or
771 should have been discovered with the exercise of due diligence,
772 but not more than 8 years after the date such violation
773 occurred.

774 Section 16. Subsection (4) of section 624.123, Florida
775 Statutes, is amended to read:

776 624.123 Certain international health insurance policies;
777 exemption from code.—

778 (4) Any international health insurance policy or
779 application solicited, provided, entered into, issued, or
780 delivered pursuant to this subsection is exempt from all
781 provisions of the insurance code, except that such policy,
782 contract, or agreement is subject to the provisions of ss.
783 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,
784 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,
785 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

786 Section 17. Subsection (4) of section 624.488, Florida
787 Statutes, is amended to read:

788 624.488 Applicability of related laws.—In addition to other
789 provisions of the code cited in ss. 624.460-624.488:

790 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
791 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428~~,
792 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
793 627.913, and 627.918;



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794
795 apply to self-insurance funds. Only those sections of the code
796 that are expressly and specifically cited in ss. 624.460-624.489
797 apply to self-insurance funds.

798 Section 18. Paragraph (b) of subsection (3) of section
799 627.062, Florida Statutes, is amended to read:

800 627.062 Rate standards.—

801 (3)

802 (b) Individual risk rates and modifications to existing
803 approved forms are not subject to this part or part II, except
804 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
805 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
806 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
807 627.4265, and 627.427, ~~and 627.428~~, but are subject to all other
808 applicable provisions of this code and rules adopted thereunder.

809 Section 19. Subsections (3), (4), and (5) of section
810 627.401, Florida Statutes, are amended to read:

811 627.401 Scope of this part.—No provision of this part of
812 this chapter applies to:

813 (3) Wet marine and transportation insurance, except ss.
814 627.409 ~~and~~, 627.420, ~~and 627.428~~.

815 (4) Title insurance, except ss. 627.406, 627.415, 627.416,
816 627.419, and 627.427, ~~and 627.428~~.

817 (5) Credit life or credit disability insurance, except s.
818 627.419(5) ~~ss. 627.419(5) and 627.428~~.

819 Section 20. Subsection (2) of section 627.441, Florida
820 Statutes, is amended to read:

821 627.441 Commercial general liability policies; coverage to
822 contractors for completed operations.—



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823 (2) A liability insurer must offer coverage at an
824 appropriate additional premium for liability arising out of
825 current or completed operations under an owner-controlled
826 insurance program for any period beyond the period for which the
827 program provides liability coverage, as specified in s.
828 255.0517(2) (b). The period of such coverage must be sufficient
829 to protect against liability arising out of an action brought
830 within the time limits provided in s. 95.11(3) (b) ~~s.~~
831 ~~95.11(3) (c)~~.

832 Section 21. Subsection (8) of section 627.727, Florida
833 Statutes, is amended to read:

834 627.727 Motor vehicle insurance; uninsured and underinsured
835 vehicle coverage; insolvent insurer protection.—

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

841 Section 22. Subsection (8) of section 627.736, Florida
842 Statutes, is amended to read:

843 627.736 Required personal injury protection benefits;
844 exclusions; priority; claims.—

845 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—
846 With respect to any dispute under the provisions of ss. 627.730-
847 627.7405 between the insured and the insurer, or between an
848 assignee of an insured's rights and the insurer, the provisions
849 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in
850 subsections (10) and (15), and except that any attorney fees
851 recovered must:



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- 852 (a) Comply with prevailing professional standards;
853 (b) Not overstate or inflate the number of hours reasonably
854 necessary for a case of comparable skill or complexity; and
855 (c) Represent legal services that are reasonable and
856 necessary to achieve the result obtained.

857
858 Upon request by either party, a judge must make written
859 findings, substantiated by evidence presented at trial or any
860 hearings associated therewith, that any award of attorney fees
861 complies with this subsection. ~~Notwithstanding s. 627.428,~~
862 Attorney fees recovered under ss. 627.730-627.7405 must be
863 calculated without regard to a contingency risk multiplier.

864 Section 23. Subsection (4) of section 628.6016, Florida
865 Statutes, is amended to read:

866 628.6016 Applicability of related laws.—In addition to
867 other provisions of the code cited in ss. 628.6011-628.6018:

868 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
869 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~
870 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
871 627.913, and 627.918; and

872
873 apply to assessable mutual insurers; however, ss. 628.255,
874 628.411, and 628.421 do not apply. No section of the code not
875 expressly and specifically cited in ss. 628.6011-628.6018
876 applies to assessable mutual insurers. The term "assessable
877 mutual insurer" shall be substituted for the term "commercial
878 self-insurer" as appropriate.

879 Section 24. Section 631.70, Florida Statutes, is repealed.

880 Section 25. Section 631.926, Florida Statutes, is repealed.



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881 Section 26. Subsection (11) of section 632.638, Florida
882 Statutes, is amended to read:

883 632.638 Applicability of other code provisions.—In addition
884 to other provisions contained or referred to in this chapter,
885 the following chapters and provisions of this code apply to
886 fraternal benefit societies, to the extent applicable and not in
887 conflict with the express provisions of this chapter and the
888 reasonable implications thereof:

889 ~~(11) Section 627.428;~~

890 Section 27. The Division of Law Revision is directed to
891 replace the phrase "the effective date of this act" wherever it
892 occurs in this act with the date this act becomes a law.

893 Section 28. The amendments made by this act to s. 95.11,
894 Florida Statutes, apply to causes of action accruing after the
895 effective date of this act.

896 Section 29. This act shall not be construed to impair any
897 right under an insurance contract in effect on or before the
898 effective date of this act. To the extent that this act affects
899 a right under an insurance contract, this act applies to an
900 insurance contract issued or renewed after the effective date of
901 this act.

902 Section 30. Except as otherwise expressly provided in this
903 act, this act shall apply to causes of action filed after the
904 effective date of this act.

905 Section 31. This act shall take effect upon becoming a law.

906

907 ===== T I T L E A M E N D M E N T =====

908 And the title is amended as follows:

909 Delete everything before the enacting clause



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910 and insert:

911 A bill to be entitled
912 An act relating to civil remedies; amending s. 57.104,
913 F.S.; creating a rebuttable presumption that a
914 lodestar fee is a sufficient and reasonable attorney
915 fee in most civil actions; providing an exception;
916 creating s. 86.121, F.S.; authorizing a court to award
917 attorney fees in certain declaratory actions;
918 prohibiting the transfer, assignment, or acquisition
919 of the right to such attorney fees except by specified
920 persons; amending s. 95.11, F.S.; reducing the statute
921 of limitations for negligence actions; providing
922 applicability of certain provisions to actions
923 involving servicemembers; amending s. 624.155, F.S.;
924 providing standards for bad faith actions; providing
925 for the distribution of proceeds when two or more
926 third-party claims arising out of a single occurrence
927 exceed policy limits; creating s. 624.1552, F.S.;
928 providing for applicability of specified offer of
929 judgment provisions to civil actions involving
930 insurance contracts; creating s. 768.0427, F.S.;
931 providing definitions; providing standards for the
932 admissibility of evidence to prove the cost of damages
933 for medical expenses in certain civil actions;
934 requiring certain disclosures with respect to claims
935 for medical expenses for treatment rendered under
936 letters of protection; specifying the damages that may
937 be recovered by a claimant for the reasonable and
938 necessary cost of medical care; creating s. 768.0701,



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



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968

effective date.