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LEGISLATIVE ACTION

Senate

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House

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Senator Grall moved the following:

1           **Senate Amendment to Substitute Amendment (500396) (with**  
2 **title amendment)**

3  
4           Delete lines 6 - 704

5 and insert:

6           (4) (a) In an action for bad faith failure to settle a  
7 liability insurance claim, including any such action brought  
8 under the common law, if the insurer initiates settlement  
9 negotiations by tendering the lesser of the policy limits or the  
10 amount demanded by the claimant in exchange for a general  
11 release of the insured within 90 days after receiving actual



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12 notice of the loss, the failure to tender the policy limits  
13 sooner does not constitute bad faith.

14 (b) If an insurer does not tender the lesser of the policy  
15 limits or the amount demanded by the claimant within the 90-day  
16 timeframe provided in paragraph (a), the existence of the 90-day  
17 timeframe and that no bad faith action could lie had the insurer  
18 tendered the lesser of policy limits or the amount demanded by  
19 the claimant pursuant to paragraph (a) is inadmissible in any  
20 action seeking to establish bad faith on the part of the  
21 insurer.

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

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

28 (a) Mere negligence alone is insufficient to constitute bad  
29 faith.

30 (b) The focus of the bad faith claim is on the conduct of  
31 an insurer, but in determining whether the insurer actually  
32 could have settled the claim, the jury may consider the totality  
33 of the circumstances, including:

34 1. Whether any conditions placed on the settlement by the  
35 claimant were unreasonable or impossible to perform within the  
36 time permitted; and

37 2. Whether the insured failed to cooperate with the  
38 insurer's efforts to meet the conditions after being fully  
39 advised by the insurer about the purpose and importance of doing  
40 so.



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41       (6) (a) If two or more third-party claimants have competing  
42 claims arising out of a single occurrence, which in total may  
43 exceed the available policy limits of an insured who may be  
44 liable to the third-party claimants, and the insurer initiates  
45 settlement negotiations by globally tendering the applicable  
46 policy limits in exchange for a general release of the insured  
47 within 90 days after receiving actual notice of the loss, the  
48 failure to tender policy limits sooner does not constitute bad  
49 faith.

50       (b) If an insurer does not globally tender the policy  
51 limits within the 90-day timeframe provided in paragraph (a),  
52 the existence of the 90-day timeframe and that no bad faith  
53 action could lie had the insurer tendered the lesser of policy  
54 limits or the amount demanded by the claimant pursuant to  
55 paragraph (a) is inadmissible in any action seeking to establish  
56 bad faith on the part of the insurer.

57       (c) If two or more third-party claimants have competing  
58 claims arising out of a single occurrence, which in total may  
59 exceed the available policy limits of an insured who may be  
60 liable to the third-party claimants, and the claimants are  
61 unwilling to globally settle within the policy limits,  
62 thereafter, the insurer must attempt to minimize the magnitude  
63 of possible excess judgments against the insured. The insurer is  
64 entitled to great discretion to decide how much to offer each  
65 respective claimant in its attempt to protect the insured. The  
66 insurer may, in its effort to minimize the excess liability of  
67 the insured, use its discretion to offer the full available  
68 policy limits to one or more claimants to the exclusion of other  
69 claimants and may leave the insured exposed to some liability



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70 after all the policy limits are paid. An insurer does not act in  
71 bad faith simply because it is unable to settle all claims in a  
72 competing claimant case.

73 (d) An insurer is not liable beyond the available policy  
74 limits for failure to pay all or any portion of the available  
75 policy limits to one or more of the third-party claimants if,  
76 pursuant to a binding arbitration that has been agreed to by the  
77 insurer and all the third-party claimants, the insurer makes the  
78 entire amount of the policy limits available for payment to the  
79 competing third-party claimants before a qualified arbitrator  
80 agreed to by the insurer and such third-party claimants at the  
81 expense of the insurer. The third-party claimants are entitled  
82 to a prorated share of the policy limits as determined by the  
83 arbitrator, who must consider the comparative fault, if any, of  
84 each third-party claimant and the total likely outcome at trial  
85 based upon the total of the economic and noneconomic damages  
86 submitted to the arbitrator for consideration. A third-party  
87 claimant whose claim is resolved by the arbitrator must execute  
88 and deliver a general release to the insured party whose claim  
89 is resolved by the proceeding.

90 (7)(4) In any insurance bad faith action, whether brought  
91 under this section or the common law, upon adverse adjudication  
92 at trial or upon appeal, the authorized insurer shall be liable  
93 for damages, together with court costs and reasonable attorney  
94 attorney's fees incurred by the plaintiff.

95 (8)(5) No Punitive damages may not shall be awarded under  
96 this section unless the acts giving rise to the violation occur  
97 with such frequency as to indicate a general business practice  
98 and these acts are:



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- 99 (a) Willful, wanton, and malicious;  
100 (b) In reckless disregard for the rights of any insured; or  
101 (c) In reckless disregard for the rights of a beneficiary  
102 under a life insurance contract.

103

104 Any person who pursues a claim under this subsection shall post  
105 in advance the costs of discovery. Such costs shall be awarded  
106 to the authorized insurer if no punitive damages are awarded to  
107 the plaintiff.

108 (9)~~(6)~~ This section does shall not be construed to  
109 authorize a class action suit against an authorized insurer or a  
110 civil action against the commission, the office, or the  
111 department or any of their employees, or to create a cause of  
112 action when an authorized health insurer refuses to pay a claim  
113 for reimbursement on the ground that the charge for a service  
114 was unreasonably high or that the service provided was not  
115 medically necessary.

116 (10)~~(7)~~ In the absence of expressed language to the  
117 contrary, this section shall not be construed to authorize a  
118 civil action or create a cause of action against an authorized  
119 insurer or its employees who, in good faith, release information  
120 about an insured or an insurance policy to a law enforcement  
121 agency in furtherance of an investigation of a criminal or  
122 fraudulent act relating to a motor vehicle theft or a motor  
123 vehicle insurance claim.

124 (11)~~(8)~~ The civil remedy specified in this section does not  
125 preempt any other remedy or cause of action provided for  
126 pursuant to any other statute or pursuant to the common law of  
127 this state. Any person may obtain a judgment under either the



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128 common-law remedy of bad faith or this statutory remedy, but is  
129 ~~shall~~ not be entitled to a judgment under both remedies. This  
130 section does ~~shall~~ not be construed to create a common-law cause  
131 of action. The damages recoverable pursuant to this section  
132 shall include those damages which are a reasonably foreseeable  
133 result of a specified violation of this section by the  
134 authorized insurer and may include an award or judgment in an  
135 amount that exceeds the policy limits.

136 (12)~~(9)~~ A surety issuing a payment or performance bond on  
137 the construction or maintenance of a building or roadway project  
138 is not an insurer for purposes of subsection (1).

139 Section 5. Section 624.1552, Florida Statutes, is created  
140 to read:

141 624.1552 Civil actions involving an insurance contract;  
142 applicability of offer of judgment provisions.—The provisions of  
143 s. 768.79 apply to any civil action involving an insurance  
144 contract.

145 Section 6. Section 768.0427, Florida Statutes, is created  
146 to read:

147 768.0427 Admissibility of evidence to prove medical  
148 expenses in personal injury or wrongful death actions;  
149 disclosure of letters of protection; recovery of past and future  
150 medical expenses damages.—

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

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

155 (b) "Health care coverage" means any third-party health  
156 care or disability services financing arrangement, including,



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157 but not limited to, arrangements with entities certified or  
158 authorized under federal law or under the Florida Insurance  
159 Code; state or federal health care benefit programs; workers'  
160 compensation; and personal injury protection.

161 (c) "Health care provider" means any of the following  
162 professionals and entities, and professionals and entities  
163 similarly licensed in another jurisdiction:

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

165 2. A clinical laboratory providing services in this state  
166 or services to health care providers in this state, if the  
167 clinical laboratory is certified by the Centers for Medicare and  
168 Medicaid Services under the federal Clinical Laboratory  
169 Improvement Amendments and the federal rules adopted thereunder.

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

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

174 5. A health care professional licensed under part IV of  
175 chapter 468.

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

177 7. A provider licensed under chapter 394 or chapter 397 and  
178 its clinical and nonclinical staff providing inpatient or  
179 outpatient services.

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

181 9. A pharmacy permitted under chapter 465.

182 (d) "Letter of protection" means any arrangement by which a  
183 health care provider renders treatment in exchange for a promise  
184 of payment for the claimant's medical expenses from any judgment  
185 or settlement of a personal injury or wrongful death action. The



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186 term includes any such arrangement, regardless of whether  
187 referred to as a letter of protection.

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

193 (a) Evidence offered to prove the amount of damages for  
194 past medical treatment or services that have been satisfied is  
195 limited to evidence of the amount actually paid, regardless of  
196 the source of payment.

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

201 1. If the claimant has health care coverage other than  
202 Medicare or Medicaid, evidence of the amount which such health  
203 care coverage is obligated to pay the health care provider to  
204 satisfy the charges for the claimant's incurred medical  
205 treatment or services, plus the claimant's share of medical  
206 expenses under the insurance contract or regulation.

207 2. If the claimant has health care coverage but obtains  
208 treatment under a letter of protection or otherwise does not  
209 submit charges for any health care provider's medical treatment  
210 or services to health care coverage, evidence of the amount the  
211 claimant's health care coverage would pay the health care  
212 provider to satisfy the past unpaid medical charges under the  
213 insurance contract or regulation, plus the claimant's share of  
214 medical expenses under the insurance contract or regulation, had





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215 the claimant obtained medical services or treatment pursuant to  
216 the health care coverage.

217 3. If the claimant does not have health care coverage or  
218 has health care coverage through Medicare or Medicaid, evidence  
219 of 120 percent of the Medicare reimbursement rate in effect on  
220 the date of the claimant's incurred medical treatment or  
221 services, or, if there is no applicable Medicare rate for a  
222 service, 170 percent of the applicable state Medicaid rate.

223 4. If the claimant obtains medical treatment or services  
224 under a letter of protection and the health care provider  
225 subsequently transfers the right to receive payment under the  
226 letter of protection to a third party, evidence of the amount  
227 the third party paid or agreed to pay the health care provider  
228 in exchange for the right to receive payment pursuant to the  
229 letter of protection.

230 5. Any evidence of reasonable amounts billed to the  
231 claimant for medically necessary treatment or medically  
232 necessary services provided to the claimant.

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

237 1. If the claimant has health care coverage other than  
238 Medicare or Medicaid, or is eligible for any such health care  
239 coverage, evidence of the amount for which the future charges of  
240 health care providers could be satisfied if submitted to such  
241 health care coverage, plus the claimant's share of medical  
242 expenses under the insurance contract or regulation.

243 2. If the claimant does not have health care coverage or



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244 has health care coverage through Medicare or Medicaid, or is  
245 eligible for such health care coverage, evidence of 120 percent  
246 of the Medicare reimbursement rate in effect at the time of  
247 trial for the medical treatment or services the claimant will  
248 receive, or, if there is no applicable Medicare rate for a  
249 service, 170 percent of the applicable state Medicaid rate.

250 3. Any evidence of reasonable future amounts to be billed  
251 to the claimant for medically necessary treatment or medically  
252 necessary services.

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

256 (e) Individual contracts between providers and authorized  
257 commercial insurers or authorized health maintenance  
258 organizations are not subject to discovery or disclosure and are  
259 not admissible into evidence.

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

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

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

269 1. For health care providers billing at the provider level,  
270 the American Medical Association's Current Procedural  
271 Terminology (CPT), or the Healthcare Common Procedure Coding  
272 System (HCPCS), in effect on the date the services were



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273 rendered.

274 2. For health care providers billing at the facility level  
275 for expenses incurred in a clinical or outpatient setting,  
276 including when billing through an Ambulatory Payment  
277 Classification (APC) or Enhanced Ambulatory Patient Grouping  
278 (EAPG), the International Classification of Diseases (ICD)  
279 diagnosis code and, if applicable, the American Medical  
280 Association's Current Procedural Terminology (CPT), in effect on  
281 the date the services were rendered.

282 3. For health care providers billing at the facility level  
283 for expenses incurred in an inpatient setting, including when  
284 billing through a Diagnosis Related Group (DRG), the  
285 International Classification of Diseases (ICD) diagnosis and  
286 procedure codes in effect on the date in which the claimant is  
287 discharged.

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

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

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

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

299 (e) Whether the claimant was referred for treatment under a  
300 letter of protection and, if so, the identity of the person who  
301 made the referral. If the referral is made by the claimant's



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302 attorney, disclosure of the referral is permitted, and evidence  
303 of such referral is admissible notwithstanding s. 90.502.  
304 Moreover, in such situation, the financial relationship between  
305 a law firm and a medical provider, including the number of  
306 referrals, frequency, and financial benefit obtained, is  
307 relevant to the issue of the bias of a testifying medical  
308 provider.

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

316 (a) Amounts actually paid by or on behalf of the claimant  
317 to a health care provider who rendered medical treatment or  
318 services;

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

322 (c) Amounts necessary to provide for any reasonable and  
323 necessary medical treatment or services the claimant will  
324 receive in the future.

325 Section 7. Section 768.0706, Florida Statutes, is created  
326 to read:

327 768.0706 Multifamily residential property safety and  
328 security; presumption against liability.—

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

330 (a) "Crime prevention through environmental design" has the



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331 same meaning as in s. 163.503(6).

332 (b) "Multifamily residential property" means a residential  
333 building, or group of residential buildings, such as apartments,  
334 townhouses, or condominiums, consisting of at least five  
335 dwelling units on a particular parcel.

336 (c) "Parcel" means real property for which a distinct  
337 parcel identification number is assigned to the property by the  
338 property appraiser for the county in which the property is  
339 located.

340 (2) The owner or principal operator of a multifamily  
341 residential property which substantially implements the  
342 following security measures on that property has a presumption  
343 against liability in connection with criminal acts that occur on  
344 the premises which are committed by third parties who are not  
345 employees or agents of the owner or operator:

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

350 2. A lighted parking lot illuminated at an intensity of at  
351 least an average of 1.8 foot-candles per square foot at 18  
352 inches above the surface from dusk until dawn or controlled by  
353 photocell or any similar electronic device that provides light  
354 from dusk until dawn.

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

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



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

362           6. Locked gates with key or fob access along pool fence  
363 areas.

364           7. A peephole or door viewer on each dwelling unit door  
365 that does not include a window or that does not have a window  
366 next to the door.

367           (b) By January 1, 2025, the owner or principal operator of  
368 a multifamily residential property has a crime prevention  
369 through environmental design assessment that is no more than 3  
370 years old completed for the property. Such assessment must be  
371 performed by a law enforcement agency or a Florida Crime  
372 Prevention Through Environmental Design Practitioner designated  
373 by the Florida Crime Prevention Training Institute of the  
374 Department of Legal Affairs. The owner or principal operator  
375 must remain in substantial compliance with the assessment for  
376 purposes of this paragraph.

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

383           2. For purposes of this paragraph, "proper crime deterrence  
384 and safety training" means training which trains and  
385 familiarizes employees with the security principles, devices,  
386 measures, and standards set forth under paragraph (a), and which  
387 is reviewed at least every 3 years and updated as necessary. The  
388 owner or principal operator may request a law enforcement agency



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389 or the Florida Crime Prevention Through Environmental Design  
390 Practitioner performing the assessment under paragraph (b) to  
391 review the training curriculum.

392 (3) For purposes of establishing the presumption against  
393 liability under subsection (2), the burden of proof is on the  
394 owner or principal operator to demonstrate that the owner or  
395 principal operator has substantially implemented the security  
396 measures specified in subsection (2).

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

402 (5) This section does not establish a private cause of  
403 action.

404 Section 8. Subsection (1) of section 768.18, Florida  
405 Statutes, is amended to read:

406 768.18 Definitions.—As used in ss. 768.16-768.26:

407 (1) "Survivors" means the decedent's spouse, children,  
408 parents, and, when partly or wholly dependent on the decedent  
409 for support or services, any blood relatives and adoptive  
410 brothers and sisters. It includes the child born out of wedlock  
411 of a mother, but not the child born out of wedlock of the father  
412 unless the father has recognized a responsibility for the  
413 child's support. It also includes the parents of an unborn  
414 child.

415 Section 9. Present subsections (5) through (8) of section  
416 768.21, Florida Statutes, are redesignated as subsections (6)  
417 through (9), respectively, a new subsection (5) is added to that



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418 section, and paragraph (b) of present subsection (6) of that  
419 section is amended, to read:

420 768.21 Damages.—All potential beneficiaries of a recovery  
421 for wrongful death, including the decedent's estate, shall be  
422 identified in the complaint, and their relationships to the  
423 decedent shall be alleged. Damages may be awarded as follows:

424 (5) Except for claims brought under chapter 766, each  
425 parent of an unborn child may recover for medical and funeral  
426 expenses and mental pain and suffering caused by the wrongful  
427 death of the unborn child if such death was caused by the  
428 negligence of a third party.

429 (7)~~(6)~~ The decedent's personal representative may recover  
430 for the decedent's estate the following:

431 (b) Medical or funeral expenses due to the decedent's  
432 injury or death that have become a charge against her or his  
433 estate or that were paid by or on behalf of decedent, excluding  
434 amounts recoverable under subsection (6) ~~(5)~~.

435  
436 Evidence of remarriage of the decedent's spouse is admissible.

437 Section 10. Subsection (2) of section 768.81, Florida  
438 Statutes, is amended, and subsections (6) and (7) are added to  
439 that section, to read:

440 768.81 Comparative fault.—

441 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,  
442 contributory fault chargeable to the claimant diminishes  
443 proportionately the amount awarded as economic and noneconomic  
444 damages for an injury attributable to the claimant's  
445 contributory fault, but does not bar recovery, subject to  
446 subsection (6).





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447           (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to  
448 which this section applies, any party found to be greater than  
449 50 percent at fault for his or her own harm may not recover any  
450 damages. This subsection does not apply to an action for damages  
451 for personal injury or wrongful death arising out of medical  
452 negligence pursuant to chapter 766.

453           (7) MOTORCYCLES.—In an action involving a motorcycle  
454 alleging injuries received by a claimant, and where the claimant  
455 was at the time of the injury in compliance with s. 316.211, the  
456 fact that the claimant was or was not wearing protective  
457 headgear is not admissible as evidence and shall not be  
458 considered in the apportionment of fault or causation, and the  
459 trier of fact shall not consider whether the claimant was or was  
460 not wearing protective headgear. The jury shall appropriately be  
461 instructed by the trial judge that the lack of protective  
462 headgear cannot be considered in the apportionment of fault or  
463 causation.

464           Section 11. Section 626.9373, Florida Statutes, is  
465 repealed.

466           Section 12. Section 627.428, Florida Statutes, is repealed.

467           Section 13. Subsection (1) of section 627.756, Florida  
468 Statutes, is amended to read:

469           627.756 Bonds for construction contracts; attorney fees in  
470 case of suit.—

471           (1) In a suit ~~Section 627.428 applies to suits~~ brought by  
472 an owner, a contractor, a subcontractor, a laborer, or a  
473 materialman ~~owners, contractors, subcontractors, laborers, and~~  
474 ~~materialmen~~ against a surety insurer under payment or  
475 performance bonds written by the insurer under the laws of this



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476 state to indemnify against pecuniary loss by breach of a  
477 building or construction contract, upon the rendition of a  
478 judgment or decree by any of the courts of this state against  
479 the surety insurer and in favor of the owner, contractor,  
480 subcontractor, laborer, or materialman, the trial court or, in  
481 the event of an appeal in which the owner, contractor,  
482 subcontractor, laborer, or materialman prevails, the appellate  
483 court, shall adjudge or decree against the surety insurer and in  
484 favor of the owner, contractor, subcontractor, laborer, or  
485 materialman a reasonable sum as fees or compensation for the  
486 attorney prosecuting the suit in which the recovery is had.  
487 ~~Owners, contractors, subcontractors, laborers, and materialmen~~  
488 ~~shall be deemed to be insureds or beneficiaries for the purposes~~  
489 ~~of this section.~~

490 Section 14. Subsection (9) of section 400.023, Florida  
491 Statutes, is amended to read:

492 400.023 Civil enforcement.—

493 (9) An action under this part for a violation of rights or  
494 negligence recognized herein is not a claim for medical  
495 malpractice, and s. 768.21(9) ~~s. 768.21(8)~~ does not apply to a  
496 claim alleging death of the resident.

497 Section 15. Section 400.0235, Florida Statutes, is amended  
498 to read:

499 400.0235 Certain provisions not applicable to actions under  
500 this part.—An action under this part for a violation of rights  
501 or negligence recognized under this part is not a claim for  
502 medical malpractice, and the provisions of s. 768.21(9) ~~s.~~  
503 ~~768.21(8)~~ do not apply to a claim alleging death of the  
504 resident.



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505 Section 16. Section 429.295, Florida Statutes, is amended  
506 to read:

507 429.295 Certain provisions not applicable to actions under  
508 this part.—An action under this part for a violation of rights  
509 or negligence recognized herein is not a claim for medical  
510 malpractice, and the provisions of s. 768.21(9) ~~s. 768.21(8)~~ do  
511 not apply to a claim alleging death of the resident.

512 Section 17. Paragraphs (a) and (j) of subsection (1) of  
513 section 475.01, Florida Statutes, are amended to read:

514 475.01 Definitions.—

515 (1) As used in this part:

516 (a) "Broker" means a person who, for another, and for a  
517 compensation or valuable consideration directly or indirectly  
518 paid or promised, expressly or impliedly, or with an intent to  
519 collect or receive a compensation or valuable consideration  
520 therefor, appraises, auctions, sells, exchanges, buys, rents, or  
521 offers, attempts or agrees to appraise, auction, or negotiate  
522 the sale, exchange, purchase, or rental of business enterprises  
523 or business opportunities or any real property or any interest  
524 in or concerning the same, including mineral rights or leases,  
525 or who advertises or holds out to the public by any oral or  
526 printed solicitation or representation that she or he is engaged  
527 in the business of appraising, auctioning, buying, selling,  
528 exchanging, leasing, or renting business enterprises or business  
529 opportunities or real property of others or interests therein,  
530 including mineral rights, or who takes any part in the procuring  
531 of sellers, purchasers, lessors, or lessees of business  
532 enterprises or business opportunities or the real property of  
533 another, or leases, or interest therein, including mineral



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534 rights, or who directs or assists in the procuring of prospects  
535 or in the negotiation or closing of any transaction which does,  
536 or is calculated to, result in a sale, exchange, or leasing  
537 thereof, and who receives, expects, or is promised any  
538 compensation or valuable consideration, directly or indirectly  
539 therefor; and all persons who advertise rental property  
540 information or lists. A broker renders a professional service  
541 and is a professional within the meaning of s. 95.11(4)(b) ~~s.~~  
542 ~~95.11(4)(a)~~. Where the term "appraise" or "appraising" appears  
543 in the definition of the term "broker," it specifically excludes  
544 those appraisal services which must be performed only by a  
545 state-licensed or state-certified appraiser, and those appraisal  
546 services which may be performed by a registered trainee  
547 appraiser as defined in part II. The term "broker" also includes  
548 any person who is a general partner, officer, or director of a  
549 partnership or corporation which acts as a broker. The term  
550 "broker" also includes any person or entity who undertakes to  
551 list or sell one or more timeshare periods per year in one or  
552 more timeshare plans on behalf of any number of persons, except  
553 as provided in ss. 475.011 and 721.20.

554 (j) "Sales associate" means a person who performs any act  
555 specified in the definition of "broker," but who performs such  
556 act under the direction, control, or management of another  
557 person. A sales associate renders a professional service and is  
558 a professional within the meaning of s. 95.11(4)(b) ~~s.~~  
559 ~~95.11(4)(a)~~.

560 Section 18. Paragraph (h) of subsection (1) of section  
561 475.611, Florida Statutes, is amended to read:

562 475.611 Definitions.—



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

564 (h) "Appraiser" means any person who is a registered  
565 trainee real estate appraiser, a licensed real estate appraiser,  
566 or a certified real estate appraiser. An appraiser renders a  
567 professional service and is a professional within the meaning of  
568 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

569 Section 19. Subsection (7) of section 517.191, Florida  
570 Statutes, is amended to read:

571 517.191 Injunction to restrain violations; civil penalties;  
572 enforcement by Attorney General.—

573 (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an  
574 enforcement action brought under this section based on a  
575 violation of any provision of this chapter or any rule or order  
576 issued under this chapter shall be brought within 6 years after  
577 the facts giving rise to the cause of action were discovered or  
578 should have been discovered with the exercise of due diligence,  
579 but not more than 8 years after the date such violation  
580 occurred.

581 Section 20. Subsection (4) of section 624.123, Florida  
582 Statutes, is amended to read:

583 624.123 Certain international health insurance policies;  
584 exemption from code.—

585 (4) Any international health insurance policy or  
586 application solicited, provided, entered into, issued, or  
587 delivered pursuant to this subsection is exempt from all  
588 provisions of the insurance code, except that such policy,  
589 contract, or agreement is subject to the provisions of ss.  
590 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,  
591 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,



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592 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

593 Section 21. Subsection (4) of section 624.488, Florida  
594 Statutes, is amended to read:

595 624.488 Applicability of related laws.—In addition to other  
596 provisions of the code cited in ss. 624.460-624.488:

597 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,  
598 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428~~,  
599 627.702, and 627.706; part XI of chapter 627; ss. 627.912,  
600 627.913, and 627.918;

601

602 apply to self-insurance funds. Only those sections of the code  
603 that are expressly and specifically cited in ss. 624.460-624.489  
604 apply to self-insurance funds.

605 Section 22. Paragraph (b) of subsection (3) of section  
606 627.062, Florida Statutes, is amended to read:

607 627.062 Rate standards.—

608 (3)

609 (b) Individual risk rates and modifications to existing  
610 approved forms are not subject to this part or part II, except  
611 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
612 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
613 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
614 627.4265, and 627.427, ~~and 627.428~~, but are subject to all other  
615 applicable provisions of this code and rules adopted thereunder.

616 Section 23. Subsections (3), (4), and (5) of section  
617 627.401, Florida Statutes, are amended to read:

618 627.401 Scope of this part.—No provision of this part of  
619 this chapter applies to:

620 (3) Wet marine and transportation insurance, except ss.



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621 627.409 and, 627.420, ~~and 627.428.~~

622 (4) Title insurance, except ss. 627.406, 627.415, 627.416,  
623 627.419, and 627.427, ~~and 627.428.~~

624 (5) Credit life or credit disability insurance, except s.  
625 627.419(5) ~~ss. 627.419(5) and 627.428.~~

626 Section 24. Subsection (2) of section 627.441, Florida  
627 Statutes, is amended to read:

628 627.441 Commercial general liability policies; coverage to  
629 contractors for completed operations.—

630 (2) A liability insurer must offer coverage at an  
631 appropriate additional premium for liability arising out of  
632 current or completed operations under an owner-controlled  
633 insurance program for any period beyond the period for which the  
634 program provides liability coverage, as specified in s.  
635 255.0517(2)(b). The period of such coverage must be sufficient  
636 to protect against liability arising out of an action brought  
637 within the time limits provided in s. 95.11(3)(b) ~~s.~~  
638 ~~95.11(3)(c).~~

639 Section 25. Subsection (8) of section 627.727, Florida  
640 Statutes, is amended to read:

641 627.727 Motor vehicle insurance; uninsured and underinsured  
642 vehicle coverage; insolvent insurer protection.—

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

648 Section 26. Subsection (8) of section 627.736, Florida  
649 Statutes, is amended to read:



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650           627.736 Required personal injury protection benefits;  
651 exclusions; priority; claims.—

652           (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—

653 With respect to any dispute under the provisions of ss. 627.730-  
654 627.7405 between the insured and the insurer, or between an  
655 assignee of an insured's rights and the insurer, the provisions  
656 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in  
657 subsections (10) and (15), and except that any attorney fees  
658 recovered must:

659           (a) Comply with prevailing professional standards;

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

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

664

665 Upon request by either party, a judge must make written  
666 findings, substantiated by evidence presented at trial or any  
667 hearings associated therewith, that any award of attorney fees  
668 complies with this subsection. ~~Notwithstanding s. 627.428,~~  
669 Attorney fees recovered under ss. 627.730-627.7405 must be  
670 calculated without regard to a contingency risk multiplier.

671           Section 27. Subsection (4) of section 628.6016, Florida  
672 Statutes, is amended to read:

673           628.6016 Applicability of related laws.—In addition to  
674 other provisions of the code cited in ss. 628.6011-628.6018:

675           (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,  
676 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~  
677 627.702, and 627.706; part XI of chapter 627; ss. 627.912,  
678 627.913, and 627.918; and





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679  
680 apply to assessable mutual insurers; however, ss. 628.255,  
681 628.411, and 628.421 do not apply. No section of the code not  
682 expressly and specifically cited in ss. 628.6011-628.6018  
683 applies to assessable mutual insurers. The term "assessable  
684 mutual insurer" shall be substituted for the term "commercial  
685 self-insurer" as appropriate.

686       Section 28. Section 631.70, Florida Statutes, is repealed.

687       Section 29. Section 631.926, Florida Statutes, is repealed.

688       Section 30. Subsection (11) of section 632.638, Florida  
689 Statutes, is amended to read:

690       632.638 Applicability of other code provisions.—In addition  
691 to other provisions contained or referred to in this chapter,  
692 the following chapters and provisions of this code apply to  
693 fraternal benefit societies, to the extent applicable and not in  
694 conflict with the express provisions of this chapter and the  
695 reasonable implications thereof:

696       ~~(11) Section 627.428;~~

697       Section 31. The Division of Law Revision is directed to  
698 replace the phrase "the effective date of this act" wherever it  
699 occurs in this act with the date this act becomes a law.

700       Section 32. The amendments made by this act to s. 95.11,  
701 Florida Statutes, apply to causes of action accruing after the  
702 effective date of this act.

703       Section 33. The amendments made by this act to s. 624.155,  
704 Florida Statutes, do not apply to causes of action arising out  
705 of insurance policies issued or renewed before the effective  
706 date of this act.

707       Section 34. This act shall not be construed to impair any



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708 right under an insurance contract in effect on or before the  
709 effective date of this act. To the extent that this act affects  
710 a right under an insurance contract, this act applies to an  
711 insurance contract issued or renewed after the effective date of  
712 this act.

713 Section 35. Except as otherwise expressly provided in this  
714 act, this act shall apply to causes of action which accrue after  
715 the

716  
717 ===== T I T L E A M E N D M E N T =====

718 And the title is amended as follows:

719 Delete lines 710 - 753

720 and insert:

721 exceed policy limits; revising applicability and  
722 conditions for the award of damages, court costs, and  
723 attorney fees in certain civil actions; creating s.  
724 624.1552, F.S.; providing for applicability of  
725 specified offer of judgment provisions to civil  
726 actions involving insurance contracts; creating s.  
727 768.0427, F.S.; providing definitions; providing  
728 standards for the admissibility of evidence to prove  
729 the cost of damages for medical expenses in certain  
730 civil actions; requiring certain disclosures with  
731 respect to claims for medical expenses for treatment  
732 rendered under letters of protection; specifying the  
733 damages that may be recovered by a claimant for the  
734 reasonable and necessary cost of medical care;  
735 creating s. 768.0706, F.S.; providing definitions;  
736 providing that the owner or principal operator of a



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737 multifamily residential property which substantially  
738 implements specified security measures on that  
739 property has a presumption against liability for  
740 negligence in connection with certain criminal acts  
741 that occur on the premises; requiring the Florida  
742 Crime Prevention Training Institute of the Department  
743 of Legal Affairs to develop a proposed curriculum or  
744 best practices for owners or principal operators;  
745 providing construction; amending s. 768.18, F.S.;  
746 revising the definition of the term "survivors" for  
747 purposes of the Florida Wrongful Death Act; amending  
748 s. 768.21, F.S.; authorizing parents of an unborn  
749 child to recover, except under certain claims, certain  
750 damages caused by the wrongful death of the unborn  
751 child if such death was caused by a third party's  
752 negligence; amending s. 768.81, F.S.; providing that a  
753 party in a negligence action who is at fault by a  
754 specified amount may not recover damages under a  
755 comparative negligence action; providing  
756 applicability; specifying restrictions on the  
757 admissibility and consideration of evidence relating  
758 to protective headgear in an action involving a  
759 motorcycle and alleging injuries received by a  
760 claimant; requiring a trial judge to provide certain  
761 instructions to the jury; repealing ss. 626.9373 and  
762 627.428, F.S., relating to attorney fees awarded  
763 against surplus lines insurers and insurers,  
764 respectively; amending s. 627.756, F.S.; providing for  
765 the award of costs and attorney fees in certain



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766 actions; amending ss. 400.023, 400.0235, 429.295,  
767 475.01, 475.611, 517.191, 624.123, 624.488, 627.062,  
768 627.401, 627.441, 627.727, 627.736, and 628.6016,  
769 F.S.; conforming cross-references and provisions to  
770 changes made