

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gottlieb offered the following:

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3 **Amendment to Amendment (125539) (with title amendment)**

4 Remove lines 20-77 of the amendment and insert:

5 writing; however ~~except that~~, if:

- 6 1. Such claim is for contribution pursuant to s. 768.31,
- 7 it must be so presented within 6 months after the judgment
- 8 against the tortfeasor seeking contribution has become final by
- 9 lapse of time for appeal or after appellate review or, if there
- 10 is no such judgment, within 6 months after the tortfeasor
- 11 seeking contribution has either discharged the common liability
- 12 by payment or agreed, while the action is pending against her or
- 13 him, to discharge the common liability; or

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14 2. Such action arises from a violation of s. 794.011
15 involving a victim who was younger than the age of 16 at the
16 time of the act, the claimant may present the claim in writing
17 at any time pursuant to s. 95.11(9). This subparagraph applies
18 to a claim accruing at any time but shall also be construed in
19 accordance with s. 95.11(9) to apply only to claims which would
20 not have been time barred on or before July 1, 2010 ~~is for~~
21 ~~wrongful death, the claimant must present the claim in writing~~
22 ~~to the Department of Financial Services within 2 years after the~~
23 ~~claim accrues.~~

24 (d) For purposes of this section, complete, accurate, and
25 timely compliance with the requirements of paragraph (c) shall
26 occur prior to settlement payment, close of discovery or
27 commencement of trial, whichever is sooner; provided the ability
28 to plead setoff is not precluded by the delay. This setoff shall
29 apply only against that part of the settlement or judgment
30 payable to the claimant, minus claimant's reasonable attorney's
31 fees and costs. Incomplete or inaccurate disclosure of unpaid
32 adjudicated claims due the state, its agency, officer, or
33 subdivision, may be excused by the court upon a showing by the
34 preponderance of the evidence of the claimant's lack of
35 knowledge of an adjudicated claim and reasonable inquiry by, or
36 on behalf of, the claimant to obtain the information from public
37 records. Unless the appropriate agency had actual notice of the
38 information required to be disclosed by paragraph (c) in time to

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39 assert a setoff, an unexcused failure to disclose shall, upon
40 hearing and order of court, cause the claimant to be liable for
41 double the original undisclosed judgment and, upon further
42 motion, the court shall enter judgment for the agency in that
43 amount. Except as provided otherwise in this subsection, the
44 failure of the Department of Financial Services or the
45 appropriate agency to make final disposition of a claim within 4
46 ~~6~~ months after it is filed shall be deemed a final denial of the
47 claim for purposes of this section. For purposes of this
48 subsection, in medical malpractice actions and in wrongful death
49 actions, the failure of the Department of Financial Services or
50 the appropriate agency to make final disposition of a claim
51 within 90 days after it is filed shall be deemed a final denial
52 of the claim. The statute of limitations for medical malpractice
53 actions and wrongful death actions is tolled for the period of
54 time taken by the Department of Financial Services or the
55 appropriate agency to deny the claim. The provisions of this
56 subsection do not apply to such claims as may be asserted by
57 counterclaim pursuant to s. 768.14.

58 (14) Every claim against the state or one of its agencies
59 or subdivisions for damages for a negligent or wrongful act or
60 omission pursuant to this section shall be forever barred unless
61 the civil action is commenced by filing a complaint in the court
62 of appropriate jurisdiction ~~within:~~

63 (a) Within 2 years for an action founded on negligence.

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64 (b) Within the limitations provided in s. 768.31(4) for an
65 action for contribution.

66 (c) Within the limitations provided in s. 95.11(4) for an
67 action for damages arising from medical malpractice or wrongful
68 death.

69 (d) Pursuant to s. 95.11(9), at any time for an action
70 arising from any act constituting a violation of s. 794.011
71 involving a victim who was younger than the age of 16 at the
72 time of the act. This paragraph applies to a claim accruing at
73 any time as long as such claim would not have been time barred
74 on or before July 1, 2010, under s. 95.11(9).

75 (e) Within 4 years for any other action not specified in
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78 **T I T L E A M E N D M E N T**

79 Remove line 97 of the amendment and insert:
80 claims against a governmental entity; providing
81 exceptions to such timeframes; providing