

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Gregory offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

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

(1) In any action in which attorney ~~attorneys'~~ fees are to be determined or awarded by the court, the court shall consider, among other things, time and labor of any legal assistants who contributed nonclerical, meaningful legal support to the matter involved and who are working under the supervision of an attorney. For purposes of this section "legal assistant" means a person, who under the supervision and direction of a licensed

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17 attorney engages in legal research, and case development or
18 planning in relation to modifications or initial proceedings,
19 services, processes, or applications; or who prepares or
20 interprets legal documents or selects, compiles, and uses
21 technical information from references such as digests,
22 encyclopedias, or practice manuals and analyzes and follows
23 procedural problems that involve independent decisions.

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

29 Section 2. Subsections (3), (4), and (10) of section
30 95.11, Florida Statutes, are amended to read:

31 95.11 Limitations other than for the recovery of real
32 property.—Actions other than for recovery of real property shall
33 be commenced as follows:

34 (3) WITHIN FOUR YEARS.—

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

36 ~~(b)~~ An action relating to the determination of paternity,
37 with the time running from the date the child reaches the age of
38 majority.

39 (b)(e) An action founded on the design, planning, or
40 construction of an improvement to real property, with the time
41 running from the date of actual possession by the owner, the

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42 date of the issuance of a certificate of occupancy, the date of
43 abandonment of construction if not completed, or the date of
44 completion of the contract or termination of the contract
45 between the professional engineer, registered architect, or
46 licensed contractor and his or her employer, whichever date is
47 latest; except that, when the action involves a latent defect,
48 the time runs from the time the defect is discovered or should
49 have been discovered with the exercise of due diligence. In any
50 event, the action must be commenced within 10 years after the
51 date of actual possession by the owner, the date of the issuance
52 of a certificate of occupancy, the date of abandonment of
53 construction if not completed, or the date of completion of the
54 contract or termination of the contract between the professional
55 engineer, registered architect, or licensed contractor and his
56 or her employer, whichever date is latest. However,
57 counterclaims, cross-claims, and third-party claims that arise
58 out of the conduct, transaction, or occurrence set out or
59 attempted to be set out in a pleading may be commenced up to 1
60 year after the pleading to which such claims relate is served,
61 even if such claims would otherwise be time barred. With respect
62 to actions founded on the design, planning, or construction of
63 an improvement to real property, if such construction is
64 performed pursuant to a duly issued building permit and if a
65 local enforcement agency, state enforcement agency, or special
66 inspector, as those terms are defined in s. 553.71, has issued a

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67 final certificate of occupancy or certificate of completion,
68 then as to the construction which is within the scope of such
69 building permit and certificate, the correction of defects to
70 completed work or repair of completed work, whether performed
71 under warranty or otherwise, does not extend the period of time
72 within which an action must be commenced. Completion of the
73 contract means the later of the date of final performance of all
74 the contracted services or the date that final payment for such
75 services becomes due without regard to the date final payment is
76 made.

77 ~~(c)-(d)~~ An action to recover public money or property held
78 by a public officer or employee, or former public officer or
79 employee, and obtained during, or as a result of, his or her
80 public office or employment.

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

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

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

87 ~~(g)-(h)~~ An action for taking, detaining, or injuring
88 personal property.

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

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

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91 ~~(j)-(k)~~ A legal or equitable action on a contract,
92 obligation, or liability not founded on a written instrument,
93 including an action for the sale and delivery of goods, wares,
94 and merchandise, and on store accounts.

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

96 ~~(l)-(m)~~ An action for money paid to any governmental
97 authority by mistake or inadvertence.

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

99 ~~(n)-(o)~~ An action for assault, battery, false arrest,
100 malicious prosecution, malicious interference, false
101 imprisonment, or any other intentional tort, except as provided
102 in subsections (4), (5), and (7).

103 ~~(o)-(p)~~ Any action not specifically provided for in these
104 statutes.

105 ~~(p)-(q)~~ An action alleging a violation, other than a
106 willful violation, of s. 448.110.

107 (4) WITHIN TWO YEARS.—

108 (a) An action founded on negligence.

109 ~~(b)-(a)~~ An action for professional malpractice, other than
110 medical malpractice, whether founded on contract or tort;
111 provided that the period of limitations shall run from the time
112 the cause of action is discovered or should have been discovered
113 with the exercise of due diligence. However, the limitation of
114 actions herein for professional malpractice shall be limited to
115 persons in privity with the professional.

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116 ~~(c)-(b)~~ An action for medical malpractice shall be
117 commenced within 2 years from the time the incident giving rise
118 to the action occurred or within 2 years from the time the
119 incident is discovered, or should have been discovered with the
120 exercise of due diligence; however, in no event shall the action
121 be commenced later than 4 years from the date of the incident or
122 occurrence out of which the cause of action accrued, except that
123 this 4-year period shall not bar an action brought on behalf of
124 a minor on or before the child's eighth birthday. An "action for
125 medical malpractice" is defined as a claim in tort or in
126 contract for damages because of the death, injury, or monetary
127 loss to any person arising out of any medical, dental, or
128 surgical diagnosis, treatment, or care by any provider of health
129 care. The limitation of actions within this subsection shall be
130 limited to the health care provider and persons in privity with
131 the provider of health care. In those actions covered by this
132 paragraph in which it can be shown that fraud, concealment, or
133 intentional misrepresentation of fact prevented the discovery of
134 the injury the period of limitations is extended forward 2 years
135 from the time that the injury is discovered or should have been
136 discovered with the exercise of due diligence, but in no event
137 to exceed 7 years from the date the incident giving rise to the
138 injury occurred, except that this 7-year period shall not bar an
139 action brought on behalf of a minor on or before the child's

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140 eighth birthday. This paragraph shall not apply to actions for
141 which ss. 766.301-766.316 provide the exclusive remedy.

142 ~~(d)-(e)~~ An action to recover wages or overtime or damages
143 or penalties concerning payment of wages and overtime.

144 ~~(e)-(d)~~ An action for wrongful death.

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

150 ~~(g)-(f)~~ An action for personal injury caused by contact
151 with or exposure to phenoxy herbicides while serving either as a
152 civilian or as a member of the Armed Forces of the United States
153 during the period January 1, 1962, through May 7, 1975; the
154 period of limitations shall run from the time the cause of
155 action is discovered or should have been discovered with the
156 exercise of due diligence.

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

158 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS
159 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph
160 ~~(4)(e) (4)-(d)~~, an action for wrongful death seeking damages
161 authorized under s. 768.21 brought against a natural person for
162 an intentional tort resulting in death from acts described in s.
163 782.04 or s. 782.07 may be commenced at any time. This
164 subsection shall not be construed to require an arrest, the

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165 filing of formal criminal charges, or a conviction for a
166 violation of s. 782.04 or s. 782.07 as a condition for filing a
167 civil action.

168 Section 3. Section 624.155, Florida Statutes, is amended
169 to read:

170 624.155 Civil remedy.—

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

173 (a) By a violation of any of the following provisions by
174 the insurer:

- 175 1. Section 626.9541(1) (i), (o), or (x);
- 176 2. Section 626.9551;
- 177 3. Section 626.9705;
- 178 4. Section 626.9706;
- 179 5. Section 626.9707; or
- 180 6. Section 627.7283.

181 (b) By the commission of any of the following acts by the
182 insurer:

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

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

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190 3. Except as to liability coverages, failing to promptly
191 settle claims, when the obligation to settle a claim has become
192 reasonably clear, under one portion of the insurance policy
193 coverage in order to influence settlements under other portions
194 of the insurance policy coverage.

195
196 Notwithstanding the provisions of the above to the contrary, a
197 person pursuing a remedy under this section need not prove that
198 such act was committed or performed with such frequency as to
199 indicate a general business practice.

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

203 (3)(a) As a condition precedent to bringing an action
204 under this section, the department and the authorized insurer
205 must have been given 60 days' written notice of the violation.
206 Notice to the authorized insurer must be provided by the
207 department to the e-mail address designated by the insurer under
208 s. 624.422.

209 (b) The notice shall be on a form provided by the
210 department and shall state with specificity the following
211 information, and such other information as the department may
212 require:

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213 1. The statutory provision, including the specific
214 language of the statute, which the authorized insurer allegedly
215 violated.

216 2. The facts and circumstances giving rise to the
217 violation.

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

219 4. Reference to specific policy language that is relevant
220 to the violation, if any. If the person bringing the civil
221 action is a third party claimant, she or he shall not be
222 required to reference the specific policy language if the
223 authorized insurer has not provided a copy of the policy to the
224 third party claimant pursuant to written request.

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

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

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

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

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237 1. Sixty days after the insurer receives from the
238 department the notice required by this subsection.

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

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

244 (4) (a) An action for bad faith involving a liability
245 insurance claim, including any such action brought under the
246 common law, shall not lie if the insurer tenders the lesser of
247 the policy limits or the amount demanded by the claimant within
248 120 days after receiving actual notice of a claim which is
249 accompanied by sufficient evidence to support the amount of the
250 claim.

251 (b) Failure of an insurer to offer payment pursuant to
252 this subsection shall not constitute bad faith and is
253 inadmissible as evidence in any action seeking to establish bad
254 faith on the part of the insurer.

255 (c) If the insurer fails to tender pursuant to paragraph
256 (a) within the 120-day period, any applicable statute of
257 limitations is extended for an additional 120 days.

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

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261 (a) Mere negligence alone is insufficient to constitute
262 bad faith.

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

269 2. In any action for bad faith against an insurer, the
270 trier of fact may consider whether the insured, claimant, or
271 representative of the insured or claimant did not act in good
272 faith pursuant to this paragraph, in which case the trier of
273 fact may reasonably reduce the amount of damages awarded against
274 the insurer.

275 (6) If two or more third-party claimants have competing
276 claims arising out of a single occurrence, which in total may
277 exceed the available policy limits of one or more of the insured
278 parties who may be liable to the third-party claimants, an
279 insurer is not liable beyond the available policy limits for
280 failure to pay all or any portion of the available policy limits
281 to one or more of the third-party claimants if, within 90 days
282 after receiving notice of the competing claims in excess of the
283 available policy limits, the insurer complies with either
284 paragraph (a) or paragraph (b).

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285 (a) The insurer files an interpleader action under the
286 Florida Rules of Civil Procedure. If the claims of the competing
287 third-party claimants are found to be in excess of the policy
288 limits, the third-party claimants are entitled to a prorated
289 share of the policy limits as determined by the trier of fact.
290 An insurer's interpleader action does not alter or amend the
291 insurer's obligation to defend its insured.

292 (b) Pursuant to binding arbitration that has been agreed
293 to by the insurer and the third-party claimants, the insurer
294 makes the entire amount of the policy limits available for
295 payment to the competing third-party claimants before a
296 qualified arbitrator agreed to by the insurer and such third-
297 party claimants at the expense of the insurer. The third-party
298 claimants are entitled to a prorated share of the policy limits
299 as determined by the arbitrator, who must consider the
300 comparative fault, if any, of each third-party claimant, and the
301 total likely outcome at trial based upon the total of the
302 economic and noneconomic damages submitted to the arbitrator for
303 consideration. A third-party claimant whose claim is resolved by
304 the arbitrator must execute and deliver a general release to the
305 insured party whose claim is resolved by the proceeding.

306 (7)(4) Upon adverse adjudication at trial or upon appeal,
307 the authorized insurer shall be liable for damages, together
308 with court costs and reasonable attorney ~~attorney's~~ fees
309 incurred by the plaintiff.

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310 (8)-(5) ~~No~~ Punitive damages may not ~~shall~~ be awarded under
311 this section unless the acts giving rise to the violation occur
312 with such frequency as to indicate a general business practice
313 and these acts are:

314 (a) Willful, wanton, and malicious;

315 (b) In reckless disregard for the rights of any insured;
316 or

317 (c) In reckless disregard for the rights of a beneficiary
318 under a life insurance contract.

319

320 Any person who pursues a claim under this subsection shall post
321 in advance the costs of discovery. Such costs shall be awarded
322 to the authorized insurer if no punitive damages are awarded to
323 the plaintiff.

324 (9)-(6) This section does ~~shall~~ not ~~be construed to~~
325 authorize a class action suit against an authorized insurer or a
326 civil action against the commission, the office, or the
327 department or any of their employees, or to create a cause of
328 action when an authorized health insurer refuses to pay a claim
329 for reimbursement on the ground that the charge for a service
330 was unreasonably high or that the service provided was not
331 medically necessary.

332 (10)-(7) In the absence of expressed language to the
333 contrary, this section shall not be construed to authorize a
334 civil action or create a cause of action against an authorized

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335 insurer or its employees who, in good faith, release information
336 about an insured or an insurance policy to a law enforcement
337 agency in furtherance of an investigation of a criminal or
338 fraudulent act relating to a motor vehicle theft or a motor
339 vehicle insurance claim.

340 ~~(11)-(8)~~ The civil remedy specified in this section does
341 not preempt any other remedy or cause of action provided for
342 pursuant to any other statute or pursuant to the common law of
343 this state. Any person may obtain a judgment under either the
344 common-law remedy of bad faith or this statutory remedy, but is
345 ~~shall not be~~ entitled to a judgment under both remedies. This
346 section does ~~shall not be construed to~~ create a common-law cause
347 of action. The damages recoverable pursuant to this section
348 shall include those damages which are a reasonably foreseeable
349 result of a specified violation of this section by the
350 authorized insurer and may include an award or judgment in an
351 amount that exceeds the policy limits.

352 ~~(12)-(9)~~ A surety issuing a payment or performance bond on
353 the construction or maintenance of a building or roadway project
354 is not an insurer for purposes of subsection (1).

355 Section 4. Subsection (1) of section 627.428, Florida
356 Statutes, is amended to read:

357 627.428 Attorney fees.—

358 (1) Except as provided in subsection (4), upon the
359 rendition of a judgment or decree by any of the courts of this

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360 | state in an action brought pursuant to chapter 86 for the
361 | determination of insurance coverage against an insurer which
362 | denied coverage and in favor of any named or omnibus insured or
363 | the named beneficiary under a policy or contract executed by the
364 | insurer, the trial court or, in the event of an appeal in which
365 | the insured or beneficiary prevails, the appellate court shall
366 | adjudge or decree against the insurer and in favor of the
367 | insured or beneficiary a reasonable sum as fees or compensation
368 | for the insured's or beneficiary's attorney prosecuting the suit
369 | under chapter 86 in which the recovery is had. Such fees or
370 | compensation are limited to fees incurred in the action filed
371 | pursuant to chapter 86 for the determination of insurance
372 | coverage.

373 | Section 5. Subsection (1) of section 626.9373, Florida
374 | Statutes, is amended to read:

375 | 626.9373 Attorney fees.—

376 | (1) Except as provided in subsection (3), upon the
377 | rendition of a judgment or decree by any court of this state in
378 | an action brought pursuant to chapter 86 for the determination
379 | of insurance coverage against a surplus lines insurer which
380 | denied coverage and in favor of any named or omnibus insured or
381 | the named beneficiary under a policy or contract executed by the
382 | insurer ~~on or after the effective date of this act~~, the trial
383 | court or, if the insured or beneficiary prevails on appeal, the
384 | appellate court, shall adjudge or decree against the insurer in

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385 favor of the insured or beneficiary a reasonable sum as fees or
386 compensation for the insured's or beneficiary's attorney
387 prosecuting the lawsuit ~~for which recovery is awarded~~. Such fees
388 or compensation are limited to fees incurred in the action filed
389 pursuant to chapter 86 for the determination of insurance
390 coverage.

391 Section 6. Section 768.0427, Florida Statutes, is created
392 to read:

393 768.0427 Admissibility of evidence to prove medical
394 expenses in personal injury or wrongful death actions;
395 disclosure of letters of protection; recovery of past and future
396 medical expenses damages.-

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

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

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

407 (c) "Health care provider" means any of the following
408 professionals and entities, and professionals and entities
409 similarly licensed in another jurisdiction:

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- 410 1. A provider as defined in s. 408.803.
- 411 2. A clinical laboratory providing services in this state
412 or services to health care providers in this state, if the
413 clinical laboratory is certified by the Centers for Medicare and
414 Medicaid Services under the federal Clinical Laboratory
415 Improvement Amendments and the federal rules adopted thereunder.
- 416 3. A federally qualified health center as defined in 42
417 U.S.C. s. 1396d(1)(2)(B), as that definition existed on the
418 effective date of this act.
- 419 4. A health care practitioner as defined in s. 456.001.
- 420 5. A health care professional licensed under part IV of
421 chapter 468.
- 422 6. A home health aide as defined in s. 400.462.
- 423 7. A provider licensed under chapter 394 or chapter 397
424 and its clinical and nonclinical staff providing inpatient or
425 outpatient services.
- 426 8. A continuing care facility licensed under chapter 651.
- 427 9. A pharmacy permitted under chapter 465.
- 428 (d) "Letter of Protection" means any arrangement by which
429 a health care provider renders treatment in exchange for a
430 promise of payment for the claimant's medical expenses from any
431 judgment or settlement of a personal injury or wrongful death
432 action. The term includes any such arrangement, regardless of
433 whether referred to as a letter of protection.

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

439 (a) Evidence offered to prove the amount of damages for
440 past medical treatment or services that have been satisfied is
441 limited to evidence of the amount actually paid, regardless of
442 the source of payment.

443 (b) Evidence offered to prove the usual and customary
444 amount necessary to satisfy unpaid charges for incurred medical
445 treatment or services is limited to evidence as provided in this
446 paragraph.

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

453 2. If the claimant has health care coverage but obtains
454 treatment under a letter of protection or otherwise does not
455 submit charges for any health care provider's medical treatment
456 or services to health care coverage, evidence of the amount the
457 claimant's health care coverage would pay the health care
458 provider to satisfy the past unpaid medical charges under the

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459 insurance contract or regulation, plus the claimant's share of
460 medical expenses under the insurance contract or regulation, had
461 the claimant obtained medical services or treatment pursuant to
462 the health care coverage.

463 3. If the claimant does not have health care coverage
464 consistent with sub-paragraph 1., evidence of 120 percent of the
465 Medicare reimbursement rate in effect on the date of the
466 claimant's incurred medical treatment or services, or, if there
467 is no applicable Medicare rate for a service, 170 percent of the
468 applicable state Medicaid rate.

469 4. If the claimant obtains medical treatment or services
470 under a letter of protection and the health care provider
471 subsequently transfers the right to receive payment under the
472 letter of protection to a third party, evidence of the amount
473 the third party paid or agreed to pay the health care provider
474 in exchange for the right to receive payment pursuant to the
475 letter of protection.

476
477 Any evidence that does not otherwise meet the requirements of
478 this paragraph may be admitted into evidence, if it is otherwise
479 admissible.

480 (c) Evidence offered to prove the usual and customary
481 amount of damages for any future medical treatment or services
482 the claimant will receive is governed by this paragraph.

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

489 2. If the claimant does not have health care coverage
490 consistent with sub-paragraph 1., evidence of 120 percent of the
491 Medicare reimbursement rate in effect at the time of trial for
492 the medical treatment or services the claimant will receive, or,
493 if there is no applicable Medicare rate for a service, 170
494 percent of the applicable state Medicaid rate.

495
496 Any evidence that does not otherwise meet the requirements of
497 this paragraph may be admitted into evidence, if it is otherwise
498 admissible.

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

502 (e) Individual contracts between providers and authorized
503 commercial insurers or authorized health maintenance
504 organizations are not subject to discovery or disclosure and are
505 not admissible into evidence.

506 (3) LETTERS OF PROTECTION; REQUIRED DISCLOSURES.—In a
507 personal injury or wrongful death action, as a condition

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508 precedent to asserting any claim for medical expenses for
509 treatment rendered under a letter of protection, the claimant
510 must disclose:

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

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

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

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

528 3. For health care providers billing at the facility level
529 for expenses incurred in an inpatient setting, including when
530 billing through a Diagnosis Related Group (DRG), the
531 International Classification of Diseases (ICD) diagnosis and

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532 procedure codes in effect on the date in which the claimant is
533 discharged.

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

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

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

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

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

555 (4) DAMAGES RECOVERABLE FOR MEDICAL TREATMENT OR SERVICE
556 EXPENSES.—The damages that may be recovered by a claimant in a

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557 personal injury or wrongful death action for the reasonable and
558 necessary cost or value of medical care rendered may not include
559 any amount in excess of the evidence of medical treatment and
560 services expenses admitted pursuant to subsection (2), and also
561 may not exceed the sum of the following:

562 (a) Amounts actually paid by or on behalf of the claimant
563 to a health care provider who rendered medical treatment or
564 services;

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

568 (c) Amounts necessary to provide for any reasonable and
569 necessary medical treatment or services the claimant will
570 receive in the future.

571 Section 7. Section 768.0701, Florida Statutes, is created
572 to read:

573 768.0701 Premises liability for criminal acts of third
574 parties.—Notwithstanding s. 768.81(4), in an action for damages
575 against the owner, lessor, operator, or manager of commercial or
576 real property brought by a person lawfully on the property who
577 was injured by the criminal act of a third party, the trier of
578 fact must consider the fault of all persons who contributed to
579 the injury.

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581 Section 8. Section 768.0706, Florida Statutes, is created
582 to read:

583 768.0706 Multifamily residential property safety and
584 security; presumption against liability.-

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

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

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

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

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

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

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

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

615 4. At least a 1 inch deadbolt in each dwelling unit door;

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

618 6. Locked gates with key or fob access along pool fence
619 areas; and

620 7. A peephole or door viewer on each dwelling unit door
621 that does not include a window or that does not have a window
622 next to the door.

623 (b) By January 1, 2025, the owner or principal operator of
624 a multifamily residential property has a crime prevention
625 through environmental design assessment that is no more than 5
626 years old completed for the property. Such assessment must be
627 performed by a law enforcement agency or a Florida Crime
628 Prevention Through Environmental Design Practitioner designated
629 by the Florida Crime Prevention Training Institute of the
630 Department of Legal Affairs. The owner or principal operator

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631 must remain in substantial compliance with the assessment for
632 purposes of this paragraph.

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

639 2. For purposes of this paragraph, proper crime deterrence
640 and safety training means training which trains and familiarizes
641 employees with the security principles, devices, measures, and
642 standards set forth under paragraph (a), and which is reviewed
643 at least every 5 years and updated as necessary. The owner or
644 principal operator may request a law enforcement agency or the
645 Florida Crime Prevention Through Environmental Design
646 Practitioner performing the assessment under paragraph (b) to
647 review the training curriculum.

648 (3) The Florida Crime Prevention Training Institute of the
649 Department of Legal Affairs shall develop a proposed curriculum
650 or best practices for owners or principal operators to implement
651 such training. The state has no liability in connection with
652 providing a proposed training curriculum under this paragraph.

653 (4) This section does not establish a private cause of
654 action.

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655 Section 9. Subsection (4) of section 768.075, Florida
656 Statutes, is amended to read:

657 768.075 Immunity from liability for injury to trespassers
658 on real property.—

659 (4) A person or organization owning or controlling an
660 interest in real property, or an agent of such person or
661 organization, shall not be held liable for negligence that
662 results in the death of, injury to, or damage to a person who is
663 attempting to commit a criminal act ~~felony~~ or who is engaged in
664 the commission of a criminal act ~~felony~~ on the property.

665 Section 10. Subsection (1) of section 768.79, Florida
666 Statutes, is amended to read:

667 768.79 Offer of judgment and demand for judgment.—

668 (1) In any civil action for damages and in any civil
669 action involving an insurance contract filed in the courts of
670 this state, if a defendant files an offer of judgment which is
671 not accepted by the plaintiff within 30 days, the defendant
672 shall be entitled to recover reasonable costs and attorney's
673 fees incurred by her or him or on the defendant's behalf
674 pursuant to a policy of liability insurance or other contract
675 from the date of filing of the offer if the judgment is one of
676 no liability or the judgment obtained by the plaintiff is at
677 least 25 percent less than such offer, and the court shall set
678 off such costs and attorney's fees against the award. Where such
679 costs and attorney's fees total more than the judgment, the

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680 court shall enter judgment for the defendant against the
681 plaintiff for the amount of the costs and fees, less the amount
682 of the plaintiff's award. If a plaintiff files a demand for
683 judgment which is not accepted by the defendant within 30 days
684 and the plaintiff recovers a judgment in an amount at least 25
685 percent greater than the offer, she or he shall be entitled to
686 recover reasonable costs and attorney's fees incurred from the
687 date of the filing of the demand. If rejected, neither an offer
688 nor demand is admissible in subsequent litigation, except for
689 pursuing the penalties of this section.

690 Section 11. Subsection (2) of section 768.81, Florida
691 Statutes, is amended, and subsection (6) is added to that
692 section, to read:

693 768.81 Comparative fault.—

694 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,
695 contributory fault chargeable to the claimant diminishes
696 proportionately the amount awarded as economic and noneconomic
697 damages for an injury attributable to the claimant's
698 contributory fault, but does not bar recovery, subject to
699 subsection (6).

700 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to
701 which this section applies, any party found to be greater than
702 50 percent at fault for his or her own harm may not recover any
703 damages. This subsection does not apply to an action for damages

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704 for personal injury or wrongful death arising out of medical
705 negligence pursuant to chapter 766.

706 Section 12. Paragraphs (a) and (j) of subsection (1) of
707 section 475.01, Florida Statutes, are amended to read:

708 475.01 Definitions.—

709 (1) As used in this part:

710 (a) "Broker" means a person who, for another, and for a
711 compensation or valuable consideration directly or indirectly
712 paid or promised, expressly or impliedly, or with an intent to
713 collect or receive a compensation or valuable consideration
714 therefor, appraises, auctions, sells, exchanges, buys, rents, or
715 offers, attempts or agrees to appraise, auction, or negotiate
716 the sale, exchange, purchase, or rental of business enterprises
717 or business opportunities or any real property or any interest
718 in or concerning the same, including mineral rights or leases,
719 or who advertises or holds out to the public by any oral or
720 printed solicitation or representation that she or he is engaged
721 in the business of appraising, auctioning, buying, selling,
722 exchanging, leasing, or renting business enterprises or business
723 opportunities or real property of others or interests therein,
724 including mineral rights, or who takes any part in the procuring
725 of sellers, purchasers, lessors, or lessees of business
726 enterprises or business opportunities or the real property of
727 another, or leases, or interest therein, including mineral
728 rights, or who directs or assists in the procuring of prospects

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729 or in the negotiation or closing of any transaction which does,
730 or is calculated to, result in a sale, exchange, or leasing
731 thereof, and who receives, expects, or is promised any
732 compensation or valuable consideration, directly or indirectly
733 therefor; and all persons who advertise rental property
734 information or lists. A broker renders a professional service
735 and is a professional within the meaning of s. 95.11(4) (b) ~~s.~~
736 ~~95.11(4) (a)~~. Where the term "appraise" or "appraising" appears
737 in the definition of the term "broker," it specifically excludes
738 those appraisal services which must be performed only by a
739 state-licensed or state-certified appraiser, and those appraisal
740 services which may be performed by a registered trainee
741 appraiser as defined in part II. The term "broker" also includes
742 any person who is a general partner, officer, or director of a
743 partnership or corporation which acts as a broker. The term
744 "broker" also includes any person or entity who undertakes to
745 list or sell one or more timeshare periods per year in one or
746 more timeshare plans on behalf of any number of persons, except
747 as provided in ss. 475.011 and 721.20.

748 (j) "Sales associate" means a person who performs any act
749 specified in the definition of "broker," but who performs such
750 act under the direction, control, or management of another
751 person. A sales associate renders a professional service and is
752 a professional within the meaning of s. 95.11(4) (b) ~~s.~~
753 ~~95.11(4) (a)~~.

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754 Section 13. Paragraph (h) of subsection (1) of section
755 475.611, Florida Statutes, is amended to read:

756 475.611 Definitions.—

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

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

763 Section 14. Subsection (7) of section 517.191, Florida
764 Statutes, is amended to read:

765 517.191 Injunction to restrain violations; civil
766 penalties; enforcement by Attorney General.—

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

775 Section 15. Subsection (2) of section 627.441, Florida
776 Statutes, is amended to read:

777 627.441 Commercial general liability policies; coverage to
778 contractors for completed operations.—

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779 (2) A liability insurer must offer coverage at an
780 appropriate additional premium for liability arising out of
781 current or completed operations under an owner-controlled
782 insurance program for any period beyond the period for which the
783 program provides liability coverage, as specified in s.
784 255.0517(2)(b). The period of such coverage must be sufficient
785 to protect against liability arising out of an action brought
786 within the time limits provided in s. 95.11(3)(b) ~~s.~~
787 95.11(3)(c).

788 Section 16. The Division of Law Revision is directed to
789 replace the phrase "the effective date of this act" wherever it
790 occurs in this act with the date this act becomes a law.

791 Section 17. The procedural changes within this act are
792 remedial in nature and shall apply to all pending and
793 prospective claims.

794 Section 18. This act shall take effect upon becoming a
795 law.

796

797

798 **T I T L E A M E N D M E N T**

799 Remove everything before the enacting clause and insert:

800 A bill to be entitled

801 An act relating to civil remedies; amending s. 57.104,

802 F.S.; creating a rebuttable presumption that a

803 lodestar fee is a sufficient and reasonable attorney

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804 fee in most civil actions; providing an exception;
805 amending s. 95.11, F.S.; reducing the statute of
806 limitations for negligence actions; amending s.
807 624.155, F.S.; providing standards for bad faith
808 actions; providing for the distribution of proceeds
809 when two or more third-party claims arising out of a
810 single occurrence exceed policy limits; creating s.
811 768.0427, F.S.; providing definitions; providing
812 standards for the admissibility of evidence to prove
813 the cost of damages for medical expenses in certain
814 civil actions; requiring certain disclosures with
815 respect to claims for medical expenses for treatment
816 rendered under letters of protection; specifying the
817 damages that may be recovered by a claimant for the
818 reasonable and necessary cost of medical care;
819 creating s. 768.0701, F.S.; requiring the trier of
820 fact to consider the fault of certain persons who
821 contribute to an injury; amending s. 768.79, F.S.;
822 providing for the applicability of that section;
823 amending s. 768.81, F.S.; providing that a party in a
824 negligence action who is at fault by a specified
825 amount may not recover damages under a comparative
826 negligence action; providing applicability; amending
827 s. 626.9373, F.S.; providing for a limitation on the
828 applicability of that section; amending s. 627.428,

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829 F.S.; providing for a limitation on the applicability
830 of that section; amending ss. 475.01, 475.611,
831 517.191, and 627.441, F.S.; conforming provisions to
832 changes made by the act; providing a directive to the
833 Division of Law Revision; providing applicability;
834 providing an effective date.