

1                                   A bill to be entitled  
 2           An act relating to civil remedies; amending s. 57.104,  
 3           F.S.; creating a rebuttable presumption that a  
 4           lodestar fee is a sufficient and reasonable attorney  
 5           fee in most civil actions; providing an exception;  
 6           creating s. 86.121, F.S.; authorizing a court to award  
 7           attorney fees in certain declaratory actions;  
 8           prohibiting the transfer, assignment, or acquisition  
 9           of the right to such attorney fees except by specified  
 10          persons; providing applicability; amending s. 95.11,  
 11          F.S.; reducing the statute of limitations for  
 12          negligence actions; providing applicability of certain  
 13          provisions to actions involving servicemembers;  
 14          amending s. 624.155, F.S.; providing standards for bad  
 15          faith actions; providing for the distribution of  
 16          proceeds when two or more third-party claims arising  
 17          out of a single occurrence exceed policy limits;  
 18          creating s. 624.1552, F.S.; providing for  
 19          applicability of specified offer of judgement  
 20          provisions to civil actions involving insurance  
 21          contracts; creating s. 768.0427, F.S.; providing  
 22          definitions; providing standards for the admissibility  
 23          of evidence to prove the cost of damages for medical  
 24          expenses in certain civil actions; requiring certain  
 25          disclosures with respect to claims for medical

26 | expenses for treatment rendered under letters of  
 27 | protection; specifying the damages that may be  
 28 | recovered by a claimant for the reasonable and  
 29 | necessary cost of medical care; creating s. 768.0701,  
 30 | F.S.; requiring the trier of fact to consider the  
 31 | fault of certain persons who contribute to an injury;  
 32 | creating s. 768.0706, F.S.; providing definitions;  
 33 | providing that the owner or principal operator of a  
 34 | multifamily residential property which substantially  
 35 | implements specified security measures on that  
 36 | property has a presumption against liability for  
 37 | negligence in connection with certain criminal acts  
 38 | that occur on the premises; requiring the Florida  
 39 | Crime Prevention Training Institute of the Department  
 40 | of Legal Affairs to develop a proposed curriculum or  
 41 | best practices for owners or principal operators;  
 42 | providing construction; amending s. 768.81, F.S.;  
 43 | providing that a party in a negligence action who is  
 44 | at fault by a specified amount may not recover damages  
 45 | under a comparative negligence action; providing  
 46 | applicability; repealing ss. 626.9373 and 627.428,  
 47 | F.S., relating to attorney fees awarded against  
 48 | surplus lines insurers and insurers, respectively;  
 49 | amending s. 627.756, F.S.; providing for the award of  
 50 | costs and attorney fees in certain actions; amending

51 ss. 475.01, 475.611, 517.191, 624.123, 624.488,  
 52 627.062, 627.401, 627.441, 627.727, 627.736, and  
 53 628.6016, F.S.; conforming provisions to changes made  
 54 by the act; repealing ss. 631.70 and 631.926, F.S.,  
 55 relating to attorney fees; amending s. 632.638, F.S.;  
 56 conforming provisions to changes made by the act;  
 57 providing a directive to the Division of Law Revision;  
 58 providing applicability and construction; providing an  
 59 effective date.

60

61 Be It Enacted by the Legislature of the State of Florida:

62

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

65 57.104 Computation of attorney ~~attorneys'~~ fees.—

66 (1) In any action in which attorney ~~attorneys'~~ fees are to  
 67 be determined or awarded by the court, the court shall consider,  
 68 among other things, time and labor of any legal assistants who  
 69 contributed nonclerical, meaningful legal support to the matter  
 70 involved and who are working under the supervision of an  
 71 attorney. For purposes of this section "legal assistant" means a  
 72 person, who under the supervision and direction of a licensed  
 73 attorney engages in legal research, and case development or  
 74 planning in relation to modifications or initial proceedings,  
 75 services, processes, or applications; or who prepares or

76 | interprets legal documents or selects, compiles, and uses  
 77 | technical information from references such as digests,  
 78 | encyclopedias, or practice manuals and analyzes and follows  
 79 | procedural problems that involve independent decisions.

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

85 | Section 2. Section 86.121, Florida Statutes, is created to  
 86 | read:

87 | 86.121 Attorney fees; actions for declaratory relief to  
 88 | determine insurance coverage after total coverage denial of  
 89 | claim.—

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

93 | (a) Either party is entitled to the summary procedure  
 94 | provided in s. 51.011, and the court shall advance the cause on  
 95 | the calendar.

96 | (b) The court shall award reasonable attorney fees to the  
 97 | named insured, omnibus insured, or named beneficiary under a  
 98 | policy issued by the insurer upon rendition of a declaratory  
 99 | judgment in favor of the named insured, omnibus insured, or  
 100 | named beneficiary. This right may not be transferred to,

101 assigned to, or acquired in any other manner by anyone other  
 102 than a named or omnibus insured or a named beneficiary. A  
 103 defense offered by an insurer pursuant to a reservation of  
 104 rights does not constitute a coverage denial of a claim. Such  
 105 fees are limited to those incurred in the action brought under  
 106 this chapter for declaratory relief to determine coverage of  
 107 insurance issued under the Florida Insurance Code.

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

110 Section 3. Subsections (3), (4), and (10) of section  
 111 95.11, Florida Statutes, are amended, and subsection (12) is  
 112 added to that section, to read:

113 95.11 Limitations other than for the recovery of real  
 114 property.—Actions other than for recovery of real property shall  
 115 be commenced as follows:

116 (3) WITHIN FOUR YEARS.—

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

118 (a)-(b) An action relating to the determination of  
 119 paternity, with the time running from the date the child reaches  
 120 the age of majority.

121 (b)-(e) An action founded on the design, planning, or  
 122 construction of an improvement to real property, with the time  
 123 running from the date of actual possession by the owner, the  
 124 date of the issuance of a certificate of occupancy, the date of  
 125 abandonment of construction if not completed, or the date of

126 completion of the contract or termination of the contract  
127 between the professional engineer, registered architect, or  
128 licensed contractor and his or her employer, whichever date is  
129 latest; except that, when the action involves a latent defect,  
130 the time runs from the time the defect is discovered or should  
131 have been discovered with the exercise of due diligence. In any  
132 event, the action must be commenced within 10 years after the  
133 date of actual possession by the owner, the date of the issuance  
134 of a certificate of occupancy, the date of abandonment of  
135 construction if not completed, or the date of completion of the  
136 contract or termination of the contract between the professional  
137 engineer, registered architect, or licensed contractor and his  
138 or her employer, whichever date is latest. However,  
139 counterclaims, cross-claims, and third-party claims that arise  
140 out of the conduct, transaction, or occurrence set out or  
141 attempted to be set out in a pleading may be commenced up to 1  
142 year after the pleading to which such claims relate is served,  
143 even if such claims would otherwise be time barred. With respect  
144 to actions founded on the design, planning, or construction of  
145 an improvement to real property, if such construction is  
146 performed pursuant to a duly issued building permit and if a  
147 local enforcement agency, state enforcement agency, or special  
148 inspector, as those terms are defined in s. 553.71, has issued a  
149 final certificate of occupancy or certificate of completion,  
150 then as to the construction which is within the scope of such

151 building permit and certificate, the correction of defects to  
152 completed work or repair of completed work, whether performed  
153 under warranty or otherwise, does not extend the period of time  
154 within which an action must be commenced. Completion of the  
155 contract means the later of the date of final performance of all  
156 the contracted services or the date that final payment for such  
157 services becomes due without regard to the date final payment is  
158 made.

159 (c)~~(d)~~ An action to recover public money or property held  
160 by a public officer or employee, or former public officer or  
161 employee, and obtained during, or as a result of, his or her  
162 public office or employment.

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

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

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

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

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

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

173 (j)~~(k)~~ A legal or equitable action on a contract,  
174 obligation, or liability not founded on a written instrument,  
175 including an action for the sale and delivery of goods, wares,

176 and merchandise, and on store accounts.

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

178        (l)~~(m)~~ An action for money paid to any governmental

179 authority by mistake or inadvertence.

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

181        (n)~~(o)~~ An action for assault, battery, false arrest,

182 malicious prosecution, malicious interference, false

183 imprisonment, or any other intentional tort, except as provided

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

185        (o)~~(p)~~ Any action not specifically provided for in these

186 statutes.

187        (p)~~(q)~~ An action alleging a violation, other than a

188 willful violation, of s. 448.110.

189        (4) WITHIN TWO YEARS.—

190        (a) An action founded on negligence.

191        (b)~~(a)~~ An action for professional malpractice, other than

192 medical malpractice, whether founded on contract or tort;

193 provided that the period of limitations shall run from the time

194 the cause of action is discovered or should have been discovered

195 with the exercise of due diligence. However, the limitation of

196 actions herein for professional malpractice shall be limited to

197 persons in privity with the professional.

198        (c)~~(b)~~ An action for medical malpractice shall be

199 commenced within 2 years from the time the incident giving rise

200 to the action occurred or within 2 years from the time the



201 incident is discovered, or should have been discovered with the  
202 exercise of due diligence; however, in no event shall the action  
203 be commenced later than 4 years from the date of the incident or  
204 occurrence out of which the cause of action accrued, except that  
205 this 4-year period shall not bar an action brought on behalf of  
206 a minor on or before the child's eighth birthday. An "action for  
207 medical malpractice" is defined as a claim in tort or in  
208 contract for damages because of the death, injury, or monetary  
209 loss to any person arising out of any medical, dental, or  
210 surgical diagnosis, treatment, or care by any provider of health  
211 care. The limitation of actions within this subsection shall be  
212 limited to the health care provider and persons in privity with  
213 the provider of health care. In those actions covered by this  
214 paragraph in which it can be shown that fraud, concealment, or  
215 intentional misrepresentation of fact prevented the discovery of  
216 the injury the period of limitations is extended forward 2 years  
217 from the time that the injury is discovered or should have been  
218 discovered with the exercise of due diligence, but in no event  
219 to exceed 7 years from the date the incident giving rise to the  
220 injury occurred, except that this 7-year period shall not bar an  
221 action brought on behalf of a minor on or before the child's  
222 eighth birthday. This paragraph shall not apply to actions for  
223 which ss. 766.301-766.316 provide the exclusive remedy.

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

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

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

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

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

240        (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS  
 241 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph  
 242 (4)(e) ~~(4)(d)~~, an action for wrongful death seeking damages  
 243 authorized under s. 768.21 brought against a natural person for  
 244 an intentional tort resulting in death from acts described in s.  
 245 782.04 or s. 782.07 may be commenced at any time. This  
 246 subsection shall not be construed to require an arrest, the  
 247 filing of formal criminal charges, or a conviction for a  
 248 violation of s. 782.04 or s. 782.07 as a condition for filing a  
 249 civil action.

250        (12) FOR ACTIONS INVOLVING SERVICEMEMBERS.—Any action

251 involving a servicemember as defined in s. 250.01, in which the  
 252 servicemember is a party, is subject to s. 250.5201 and part IV  
 253 of chapter 250, which includes the Servicemembers Civil Relief  
 254 Act, 50 U.S.C. ss. 501 et seq., providing for protections to  
 255 members of the United States Armed Forces, the United States  
 256 Reserve Forces, or the National Guard during terms of federal or  
 257 state active duty which materially affect the servicemember's  
 258 ability to appear.

259 Section 4. Section 624.155, Florida Statutes, is amended  
 260 to read:

261 624.155 Civil remedy.—

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

264 (a) By a violation of any of the following provisions by  
 265 the insurer:

- 266 1. Section 626.9541(1) (i), (o), or (x);
- 267 2. Section 626.9551;
- 268 3. Section 626.9705;
- 269 4. Section 626.9706;
- 270 5. Section 626.9707; or
- 271 6. Section 627.7283.

272 (b) By the commission of any of the following acts by the  
 273 insurer:

- 274 1. Not attempting in good faith to settle claims when,  
 275 under all the circumstances, it could and should have done so,

276 had it acted fairly and honestly toward its insured and with due  
 277 regard for her or his interests;

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

281 3. Except as to liability coverages, failing to promptly  
 282 settle claims, when the obligation to settle a claim has become  
 283 reasonably clear, under one portion of the insurance policy  
 284 coverage in order to influence settlements under other portions  
 285 of the insurance policy coverage.

286  
 287 Notwithstanding the provisions of the above to the contrary, a  
 288 person pursuing a remedy under this section need not prove that  
 289 such act was committed or performed with such frequency as to  
 290 indicate a general business practice.

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

294 (3)(a) As a condition precedent to bringing an action  
 295 under this section, the department and the authorized insurer  
 296 must have been given 60 days' written notice of the violation.  
 297 Notice to the authorized insurer must be provided by the  
 298 department to the e-mail address designated by the insurer under  
 299 s. 624.422.

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

301 department and shall state with specificity the following  
302 information, and such other information as the department may  
303 require:

304 1. The statutory provision, including the specific  
305 language of the statute, which the authorized insurer allegedly  
306 violated.

307 2. The facts and circumstances giving rise to the  
308 violation.

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

310 4. Reference to specific policy language that is relevant  
311 to the violation, if any. If the person bringing the civil  
312 action is a third party claimant, she or he shall not be  
313 required to reference the specific policy language if the  
314 authorized insurer has not provided a copy of the policy to the  
315 third party claimant pursuant to written request.

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

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

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

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

328 1. Sixty days after the insurer receives from the  
 329 department the notice required by this subsection.

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

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

335 (4)(a) An action for bad faith involving a liability  
 336 insurance claim, including any such action brought under the  
 337 common law, shall not lie if the insurer tenders the lesser of  
 338 the policy limits or the amount demanded by the claimant within  
 339 90 days after receiving actual notice of a claim which is  
 340 accompanied by sufficient evidence to support the amount of the  
 341 claim.

342 (b) If an insurer does not tender the lesser of the policy  
 343 limits or the amount demanded by the claimant within the 90-day  
 344 period provided in paragraph (a), the existence of the 90-day  
 345 period and that no bad faith action could lie had the insurer  
 346 tendered the lesser of policy limits or the amount demanded by  
 347 the claimant pursuant to paragraph (a) is inadmissible in any  
 348 action seeking to establish bad faith on the part of the  
 349 insurer.

350 (c) If the insurer fails to tender pursuant to paragraph

351 (a) within the 90-day period, any applicable statute of  
352 limitations is extended for an additional 90 days.

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

356 (a) Mere negligence alone is insufficient to constitute  
357 bad faith.

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

364 2. In any action for bad faith against an insurer, the  
365 trier of fact may consider whether the insured, claimant, or  
366 representative of the insured or claimant did not act in good  
367 faith pursuant to this paragraph, in which case the trier of  
368 fact may reasonably reduce the amount of damages awarded against  
369 the insurer.

370 (6) If two or more third-party claimants have competing  
371 claims arising out of a single occurrence, which in total may  
372 exceed the available policy limits of one or more of the insured  
373 parties who may be liable to the third-party claimants, an  
374 insurer is not liable beyond the available policy limits for  
375 failure to pay all or any portion of the available policy limits

376 to one or more of the third-party claimants if, within 90 days  
377 after receiving notice of the competing claims in excess of the  
378 available policy limits, the insurer complies with either  
379 paragraph (a) or paragraph (b).

380 (a) The insurer files an interpleader action under the  
381 Florida Rules of Civil Procedure. If the claims of the competing  
382 third-party claimants are found to be in excess of the policy  
383 limits, the third-party claimants are entitled to a prorated  
384 share of the policy limits as determined by the trier of fact.  
385 An insurer's interpleader action does not alter or amend the  
386 insurer's obligation to defend its insured.

387 (b) Pursuant to binding arbitration that has been agreed  
388 to by the insurer and the third-party claimants, the insurer  
389 makes the entire amount of the policy limits available for  
390 payment to the competing third-party claimants before a  
391 qualified arbitrator agreed to by the insurer and such third-  
392 party claimants at the expense of the insurer. The third-party  
393 claimants are entitled to a prorated share of the policy limits  
394 as determined by the arbitrator, who must consider the  
395 comparative fault, if any, of each third-party claimant, and the  
396 total likely outcome at trial based upon the total of the  
397 economic and noneconomic damages submitted to the arbitrator for  
398 consideration. A third-party claimant whose claim is resolved by  
399 the arbitrator must execute and deliver a general release to the  
400 insured party whose claim is resolved by the proceeding.



401        (7)~~(4)~~ Upon adverse adjudication at trial or upon appeal,  
 402 the authorized insurer shall be liable for damages, together  
 403 with court costs and reasonable attorney ~~attorney's~~ fees  
 404 incurred by the plaintiff.

405        (8)~~(5)~~ ~~No~~ Punitive damages may not ~~shall~~ be awarded under  
 406 this section unless the acts giving rise to the violation occur  
 407 with such frequency as to indicate a general business practice  
 408 and these acts are:

409            (a) Willful, wanton, and malicious;

410            (b) In reckless disregard for the rights of any insured;  
 411 or

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

414  
 415 Any person who pursues a claim under this subsection shall post  
 416 in advance the costs of discovery. Such costs shall be awarded  
 417 to the authorized insurer if no punitive damages are awarded to  
 418 the plaintiff.

419        (9)~~(6)~~ This section does ~~shall~~ not ~~be construed to~~  
 420 authorize a class action suit against an authorized insurer or a  
 421 civil action against the commission, the office, or the  
 422 department or any of their employees, or to create a cause of  
 423 action when an authorized health insurer refuses to pay a claim  
 424 for reimbursement on the ground that the charge for a service  
 425 was unreasonably high or that the service provided was not

426 medically necessary.

427 ~~(10)-(7)~~ In the absence of expressed language to the  
428 contrary, this section shall not be construed to authorize a  
429 civil action or create a cause of action against an authorized  
430 insurer or its employees who, in good faith, release information  
431 about an insured or an insurance policy to a law enforcement  
432 agency in furtherance of an investigation of a criminal or  
433 fraudulent act relating to a motor vehicle theft or a motor  
434 vehicle insurance claim.

435 ~~(11)-(8)~~ The civil remedy specified in this section does  
436 not preempt any other remedy or cause of action provided for  
437 pursuant to any other statute or pursuant to the common law of  
438 this state. Any person may obtain a judgment under either the  
439 common-law remedy of bad faith or this statutory remedy, but is  
440 ~~shall~~ not be entitled to a judgment under both remedies. This  
441 section does ~~shall~~ not be construed to create a common-law cause  
442 of action. The damages recoverable pursuant to this section  
443 shall include those damages which are a reasonably foreseeable  
444 result of a specified violation of this section by the  
445 authorized insurer and may include an award or judgment in an  
446 amount that exceeds the policy limits.

447 ~~(12)-(9)~~ A surety issuing a payment or performance bond on  
448 the construction or maintenance of a building or roadway project  
449 is not an insurer for purposes of subsection (1).

450 Section 5. Section 624.1552, Florida Statutes, is created

451 to read:

452 624.1552 Civil actions involving an insurance contract;  
453 applicability of offer of judgment provisions.—The provisions of  
454 s. 768.79 apply to any civil action involving an insurance  
455 contract.

456 Section 6. Section 768.0427, Florida Statutes, is created  
457 to read:

458 768.0427 Admissibility of evidence to prove medical  
459 expenses in personal injury or wrongful death actions;  
460 disclosure of letters of protection; recovery of past and future  
461 medical expenses damages.—

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

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

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

472 (c) "Health care provider" means any of the following  
473 professionals and entities, and professionals and entities  
474 similarly licensed in another jurisdiction:

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

476        2. A clinical laboratory providing services in this state  
 477 or services to health care providers in this state, if the  
 478 clinical laboratory is certified by the Centers for Medicare and  
 479 Medicaid Services under the federal Clinical Laboratory  
 480 Improvement Amendments and the federal rules adopted thereunder.

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

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

485        5. A health care professional licensed under part IV of  
 486 chapter 468.

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

488        7. A provider licensed under chapter 394 or chapter 397  
 489 and its clinical and nonclinical staff providing inpatient or  
 490 outpatient services.

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

492        9. A pharmacy permitted under chapter 465.

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

499        (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE  
 500 EXPENSES.—Evidence offered to prove the amount of damages for

501 past or future medical treatment or services in a personal  
502 injury or wrongful death action is admissible as provided in  
503 this subsection.

504 (a) Evidence offered to prove the amount of damages for  
505 past medical treatment or services that have been satisfied is  
506 limited to evidence of the amount actually paid, regardless of  
507 the source of payment.

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

512 1. If the claimant has health care coverage other than  
513 Medicare or Medicaid, evidence of the amount which such health  
514 care coverage is obligated to pay the health care provider to  
515 satisfy the charges for the claimant's incurred medical  
516 treatment or services, plus the claimant's share of medical  
517 expenses under the insurance contract or regulation.

518 2. If the claimant has health care coverage but obtains  
519 treatment under a letter of protection or otherwise does not  
520 submit charges for any health care provider's medical treatment  
521 or services to health care coverage, evidence of the amount the  
522 claimant's health care coverage would pay the health care  
523 provider to satisfy the past unpaid medical charges under the  
524 insurance contract or regulation, plus the claimant's share of  
525 medical expenses under the insurance contract or regulation, had

526 the claimant obtained medical services or treatment pursuant to  
527 the health care coverage.

528 3. If the claimant does not have health care coverage or  
529 has health care coverage through Medicare or Medicaid, evidence  
530 of 120 percent of the Medicare reimbursement rate in effect on  
531 the date of the claimant's incurred medical treatment or  
532 services, or, if there is no applicable Medicare rate for a  
533 service, 170 percent of the applicable state Medicaid rate.

534 4. If the claimant obtains medical treatment or services  
535 under a letter of protection and the health care provider  
536 subsequently transfers the right to receive payment under the  
537 letter of protection to a third party, evidence of the amount  
538 the third party paid or agreed to pay the health care provider  
539 in exchange for the right to receive payment pursuant to the  
540 letter of protection.

541 5. Any evidence of reasonable amounts billed to the  
542 claimant for medically necessary treatment or medically  
543 necessary services provided to the claimant.

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

548 1. If the claimant has health care coverage other than  
549 Medicare or Medicaid, or is eligible for any such health care  
550 coverage, evidence of the amount for which the future charges of

551 health care providers could be satisfied if submitted to such  
552 health care coverage, plus the claimant's share of medical  
553 expenses under the insurance contract or regulation.

554 2. If the claimant does not have health care coverage or  
555 has health care coverage through Medicare or Medicaid, or is  
556 eligible for such health care coverage, evidence of 120 percent  
557 of the Medicare reimbursement rate in effect at the time of  
558 trial for the medical treatment or services the claimant will  
559 receive, or, if there is no applicable Medicare rate for a  
560 service, 170 percent of the applicable state Medicaid rate.

561 3. Any evidence of reasonable future amounts to be billed  
562 to the claimant for medically necessary treatment or medically  
563 necessary services.

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

567 (e) Individual contracts between providers and authorized  
568 commercial insurers or authorized health maintenance  
569 organizations are not subject to discovery or disclosure and are  
570 not admissible into evidence.

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

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

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

580 1. For health care providers billing at the provider  
581 level, the American Medical Association's Current Procedural  
582 Terminology (CPT), or the Healthcare Common Procedure Coding  
583 System (HCPCS), in effect on the date the services were  
584 rendered.

585 2. For health care providers billing at the facility level  
586 for expenses incurred in a clinical or outpatient setting,  
587 including when billing through an Ambulatory Payment  
588 Classification (APC) or Enhanced Ambulatory Patient Grouping  
589 (EAPG), the International Classification of Diseases (ICD)  
590 diagnosis code and, if applicable, the American Medical  
591 Association's Current Procedural Terminology (CPT), in effect on  
592 the date the services were rendered.

593 3. For health care providers billing at the facility level  
594 for expenses incurred in an inpatient setting, including when  
595 billing through a Diagnosis Related Group (DRG), the  
596 International Classification of Diseases (ICD) diagnosis and  
597 procedure codes in effect on the date in which the claimant is  
598 discharged.

599 (c) If the health care provider sells the accounts  
600 receivable for the claimant's medical expenses to a factoring



601 company or other third party:

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

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

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

610 (e) Whether the claimant was referred for treatment under  
611 a letter of protection and, if so, the identity of the person  
612 who made the referral. If the referral is made by the claimant's  
613 attorney, disclosure of the referral is permitted, and evidence  
614 of such referral is admissible notwithstanding s. 90.502.  
615 Moreover, in such situation, the financial relationship between  
616 a law firm and a medical provider, including the number of  
617 referrals, frequency, and financial benefit obtained, is  
618 relevant to the issue of the bias of a testifying medical  
619 provider.

620 (4) DAMAGES RECOVERABLE FOR MEDICAL TREATMENT OR SERVICE  
621 EXPENSES.—The damages that may be recovered by a claimant in a  
622 personal injury or wrongful death action for the reasonable and  
623 necessary cost or value of medical care rendered may not include  
624 any amount in excess of the evidence of medical treatment and  
625 services expenses admitted pursuant to subsection (2), and also

626 may not exceed the sum of the following:

627 (a) Amounts actually paid by or on behalf of the claimant  
628 to a health care provider who rendered medical treatment or  
629 services;

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

633 (c) Amounts necessary to provide for any reasonable and  
634 necessary medical treatment or services the claimant will  
635 receive in the future.

636 Section 7. Section 768.0701, Florida Statutes, is created  
637 to read:

638 768.0701 Premises liability for criminal acts of third  
639 parties.—Notwithstanding s. 768.81(4), in an action for damages  
640 against the owner, lessor, operator, or manager of commercial or  
641 real property brought by a person lawfully on the property who  
642 was injured by the criminal act of a third party, the trier of  
643 fact must consider the fault of all persons who contributed to  
644 the injury.

645 Section 8. Section 768.0706, Florida Statutes, is created  
646 to read:

647 768.0706 Multifamily residential property safety and  
648 security; presumption against liability.—

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

650 (a) "Crime prevention through environmental design" has

651 the same meaning as in s. 163.503(6).

652 (b) "Multifamily residential property" means a residential  
 653 building, or group of residential buildings, such as apartments,  
 654 townhouses, or condominiums, consisting of at least five  
 655 dwelling units on a particular parcel.

656 (c) "Parcel" means real property for which a distinct  
 657 parcel identification number is assigned to the property by the  
 658 property appraiser for the county in which the property is  
 659 located.

660 (2) The owner or principal operator of a multifamily  
 661 residential property which substantially implements the  
 662 following security measures on that property has a presumption  
 663 against liability in connection with criminal acts that occur on  
 664 the premises which are committed by third parties who are not  
 665 employees or agents of the owner or operator:

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

670 2. A lighted parking lot illuminated at an intensity of at  
 671 least an average of 1.8 foot-candles per square foot at 18  
 672 inches above the surface from dusk until dawn or controlled by  
 673 photocell or any similar electronic device that provides light  
 674 from dusk until dawn.

675 3. Lighting in walkways, laundry rooms, common areas, and

676 porches. Such lighting must be illuminated from dusk until dawn  
677 or controlled by photocell or any similar electronic device that  
678 provides light from dusk until dawn.

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

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

682 6. Locked gates with key or fob access along pool fence  
683 areas.

684 7. A peephole or door viewer on each dwelling unit door  
685 that does not include a window or that does not have a window  
686 next to the door.

687 (b) By January 1, 2025, the owner or principal operator of  
688 a multifamily residential property has a crime prevention  
689 through environmental design assessment that is no more than 3  
690 years old completed for the property. Such assessment must be  
691 performed by a law enforcement agency or a Florida Crime  
692 Prevention Through Environmental Design Practitioner designated  
693 by the Florida Crime Prevention Training Institute of the  
694 Department of Legal Affairs. The owner or principal operator  
695 must remain in substantial compliance with the assessment for  
696 purposes of this paragraph.

697 (c)1. By January 1, 2025, the owner or principal operator  
698 of a multifamily residential property provides proper crime  
699 deterrence and safety training to its current employees. After  
700 January 1, 2025, the owner or principal operator must provide

701 such training to an employee within 60 days after his or her  
702 hire date for purposes of this paragraph.

703 2. For purposes of this paragraph, "proper crime  
704 deterrence and safety training" means training which trains and  
705 familiarizes employees with the security principles, devices,  
706 measures, and standards set forth under paragraph (a), and which  
707 is reviewed at least every 3 years and updated as necessary. The  
708 owner or principal operator may request a law enforcement agency  
709 or the Florida Crime Prevention Through Environmental Design  
710 Practitioner performing the assessment under paragraph (b) to  
711 review the training curriculum.

712 (3) For purposes of establishing the presumption against  
713 liability under subsection (2), the burden of proof is on the  
714 owner or principal operator to demonstrate that the owner or  
715 principal operator has substantially implemented the security  
716 measures specified in subsection (2).

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

722 (5) This section does not establish a private cause of  
723 action.

724 Section 9. Subsection (2) of section 768.81, Florida  
725 Statutes, is amended, and subsection (6) is added to that

726 section, to read:

727 768.81 Comparative fault.—

728 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,  
 729 contributory fault chargeable to the claimant diminishes  
 730 proportionately the amount awarded as economic and noneconomic  
 731 damages for an injury attributable to the claimant's  
 732 contributory fault, but does not bar recovery, subject to  
 733 subsection (6).

734 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to  
 735 which this section applies, any party found to be greater than  
 736 50 percent at fault for his or her own harm may not recover any  
 737 damages. This subsection does not apply to an action for damages  
 738 for personal injury or wrongful death arising out of medical  
 739 negligence pursuant to chapter 766.

740 Section 10. Section 626.9373, Florida Statutes, is  
 741 repealed.

742 Section 11. Section 627.428, Florida Statutes, is  
 743 repealed.

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

746 627.756 Bonds for construction contracts; attorney fees in  
 747 case of suit.—

748 (1) In a suit ~~Section 627.428 applies to suits~~ brought by  
 749 an owner, a contractor, a subcontractor, a laborer, or a  
 750 materialman ~~owners, contractors, subcontractors, laborers, and~~

751 ~~materialmen~~ against a surety insurer under payment or  
752 performance bonds written by the insurer under the laws of this  
753 state to indemnify against pecuniary loss by breach of a  
754 building or construction contract, upon the rendition of a  
755 judgment or decree by any of the courts of this state against  
756 the surety insurer and in favor of the owner, contractor,  
757 subcontractor, laborer, or materialman, the trial court or, in  
758 the event of an appeal in which the owner, contractor,  
759 subcontractor, laborer, or materialman prevails, the appellate  
760 court, shall adjudge or decree against the surety insurer and in  
761 favor of the owner, contractor, subcontractor, laborer, or  
762 materialman a reasonable sum as fees or compensation for the  
763 attorney prosecuting the suit in which the recovery is had.  
764 ~~Owners, contractors, subcontractors, laborers, and materialmen~~  
765 ~~shall be deemed to be insureds or beneficiaries for the purposes~~  
766 ~~of this section.~~

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

769 475.01 Definitions.—

770 (1) As used in this part:

771 (a) "Broker" means a person who, for another, and for a  
772 compensation or valuable consideration directly or indirectly  
773 paid or promised, expressly or impliedly, or with an intent to  
774 collect or receive a compensation or valuable consideration  
775 therefor, appraises, auctions, sells, exchanges, buys, rents, or

776 offers, attempts or agrees to appraise, auction, or negotiate  
 777 the sale, exchange, purchase, or rental of business enterprises  
 778 or business opportunities or any real property or any interest  
 779 in or concerning the same, including mineral rights or leases,  
 780 or who advertises or holds out to the public by any oral or  
 781 printed solicitation or representation that she or he is engaged  
 782 in the business of appraising, auctioning, buying, selling,  
 783 exchanging, leasing, or renting business enterprises or business  
 784 opportunities or real property of others or interests therein,  
 785 including mineral rights, or who takes any part in the procuring  
 786 of sellers, purchasers, lessors, or lessees of business  
 787 enterprises or business opportunities or the real property of  
 788 another, or leases, or interest therein, including mineral  
 789 rights, or who directs or assists in the procuring of prospects  
 790 or in the negotiation or closing of any transaction which does,  
 791 or is calculated to, result in a sale, exchange, or leasing  
 792 thereof, and who receives, expects, or is promised any  
 793 compensation or valuable consideration, directly or indirectly  
 794 therefor; and all persons who advertise rental property  
 795 information or lists. A broker renders a professional service  
 796 and is a professional within the meaning of s. 95.11(4) (b) ~~s.~~  
 797 ~~95.11(4) (a)~~. Where the term "appraise" or "appraising" appears  
 798 in the definition of the term "broker," it specifically excludes  
 799 those appraisal services which must be performed only by a  
 800 state-licensed or state-certified appraiser, and those appraisal



801 services which may be performed by a registered trainee  
 802 appraiser as defined in part II. The term "broker" also includes  
 803 any person who is a general partner, officer, or director of a  
 804 partnership or corporation which acts as a broker. The term  
 805 "broker" also includes any person or entity who undertakes to  
 806 list or sell one or more timeshare periods per year in one or  
 807 more timeshare plans on behalf of any number of persons, except  
 808 as provided in ss. 475.011 and 721.20.

809 (j) "Sales associate" means a person who performs any act  
 810 specified in the definition of "broker," but who performs such  
 811 act under the direction, control, or management of another  
 812 person. A sales associate renders a professional service and is  
 813 a professional within the meaning of s. 95.11(4)(b) ~~s.~~  
 814 ~~95.11(4)(a)~~.

815 Section 14. Paragraph (h) of subsection (1) of section  
 816 475.611, Florida Statutes, is amended to read:

817 475.611 Definitions.—

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

819 (h) "Appraiser" means any person who is a registered  
 820 trainee real estate appraiser, a licensed real estate appraiser,  
 821 or a certified real estate appraiser. An appraiser renders a  
 822 professional service and is a professional within the meaning of  
 823 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

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

826           517.191 Injunction to restrain violations; civil  
827 penalties; enforcement by Attorney General.—

828           (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an  
829 enforcement action brought under this section based on a  
830 violation of any provision of this chapter or any rule or order  
831 issued under this chapter shall be brought within 6 years after  
832 the facts giving rise to the cause of action were discovered or  
833 should have been discovered with the exercise of due diligence,  
834 but not more than 8 years after the date such violation  
835 occurred.

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

838           624.123 Certain international health insurance policies;  
839 exemption from code.—

840           (4) Any international health insurance policy or  
841 application solicited, provided, entered into, issued, or  
842 delivered pursuant to this subsection is exempt from all  
843 provisions of the insurance code, except that such policy,  
844 contract, or agreement is subject to the provisions of ss.  
845 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,  
846 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,  
847 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

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

850           624.488 Applicability of related laws.—In addition to

851 other provisions of the code cited in ss. 624.460-624.488:

852 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,  
 853 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~  
 854 627.702, and 627.706; part XI of chapter 627; ss. 627.912,  
 855 627.913, and 627.918;

856  
 857 apply to self-insurance funds. Only those sections of the code  
 858 that are expressly and specifically cited in ss. 624.460-624.489  
 859 apply to self-insurance funds.

860 Section 18. Paragraph (b) of subsection (3) of section  
 861 627.062, Florida Statutes, is amended to read:

862 627.062 Rate standards.—

863 (3)

864 (b) Individual risk rates and modifications to existing  
 865 approved forms are not subject to this part or part II, except  
 866 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
 867 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
 868 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
 869 627.4265, and 627.427, ~~and 627.428,~~ but are subject to all other  
 870 applicable provisions of this code and rules adopted thereunder.

871 Section 19. Subsections (3), (4), and (5) of section  
 872 627.401, Florida Statutes, are amended to read:

873 627.401 Scope of this part.—No provision of this part of  
 874 this chapter applies to:

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

876 | 627.409 and, ~~627.420, and 627.428.~~

877 |       (4) Title insurance, except ss. 627.406, 627.415, 627.416,  
878 | 627.419, and ~~627.427, and 627.428.~~

879 |       (5) Credit life or credit disability insurance, except s.  
880 | 627.419(5) ~~ss. 627.419(5) and 627.428.~~

881 |       Section 20. Subsection (2) of section 627.441, Florida  
882 | Statutes, is amended to read:

883 |       627.441 Commercial general liability policies; coverage to  
884 | contractors for completed operations.—

885 |       (2) A liability insurer must offer coverage at an  
886 | appropriate additional premium for liability arising out of  
887 | current or completed operations under an owner-controlled  
888 | insurance program for any period beyond the period for which the  
889 | program provides liability coverage, as specified in s.

890 | 255.0517(2)(b). The period of such coverage must be sufficient  
891 | to protect against liability arising out of an action brought  
892 | within the time limits provided in s. 95.11(3)(b) ~~s.~~  
893 | ~~95.11(3)(c).~~

894 |       Section 21. Subsection (8) of section 627.727, Florida  
895 | Statutes, is amended to read:

896 |       627.727 Motor vehicle insurance; uninsured and  
897 | underinsured vehicle coverage; insolvent insurer protection.—

898 |       ~~(8) The provisions of s. 627.428 do not apply to any~~  
899 | ~~action brought pursuant to this section against the uninsured~~  
900 | ~~motorist insurer unless there is a dispute over whether the~~

901 ~~policy provides coverage for an uninsured motorist proven to be~~  
 902 ~~liable for the accident.~~

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

905 627.736 Required personal injury protection benefits;  
 906 exclusions; priority; claims.—

907 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—  
 908 With respect to any dispute under the provisions of ss. 627.730–  
 909 627.7405 between the insured and the insurer, or between an  
 910 assignee of an insured's rights and the insurer, the provisions  
 911 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in  
 912 subsections (10) and (15), and except that any attorney fees  
 913 recovered must:

914 (a) Comply with prevailing professional standards;

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

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

920  
 921 Upon request by either party, a judge must make written  
 922 findings, substantiated by evidence presented at trial or any  
 923 hearings associated therewith, that any award of attorney fees  
 924 complies with this subsection. ~~Notwithstanding s. 627.428,~~  
 925 Attorney fees recovered under ss. 627.730–627.7405 must be

926 | calculated without regard to a contingency risk multiplier.

927 |       Section 23. Subsection (4) of section 628.6016, Florida  
928 | Statutes, is amended to read:

929 |       628.6016 Applicability of related laws.—In addition to  
930 | other provisions of the code cited in ss. 628.6011–628.6018:

931 |       (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,  
932 | 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~  
933 | 627.702, and 627.706; part XI of chapter 627; ss. 627.912,  
934 | 627.913, and 627.918; and

935 |  
936 | apply to assessable mutual insurers; however, ss. 628.255,  
937 | 628.411, and 628.421 do not apply. No section of the code not  
938 | expressly and specifically cited in ss. 628.6011–628.6018  
939 | applies to assessable mutual insurers. The term "assessable  
940 | mutual insurer" shall be substituted for the term "commercial  
941 | self-insurer" as appropriate.

942 |       Section 24. Section 631.70, Florida Statutes, is repealed.

943 |       Section 25. Section 631.926, Florida Statutes, is  
944 | repealed.

945 |       Section 26. Subsection (11) of section 632.638, Florida  
946 | Statutes, is amended to read:

947 |       632.638 Applicability of other code provisions.—In  
948 | addition to other provisions contained or referred to in this  
949 | chapter, the following chapters and provisions of this code  
950 | apply to fraternal benefit societies, to the extent applicable

951 and not in conflict with the express provisions of this chapter  
952 and the reasonable implications thereof:

953 ~~(11) Section 627.428;~~

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

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

960 Section 29. This act shall not be construed to impair any  
961 right under an insurance contract in effect on or before the  
962 effective date of this act. To the extent that this act affects  
963 a right under an insurance contract, this act applies to an  
964 insurance contract issued or renewed after the effective date of  
965 this act.

966 Section 30. Except as otherwise expressly provided in this  
967 act, this act shall apply to causes of action filed after the  
968 effective date of this act.

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