



848012

LEGISLATIVE ACTION

Senate

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House

Senator Brodeur moved the following:

Senate Amendment (with title amendment)

Delete lines 71 - 192

and insert:

(b) Notwithstanding the limited waiver of sovereign immunity provided herein, the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it in excess of the waiver provided in paragraph (a) without further action by the Legislature. However, ~~but~~ the state or an agency or subdivision thereof may ~~shall~~ not be deemed to have



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12 waived any defense of sovereign immunity or to have increased
13 the limits of its liability as a result of its obtaining
14 insurance coverage for tortious acts in excess of the \$200,000
15 ~~or \$300,000~~ waiver provided in paragraph (a) above.

16 (c) The limitations of liability set forth in this
17 subsection shall apply to the state and its agencies and
18 subdivisions whether or not the state or its agencies or
19 subdivisions possessed sovereign immunity before July 1, 1974.

20 (d) ~~(b)~~ A municipality has a duty to allow the municipal law
21 enforcement agency to respond appropriately to protect persons
22 and property during a riot or an unlawful assembly based on the
23 availability of adequate equipment to its municipal law
24 enforcement officers and relevant state and federal laws. If the
25 governing body of a municipality or a person authorized by the
26 governing body of the municipality breaches that duty, the
27 municipality is civilly liable for any damages, including
28 damages arising from personal injury, wrongful death, or
29 property damages proximately caused by the municipality's breach
30 of duty. The sovereign immunity recovery limits in paragraph (a)
31 do not apply to an action under this paragraph.

32 (e) When determining liability limits for a claim, the
33 limitations of liability in effect on the date when the claim
34 incident occurred apply to the claim.

35 (f) Beginning July 1, 2029, and on July 1 every 5 years
36 thereafter, the Department of Financial Services shall adjust
37 the limitations of liability in this subsection to reflect
38 changes in the Consumer Price Index for the Southeast or a
39 successor index as calculated by the United States Department of
40 Labor, not to exceed 3 percent for any such adjustment.



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41 (6) (a) An action may not be instituted on a claim against
42 the state or one of its agencies or subdivisions unless the
43 claimant presents the claim in writing to the appropriate
44 agency, and also, except as to any claim against a municipality,
45 county, or the Florida Space Authority, presents such claim in
46 writing to the Department of Financial Services, within 3 years
47 for a claim that accrues before October 1, 2024, or within 18
48 months for a claim that accrues on or after October 1, 2024,
49 ~~after such claim accrues~~ and the Department of Financial
50 Services or the appropriate agency denies the claim in writing;
51 except that, if:

52 1. Such claim is for contribution pursuant to s. 768.31, it
53 must be so presented within 6 months after the judgment against
54 the tortfeasor seeking contribution has become final by lapse of
55 time for appeal or after appellate review or, if there is no
56 such judgment, within 6 months after the tortfeasor seeking
57 contribution has either discharged the common liability by
58 payment or agreed, while the action is pending against her or
59 him, to discharge the common liability; ~~or~~

60 2. Such action arises from a violation of s. 794.011 which
61 occurred on or after October 1, 2024, involving a victim who was
62 younger than 16 years of age at the time of the act, the
63 claimant may present the claim in writing at any time pursuant
64 to s. 95.11(9); or

65 3. Such action arises from a claim ~~is~~ for wrongful death
66 that accrued before October 1, 2024, the claimant must present
67 the claim in writing to the Department of Financial Services
68 within 2 years after the claim accrues.

69 (d) For purposes of this section, complete, accurate, and



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70 timely compliance with the requirements of paragraph (c) shall
71 occur prior to settlement payment, close of discovery or
72 commencement of trial, whichever is sooner; provided the ability
73 to plead setoff is not precluded by the delay. This setoff shall
74 apply only against that part of the settlement or judgment
75 payable to the claimant, minus claimant's reasonable attorney's
76 fees and costs. Incomplete or inaccurate disclosure of unpaid
77 adjudicated claims due the state, its agency, officer, or
78 subdivision, may be excused by the court upon a showing by the
79 preponderance of the evidence of the claimant's lack of
80 knowledge of an adjudicated claim and reasonable inquiry by, or
81 on behalf of, the claimant to obtain the information from public
82 records. Unless the appropriate agency had actual notice of the
83 information required to be disclosed by paragraph (c) in time to
84 assert a setoff, an unexcused failure to disclose shall, upon
85 hearing and order of court, cause the claimant to be liable for
86 double the original undisclosed judgment and, upon further
87 motion, the court shall enter judgment for the agency in that
88 amount. Except as provided otherwise in this subsection, the
89 failure of the Department of Financial Services or the
90 appropriate agency to make final disposition of a claim within 4
91 ~~6~~ months after it is filed shall be deemed a final denial of the
92 claim for purposes of this section. For purposes of this
93 subsection, in medical malpractice actions and in wrongful death
94 actions, the failure of the Department of Financial Services or
95 the appropriate agency to make final disposition of a claim
96 within 90 days after it is filed shall be deemed a final denial
97 of the claim. The statute of limitations ~~for medical malpractice~~
98 ~~actions and wrongful death actions~~ is tolled as to all



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99 prospective defendants for the period of time taken by the
100 Department of Financial Services or the appropriate agency to
101 deny the claim. The claimant has 60 days after the date of the
102 Department of Financial Services' or the appropriate agency's
103 final disposition of a claim or the date at which final denial
104 of the claim is deemed to have occurred, or the remainder of the
105 period of the statute of limitations, whichever is greater,
106 within which to file suit. The provisions of this subsection do
107 not apply to such claims as may be asserted by counterclaim
108 pursuant to s. 768.14.

109 (14) Every claim against the state or one of its agencies
110 or subdivisions for damages for a negligent or wrongful act or
111 omission pursuant to this section shall be forever barred unless
112 the civil action is commenced by filing a complaint in the court
113 of appropriate jurisdiction:

114 (a)1. Within 4 years for an action founded on negligence or
115 an action arising from acts constituting a violation of s.
116 794.011 involving a victim who was younger than 16 years of age
117 pursuant to s. 95.11(9) which accrued before October 1, 2024.

118 2. Within 2 years for an action founded on negligence that
119 accrues on or after October 1, 2024.

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

122 (c) Within the limitations provided in s. 95.11(4) for an
123 action for damages arising from medical malpractice or wrongful
124 death.

125 (d) At any time for an action arising from acts
126 constituting a violation of s. 794.011 that accrued on or after
127 October 1, 2024, involving a victim who



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

And the title is amended as follows:

Delete lines 5 - 26

and insert:

and its agencies and subdivisions; providing that any liability limits for a claim are those that were in effect on the date in which the claim incident occurred; requiring the Department of Financial Services, beginning on a specified date and every 5 years thereafter, to adjust the limitations of liability for claims, not to exceed a certain percentage for each such adjustment; revising the period within which certain claims must be presented to certain entities; revising exceptions relating to instituting actions on tort claims against the state or one of its agencies or subdivisions; revising the statute of