

By Senator McClain

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1 A bill to be entitled
2 An act relating to community-based care lead agency
3 and subcontractor liability; amending s. 409.993,
4 F.S.; revising the minimum per occurrence and
5 aggregate limit amounts of general liability insurance
6 coverage that must be obtained as a part of certain
7 contracts; reducing the limit on net economic damages
8 in tort actions brought against community-based care
9 lead agencies or employees; providing that a
10 community-based care lead agency and its
11 subcontractors are not liable for certain claims and
12 judgments arising out of a given incident or
13 occurrence when such claims or judgments exceed a
14 specified aggregate amount; providing a limitation on
15 attorney fees; deleting provisions requiring an annual
16 increase in conditional limitations on damages;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraph (a) of subsection (2), paragraph (a)
22 of subsection (3), and subsection (4) of section 409.993,
23 Florida Statutes, are amended to read:

24 409.993 Lead agencies and subcontractor liability.—

25 (2) LEAD AGENCY LIABILITY.—

26 (a) Other than an entity to which s. 768.28 applies, an
27 eligible community-based care lead agency, or its employees or
28 officers, except as otherwise provided in paragraph (b), shall,
29 as a part of its contract, obtain a minimum of \$500,000 ~~±~~

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30 ~~million~~ per occurrence with a policy period aggregate limit of
31 \$1 ~~\$3~~ million in general liability insurance coverage. The lead
32 agency must also require that staff who transport client
33 children and families in their personal automobiles in order to
34 carry out their job responsibilities obtain minimum bodily
35 injury liability insurance in the amount of \$100,000 per person
36 per any one automobile accident, and subject to such limits for
37 each person, \$300,000 for all damages resulting from any one
38 automobile accident, on their personal automobiles. In lieu of
39 personal motor vehicle insurance, the lead agency's casualty,
40 liability, or motor vehicle insurance carrier may provide
41 nonowned automobile liability coverage. This insurance provides
42 liability insurance for an automobile that the lead agency uses
43 in connection with the lead agency's business but does not own,
44 lease, rent, or borrow. This coverage includes an automobile
45 owned by an employee of the lead agency or a member of the
46 employee's household but only while the automobile is used in
47 connection with the lead agency's business. The nonowned
48 automobile coverage for the lead agency applies as excess
49 coverage over any other collectible insurance. The personal
50 automobile policy for the employee of the lead agency shall be
51 primary insurance, and the nonowned automobile coverage of the
52 lead agency acts as excess insurance to the primary insurance.
53 The lead agency shall provide a minimum limit of \$1 million in
54 nonowned automobile coverage. In a tort action brought against
55 such a lead agency or employee, net economic damages are ~~shall~~
56 ~~be~~ limited to \$1 ~~\$2~~ million per liability claim and \$200,000 per
57 automobile claim, including, but not limited to, past and future
58 medical expenses, wage loss, and loss of earning capacity,

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59 offset by any collateral source payment paid or payable. In any
60 tort action brought against a lead agency, noneconomic damages
61 are shall be limited to \$400,000 per claim. The lead agency is
62 not liable for any claim or judgment, or any portion thereof,
63 which, when totaled with all other claims or judgments paid by
64 the lead agency or its subcontractors or their officers or
65 employees arising out of the same incident or occurrence,
66 exceeds \$1.5 million. A claims bill may be brought on behalf of
67 a claimant pursuant to s. 768.28 for any amount exceeding the
68 limits specified in this paragraph. Any offset of collateral
69 source payments made as of the date of the settlement or
70 judgment must shall be in accordance with s. 768.76. The lead
71 agency is not liable in tort for the acts or omissions of its
72 subcontractors or the officers, agents, or employees of its
73 subcontractors.

74 (3) SUBCONTRACTOR LIABILITY.—

75 (a) A subcontractor of an eligible community-based care
76 lead agency that is a direct provider of foster care and related
77 services to children and families, and its employees or
78 officers, except as otherwise provided in paragraph (b), must,
79 as a part of its contract, obtain a minimum of \$500,000 ~~\$1~~
80 ~~million~~ per occurrence with a policy period aggregate limit of
81 \$1 ~~\$3~~ million in general liability insurance coverage. The
82 subcontractor of a lead agency must also require that staff who
83 transport client children and families in their personal
84 automobiles in order to carry out their job responsibilities
85 obtain minimum bodily injury liability insurance in the amount
86 of \$100,000 per person in any one automobile accident, and
87 subject to such limits for each person, \$300,000 for all damages

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88 resulting from any one automobile accident, on their personal
89 automobiles. In lieu of personal motor vehicle insurance, the
90 subcontractor's casualty, liability, or motor vehicle insurance
91 carrier may provide nonowned automobile liability coverage. This
92 insurance provides liability insurance for automobiles that the
93 subcontractor uses in connection with the subcontractor's
94 business but does not own, lease, rent, or borrow. This coverage
95 includes automobiles owned by the employees of the subcontractor
96 or a member of the employee's household but only while the
97 automobiles are used in connection with the subcontractor's
98 business. The nonowned automobile coverage for the subcontractor
99 applies as excess coverage over any other collectible insurance.
100 The personal automobile policy for the employee of the
101 subcontractor shall be primary insurance, and the nonowned
102 automobile coverage of the subcontractor acts as excess
103 insurance to the primary insurance. The subcontractor shall
104 provide a minimum limit of \$1 million in nonowned automobile
105 coverage. In a tort action brought against such subcontractor or
106 employee, net economic damages are ~~shall be~~ limited to \$1 ~~\$2~~
107 million per liability claim and \$200,000 per automobile claim,
108 including, but not limited to, past and future medical expenses,
109 wage loss, and loss of earning capacity, offset by any
110 collateral source payment paid or payable. In a tort action
111 brought against such subcontractor, noneconomic damages are
112 ~~shall be~~ limited to \$400,000 per claim. The subcontractor of a
113 lead agency is not liable for any claim or judgment, or any
114 portion thereof, which, when totaled with all other claims or
115 judgments paid by the lead agency or its subcontractors or their
116 officers or employees arising out of the same incident or

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117 occurrence, exceeds \$1.5 million. A claims bill may be brought
118 on behalf of a claimant pursuant to s. 768.28 for any amount
119 exceeding the limits specified in this paragraph. Any offset of
120 collateral source payments made as of the date of the settlement
121 or judgment must ~~shall~~ be in accordance with s. 768.76.

122 (4) ATTORNEY FEES.—An attorney may not charge, demand,
123 receive, or collect for services rendered fees in excess of 25
124 percent of any such settlement or judgment ~~LIMITATIONS ON~~
125 ~~DAMAGES.~~ The Legislature is cognizant of the increasing costs of
126 goods and services each year and recognizes that fixing a set
127 amount of compensation has the effect of a reduction in
128 compensation each year. Accordingly, the conditional limitations
129 on damages in this section shall be increased at the rate of 5
130 percent each year, prorated from July 1, 2014, to the date at
131 which damages subject to such limitations are awarded by final
132 judgment or settlement.

133 Section 2. This act shall take effect July 1, 2025.