

1                   A bill to be entitled  
2     An act relating to civil actions; amending s. 376.308,  
3     F.S.; providing conditions for a cause of action  
4     against certain former phosphate mine sites; creating  
5     s. 378.213, F.S.; authorizing landowners to record  
6     certain notice of former phosphate mines; specifying  
7     requirements for such notice; defining the term  
8     "former phosphate mine"; creating s. 404.0561, F.S.;  
9     requiring the Department of Health to conduct gamma  
10    radiation surveys of former phosphate land parcels  
11    upon petition; creating s. 768.405, F.S.; requiring  
12    that specified documentation of radiation levels be  
13    submitted in certain civil actions related to  
14    phosphate mining; amending s. 624.1552, F.S.; revising  
15    the applicability of the offer of judgment and demand  
16    for judgment provisions to civil actions involving an  
17    insurance contract; creating s. 626.9375, F.S.;  
18    requiring the award of prevailing party attorney fees  
19    in certain civil actions involving surplus lines  
20    insurers; providing guidelines to determine prevailing  
21    parties; defining the term "judgment"; providing a  
22    specified circumstance under which a settlement offer  
23    is not a good faith settlement offer; specifying the  
24    applicability of the offer of judgment and demand for  
25    judgment provisions if prevailing party attorney fees

26        apply; creating s. 627.4275, F.S.; requiring the award  
27        of prevailing party attorney fees in certain civil  
28        actions involving insurers; providing guidelines to  
29        determine prevailing parties; defining the term  
30        "judgment"; providing a specified circumstance under  
31        which a settlement offer is not a good faith  
32        settlement offer; specifying the applicability of the  
33        offer of judgment and demand for judgment provisions  
34        if prevailing party attorney fees apply; amending ss.  
35        624.123, 624.488, 627.062, 627.401, 627.727, and  
36        627.736, F.S.; providing for the applicability of the  
37        prevailing party attorney fee provision to specified  
38        insurers, insurance policies or coverage types, and  
39        rate standards; amending s. 627.756, F.S.; providing  
40        for the applicability of the prevailing party attorney  
41        fee provision to suits brought by certain entities  
42        against surety insurers under certain circumstances;  
43        providing that such entities are deemed insureds or  
44        beneficiaries for specified purposes; amending ss.  
45        628.6016 and 632.638, F.S.; providing for the  
46        applicability of the prevailing party attorney fee  
47        provision to assessable mutual insurers and fraternal  
48        benefit societies, respectively; creating ss. 631.696  
49        and 631.9245, F.S.; providing for the applicability of  
50        the prevailing party attorney fee provision to claims

presented to specified guaranty associations; amending  
s. 768.0427, F.S.; providing evidence that is  
admissible to demonstrate past and future medical  
expenses in personal injury and wrongful death  
actions; providing applicability and construction;  
providing an effective date.

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

**Section 1. Paragraph (e) is added to subsection (2) of  
section 376.308, Florida Statutes, to read:**

376.308 Liabilities and defenses of facilities.—

(2) In addition to the defense described in paragraph  
(1)(c), the only other defenses of a person specified in  
subsection (1) are to plead and prove that the occurrence was  
solely the result of any of the following or any combination of  
the following:

(e) The condition giving rise to the cause of action is a  
natural geological substance of a former phosphate mine, as  
defined in s. 378.213, for which:

1. A notice has been recorded in accordance with s.  
378.213(1); and

2. The Department of Health has conducted a survey under  
s. 404.0561(1).

**Section 2. Section 378.213, Florida Statutes, is created**

76 **to read:**

77 378.213 Notice of former phosphate mine site.—

78 (1) A landowner may record a notice in the official  
79 records of the county in which the land is located which  
80 identifies the landowner's property as a former phosphate mine.  
81 The recorded notice must be in substantially the following form:

82  
83 NOTICE

84 This property is a former phosphate mine as defined in s.  
85 378.213(2), Florida Statutes.

86  
87 Such recording serves as notice that the land is a former  
88 phosphate mine.

89 (2) As used in this section, the term "former phosphate  
90 mine" means an area of land upon which phosphate mining has been  
91 conducted and which may have been subject to a radiation survey  
92 in accordance with s. 404.0561 and state reclamation  
93 requirements of ss. 378.201-378.212, but does not include a  
94 phosphogypsum stack as defined in s. 403.4154(1).

95 **Section 3. Section 404.0561, Florida Statutes, is created**  
96 **to read:**

97 404.0561 Survey of former phosphate mining lands.—

98 (1) Upon petition by a current landowner, the department  
99 shall conduct a gamma radiation survey of a former phosphate  
100 land parcel within 120 days after receipt of the petition to

101 determine the radioactivity levels. The survey must document  
102 gamma radiation exposure measurements and the locations of the  
103 measurements.

104 (2) The department shall provide a copy of the preliminary  
105 survey results to the petitioner within 30 days after completion  
106 of the survey. Within 60 days after receipt of the survey, the  
107 petitioner may request an additional survey based upon any  
108 reasonable belief that the survey was flawed or not  
109 representative of conditions on the site. The department shall  
110 conduct one additional survey within 90 days after receipt of  
111 the petitioner's request. The additional survey must meet the  
112 requirements of this section and is deemed final within 90 days  
113 after completion.

114 **Section 4. Section 768.405, Florida Statutes, is created**  
115 **to read:**

116 768.405 Documentation of radiation levels.—In any civil  
117 action based on strict liability under s. 376.313(3), negligence  
118 or similar conduct related to an alleged discharge of hazardous  
119 substances or condition of pollution related to phosphate  
120 mining, including the presence of mining overburden, solid waste  
121 from the extraction, or beneficiation of phosphate rock from a  
122 phosphate mine; or any other similar claim related to the mining  
123 of phosphatic rock or reclamation of a mined area, the plaintiff  
124 must include a radiation survey of the property with the  
125 complaint. The survey must be prepared by a person certified as

126 either a health physicist by the American Board of Health  
127 Physics or as a radiation protection technologist by the  
128 National Registry of Radiation Protection Technologists. The  
129 survey must be representative and document the measured gamma  
130 radiation on the property, including background values  
131 determined in accordance with the Environmental Protection  
132 Agency's Multi-agency Radiation Survey and Site Investigation  
133 Manual; the locations of the measurements; the testing  
134 equipment; testing methodology used, including the equipment  
135 calibration date and protocol; and the name of the person  
136 performing the survey and describe the person's relevant  
137 training, education, and experience. The survey shall be  
138 verified under penalty of perjury as provided in s. 92.525.

139 **Section 5. Section 624.1552, Florida Statutes, is amended**  
140 **to read:**

141 624.1552 Civil actions involving an insurance contract;  
142 applicability of offer of judgment provisions.—Section 768.79  
143 applies ~~The provisions of s. 768.79 apply~~ to any civil action  
144 involving an insurance contract, except a civil action to which  
145 s. 626.9375 or s. 627.4275 applies.

146 **Section 6. Section 626.9375, Florida Statutes, is created**  
147 **to read:**

148 626.9375 Attorney fees.—

149 (1) Except as otherwise provided by law, in any civil  
150 action between a surplus lines insurer and a named or omnibus

151 insured or the named beneficiary under an insurance policy or  
152 contract executed by the insurer, the court shall award  
153 reasonable attorney fees to the prevailing party. For purposes  
154 of this subsection:

155 (a) In an action for declaratory relief to determine  
156 insurance coverage:

157 1. The prevailing party is the insured or the beneficiary  
158 if the court enters a declaratory judgment in favor of such  
159 party.

160 2. The prevailing party is the insurer if the court enters  
161 a declaratory judgment in favor of such party.

162 (b) In an action for damages:

163 1. The prevailing party is the insured or named  
164 beneficiary if such party obtains a judgment that is greater  
165 than the highest written, good faith settlement offer previously  
166 made by the insurer.

167 2. The prevailing party is the insurer if the insured or  
168 named beneficiary does not obtain a judgment that is greater  
169 than the highest written, good faith settlement offer previously  
170 made by the insurer.

171 (c) For purposes of paragraph (b):

172 1. The term "judgment" includes damages and any reasonable  
173 attorney fees, taxable costs, and prejudgment interest that the  
174 insured had incurred when the highest written, good faith  
175 settlement offer was previously made by the insurer.

176        2. A settlement offer made by the insurer which is not  
177 kept open for at least 5 business days is not a good faith  
178 settlement offer. If the insurer fails to make any good faith  
179 settlement offer, then the settlement offer amount is deemed to  
180 be zero for purposes of this subsection.

181        (d) Notwithstanding any other provision in this section,  
182 the prevailing party in an action for damages is the insurer if  
183 the insured or a named beneficiary is not awarded any damages.

184        (e) This section does not apply to any action governed by  
185 s. 86.121.

186        (2) If subsection (1) applies to a civil action involving  
187 an insurance policy or contract, s. 768.79 does not apply.

188        **Section 7. Section 627.4275, Florida Statutes, is created**  
189 **to read:**

190        627.4275 Attorney fees.—

191        (1) Except as otherwise provided by law, in any civil  
192 action between an insurer and a named or omnibus insured or the  
193 named beneficiary under an insurance policy or contract executed  
194 by the insurer, the court shall award reasonable attorney fees  
195 to the prevailing party. For purposes of this subsection:

196        (a) In an action for declaratory relief to determine  
197 insurance coverage:

198        1. The prevailing party is the insured or the beneficiary  
199 if the court enters a declaratory judgment in favor of such  
200 party.



201        2. The prevailing party is the insurer if the court enters  
202 a declaratory judgment in favor of such party.

203        (b) In an action for damages:

204        1. The prevailing party is the insured or named  
205 beneficiary if such party obtains a judgment that is greater  
206 than the highest written, good faith settlement offer previously  
207 made by the insurer.

208        2. The prevailing party is the insurer if the insured or  
209 named beneficiary does not obtain a judgment that is greater  
210 than the highest written, good faith settlement offer previously  
211 made by the insurer.

212        (c) For purposes of paragraph (b):

213        1. The term "judgment" includes damages and any reasonable  
214 attorney fees, taxable costs, and prejudgment interest that the  
215 insured had incurred when the highest written, good faith  
216 settlement offer was previously made by the insurer.

217        2. A settlement offer made by the insurer which is not  
218 kept open for at least 5 business days is not a good faith  
219 settlement offer. If the insurer fails to make any good faith  
220 settlement offer, then the settlement offer amount is deemed to  
221 be zero for purposes of this subsection.

222        (d) Notwithstanding any other provision in this section,  
223 the prevailing party in an action for damages is the insurer if  
224 the insured or a named beneficiary is not awarded any damages.

225        (e) This section does not apply to any action governed by

226 s. 86.121.

227 (2) If subsection (1) applies to a civil action involving  
228 an insurance policy or contract, s. 768.79 does not apply.

229 **Section 8. Subsection (4) of section 624.123, Florida**  
230 **Statutes, is amended to read:**

231 624.123 Certain international health insurance policies;  
232 exemption from code.—

233 (4) Any international health insurance policy or  
234 application solicited, provided, entered into, issued, or  
235 delivered pursuant to this subsection is exempt from all  
236 provisions of the insurance code, except that such policy,  
237 contract, or agreement is subject to ~~the provisions of ss.~~  
238 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,  
239 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,  
240 626.9601, 627.413, 627.4145, 627.4275, and 627.6043.

241 **Section 9. Subsection (4) of section 624.488, Florida**  
242 **Statutes, is amended to read:**

243 624.488 Applicability of related laws.—In addition to  
244 other provisions of the code cited in ss. 624.460-624.488:

245 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,  
246 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, 627.4275,  
247 627.702, and 627.706; part XI of chapter 627; ss. 627.912,  
248 627.913, and 627.918;

249  
250 apply to self-insurance funds. Only those sections of the code

that are expressly and specifically cited in ss. 624.460-624.489 apply to self-insurance funds.

**Section 10. Paragraph (b) of subsection (3) of section 627.062, Florida Statutes, is amended to read:**

627.062 Rate standards.—

(3)

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, ~~and 627.427,~~ and 627.4275, but are subject to all other applicable provisions of this code and rules adopted thereunder.

**Section 11. Subsections (3), (4), and (5) of section 627.401, Florida Statutes, are amended to read:**

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

(3) Wet marine and transportation insurance, except ss. 627.409, ~~and 627.420,~~ and 627.4275.

(4) Title insurance, except ss. 627.406, 627.415, 627.416, 627.419, ~~and 627.427,~~ and 627.4275.

(5) Credit life or credit disability insurance, except ss. 627.419(5) and 627.4275 ~~s. 627.419(5).~~

**Section 12. Subsection (10) is added to section 627.727,**

**Florida Statutes, to read:**

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

(10) Section 627.4275 does not apply to any action brought pursuant to this section against the uninsured motorist insurer unless there is a dispute over whether the policy provides coverage for an uninsured motorist proven to be liable for the accident.

**Section 13. Subsection (8) of section 627.736, Florida Statutes, is amended to read:**

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

(8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.— With respect to any dispute under ~~the provisions of~~ ss. 627.730-627.7405 between the insured and the insurer, or between an assignee of an insured's rights and the insurer, s. 627.4275 applies ~~the provisions of s. 768.79 apply~~, except as provided in subsections (10) and (15), and except that any attorney fees recovered must:

(a) Comply with prevailing professional standards;

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

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

301  
302 Upon request by either party, a judge must make written  
303 findings, substantiated by evidence presented at trial or any  
304 hearings associated therewith, that any award of attorney fees  
305 complies with this subsection. Attorney fees recovered under ss.  
306 627.730-627.7405 must be calculated without regard to a  
307 contingency risk multiplier.

308 **Section 14. Subsection (1) of section 627.756, Florida**  
309 **Statutes, is amended to read:**

310 627.756 Bonds for construction contracts; attorney fees in  
311 case of suit.—

312 (1) Section 627.4275 applies to ~~In~~ a suit brought by an  
313 owner, a contractor, a subcontractor, a laborer, or a  
314 materialman against a surety insurer under payment or  
315 performance bonds written by the insurer under the laws of this  
316 state to indemnify against pecuniary loss by breach of a  
317 building or construction contract. Owners, contractors,  
318 subcontractors, laborers, and materialmen are deemed to be  
319 insureds or beneficiaries for the purposes of this section, ~~upon~~  
320 ~~the rendition of a judgment or decree by any of the courts of~~  
321 ~~this state against the surety insurer and in favor of the owner,~~  
322 ~~contractor, subcontractor, laborer, or materialman, the trial~~  
323 ~~court or, in the event of an appeal in which the owner,~~  
324 ~~contractor, subcontractor, laborer, or materialman prevails, the~~  
325 ~~appellate court, shall adjudge or decree against the surety~~

~~insurer and in favor of the owner, contractor, subcontractor, laborer, or materialman a reasonable sum as fees or compensation for the attorney prosecuting the suit in which the recovery is had.~~

**Section 15. Subsection (4) of section 628.6016, Florida Statutes, is amended to read:**

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

(4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418, 627.420, 627.421, 627.425-627.427, 627.4275, 627.702, and 627.706; part XI of chapter 627; ss. 627.912, 627.913, and 627.918; and

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

**Section 16. Section 631.696, Florida Statutes, is created to read:**

631.696 Attorney fees.—Section 627.4275 does not apply to any claim presented to the association under this part, unless the association denies, by affirmative action other than delay, a covered claim or a portion thereof.

351       **Section 17. Section 631.9245, Florida Statutes, is created**  
352 **to read:**

353       631.9245 Attorney fees.—Section 627.4275 does not apply to  
354 any claim presented to the corporation under this part, unless  
355 the corporation denies, by affirmative action other than delay,  
356 a covered claim or a portion thereof.

357       **Section 18. Subsections (11), (12), and (13) of section**  
358 **632.638, Florida Statutes, are renumbered as subsections (12),**  
359 **(13), and (14), respectively, and a new subsection (11) is added**  
360 **to that section, to read:**

361       632.638 Applicability of other code provisions.—In  
362 addition to other provisions contained or referred to in this  
363 chapter, the following chapters and provisions of this code  
364 apply to fraternal benefit societies, to the extent applicable  
365 and not in conflict with the express provisions of this chapter  
366 and the reasonable implications thereof:

367       (11) Section 627.4275;

368       **Section 19. Subsection (2) of section 768.0427, Florida**  
369 **Statutes, is amended to read:**

370       768.0427 Admissibility of evidence to prove medical  
371 expenses in personal injury or wrongful death actions;  
372 disclosure of letters of protection; recovery of past and future  
373 medical expenses damages.—

374       (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE  
375 EXPENSES.—Evidence offered to prove or rebut the amount of

damages for past or future medical treatment or services in a personal injury or wrongful death action shall be ~~is~~ admissible as follows: ~~provided in this subsection.~~

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

(b) Evidence any party may offer ~~offered~~ to prove or rebut the amount necessary to satisfy unpaid charges for incurred medical treatment or services shall include, but is not limited to, evidence as provided in this paragraph.

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

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



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

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

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

4. Evidence of the reasonable and customary rates for such treatment or services rendered by a qualified provider.

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

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

1. If the claimant has health care coverage other than

426 Medicare or Medicaid, or is eligible for any such health care  
427 coverage, evidence of the amount for which the future charges of  
428 health care providers could be satisfied if submitted to such  
429 health care coverage, plus the claimant's share of medical  
430 expenses under the insurance contract or regulation.

431 2. If the claimant does not have health care coverage or  
432 has health care coverage through Medicare or Medicaid, or is  
433 eligible for such health care coverage, evidence of the  
434 reasonable and customary rates for such treatment or services  
435 rendered by a qualified provider ~~120 percent of the Medicare~~  
436 ~~reimbursement rate in effect at the time of trial for the~~  
437 ~~medical treatment or services the claimant will receive, or, if~~  
438 ~~there is no applicable Medicare rate for a service, 170 percent~~  
439 ~~of the applicable state Medicaid rate.~~

440 3. Any evidence of reasonable future amounts to be billed  
441 to the claimant for medically necessary treatment or medically  
442 necessary services.

443 (d) This subsection does not impose an affirmative duty  
444 upon any party to seek a reduction in billed charges to which  
445 the party is not contractually entitled or to offer any specific  
446 evidence made admissible by this subsection.

447 (e) Individual contracts between providers and authorized  
448 commercial insurers or authorized health maintenance  
449 organizations are not subject to discovery or disclosure and are  
450 not admissible into evidence.

451       **Section 20.**   The amendments to s. 768.0427, Florida  
452   Statutes, made by this act apply to all causes of action that  
453   accrued after March 24, 2023, for which a final judgment has not  
454   yet been entered by July 1, 2025.

455       **Section 21.**   The amendments made by this act to ss.  
456   624.123, 624.1552, 624.488, 626.9375, 627.062, 627.401,  
457   627.4275, 627.727, 627.736, 627.756, 628.6016, 631.696,  
458   631.9245, and 632.638, Florida Statutes, apply to an insurance  
459   policy or contract issued on or after July 1, 2025, and may not  
460   be construed to impair or limit any right under an insurance  
461   policy or contract issued before July 1, 2025.

462       **Section 22.**   This act shall take effect July 1, 2025.