

Committee on Banking and Insurance

CS/CS/HB 837— Civil Remedies

by Judiciary Committee; Civil Justice Subcommittee; and Reps. Gregory and Fabricio and others (CS/CS/SB 236 by Fiscal Policy; Banking and Insurance; and Senator Hutson)

The bill (Chapter 2023-15, L.O.F.) makes the following changes to Florida’s civil justice system:

- Provides that a contingency fee multiplier for an attorney fee award is appropriate only in a rare and exceptional circumstance, adopting the federal standard.
- Repeals Florida’s “one-way” attorney fee provisions for insurance cases under which plaintiffs that obtained a favorable judgment against an insurer were entitled to an award of reasonable attorney fees.
- Maintains the ability to award attorney fees to an owner, contractor, subcontractor, laborer or materialman that prevails in a claim against a construction surety bond.
- Creates a limited ability to recover attorney’s fees from an insurance company after a total coverage denial through a declaratory judgment action.
- Reduces the statute of limitations for general negligence cases from four years to two years, while providing protections to servicemembers during terms of active duty which materially affect the servicemember’s ability to appear.
- Changes Florida’s comparative negligence system from a “pure” comparative negligence system to a “modified” comparative negligence system, whereby a plaintiff who is found to be more than 50 percent at fault for his or her own harm may not recover damages from any defendant. The new comparative negligence standard does not apply to causes of action for personal injury or wrongful death arising out of medical negligence.
- Modifies Florida’s “bad faith” framework to:
 - Provide an insurer has no liability for a bad faith involving a liability insurance claim if the insurer tenders the lesser of the policy limits or the amount demanded by the claimant within 90 days after receipt of the claim and sufficient evidence to support the claim.
 - Allow an insurer, if there are multiple claimants in a single action, to limit the insurer’s bad faith liability if, within 90 days after receiving notice of competing claim in excess of the policy limits, the insurer pays the total amount of the policy limits to the court through an interpleader action or, through binding arbitration agreed to by all parties, making the entire policy limits available for payment to the competing third-party claimants.
 - Provide that negligence alone is not enough to demonstrate bad faith.
 - Allow the trier of fact in any bad faith action to consider whether the insureds, claimants, and their representatives acted in good faith with respect to furnishing information, making demands, setting deadlines, and attempting to settle the insurance claim. If such parties did not act in good faith toward the insurer, the trier of fact may reasonably reduce the amount of bad faith damages awarded against the insurer.
- Applies the offer of judgment statute to any civil action involving an insurance contract.
- Specifies that certain evidence is admissible to calculate medical damages in personal injury or wrongful death actions. These changes modify the collateral source rule in a

way that allows the parties to present evidence of actual medical costs or evidence that better approximates medical costs that may be incurred by a claimant.

- Requires the trier of fact in a negligent security action against the owner, lessor, operator, or manager of commercial or real property brought by a person lawfully on the property who was injured by the criminal act of a third party, to consider the fault of all persons who contributed to the injury.
- Provides that the owner or principal operator of a multifamily residential property which substantially implements certain security measures on that property is presumed to not be negligent in connection to a criminal act occurring on the premises which are committed by third parties who are not employees or agents of the owner or operator. The bill requires the Florida Crime Prevention Training Institute of the Department of Legal Affairs to develop a proposed curriculum or best practices for such owners or operators.
- Provides that the new two-year statute of limitations for negligence actions applies prospectively to causes of action accruing after the effective date of the bill, that the remainder of the bill applies to causes of action filed after the effective date, and that the bill shall not be construed to impair any right under an existing insurance contract.

These provisions were approved by the Governor and took effect on March 24, 2023.

Vote: Senate 23-15; House 80-31