



HB 0787

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A bill to be entitled
 An act relating to the City of Hialeah; providing for the relief of Jose Pena, as Personal Representative of the Estate of Carmen Pena, deceased, and individually, as surviving father of Katherine Pena and Richard Pena, deceased minor children of Carmen Pena and Jose Pena; providing for the relief of Johammes Pena, surviving son of Carmen Pena; providing for an appropriation to compensate them for the death of Carmen Pena, Katherine Pena, and Richard Pena as a result of the negligence of the City of Hialeah; providing an effective date.

WHEREAS, on October 21, 1990, Carmen Pena was driving her family car on West 68th Street, near West 26th Drive in the City of Hialeah, and

WHEREAS, riding as passengers in Carmen Pena's car on October 21, 1990, were 6-year-old Katherine Pena, minor child of Carmen Pena and Jose Pena, 12-year-old Richard Pena, minor child of Carmen Pena and Jose Pena, 16-year-old Johammes Pena, minor child of Carmen Pena and Jose Pena, and Jose Pena, ex-husband of Carmen Pena and father of minor children Katherine Pena, Richard Pena, and Johammes Pena, and

WHEREAS, on October 21, 1990, the vehicle being driven by Carmen Pena left the roadway on which she was traveling and hit a dangerously large drop-off as she was attempting to return to the road, which caused Carmen Pena to lose control of her vehicle and veer into a canal, and

WHEREAS, as a result of the accident, Carmen Pena, Katherine Pena, and Richard Pena were killed, and



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30 WHEREAS, on July 15, 1991, a complaint was filed on behalf
31 of the Estates of Carmen Pena, Katherine Pena, and Richard Pena,
32 and on behalf of the surviving father, Jose Pena, and on behalf
33 of the surviving son, Johannes Pena, and

34 WHEREAS, in the complaint, the City of Hialeah was charged
35 with failing to properly inspect and maintain the roadway and
36 shoulder of the roadway, allowing a large and dangerous drop-off
37 to occur on the shoulder, and

38 WHEREAS, on October 28, 1994, the jury returned a verdict
39 against the City of Hialeah finding the City of Hialeah to be 75
40 percent negligent and Carmen Pena to be 25 percent negligent,
41 and

42 WHEREAS, final judgments were entered for Johannes Pena in
43 the amount of \$187,500 for the loss of his mother, Carmen Pena;
44 for Jose Pena in the amount of \$78,395.84 for the loss of his
45 daughter, Katherine Pena; for Jose Pena in the amount of
46 \$242,199.65 for the loss of his son, Richard Pena; and for Jose
47 Pena in the amount of \$784,570.04 for the Estate of Carmen Pena,
48 and

49 WHEREAS, the total amount of the final judgments is
50 \$1,292,665.53, and

51 WHEREAS, costs were awarded in the amount of \$8,395.61, and

52 WHEREAS, the total amount of the net final judgment is
53 \$1,301,061.14, and

54 WHEREAS, the City of Hialeah has paid \$200,000 in
55 accordance with the limits set forth in section 768.28, Florida
56 Statutes, leaving an unpaid judgment in the amount of
57 \$1,101,061.14, NOW, THEREFORE,

58
59 Be It Enacted by the Legislature of the State of Florida:



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Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant payable to Jose Pena, as Personal Representative of the Estate of Carmen Pena, for the total amount of \$592,965.65, for injuries and damages sustained due to the death of Carmen Pena.

Section 3. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant payable to Jose Pena, individually, for the total amount of \$320,595.49 for injuries and damages sustained due to the death of his daughter, Katherine Pena, a minor, and his son, Richard Pena, a minor.

Section 4. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant payable to Johammes Pena, surviving son of Carmen Pena, for the total amount of \$187,500 for injuries and damages sustained due to the death of his mother, Carmen Pena, due to the negligence of the City of Hialeah.

Section 5. This act shall take effect upon becoming a law.