

By Senator Rader

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1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; authorizing political subdivisions to
4 insure for certain amounts to pay certain claims or
5 judgments; providing requirements with respect to such
6 insurance; prohibiting payments in excess of such
7 insurance limits from such political subdivisions;
8 providing a remedy against insurers who act in bad
9 faith; authorizing counties to purchase umbrella
10 policies to insure certain municipalities; authorizing
11 parties to pursue judgments in excess of policy limits
12 under specified circumstances; providing for
13 applicability; providing an effective date.

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

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17 Section 1. Subsection (17) of section 768.28, Florida
18 Statutes, is amended to read:

19 768.28 Waiver of sovereign immunity in tort actions;
20 recovery limits; limitation on attorney fees; insurance and
21 self-insurance limits; statute of limitations; exclusions;
22 indemnification; risk management programs.-

23 (17) (a) A political subdivision may purchase insurance or
24 self-insure to cover liabilities under this section:

25 1. In an amount equal to \$5 million to pay a claim or
26 judgment by any one person or \$7.5 million to cover the total
27 claims or judgments arising out of the same incident or
28 occurrence.

29 2. In an amount equal to \$10 million to pay a claim or

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30 judgment by any one person or \$15 million to cover the total
31 claims or judgments arising out of the same incident or
32 occurrence.

33 (b)1. Insurance purchased pursuant to paragraph (a) must
34 pay for covered liabilities up to the policy limits and not be
35 contingent upon further act of the Legislature.

36 2. Self-insurance maintained pursuant to paragraph (a) must
37 require that, within 45 days after receipt of the notice of loss
38 from the claimant, the lesser of the amount the claimant is
39 willing to accept or the policy limits is deposited into a
40 contingent liability account and held there pending the
41 resolution of the related litigation.

42 (c) Notwithstanding other provisions of this section, a
43 political subdivision that purchases insurance or self-insures
44 in compliance with paragraph (a) is only liable for its
45 deductible under the policy and is not liable for any judgments
46 in excess of the limits of such policy. A party injured by a
47 tort covered by such a policy may not seek payment from the
48 insured beyond the insurance coverage for such tort and any
49 claim for relief related to such tort submitted to the
50 Legislature in the future shall be treated by the Legislature:

51 1. As a local claim bill, if the political subdivision was
52 insured or self-insured in compliance with subparagraph (a)1. on
53 the date the claim arose.

54 2. As a claim bill against the state to be paid from state
55 funds, if the political subdivision was insured or self-insured
56 in compliance with subparagraph (a)2. on the date the claim
57 arose.

58 (d) A county may purchase an umbrella policy that, in

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59 addition to insuring the county, offers insurance to
60 municipalities within the county; however, a municipality is not
61 required to be insured by such umbrella policy purchased by a
62 county. The county shall charge on a pro-rata basis the
63 municipalities that choose to be insured by the umbrella policy.

64 (e) Notwithstanding paragraph (c), a party injured as a
65 result of a tort covered by this subsection may pursue a
66 judgment in excess of the policy limits if the insurer is found
67 to have acted in bad faith in meeting its obligations under its
68 policy with the political subdivision. This section, as amended
69 by chapter 81-317, Laws of Florida, shall apply only to causes
70 of actions which accrue on or after October 1, 1981.

71 Section 2. The amendments made by this act to s. 768.28,
72 Florida Statutes, apply to causes of action filed on or after
73 October 1, 2018.

74 Section 3. This act shall take effect October 1, 2018.