



139882

LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 27 - 104

and insert:

(3) A party may make an offer of judgment that identifies only the total amount of indemnity or damages and stipulates that entitlement to attorney fees and costs will be established at a later time by the parties or the court. An offer of judgment is not required to specify an amount for attorney fees and costs.

(4) An offer must:



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12 (a) Be in writing and state that it is being made pursuant
13 to this section.

14 (b) Name the party making it and the party to whom it is
15 being made.

16 (c) State with particularity the amount offered to settle a
17 claim for punitive damages, if any.

18 (d) State its total amount.
19

20 The offer shall be construed as including all damages which may
21 be awarded in a final judgment unless it is an offer of judgment
22 that stipulates that entitlement to attorney fees and costs will
23 be established at a later time by the parties or the court.

24 (5)-(3) An ~~The~~ offer shall be served upon the party to whom
25 it is made, but it may ~~shall~~ not be filed unless it is accepted
26 or unless filing is necessary to enforce the provisions of this
27 section. In an action relating to damages to real property that
28 is jointly owned by two individuals who are insureds, an offer
29 of judgment which is served on both insureds may require that
30 both insureds either accept or reject the offer.

31 (6)-(4) An offer shall be accepted by filing a written
32 acceptance with the court within 30 days after service. Upon
33 filing of both the offer and acceptance, the court has full
34 jurisdiction to enforce the settlement agreement. Within 30 days
35 after an offer is served, the offeree must notify the offeror of
36 any grounds for challenging the validity of the offer. The
37 grounds for challenging the validity of the offer must be in
38 writing and stated with specificity to enable the offeror to
39 reevaluate the offer and make corrections, if warranted. If the
40 offeree fails to timely notify the offeror in writing of the



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41 grounds for challenging the validity of the offer, the offeree
42 waives the right to object to the validity of the offer.

43 (8)~~(6)~~ Upon motion made by the offeror within 30 days after
44 the entry of judgment or after voluntary or involuntary
45 dismissal, the court shall determine the following:

46 (a) If a defendant serves an offer which is not accepted by
47 the plaintiff, and if the judgment obtained by the plaintiff is
48 at least 25 percent less than the amount of the offer, the
49 defendant shall be awarded reasonable costs, including
50 investigative expenses, and attorney ~~attorney's~~ fees, calculated
51 in accordance with the guidelines promulgated by the Supreme
52 Court, incurred from the date the offer was served, and the
53 court shall set off such costs in attorney ~~attorney's~~ fees
54 against the award. When such costs and attorney ~~attorney's~~ fees
55 total more than the amount of the judgment, the court shall
56 enter judgment for the defendant against the plaintiff for the
57 amount of the costs and fees, less the amount of the award to
58 the plaintiff.

59 (b) If a plaintiff serves an offer which is not accepted by
60 the defendant, and if the judgment obtained by the plaintiff is
61 at least 25 percent more than the amount of the offer, the
62 plaintiff shall be awarded reasonable costs, including
63 investigative expenses, and attorney ~~attorney's~~ fees, calculated
64 in accordance with the guidelines promulgated by the Supreme
65 Court, incurred from the date the offer was served.

66
67 For purposes of the determination required by paragraph (a), the
68 term "judgment obtained" means the amount of the net judgment
69 entered, plus any postoffer collateral source payments received



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70 or due as of the date of the judgment, plus any postoffer
71 settlement amounts by which the verdict was reduced. For
72 purposes of the determination required by paragraph (b), the
73 term "judgment obtained" means the amount of the net judgment
74 entered, plus any postoffer settlement amounts by which the
75 verdict was reduced. For purposes of the determination required
76 by paragraph (a) for an offer of judgment that stipulates that
77 entitlement to attorney fees and costs will be established at a
78 later time by the parties or the court, the term "judgment
79 obtained" means the total amount of damages, if any, but does
80 not include any amount awarded for attorney fees and costs.

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete lines 3 - 12

85 and insert:

86 768.79, F.S.; authorizing parties to serve offers of
87 judgment that make certain stipulations relating to
88 attorney fees and costs; authorizing certain offerings
89 of judgment relating to jointly owned property to
90 require both individuals to either accept or reject
91 the offer; providing requirements relating to grounds
92 for challenging the validity of offers; defining the
93 term "judgment obtained" as it relates to certain
94 offers of