

By the Committee on Judiciary; and Senator Gruters

590-02526-22

2022974c1

1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; increasing the statutory limits on
4 liability for tort claims against the state and its
5 agencies and subdivisions; requiring the Department of
6 Financial Services to adjust the limitations on tort
7 liability every 10 years after a specified date and
8 publish the adjustments on its website; reenacting ss.
9 45.061, 110.504, 111.071, 163.01, 190.043, 213.015,
10 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38,
11 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,
12 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32,
13 456.009, 456.076, 471.038, 472.006, 497.167, 513.118,
14 548.046, 556.106, 589.19, 723.0611, 760.11, 766.1115,
15 766.112, 768.1355, 768.295, 944.713, 946.5026,
16 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55,
17 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to
18 incorporate the amendments made to s. 768.28, F.S., in
19 references thereto; providing applicability; providing
20 an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (5) of section 768.28, Florida
25 Statutes, is amended to read:

26 768.28 Waiver of sovereign immunity in tort actions;
27 recovery limits; civil liability for damages caused during a
28 riot; limitation on attorney fees; statute of limitations;
29 exclusions; indemnification; risk management programs.—

590-02526-22

2022974c1

30 (5) (a) The state and its agencies and subdivisions are
31 ~~shall be~~ liable for tort claims in the same manner and to the
32 same extent as a private individual under like circumstances,
33 but liability does ~~shall~~ not include punitive damages or
34 interest for the period before judgment. ~~Neither~~ The state, ~~nor~~
35 its agencies, and its ~~or~~ subdivisions are not ~~shall be~~ liable to
36 pay a claim or a judgment by any one person which exceeds the
37 sum of \$300,000 ~~\$200,000~~ or any claim or judgment, or portions
38 thereof, which, when totaled with all other claims or judgments
39 paid by the state or its agencies or subdivisions arising out of
40 the same incident or occurrence, exceeds the sum of \$400,000
41 ~~\$300,000~~. However, a judgment or judgments may be claimed and
42 rendered in excess of these amounts and may be settled and paid
43 pursuant to this section ~~act~~ up to \$300,000 ~~\$200,000~~ or
44 \$400,000, as applicable. The ~~\$300,000, as the case may be; and~~
45 ~~that~~ portion of the judgment that exceeds these amounts may be
46 reported to the Legislature, but may be paid in part or in whole
47 only by further act of the Legislature.

48 (b) Notwithstanding the limited waiver of sovereign
49 immunity under paragraph (a) ~~provided herein~~, the state or an
50 agency or subdivision thereof may agree, within the limits of
51 insurance coverage provided, to settle a claim made or a
52 judgment rendered against it without further action by the
53 Legislature, but the state or agency or subdivision thereof does
54 ~~shall not waive~~ ~~be deemed to have waived~~ any defense of
55 sovereign immunity or increase ~~to have increased~~ the limits of
56 its liability as a result of its obtaining insurance coverage
57 for tortious acts in excess of the \$300,000 ~~\$200,000~~ or \$400,000
58 ~~\$300,000~~ waiver provided in paragraph (a) ~~above~~.

590-02526-22

2022974c1

59 (c) The limitations of liability set forth in this
60 subsection ~~shall~~ apply to the state and its agencies and
61 subdivisions whether or not the state or its agencies or
62 subdivisions possessed sovereign immunity before July 1, 1974.

63 (d) Beginning July 1, 2032, and on July 1 every 10 years
64 thereafter, the Department of Financial Services shall adjust
65 the limitations of liability in this subsection, rounded to the
66 nearest \$10,000, to reflect changes in the Consumer Price Index
67 for the Southeast or a successor index as calculated by the
68 United States Department of Labor. After each adjustment, the
69 department must publish the adjusted liability limitation
70 amounts on its website which amounts shall apply to causes of
71 action accruing on or after the October 1 following the
72 adjustment date.

73 (e) ~~(b)~~ A municipality has a duty to allow the municipal law
74 enforcement agency to respond appropriately to protect persons
75 and property during a riot or an unlawful assembly based on the
76 availability of adequate equipment to its municipal law
77 enforcement officers and relevant state and federal laws. If the
78 governing body of a municipality or a person authorized by the
79 governing body of the municipality breaches that duty, the
80 municipality is civilly liable for any damages, including
81 damages arising from personal injury, wrongful death, or
82 property damages proximately caused by the municipality's breach
83 of duty. The sovereign immunity recovery limits in paragraph (a)
84 do not apply to an action under this paragraph.

85 Section 2. Sections 45.061, 110.504, 111.071, 163.01,
86 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,
87 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,

590-02526-22

2022974c1

88 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,
89 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,
90 589.19, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295,
91 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34,
92 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, Florida
93 Statutes, are reenacted for the purpose of incorporating the
94 amendments made by this act to s. 768.28, Florida Statutes, in
95 references thereto.

96 Section 3. This act applies to claims arising on or after
97 October 1, 2022.

98 Section 4. This act shall take effect October 1, 2022.