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LEGISLATIVE ACTION

Senate

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House

Senator Grall moved the following:

1 **Senate Amendment to Substitute Amendment (378220) (with**
2 **title amendment)**

3
4 Delete lines 6 - 704

5 and insert:

6 (4) (a) In an action for bad faith failure to settle a
7 liability insurance claim, including any such action brought
8 under the common law, if the insurer initiates settlement
9 negotiations by tendering the lesser of the policy limits or the
10 amount demanded by the claimant in exchange for a general
11 release of the insured within 90 days after receiving actual



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12 notice of the loss, the failure to tender the policy limits
13 sooner does not constitute bad faith.

14 (b) If an insurer does not tender the lesser of the policy
15 limits or the amount demanded by the claimant within the 90-day
16 timeframe provided in paragraph (a), the existence of the 90-day
17 timeframe and that no bad faith action could lie had the insurer
18 tendered the lesser of policy limits or the amount demanded by
19 the claimant pursuant to paragraph (a) is inadmissible in any
20 action seeking to establish bad faith on the part of the
21 insurer.

22 (c) If the insurer fails to tender pursuant to paragraph
23 (a) within the 90-day period, any applicable statute of
24 limitations is extended for an additional 90 days.

25 (5) In any bad faith action, whether such action is brought
26 under this section or is based on the common-law remedy for bad
27 faith:

28 (a) Mere negligence alone is insufficient to constitute bad
29 faith.

30 (b) The focus of the bad faith claim is on the conduct of
31 an insurer, but in determining whether the insurer actually
32 could have settled the claim, the jury may consider the totality
33 of the circumstances, including:

34 1. Whether any conditions placed on the settlement by the
35 claimant were unreasonable or impossible to perform within the
36 time permitted; and

37 2. Whether the insured failed to cooperate with the
38 insurer's efforts to meet the conditions after being fully
39 advised by the insurer about the purpose and importance of doing
40 so.



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41 (6) (a) If two or more third-party claimants have competing
42 claims arising out of a single occurrence, which in total may
43 exceed the available policy limits of an insured who may be
44 liable to the third-party claimants, and the insurer initiates
45 settlement negotiations by globally tendering the applicable
46 policy limits in exchange for a general release of the insured
47 within 90 days after receiving actual notice of the loss, the
48 failure to tender policy limits sooner does not constitute bad
49 faith.

50 (b) If an insurer does not globally tender the policy
51 limits within the 90-day timeframe provided in paragraph (a),
52 the existence of the 90-day timeframe and that no bad faith
53 action could lie had the insurer tendered the lesser of policy
54 limits or the amount demanded by the claimant pursuant to
55 paragraph (a) is inadmissible in any action seeking to establish
56 bad faith on the part of the insurer.

57 (c) If two or more third-party claimants have competing
58 claims arising out of a single occurrence, which in total may
59 exceed the available policy limits of an insured who may be
60 liable to the third-party claimants, and the claimants are
61 unwilling to globally settle within the policy limits,
62 thereafter, the insurer must attempt to minimize the magnitude
63 of possible excess judgments against the insured. The insurer is
64 entitled to great discretion to decide how much to offer each
65 respective claimant in its attempt to protect the insured. The
66 insurer may, in its effort to minimize the excess liability of
67 the insured, use its discretion to offer the full available
68 policy limits to one or more claimants to the exclusion of other
69 claimants and may leave the insured exposed to some liability



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70 after all the policy limits are paid. An insurer does not act in
71 bad faith simply because it is unable to settle all claims in a
72 competing claimant case.

73 (d) An insurer is not liable beyond the available policy
74 limits for failure to pay all or any portion of the available
75 policy limits to one or more of the third-party claimants if,
76 pursuant to a binding arbitration that has been agreed to by the
77 insurer and all the third-party claimants, the insurer makes the
78 entire amount of the policy limits available for payment to the
79 competing third-party claimants before a qualified arbitrator
80 agreed to by the insurer and such third-party claimants at the
81 expense of the insurer. The third-party claimants are entitled
82 to a prorated share of the policy limits as determined by the
83 arbitrator, who must consider the comparative fault, if any, of
84 each third-party claimant and the total likely outcome at trial
85 based upon the total of the economic and noneconomic damages
86 submitted to the arbitrator for consideration. A third-party
87 claimant whose claim is resolved by the arbitrator must execute
88 and deliver a general release to the insured party whose claim
89 is resolved by the proceeding.

90 (7)(4) In any insurance bad faith action, whether brought
91 under this section or the common law, upon adverse adjudication
92 at trial or upon appeal, the authorized insurer shall be liable
93 for damages, together with court costs and reasonable attorney
94 attorney's fees incurred by the plaintiff.

95 (8)(5) ~~No~~ Punitive damages may not shall be awarded under
96 this section unless the acts giving rise to the violation occur
97 with such frequency as to indicate a general business practice
98 and these acts are:



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99 (a) Willful, wanton, and malicious;

100 (b) In reckless disregard for the rights of any insured; or

101 (c) In reckless disregard for the rights of a beneficiary
102 under a life insurance contract.

103

104 Any person who pursues a claim under this subsection shall post
105 in advance the costs of discovery. Such costs shall be awarded
106 to the authorized insurer if no punitive damages are awarded to
107 the plaintiff.

108 (9)~~(6)~~ This section does shall not be construed to
109 authorize a class action suit against an authorized insurer or a
110 civil action against the commission, the office, or the
111 department or any of their employees, or to create a cause of
112 action when an authorized health insurer refuses to pay a claim
113 for reimbursement on the ground that the charge for a service
114 was unreasonably high or that the service provided was not
115 medically necessary.

116 (10)~~(7)~~ In the absence of expressed language to the
117 contrary, this section shall not be construed to authorize a
118 civil action or create a cause of action against an authorized
119 insurer or its employees who, in good faith, release information
120 about an insured or an insurance policy to a law enforcement
121 agency in furtherance of an investigation of a criminal or
122 fraudulent act relating to a motor vehicle theft or a motor
123 vehicle insurance claim.

124 (11)~~(8)~~ The civil remedy specified in this section does not
125 preempt any other remedy or cause of action provided for
126 pursuant to any other statute or pursuant to the common law of
127 this state. Any person may obtain a judgment under either the



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128 common-law remedy of bad faith or this statutory remedy, but is
129 ~~shall~~ not be entitled to a judgment under both remedies. This
130 section does ~~shall~~ not be ~~construed to~~ create a common-law cause
131 of action. The damages recoverable pursuant to this section
132 shall include those damages which are a reasonably foreseeable
133 result of a specified violation of this section by the
134 authorized insurer and may include an award or judgment in an
135 amount that exceeds the policy limits.

136 (12) ~~(9)~~ A surety issuing a payment or performance bond on
137 the construction or maintenance of a building or roadway project
138 is not an insurer for purposes of subsection (1).

139 Section 5. Section 624.1552, Florida Statutes, is created
140 to read:

141 624.1552 Civil actions involving an insurance contract;
142 applicability of offer of judgment provisions.—The provisions of
143 s. 768.79 apply to any civil action involving an insurance
144 contract.

145 Section 6. Section 768.0427, Florida Statutes, is created
146 to read:

147 768.0427 Admissibility of evidence to prove medical
148 expenses in personal injury or wrongful death actions;
149 disclosure of letters of protection; recovery of past and future
150 medical expenses damages.—

151 (1) DEFINITIONS.—As used in this section, the term:

152 (a) "Factoring company" means a person who purchases a
153 health care provider's accounts receivable at a discount below
154 the invoice value of such accounts.

155 (b) "Health care coverage" means any third-party health
156 care or disability services financing arrangement, including,



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157 but not limited to, arrangements with entities certified or
158 authorized under federal law or under the Florida Insurance
159 Code; state or federal health care benefit programs; workers'
160 compensation; and personal injury protection.

161 (c) "Health care provider" means any of the following
162 professionals and entities, and professionals and entities
163 similarly licensed in another jurisdiction:

164 1. A provider as defined in s. 408.803.

165 2. A clinical laboratory providing services in this state
166 or services to health care providers in this state, if the
167 clinical laboratory is certified by the Centers for Medicare and
168 Medicaid Services under the federal Clinical Laboratory
169 Improvement Amendments and the federal rules adopted thereunder.

170 3. A federally qualified health center as defined in 42
171 U.S.C. s. 1396d(1)(2)(B), as that definition existed on the
172 effective date of this act.

173 4. A health care practitioner as defined in s. 456.001.

174 5. A health care professional licensed under part IV of
175 chapter 468.

176 6. A home health aide as defined in s. 400.462.

177 7. A provider licensed under chapter 394 or chapter 397 and
178 its clinical and nonclinical staff providing inpatient or
179 outpatient services.

180 8. A continuing care facility licensed under chapter 651.

181 9. A pharmacy permitted under chapter 465.

182 (d) "Letter of protection" means any arrangement by which a
183 health care provider renders treatment in exchange for a promise
184 of payment for the claimant's medical expenses from any judgment
185 or settlement of a personal injury or wrongful death action. The



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186 term includes any such arrangement, regardless of whether
187 referred to as a letter of protection.

188 (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE
189 EXPENSES.—Evidence offered to prove the amount of damages for
190 past or future medical treatment or services in a personal
191 injury or wrongful death action is admissible as provided in
192 this subsection.

193 (a) Evidence offered to prove the amount of damages for
194 past medical treatment or services that have been satisfied is
195 limited to evidence of the amount actually paid, regardless of
196 the source of payment.

197 (b) Evidence offered to prove the amount necessary to
198 satisfy unpaid charges for incurred medical treatment or
199 services shall include, but is not limited to, evidence as
200 provided in this paragraph.

201 1. If the claimant has health care coverage other than
202 Medicare or Medicaid, evidence of the amount which such health
203 care coverage is obligated to pay the health care provider to
204 satisfy the charges for the claimant's incurred medical
205 treatment or services, plus the claimant's share of medical
206 expenses under the insurance contract or regulation.

207 2. If the claimant has health care coverage but obtains
208 treatment under a letter of protection or otherwise does not
209 submit charges for any health care provider's medical treatment
210 or services to health care coverage, evidence of the amount the
211 claimant's health care coverage would pay the health care
212 provider to satisfy the past unpaid medical charges under the
213 insurance contract or regulation, plus the claimant's share of
214 medical expenses under the insurance contract or regulation, had



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215 the claimant obtained medical services or treatment pursuant to
216 the health care coverage.

217 3. If the claimant does not have health care coverage or
218 has health care coverage through Medicare or Medicaid, evidence
219 of 120 percent of the Medicare reimbursement rate in effect on
220 the date of the claimant's incurred medical treatment or
221 services, or, if there is no applicable Medicare rate for a
222 service, 170 percent of the applicable state Medicaid rate.

223 4. If the claimant obtains medical treatment or services
224 under a letter of protection and the health care provider
225 subsequently transfers the right to receive payment under the
226 letter of protection to a third party, evidence of the amount
227 the third party paid or agreed to pay the health care provider
228 in exchange for the right to receive payment pursuant to the
229 letter of protection.

230 5. Any evidence of reasonable amounts billed to the
231 claimant for medically necessary treatment or medically
232 necessary services provided to the claimant.

233 (c) Evidence offered to prove the amount of damages for any
234 future medical treatment or services the claimant will receive
235 shall include, but is not limited to, evidence as provided in
236 this paragraph.

237 1. If the claimant has health care coverage other than
238 Medicare or Medicaid, or is eligible for any such health care
239 coverage, evidence of the amount for which the future charges of
240 health care providers could be satisfied if submitted to such
241 health care coverage, plus the claimant's share of medical
242 expenses under the insurance contract or regulation.

243 2. If the claimant does not have health care coverage or



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244 has health care coverage through Medicare or Medicaid, or is
245 eligible for such health care coverage, evidence of 120 percent
246 of the Medicare reimbursement rate in effect at the time of
247 trial for the medical treatment or services the claimant will
248 receive, or, if there is no applicable Medicare rate for a
249 service, 170 percent of the applicable state Medicaid rate.

250 3. Any evidence of reasonable future amounts to be billed
251 to the claimant for medically necessary treatment or medically
252 necessary services.

253 (d) This subsection does not impose an affirmative duty
254 upon any party to seek a reduction in billed charges to which
255 the party is not contractually entitled.

256 (e) Individual contracts between providers and authorized
257 commercial insurers or authorized health maintenance
258 organizations are not subject to discovery or disclosure and are
259 not admissible into evidence.

260 (3) LETTERS OF PROTECTION; REQUIRED DISCLOSURES.—In a
261 personal injury or wrongful death action, as a condition
262 precedent to asserting any claim for medical expenses for
263 treatment rendered under a letter of protection, the claimant
264 must disclose:

265 (a) A copy of the letter of protection.

266 (b) All billings for the claimant's medical expenses, which
267 must be itemized and, to the extent applicable, coded according
268 to:

269 1. For health care providers billing at the provider level,
270 the American Medical Association's Current Procedural
271 Terminology (CPT), or the Healthcare Common Procedure Coding
272 System (HCPCS), in effect on the date the services were



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273 rendered.

274 2. For health care providers billing at the facility level
275 for expenses incurred in a clinical or outpatient setting,
276 including when billing through an Ambulatory Payment
277 Classification (APC) or Enhanced Ambulatory Patient Grouping
278 (EAPG), the International Classification of Diseases (ICD)
279 diagnosis code and, if applicable, the American Medical
280 Association's Current Procedural Terminology (CPT), in effect on
281 the date the services were rendered.

282 3. For health care providers billing at the facility level
283 for expenses incurred in an inpatient setting, including when
284 billing through a Diagnosis Related Group (DRG), the
285 International Classification of Diseases (ICD) diagnosis and
286 procedure codes in effect on the date in which the claimant is
287 discharged.

288 (c) If the health care provider sells the accounts
289 receivable for the claimant's medical expenses to a factoring
290 company or other third party:

291 1. The name of the factoring company or other third party
292 who purchased such accounts.

293 2. The dollar amount for which the factoring company or
294 other third party purchased such accounts, including any
295 discount provided below the invoice amount.

296 (d) Whether the claimant, at the time medical treatment was
297 rendered, had health care coverage and, if so, the identity of
298 such coverage.

299 (e) Whether the claimant was referred for treatment under a
300 letter of protection and, if so, the identity of the person who
301 made the referral. If the referral is made by the claimant's



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302 attorney, disclosure of the referral is permitted, and evidence
303 of such referral is admissible notwithstanding s. 90.502.
304 Moreover, in such situation, the financial relationship between
305 a law firm and a medical provider, including the number of
306 referrals, frequency, and financial benefit obtained, is
307 relevant to the issue of the bias of a testifying medical
308 provider.

309 (4) DAMAGES RECOVERABLE FOR MEDICAL TREATMENT OR SERVICE
310 EXPENSES.—The damages that may be recovered by a claimant in a
311 personal injury or wrongful death action for the reasonable and
312 necessary cost or value of medical care rendered may not include
313 any amount in excess of the evidence of medical treatment and
314 services expenses admitted pursuant to subsection (2), and also
315 may not exceed the sum of the following:

316 (a) Amounts actually paid by or on behalf of the claimant
317 to a health care provider who rendered medical treatment or
318 services;

319 (b) Amounts necessary to satisfy charges for medical
320 treatment or services that are due and owing but at the time of
321 trial are not yet satisfied; and

322 (c) Amounts necessary to provide for any reasonable and
323 necessary medical treatment or services the claimant will
324 receive in the future.

325 Section 7. Section 768.0706, Florida Statutes, is created
326 to read:

327 768.0706 Multifamily residential property safety and
328 security; presumption against liability.—

329 (1) As used in this section, the term:

330 (a) "Crime prevention through environmental design" has the



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331 same meaning as in s. 163.503(6).

332 (b) "Multifamily residential property" means a residential
333 building, or group of residential buildings, such as apartments,
334 townhouses, or condominiums, consisting of at least five
335 dwelling units on a particular parcel.

336 (c) "Parcel" means real property for which a distinct
337 parcel identification number is assigned to the property by the
338 property appraiser for the county in which the property is
339 located.

340 (2) The owner or principal operator of a multifamily
341 residential property which substantially implements the
342 following security measures on that property has a presumption
343 against liability in connection with criminal acts that occur on
344 the premises which are committed by third parties who are not
345 employees or agents of the owner or operator:

346 (a)1. A security camera system at points of entry and exit
347 which records, and maintains as retrievable for at least 30
348 days, video footage to assist in offender identification and
349 apprehension.

350 2. A lighted parking lot illuminated at an intensity of at
351 least an average of 1.8 foot-candles per square foot at 18
352 inches above the surface from dusk until dawn or controlled by
353 photocell or any similar electronic device that provides light
354 from dusk until dawn.

355 3. Lighting in walkways, laundry rooms, common areas, and
356 porches. Such lighting must be illuminated from dusk until dawn
357 or controlled by photocell or any similar electronic device that
358 provides light from dusk until dawn.

359 4. At least a 1-inch deadbolt in each dwelling unit door.



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360 5. A locking device on each window, each exterior sliding
361 door, and any other doors not used for community purposes.

362 6. Locked gates with key or fob access along pool fence
363 areas.

364 7. A peephole or door viewer on each dwelling unit door
365 that does not include a window or that does not have a window
366 next to the door.

367 (b) By January 1, 2025, the owner or principal operator of
368 a multifamily residential property has a crime prevention
369 through environmental design assessment that is no more than 3
370 years old completed for the property. Such assessment must be
371 performed by a law enforcement agency or a Florida Crime
372 Prevention Through Environmental Design Practitioner designated
373 by the Florida Crime Prevention Training Institute of the
374 Department of Legal Affairs. The owner or principal operator
375 must remain in substantial compliance with the assessment for
376 purposes of this paragraph.

377 (c)1. By January 1, 2025, the owner or principal operator
378 of a multifamily residential property provides proper crime
379 deterrence and safety training to its current employees. After
380 January 1, 2025, the owner or principal operator must provide
381 such training to an employee within 60 days after his or her
382 hire date for purposes of this paragraph.

383 2. For purposes of this paragraph, "proper crime deterrence
384 and safety training" means training which trains and
385 familiarizes employees with the security principles, devices,
386 measures, and standards set forth under paragraph (a), and which
387 is reviewed at least every 3 years and updated as necessary. The
388 owner or principal operator may request a law enforcement agency



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389 or the Florida Crime Prevention Through Environmental Design
390 Practitioner performing the assessment under paragraph (b) to
391 review the training curriculum.

392 (3) For purposes of establishing the presumption against
393 liability under subsection (2), the burden of proof is on the
394 owner or principal operator to demonstrate that the owner or
395 principal operator has substantially implemented the security
396 measures specified in subsection (2).

397 (4) The Florida Crime Prevention Training Institute of the
398 Department of Legal Affairs shall develop a proposed curriculum
399 or best practices for owners or principal operators to implement
400 such training. The state has no liability in connection with
401 providing a proposed training curriculum under this subsection.

402 (5) This section does not establish a private cause of
403 action.

404 Section 8. Subsection (1) of section 768.18, Florida
405 Statutes, is amended to read:

406 768.18 Definitions.—As used in ss. 768.16-768.26:

407 (1) "Survivors" means the decedent's spouse, children,
408 parents, and, when partly or wholly dependent on the decedent
409 for support or services, any blood relatives and adoptive
410 brothers and sisters. It includes the child born out of wedlock
411 of a mother, but not the child born out of wedlock of the father
412 unless the father has recognized a responsibility for the
413 child's support. It also includes the parents of an unborn
414 child.

415 Section 9. Present subsections (5) through (8) of section
416 768.21, Florida Statutes, are redesignated as subsections (6)
417 through (9), respectively, a new subsection (5) is added to that



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418 section, and paragraph (b) of present subsection (6) of that
419 section is amended, to read:

420 768.21 Damages.—All potential beneficiaries of a recovery
421 for wrongful death, including the decedent's estate, shall be
422 identified in the complaint, and their relationships to the
423 decedent shall be alleged. Damages may be awarded as follows:

424 (5) Except for claims brought under chapter 766, each
425 parent of an unborn child may recover for medical and funeral
426 expenses and mental pain and suffering caused by the wrongful
427 death of the unborn child if such death was caused by the
428 negligence of a third party.

429 (7)~~(6)~~ The decedent's personal representative may recover
430 for the decedent's estate the following:

431 (b) Medical or funeral expenses due to the decedent's
432 injury or death that have become a charge against her or his
433 estate or that were paid by or on behalf of decedent, excluding
434 amounts recoverable under subsection (6) ~~(5)~~.

435
436 Evidence of remarriage of the decedent's spouse is admissible.

437 Section 10. Subsection (2) of section 768.81, Florida
438 Statutes, is amended, and subsections (6) and (7) are added to
439 that section, to read:

440 768.81 Comparative fault.—

441 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,
442 contributory fault chargeable to the claimant diminishes
443 proportionately the amount awarded as economic and noneconomic
444 damages for an injury attributable to the claimant's
445 contributory fault, but does not bar recovery, subject to
446 subsection (6).



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447 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to
448 which this section applies, any party found to be greater than
449 50 percent at fault for his or her own harm may not recover any
450 damages. This subsection does not apply to an action for damages
451 for personal injury or wrongful death arising out of medical
452 negligence pursuant to chapter 766.

453 (7) MOTORCYCLES.—In an action involving a motorcycle
454 alleging injuries received by a claimant, and where the claimant
455 was at the time of the injury in compliance with s. 316.211, the
456 fact that the claimant was or was not wearing protective
457 headgear is not admissible as evidence and shall not be
458 considered in the apportionment of fault or causation, and the
459 trier of fact shall not consider whether the claimant was or was
460 not wearing protective headgear. The jury shall appropriately be
461 instructed by the trial judge that the lack of protective
462 headgear cannot be considered in the apportionment of fault or
463 causation.

464 Section 11. Section 626.9373, Florida Statutes, is
465 repealed.

466 Section 12. Section 627.428, Florida Statutes, is repealed.

467 Section 13. Subsection (1) of section 627.756, Florida
468 Statutes, is amended to read:

469 627.756 Bonds for construction contracts; attorney fees in
470 case of suit.—

471 (1) In a suit ~~Section 627.428 applies to suits~~ brought by
472 an owner, a contractor, a subcontractor, a laborer, or a
473 materialman ~~owners, contractors, subcontractors, laborers, and~~
474 ~~materialmen~~ against a surety insurer under payment or
475 performance bonds written by the insurer under the laws of this



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476 state to indemnify against pecuniary loss by breach of a
477 building or construction contract, upon the rendition of a
478 judgment or decree by any of the courts of this state against
479 the surety insurer and in favor of the owner, contractor,
480 subcontractor, laborer, or materialman, the trial court or, in
481 the event of an appeal in which the owner, contractor,
482 subcontractor, laborer, or materialman prevails, the appellate
483 court, shall adjudge or decree against the surety insurer and in
484 favor of the owner, contractor, subcontractor, laborer, or
485 materialman a reasonable sum as fees or compensation for the
486 attorney prosecuting the suit in which the recovery is had.
487 ~~Owners, contractors, subcontractors, laborers, and materialmen~~
488 ~~shall be deemed to be insureds or beneficiaries for the purposes~~
489 ~~of this section.~~

490 Section 14. Subsection (9) of section 400.023, Florida
491 Statutes, is amended to read:

492 400.023 Civil enforcement.—

493 (9) An action under this part for a violation of rights or
494 negligence recognized herein is not a claim for medical
495 malpractice, and s. 768.21(9) ~~s. 768.21(8)~~ does not apply to a
496 claim alleging death of the resident.

497 Section 15. Section 400.0235, Florida Statutes, is amended
498 to read:

499 400.0235 Certain provisions not applicable to actions under
500 this part.—An action under this part for a violation of rights
501 or negligence recognized under this part is not a claim for
502 medical malpractice, and the provisions of s. 768.21(9) ~~s.~~
503 ~~768.21(8)~~ do not apply to a claim alleging death of the
504 resident.



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505 Section 16. Section 429.295, Florida Statutes, is amended
506 to read:

507 429.295 Certain provisions not applicable to actions under
508 this part.—An action under this part for a violation of rights
509 or negligence recognized herein is not a claim for medical
510 malpractice, and the provisions of s. 768.21(9) ~~s. 768.21(8)~~ do
511 not apply to a claim alleging death of the resident.

512 Section 17. Paragraphs (a) and (j) of subsection (1) of
513 section 475.01, Florida Statutes, are amended to read:

514 475.01 Definitions.—

515 (1) As used in this part:

516 (a) "Broker" means a person who, for another, and for a
517 compensation or valuable consideration directly or indirectly
518 paid or promised, expressly or impliedly, or with an intent to
519 collect or receive a compensation or valuable consideration
520 therefor, appraises, auctions, sells, exchanges, buys, rents, or
521 offers, attempts or agrees to appraise, auction, or negotiate
522 the sale, exchange, purchase, or rental of business enterprises
523 or business opportunities or any real property or any interest
524 in or concerning the same, including mineral rights or leases,
525 or who advertises or holds out to the public by any oral or
526 printed solicitation or representation that she or he is engaged
527 in the business of appraising, auctioning, buying, selling,
528 exchanging, leasing, or renting business enterprises or business
529 opportunities or real property of others or interests therein,
530 including mineral rights, or who takes any part in the procuring
531 of sellers, purchasers, lessors, or lessees of business
532 enterprises or business opportunities or the real property of
533 another, or leases, or interest therein, including mineral



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534 rights, or who directs or assists in the procuring of prospects
535 or in the negotiation or closing of any transaction which does,
536 or is calculated to, result in a sale, exchange, or leasing
537 thereof, and who receives, expects, or is promised any
538 compensation or valuable consideration, directly or indirectly
539 therefor; and all persons who advertise rental property
540 information or lists. A broker renders a professional service
541 and is a professional within the meaning of s. 95.11(4)(b) ~~s.~~
542 ~~95.11(4)(a)~~. Where the term "appraise" or "appraising" appears
543 in the definition of the term "broker," it specifically excludes
544 those appraisal services which must be performed only by a
545 state-licensed or state-certified appraiser, and those appraisal
546 services which may be performed by a registered trainee
547 appraiser as defined in part II. The term "broker" also includes
548 any person who is a general partner, officer, or director of a
549 partnership or corporation which acts as a broker. The term
550 "broker" also includes any person or entity who undertakes to
551 list or sell one or more timeshare periods per year in one or
552 more timeshare plans on behalf of any number of persons, except
553 as provided in ss. 475.011 and 721.20.

554 (j) "Sales associate" means a person who performs any act
555 specified in the definition of "broker," but who performs such
556 act under the direction, control, or management of another
557 person. A sales associate renders a professional service and is
558 a professional within the meaning of s. 95.11(4)(b) ~~s.~~
559 ~~95.11(4)(a)~~.

560 Section 18. Paragraph (h) of subsection (1) of section
561 475.611, Florida Statutes, is amended to read:

562 475.611 Definitions.—



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563 (1) As used in this part, the term:

564 (h) "Appraiser" means any person who is a registered
565 trainee real estate appraiser, a licensed real estate appraiser,
566 or a certified real estate appraiser. An appraiser renders a
567 professional service and is a professional within the meaning of
568 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

569 Section 19. Subsection (7) of section 517.191, Florida
570 Statutes, is amended to read:

571 517.191 Injunction to restrain violations; civil penalties;
572 enforcement by Attorney General.—

573 (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an
574 enforcement action brought under this section based on a
575 violation of any provision of this chapter or any rule or order
576 issued under this chapter shall be brought within 6 years after
577 the facts giving rise to the cause of action were discovered or
578 should have been discovered with the exercise of due diligence,
579 but not more than 8 years after the date such violation
580 occurred.

581 Section 20. Subsection (4) of section 624.123, Florida
582 Statutes, is amended to read:

583 624.123 Certain international health insurance policies;
584 exemption from code.—

585 (4) Any international health insurance policy or
586 application solicited, provided, entered into, issued, or
587 delivered pursuant to this subsection is exempt from all
588 provisions of the insurance code, except that such policy,
589 contract, or agreement is subject to the provisions of ss.
590 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,
591 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,



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592 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

593 Section 21. Subsection (4) of section 624.488, Florida
594 Statutes, is amended to read:

595 624.488 Applicability of related laws.—In addition to other
596 provisions of the code cited in ss. 624.460-624.488:

597 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
598 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428~~,
599 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
600 627.913, and 627.918;

601
602 apply to self-insurance funds. Only those sections of the code
603 that are expressly and specifically cited in ss. 624.460-624.489
604 apply to self-insurance funds.

605 Section 22. Paragraph (b) of subsection (3) of section
606 627.062, Florida Statutes, is amended to read:

607 627.062 Rate standards.—

608 (3)

609 (b) Individual risk rates and modifications to existing
610 approved forms are not subject to this part or part II, except
611 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
612 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
613 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
614 627.4265, and 627.427, ~~and 627.428~~, but are subject to all other
615 applicable provisions of this code and rules adopted thereunder.

616 Section 23. Subsections (3), (4), and (5) of section
617 627.401, Florida Statutes, are amended to read:

618 627.401 Scope of this part.—No provision of this part of
619 this chapter applies to:

620 (3) Wet marine and transportation insurance, except ss.



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621 627.409 and, 627.420, ~~and 627.428.~~

622 (4) Title insurance, except ss. 627.406, 627.415, 627.416,
623 627.419, and 627.427, ~~and 627.428.~~

624 (5) Credit life or credit disability insurance, except s.
625 627.419(5) ~~ss. 627.419(5) and 627.428.~~

626 Section 24. Subsection (2) of section 627.441, Florida
627 Statutes, is amended to read:

628 627.441 Commercial general liability policies; coverage to
629 contractors for completed operations.—

630 (2) A liability insurer must offer coverage at an
631 appropriate additional premium for liability arising out of
632 current or completed operations under an owner-controlled
633 insurance program for any period beyond the period for which the
634 program provides liability coverage, as specified in s.
635 255.0517(2)(b). The period of such coverage must be sufficient
636 to protect against liability arising out of an action brought
637 within the time limits provided in s. 95.11(3)(b) ~~s.~~
638 ~~95.11(3)(c).~~

639 Section 25. Subsection (8) of section 627.727, Florida
640 Statutes, is amended to read:

641 627.727 Motor vehicle insurance; uninsured and underinsured
642 vehicle coverage; insolvent insurer protection.—

643 ~~(8) The provisions of s. 627.428 do not apply to any action~~
644 ~~brought pursuant to this section against the uninsured motorist~~
645 ~~insurer unless there is a dispute over whether the policy~~
646 ~~provides coverage for an uninsured motorist proven to be liable~~
647 ~~for the accident.~~

648 Section 26. Subsection (8) of section 627.736, Florida
649 Statutes, is amended to read:



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650 627.736 Required personal injury protection benefits;
651 exclusions; priority; claims.—

652 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—

653 With respect to any dispute under the provisions of ss. 627.730-
654 627.7405 between the insured and the insurer, or between an
655 assignee of an insured's rights and the insurer, the provisions
656 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in
657 subsections (10) and (15), and except that any attorney fees
658 recovered must:

659 (a) Comply with prevailing professional standards;

660 (b) Not overstate or inflate the number of hours reasonably
661 necessary for a case of comparable skill or complexity; and

662 (c) Represent legal services that are reasonable and
663 necessary to achieve the result obtained.

664

665 Upon request by either party, a judge must make written
666 findings, substantiated by evidence presented at trial or any
667 hearings associated therewith, that any award of attorney fees
668 complies with this subsection. ~~Notwithstanding s. 627.428,~~
669 Attorney fees recovered under ss. 627.730-627.7405 must be
670 calculated without regard to a contingency risk multiplier.

671 Section 27. Subsection (4) of section 628.6016, Florida
672 Statutes, is amended to read:

673 628.6016 Applicability of related laws.—In addition to
674 other provisions of the code cited in ss. 628.6011-628.6018:

675 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
676 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~
677 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
678 627.913, and 627.918; and



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679
680 apply to assessable mutual insurers; however, ss. 628.255,
681 628.411, and 628.421 do not apply. No section of the code not
682 expressly and specifically cited in ss. 628.6011-628.6018
683 applies to assessable mutual insurers. The term "assessable
684 mutual insurer" shall be substituted for the term "commercial
685 self-insurer" as appropriate.

686 Section 28. Section 631.70, Florida Statutes, is repealed.

687 Section 29. Section 631.926, Florida Statutes, is repealed.

688 Section 30. Subsection (11) of section 632.638, Florida
689 Statutes, is amended to read:

690 632.638 Applicability of other code provisions.—In addition
691 to other provisions contained or referred to in this chapter,
692 the following chapters and provisions of this code apply to
693 fraternal benefit societies, to the extent applicable and not in
694 conflict with the express provisions of this chapter and the
695 reasonable implications thereof:

696 ~~(11) Section 627.428;~~

697 Section 31. The Division of Law Revision is directed to
698 replace the phrase "the effective date of this act" wherever it
699 occurs in this act with the date this act becomes a law.

700 Section 32. The amendments made by this act to s. 95.11,
701 Florida Statutes, apply to causes of action accruing after the
702 effective date of this act.

703 Section 33. The amendments made by this act to s. 624.155,
704 Florida Statutes, do not apply to causes of action arising out
705 of insurance policies issued or renewed before the effective
706 date of this act.

707 Section 34. This act shall not be construed to impair any



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708 right under an insurance contract in effect on or before the
709 effective date of this act. To the extent that this act affects
710 a right under an insurance contract, this act applies to an
711 insurance contract issued or renewed after the effective date of
712 this act.

713 Section 35. Except as otherwise expressly provided in this
714 act, this act shall apply to causes of action which accrue after
715 the

717 ===== T I T L E A M E N D M E N T =====

718 And the title is amended as follows:

719 Delete lines 710 - 753

720 and insert:

721 revising applicability and conditions for the award of
722 damages, court costs, and attorney fees in certain
723 civil actions; creating s. 624.1552, F.S.; providing
724 for applicability of specified offer of judgment
725 provisions to civil actions involving insurance
726 contracts; creating s. 768.0427, F.S.; providing
727 definitions; providing standards for the admissibility
728 of evidence to prove the cost of damages for medical
729 expenses in certain civil actions; requiring certain
730 disclosures with respect to claims for medical
731 expenses for treatment rendered under letters of
732 protection; specifying the damages that may be
733 recovered by a claimant for the reasonable and
734 necessary cost of medical care; creating s. 768.0706,
735 F.S.; providing definitions; providing that the owner
736 or principal operator of a multifamily residential



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737 property which substantially implements specified
738 security measures on that property has a presumption
739 against liability for negligence in connection with
740 certain criminal acts that occur on the premises;
741 requiring the Florida Crime Prevention Training
742 Institute of the Department of Legal Affairs to
743 develop a proposed curriculum or best practices for
744 owners or principal operators; providing construction;
745 amending s. 768.18, F.S.; revising the definition of
746 the term "survivors" for purposes of the Florida
747 Wrongful Death Act; amending s. 768.21, F.S.;

748 authorizing parents of an unborn child to recover,
749 except under certain claims, certain damages caused by
750 the wrongful death of the unborn child if such death
751 was caused by a third party's negligence; amending s.
752 768.81, F.S.; providing that a party in a negligence
753 action who is at fault by a specified amount may not
754 recover damages under a comparative negligence action;
755 providing applicability; specifying restrictions on
756 the admissibility and consideration of evidence
757 relating to protective headgear in an action involving
758 a motorcycle and alleging injuries received by a
759 claimant; requiring a trial judge to provide certain
760 instructions to the jury; repealing ss. 626.9373 and
761 627.428, F.S., relating to attorney fees awarded
762 against surplus lines insurers and insurers,
763 respectively; amending s. 627.756, F.S.; providing for
764 the award of costs and attorney fees in certain
765 actions; amending ss. 400.023, 400.0235, 429.295,



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766 475.01, 475.611, 517.191, 624.123, 624.488, 627.062,
767 627.401, 627.441, 627.727, 627.736, and 628.6016,
768 F.S.; conforming cross-references and provisions to
769 changes made