

1 A bill to be entitled
2 An act relating to civil remedies; amending s. 57.104,
3 F.S.; creating a rebuttable presumption that a
4 lodestar fee is a sufficient and reasonable attorney
5 fee in most civil actions; providing an exception;
6 amending s. 90.502, F.S.; creating an exception to the
7 lawyer-client evidentiary privilege relating to a
8 lawyer's referral of a client to a medical provider;
9 amending s. 95.11, F.S.; reducing the statute of
10 limitations for negligence actions; amending s.
11 624.155, F.S.; providing standards for bad faith
12 actions; providing for the distribution of proceeds
13 when two or more third-party claims arising out of a
14 single occurrence exceed policy limits; creating s.
15 768.0427, F.S.; providing definitions; providing
16 standards for the admissibility of evidence to prove
17 the cost of damages for medical expenses in certain
18 civil actions; requiring certain disclosures with
19 respect to claims for medical expenses for treatment
20 rendered under letters of protection; specifying the
21 damages that may be recovered by a claimant for the
22 reasonable and necessary cost of medical care;
23 creating s. 768.0701, F.S.; requiring the trier of
24 fact to consider the fault of certain persons who
25 contribute to an injury; amending s. 768.81, F.S.;

26 providing that a party in a negligence action who is
 27 at fault by a specified amount may not recover damages
 28 under a comparative negligence action; repealing ss.
 29 626.9373 and 627.428, F.S.; relating to attorney fees
 30 payable to insureds filing actions against insurers;
 31 amending ss. 624,123, 624.488, 627.062, 627.401,
 32 627.727, 627.736, 627.756, and 628.6016, F.S.; to
 33 conform to changes made by the act; repealing ss.
 34 631.70 and 631.926, F.S., relating to awards of
 35 attorney fees; amending ss. 475.01, 475.611, 517.191,
 36 627.441, and 632.638, F.S.; conforming provisions to
 37 changes made by the act; providing a directive to the
 38 Division of Law Revision; providing an effective date.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Section 57.104, Florida Statutes, is amended to
 43 read:

44 57.104 Computation of attorney ~~attorneys'~~ fees.—
 45 (1) In any action in which attorney ~~attorneys'~~ fees are to
 46 be determined or awarded by the court, the court shall consider,
 47 among other things, time and labor of any legal assistants who
 48 contributed nonclerical, meaningful legal support to the matter
 49 involved and who are working under the supervision of an
 50 attorney. For purposes of this section "legal assistant" means a

51 person, who under the supervision and direction of a licensed
52 attorney engages in legal research, and case development or
53 planning in relation to modifications or initial proceedings,
54 services, processes, or applications; or who prepares or
55 interprets legal documents or selects, compiles, and uses
56 technical information from references such as digests,
57 encyclopedias, or practice manuals and analyzes and follows
58 procedural problems that involve independent decisions.

59 (2) In any action in which attorney fees are determined or
60 awarded by the court, there is a strong presumption that a
61 lodestar fee is sufficient and reasonable. This presumption may
62 be overcome only in a rare and exceptional circumstance with
63 evidence that competent counsel could not otherwise be retained.

64 Section 2. Paragraph (f) is added to subsection (4) of
65 section 90.502, Florida Statutes, to read:

66 90.502 Lawyer-client privilege.—

67 (4) There is no lawyer-client privilege under this section
68 when:

69 (f) A communication is relevant to the lawyer's act of
70 referring the client for treatment by a health care provider.

71 Section 3. Subsections (3), (4), and (10) of section
72 95.11, Florida Statutes, are amended to read:

73 95.11 Limitations other than for the recovery of real
74 property.—Actions other than for recovery of real property shall
75 be commenced as follows:

76 (3) WITHIN FOUR YEARS.—
 77 ~~(a) An action founded on negligence.~~
 78 (a)~~(b)~~ An action relating to the determination of
 79 paternity, with the time running from the date the child reaches
 80 the age of majority.
 81 (b)~~(e)~~ An action founded on the design, planning, or
 82 construction of an improvement to real property, with the time
 83 running from the date of actual possession by the owner, the
 84 date of the issuance of a certificate of occupancy, the date of
 85 abandonment of construction if not completed, or the date of
 86 completion of the contract or termination of the contract
 87 between the professional engineer, registered architect, or
 88 licensed contractor and his or her employer, whichever date is
 89 latest; except that, when the action involves a latent defect,
 90 the time runs from the time the defect is discovered or should
 91 have been discovered with the exercise of due diligence. In any
 92 event, the action must be commenced within 10 years after the
 93 date of actual possession by the owner, the date of the issuance
 94 of a certificate of occupancy, the date of abandonment of
 95 construction if not completed, or the date of completion of the
 96 contract or termination of the contract between the professional
 97 engineer, registered architect, or licensed contractor and his
 98 or her employer, whichever date is latest. However,
 99 counterclaims, cross-claims, and third-party claims that arise
 100 out of the conduct, transaction, or occurrence set out or

101 attempted to be set out in a pleading may be commenced up to 1
 102 year after the pleading to which such claims relate is served,
 103 even if such claims would otherwise be time barred. With respect
 104 to actions founded on the design, planning, or construction of
 105 an improvement to real property, if such construction is
 106 performed pursuant to a duly issued building permit and if a
 107 local enforcement agency, state enforcement agency, or special
 108 inspector, as those terms are defined in s. 553.71, has issued a
 109 final certificate of occupancy or certificate of completion,
 110 then as to the construction which is within the scope of such
 111 building permit and certificate, the correction of defects to
 112 completed work or repair of completed work, whether performed
 113 under warranty or otherwise, does not extend the period of time
 114 within which an action must be commenced. Completion of the
 115 contract means the later of the date of final performance of all
 116 the contracted services or the date that final payment for such
 117 services becomes due without regard to the date final payment is
 118 made.

119 (c)~~(d)~~ An action to recover public money or property held
 120 by a public officer or employee, or former public officer or
 121 employee, and obtained during, or as a result of, his or her
 122 public office or employment.

123 (d)~~(e)~~ An action for injury to a person founded on the
 124 design, manufacture, distribution, or sale of personal property
 125 that is not permanently incorporated in an improvement to real

126 | property, including fixtures.

127 | ~~(e)-(f)~~ An action founded on a statutory liability.

128 | ~~(f)-(g)~~ An action for trespass on real property.

129 | ~~(g)-(h)~~ An action for taking, detaining, or injuring

130 | personal property.

131 | ~~(h)-(i)~~ An action to recover specific personal property.

132 | ~~(i)-(j)~~ A legal or equitable action founded on fraud.

133 | ~~(j)-(k)~~ A legal or equitable action on a contract,

134 | obligation, or liability not founded on a written instrument,

135 | including an action for the sale and delivery of goods, wares,

136 | and merchandise, and on store accounts.

137 | ~~(k)-(l)~~ An action to rescind a contract.

138 | ~~(l)-(m)~~ An action for money paid to any governmental

139 | authority by mistake or inadvertence.

140 | ~~(m)-(n)~~ An action for a statutory penalty or forfeiture.

141 | ~~(n)-(o)~~ An action for assault, battery, false arrest,

142 | malicious prosecution, malicious interference, false

143 | imprisonment, or any other intentional tort, except as provided

144 | in subsections (4), (5), and (7).

145 | ~~(o)-(p)~~ Any action not specifically provided for in these

146 | statutes.

147 | ~~(p)-(q)~~ An action alleging a violation, other than a

148 | willful violation, of s. 448.110.

149 | (4) WITHIN TWO YEARS.—

150 | (a) An action founded on negligence.

151 (b)~~(a)~~ An action for professional malpractice, other than
152 medical malpractice, whether founded on contract or tort;
153 provided that the period of limitations shall run from the time
154 the cause of action is discovered or should have been discovered
155 with the exercise of due diligence. However, the limitation of
156 actions herein for professional malpractice shall be limited to
157 persons in privity with the professional.

158 (c)~~(b)~~ An action for medical malpractice shall be
159 commenced within 2 years from the time the incident giving rise
160 to the action occurred or within 2 years from the time the
161 incident is discovered, or should have been discovered with the
162 exercise of due diligence; however, in no event shall the action
163 be commenced later than 4 years from the date of the incident or
164 occurrence out of which the cause of action accrued, except that
165 this 4-year period shall not bar an action brought on behalf of
166 a minor on or before the child's eighth birthday. An "action for
167 medical malpractice" is defined as a claim in tort or in
168 contract for damages because of the death, injury, or monetary
169 loss to any person arising out of any medical, dental, or
170 surgical diagnosis, treatment, or care by any provider of health
171 care. The limitation of actions within this subsection shall be
172 limited to the health care provider and persons in privity with
173 the provider of health care. In those actions covered by this
174 paragraph in which it can be shown that fraud, concealment, or
175 intentional misrepresentation of fact prevented the discovery of

176 the injury the period of limitations is extended forward 2 years
177 from the time that the injury is discovered or should have been
178 discovered with the exercise of due diligence, but in no event
179 to exceed 7 years from the date the incident giving rise to the
180 injury occurred, except that this 7-year period shall not bar an
181 action brought on behalf of a minor on or before the child's
182 eighth birthday. This paragraph shall not apply to actions for
183 which ss. 766.301-766.316 provide the exclusive remedy.

184 (d)~~(e)~~ An action to recover wages or overtime or damages
185 or penalties concerning payment of wages and overtime.

186 (e)~~(d)~~ An action for wrongful death.

187 (f)~~(e)~~ An action founded upon a violation of any provision
188 of chapter 517, with the period running from the time the facts
189 giving rise to the cause of action were discovered or should
190 have been discovered with the exercise of due diligence, but not
191 more than 5 years from the date such violation occurred.

192 (g)~~(f)~~ An action for personal injury caused by contact
193 with or exposure to phenoxy herbicides while serving either as a
194 civilian or as a member of the Armed Forces of the United States
195 during the period January 1, 1962, through May 7, 1975; the
196 period of limitations shall run from the time the cause of
197 action is discovered or should have been discovered with the
198 exercise of due diligence.

199 (h)~~(g)~~ An action for libel or slander.

200 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS

201 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph
 202 (4)(e) ~~(4)(d)~~, an action for wrongful death seeking damages
 203 authorized under s. 768.21 brought against a natural person for
 204 an intentional tort resulting in death from acts described in s.
 205 782.04 or s. 782.07 may be commenced at any time. This
 206 subsection shall not be construed to require an arrest, the
 207 filing of formal criminal charges, or a conviction for a
 208 violation of s. 782.04 or s. 782.07 as a condition for filing a
 209 civil action.

210 Section 4. Section 624.155, Florida Statutes, is amended
 211 to read:

212 624.155 Civil remedy.—

213 (1) Any person may bring a civil action against an insurer
 214 when such person is damaged:

215 (a) By a violation of any of the following provisions by
 216 the insurer:

- 217 1. Section 626.9541(1)(i), (o), or (x);
- 218 2. Section 626.9551;
- 219 3. Section 626.9705;
- 220 4. Section 626.9706;
- 221 5. Section 626.9707; or
- 222 6. Section 627.7283.

223 (b) By the commission of any of the following acts by the
 224 insurer:

- 225 1. Not attempting in good faith to settle claims when,

226 | under all the circumstances, it could and should have done so,
227 | had it acted fairly and honestly toward its insured and with due
228 | regard for her or his interests;

229 | 2. Making claims payments to insureds or beneficiaries not
230 | accompanied by a statement setting forth the coverage under
231 | which payments are being made; or

232 | 3. Except as to liability coverages, failing to promptly
233 | settle claims, when the obligation to settle a claim has become
234 | reasonably clear, under one portion of the insurance policy
235 | coverage in order to influence settlements under other portions
236 | of the insurance policy coverage.

237 |
238 | Notwithstanding the provisions of the above to the contrary, a
239 | person pursuing a remedy under this section need not prove that
240 | such act was committed or performed with such frequency as to
241 | indicate a general business practice.

242 | (2) Any party may bring a civil action against an
243 | unauthorized insurer if such party is damaged by a violation of
244 | s. 624.401 by the unauthorized insurer.

245 | (3)(a) As a condition precedent to bringing an action
246 | under this section, the department and the authorized insurer
247 | must have been given 60 days' written notice of the violation.
248 | Notice to the authorized insurer must be provided by the
249 | department to the e-mail address designated by the insurer under
250 | s. 624.422.

251 (b) The notice shall be on a form provided by the
 252 department and shall state with specificity the following
 253 information, and such other information as the department may
 254 require:

255 1. The statutory provision, including the specific
 256 language of the statute, which the authorized insurer allegedly
 257 violated.

258 2. The facts and circumstances giving rise to the
 259 violation.

260 3. The name of any individual involved in the violation.

261 4. Reference to specific policy language that is relevant
 262 to the violation, if any. If the person bringing the civil
 263 action is a third party claimant, she or he shall not be
 264 required to reference the specific policy language if the
 265 authorized insurer has not provided a copy of the policy to the
 266 third party claimant pursuant to written request.

267 5. A statement that the notice is given in order to
 268 perfect the right to pursue the civil remedy authorized by this
 269 section.

270 (c) No action shall lie if, within 60 days after the
 271 insurer receives notice from the department in accordance with
 272 this subsection, the damages are paid or the circumstances
 273 giving rise to the violation are corrected.

274 (d) The authorized insurer that is the recipient of a
 275 notice filed pursuant to this section shall report to the

276 department on the disposition of the alleged violation.

277 (e) The applicable statute of limitations for an action
278 under this section shall be tolled for a period of:

279 1. Sixty days after the insurer receives from the
280 department the notice required by this subsection.

281 2. Sixty days after the date appraisal is invoked pursuant
282 to paragraph (f).

283 (f) A notice required under this subsection may not be
284 filed within 60 days after appraisal is invoked by any party in
285 a residential property insurance claim.

286 (4) An action for bad faith involving a failure to settle
287 a liability insurance claim, including any such action brought
288 under the common law, shall not lie if the insurer tenders the
289 lesser of the policy limits or the amount demanded by the
290 claimant either:

291 (a) Before a complaint asserting such claim, accompanied
292 by sufficient evidence to support the amount of the claim, is
293 filed; or

294 (b) Within 90 days after service of such complaint upon
295 the insurer.

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

299 (a) Mere negligence alone is insufficient to constitute
300 bad faith.

301 (b)1. The insured, claimant, and representative of the
302 insured or claimant have a duty to act in good faith in
303 furnishing information regarding the claim, in making demands of
304 the insurer, in setting deadlines, and in attempting to settle
305 the claim. This duty does not create a separate cause of action,
306 but may only be considered pursuant to subparagraph 2.

307 2. In any action for bad faith against an insurer, the
308 trier of fact may consider whether the insured, claimant, or
309 representative of the insured or claimant did not act in good
310 faith pursuant to this paragraph, in which case the trier of
311 fact may reasonably reduce the amount of damages awarded against
312 the insurer.

313 (6) If two or more third-party claimants have competing
314 claims arising out of a single occurrence, which in total may
315 exceed the available policy limits of one or more of the insured
316 parties who may be liable to the third-party claimants, an
317 insurer is not liable beyond the available policy limits for
318 failure to pay all or any portion of the available policy limits
319 to one or more of the third-party claimants if, within 90 days
320 after receiving notice of the competing claims in excess of the
321 available policy limits, the insurer complies with either
322 paragraph (a) or paragraph (b).

323 (a) The insurer files an interpleader action under the
324 Florida Rules of Civil Procedure. If the claims of the competing
325 third-party claimants are found to be in excess of the policy

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326 limits, the third-party claimants are entitled to a prorated
327 share of the policy limits as determined by the trier of fact.
328 An insurer's interpleader action does not alter or amend the
329 insurer's obligation to defend its insured.

330 (b) Pursuant to binding arbitration, the insurer makes the
331 entire amount of the policy limits available for payment to the
332 competing third-party claimants before a qualified arbitrator
333 selected by the insurer at the expense of the insurer. The
334 third-party claimants are entitled to a prorated share of the
335 policy limits as determined by the arbitrator, who must consider
336 the comparative fault, if any, of each third-party claimant, and
337 the total likely outcome at trial based upon the total of the
338 economic and noneconomic damages submitted to the arbitrator for
339 consideration. A third-party claimant whose claim is resolved by
340 the arbitrator must execute and deliver a general release to the
341 insured party whose claim is resolved by the proceeding.

342 (7)-(4) Upon adverse adjudication at trial or upon appeal,
343 the authorized insurer shall be liable for damages, together
344 with court costs and reasonable attorney's fees incurred by the
345 plaintiff.

346 (8)-(5) ~~No~~ Punitive damages may not ~~shall~~ be awarded under
347 this section unless the acts giving rise to the violation occur
348 with such frequency as to indicate a general business practice
349 and these acts are:

350 (a) Willful, wanton, and malicious;

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

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

355
 356 Any person who pursues a claim under this subsection shall post
 357 in advance the costs of discovery. Such costs shall be awarded
 358 to the authorized insurer if no punitive damages are awarded to
 359 the plaintiff.

360 (9)~~(6)~~ This section does ~~shall~~ not be construed to
 361 authorize a class action suit against an authorized insurer or a
 362 civil action against the commission, the office, or the
 363 department or any of their employees, or to create a cause of
 364 action when an authorized health insurer refuses to pay a claim
 365 for reimbursement on the ground that the charge for a service
 366 was unreasonably high or that the service provided was not
 367 medically necessary.

368 (10)~~(7)~~ In the absence of expressed language to the
 369 contrary, this section shall not be construed to authorize a
 370 civil action or create a cause of action against an authorized
 371 insurer or its employees who, in good faith, release information
 372 about an insured or an insurance policy to a law enforcement
 373 agency in furtherance of an investigation of a criminal or
 374 fraudulent act relating to a motor vehicle theft or a motor
 375 vehicle insurance claim.

376 ~~(11)(8)~~ The civil remedy specified in this section does
 377 not preempt any other remedy or cause of action provided for
 378 pursuant to any other statute or pursuant to the common law of
 379 this state. Any person may obtain a judgment under either the
 380 common-law remedy of bad faith or this statutory remedy, but is
 381 ~~shall~~ not be entitled to a judgment under both remedies. This
 382 section does ~~shall~~ not be construed to create a common-law cause
 383 of action. The damages recoverable pursuant to this section
 384 shall include those damages which are a reasonably foreseeable
 385 result of a specified violation of this section by the
 386 authorized insurer and may include an award or judgment in an
 387 amount that exceeds the policy limits.

388 ~~(12)(9)~~ A surety issuing a payment or performance bond on
 389 the construction or maintenance of a building or roadway project
 390 is not an insurer for purposes of subsection (1).

391 Section 5. Section 768.0427, Florida Statutes, is created
 392 to read:

393 768.0427 Admissibility of evidence to prove medical
 394 expenses in personal injury or wrongful death actions;
 395 disclosure of letters of protection; recovery of past and future
 396 medical expenses damages.-

397 (1) DEFINITIONS.-As used in this section, the term:

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

401 (b) "Health care coverage" means any third-party health
402 care or disability services financing arrangement, including,
403 but not limited to, arrangements with entities certified or
404 authorized under federal law or under the Florida Insurance
405 Code; state or federal health care benefit programs; workers'
406 compensation; and personal injury protection.

407 (c) "Health care provider" means any of the following
408 professionals and entities, and professionals and entities
409 similarly licensed in another jurisdiction:

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

411 2. A clinical laboratory providing services in this state
412 or services to health care providers in this state, if the
413 clinical laboratory is certified by the Centers for Medicare and
414 Medicaid Services under the federal Clinical Laboratory
415 Improvement Amendments and the federal rules adopted thereunder.

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

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

420 5. A health care professional licensed under part IV of
421 chapter 468.

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

423 7. A provider licensed under chapter 394 or chapter 397
424 and its clinical and nonclinical staff providing inpatient or
425 outpatient services.

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

427 9. A pharmacy permitted under chapter 465.

428 (d) "Letter of Protection" means any arrangement by which
 429 a health care provider renders treatment in exchange for a
 430 promise of payment for the claimant's medical expenses from any
 431 judgment or settlement of a personal injury or wrongful death
 432 action. The term includes any such arrangement, regardless of
 433 whether referred to as a letter of protection.

434 (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE
 435 EXPENSES.—Evidence offered to prove the amount of damages for
 436 past or future medical treatment or services in a personal
 437 injury or wrongful death action is admissible only as provided
 438 in this subsection.

439 (a) Evidence offered to prove the amount of damages for
 440 past medical treatment or services that have been satisfied is
 441 limited to evidence of the amount actually paid, regardless of
 442 the source of payment.

443 (b) Evidence offered to prove the amount necessary to
 444 satisfy unpaid charges for incurred medical treatment or
 445 services is limited to evidence as provided in this paragraph.

446 1. If the claimant has health care coverage, evidence of
 447 the amount which such health care coverage is obligated to pay
 448 the health care provider to satisfy the charges for the
 449 claimant's incurred medical treatment or services, plus the
 450 claimant's share of medical expenses under the insurance

451 contract or regulation.

452 2. If the claimant has health care coverage but obtains
453 treatment under a letter of protection or otherwise does not
454 submit charges for any health care provider's medical treatment
455 or services to health care coverage, evidence of the amount the
456 claimant's health care coverage would pay the health care
457 provider to satisfy the past unpaid medical charges under the
458 insurance contract or regulation, plus the claimant's share of
459 medical expenses under the insurance contract or regulation, had
460 the claimant obtained medical services or treatment pursuant to
461 the health care coverage.

462 3. If the claimant does not have health care coverage,
463 evidence of the Medicare reimbursement rate in effect at the
464 time of trial for the claimant's incurred medical treatment or
465 services, or, if there is no applicable Medicare rate for a
466 service, 140 percent of the applicable state Medicaid rate.

467 4. If the claimant obtains medical treatment or services
468 under a letter of protection and the health care provider
469 subsequently transfers the right to receive payment under the
470 letter of protection to a third party, evidence of the amount
471 the third party paid or agreed to pay the health care provider
472 in exchange for the right to receive payment pursuant to the
473 letter of protection.

474 5. Any evidence disclosed under subsection (3) related to
475 a letter of protection.

476 (c) Evidence offered to prove the amount of damages for
477 any future medical treatment or services the claimant will
478 receive is limited to evidence as provided in this paragraph.

479 1. If the claimant has health care coverage or is eligible
480 for any health care coverage, evidence of the amount for which
481 the future charges of health care providers could be satisfied
482 if submitted to such health care coverage, plus the claimant's
483 share of medical expenses under the insurance contract or
484 regulation.

485 2. If the claimant does not have health care coverage,
486 evidence of the Medicare reimbursement rate in effect at the
487 time of trial for the medical treatment or services the claimant
488 will receive, or, if there is no applicable Medicare rate for a
489 service, 140 percent of the applicable state Medicaid rate.

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

493 (e) Individual contracts between providers and authorized
494 commercial insurers or authorized health maintenance
495 organizations are not subject to discovery or disclosure and are
496 not admissible into evidence.

497 (3) LETTERS OF PROTECTION; REQUIRED DISCLOSURES.—In a
498 personal injury or wrongful death action, as a condition
499 precedent to asserting any claim for medical expenses for
500 treatment rendered under a letter of protection, the claimant

501 must disclose:

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

503 (b) All billings for the claimant's medical expenses,
 504 which must be itemized and, to the extent applicable, coded
 505 according to the American Medical Association's Current
 506 Procedural Terminology (CPT), or the Healthcare Common Procedure
 507 Coding System (HCPCS), in effect for the year in which services
 508 are rendered.

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

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

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

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

520 (e) Whether the claimant was referred for treatment under
 521 a letter of protection and, if so, the identity of the person
 522 who made the referral. If the referral is made by the claimant's
 523 attorney, disclosure of the referral is permitted under s.
 524 90.502(4)(f).

525 (4) DAMAGES RECOVERABLE FOR MEDICAL TREATMENT OR SERVICE

526 EXPENSES.—The damages that may be recovered by a claimant in a
527 personal injury or wrongful death action for the reasonable and
528 necessary cost or value of medical care rendered may not include
529 any amount in excess of the evidence of medical treatment and
530 services expenses admitted pursuant to subsection (2), and also
531 may not exceed the sum of the following:

532 (a) Amounts actually paid by or on behalf of the claimant
533 to a health care provider who rendered medical treatment or
534 services;

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

538 (c) Amounts necessary to provide for any reasonable and
539 necessary medical treatment or services the claimant will
540 receive in the future.

541 Section 6. Section 768.0701, Florida Statutes, is created
542 to read:

543 768.0701 Premises liability for criminal acts of third
544 parties.—Notwithstanding s. 768.81(4), in an action for damages
545 against the owner, lessor, operator, or manager of commercial or
546 real property brought by a person lawfully on the property who
547 was injured by the criminal act of a third party, the trier of
548 fact must consider the fault of all persons who contributed to
549 the injury.

550 Section 7. Subsection (2) of section 768.81, Florida

551 Statutes, is amended, and subsection (6) is added to that
 552 section, to read:

553 768.81 Comparative fault.—

554 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,
 555 contributory fault chargeable to the claimant diminishes
 556 proportionately the amount awarded as economic and noneconomic
 557 damages for an injury attributable to the claimant's
 558 contributory fault, but does not bar recovery, subject to
 559 subsection (6).

560 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to
 561 which this section applies, any party found to be greater than
 562 50 percent at fault for his or her own harm may not recover any
 563 damages.

564 Section 8. Section 626.9373, Florida Statutes, is
 565 repealed.

566 Section 9. Section 627.428, Florida Statutes, is repealed.

567 Section 10. Subsection (4) of section 624.123, Florida
 568 Statutes, is amended to read:

569 624.123 Certain international health insurance policies;
 570 exemption from code.—

571 (4) Any international health insurance policy or
 572 application solicited, provided, entered into, issued, or
 573 delivered pursuant to this subsection is exempt from all
 574 provisions of the insurance code, except that such policy,
 575 contract, or agreement is subject to the provisions of ss.

576 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,
 577 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,
 578 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

579 Section 11. Subsection (4) of section 624.488, Florida
 580 Statutes, is amended to read:

581 624.488 Applicability of related laws.—In addition to
 582 other provisions of the code cited in ss. 624.460-624.488:

583 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
 584 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428~~,
 585 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
 586 627.913, and 627.918;

587
 588 apply to self-insurance funds. Only those sections of the code
 589 that are expressly and specifically cited in ss. 624.460-624.489
 590 apply to self-insurance funds.

591 Section 12. Paragraph (b) of subsection (3) of section
 592 627.062, Florida Statutes, is amended to read:

593 627.062 Rate standards.—

594 (3)

595 (b) Individual risk rates and modifications to existing
 596 approved forms are not subject to this part or part II, except
 597 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
 598 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
 599 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
 600 627.4265, and 627.427, ~~and 627.428~~, but are subject to all other

601 applicable provisions of this code and rules adopted thereunder.

602 Section 13. Section 627.401, Florida Statutes, is amended
603 to read:

604 627.401 Scope of this part.—No provision of this part of
605 this chapter applies to:

606 (1) Reinsurance.

607 (2) Policies or contracts not issued for delivery in this
608 state nor delivered in this state, except as otherwise provided
609 in this code.

610 (3) Wet marine and transportation insurance, except ss.
611 627.409, and 627.420, ~~and 627.428~~.

612 (4) Title insurance, except ss. 627.406, 627.415, 627.416,
613 627.419, and 627.427, ~~and 627.428~~.

614 (5) Credit life or credit disability insurance, except s.
615 627.419(5) ~~ss. 627.419(5) and 627.428~~.

616 Section 14. Subsection (8) of section 627.727, Florida
617 Statutes, is amended to read:

618 627.727 Motor vehicle insurance; uninsured and
619 underinsured vehicle coverage; insolvent insurer protection.—

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

625 Section 15. Subsection (8) of section 627.736, Florida

626 Statutes, is amended to read:

627 627.736 Required personal injury protection benefits;
628 exclusions; priority; claims.—

629 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—
630 With respect to any dispute under the provisions of ss. 627.730-
631 627.7405 between the insured and the insurer, or between an
632 assignee of an insured's rights and the insurer, the provisions
633 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in
634 subsections (10) and (15), and except that any attorney fees
635 recovered must:

636 (a) Comply with prevailing professional standards;

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

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

642
643 Upon request by either party, a judge must make written
644 findings, substantiated by evidence presented at trial or any
645 hearings associated therewith, that any award of attorney fees
646 complies with this subsection. ~~Notwithstanding s. 627.428,~~
647 Attorney fees recovered under ss. 627.730-627.7405 must be
648 calculated without regard to a contingency risk multiplier.

649 Section 16. Section 627.756, Florida Statutes, is amended
650 to read:

651 627.756 Bonds for construction contracts; ~~attorney fees in~~
 652 ~~ease of suit.~~

653 ~~(1) Section 627.428 applies to suits brought by owners,~~
 654 ~~contractors, subcontractors, laborers, and materialmen against a~~
 655 ~~surety insurer under payment or performance bonds written by the~~
 656 ~~insurer under the laws of this state to indemnify against~~
 657 ~~pecuniary loss by breach of a building or construction contract.~~
 658 ~~Owners, contractors, subcontractors, laborers, and materialmen~~
 659 ~~shall be deemed to be insureds or beneficiaries for the purposes~~
 660 ~~of this section.~~

661 ~~(2)~~ A surety who issues a bid, performance, or payment
 662 bond in connection with construction activities where hazardous
 663 substances exist or are discovered is liable under ss. 376.308
 664 and 403.727 only to the extent provided in this section
 665 ~~subsection~~. In case of a default, the surety is liable only for
 666 the cost of completion of the contract work in accordance with
 667 the plans and specifications, less the balance of funds
 668 remaining to be paid under the contract, up to the penal sum of
 669 the bond. The surety is not liable on a bond to indemnify or
 670 compensate the obligee for loss or liability arising from
 671 personal injury or property damage, whether or not caused by a
 672 breach of the bonded contract. Further, a right of action does
 673 not accrue on a bond to or for the use of any person other than
 674 the obligee named in the bond.

675 Section 17. Subsection (4) of section 628.6016, Florida

676 Statutes, is amended to read:

677 628.6016 Applicability of related laws.—In addition to
678 other provisions of the code cited in ss. 628.6011-628.6018:

679 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
680 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~
681 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
682 627.913, and 627.918; and

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

690 Section 18. Section 631.70, Florida Statutes, is repealed.

691 Section 19. Section 631.926, Florida Statutes, is
692 repealed.

693 Section 20. Paragraphs (a) and (j) of subsection (1) of
694 section 475.01, Florida Statutes, are amended to read:

695 475.01 Definitions.—

696 (1) As used in this part:

697 (a) "Broker" means a person who, for another, and for a
698 compensation or valuable consideration directly or indirectly
699 paid or promised, expressly or impliedly, or with an intent to
700 collect or receive a compensation or valuable consideration

701 therefor, appraises, auctions, sells, exchanges, buys, rents, or
702 offers, attempts or agrees to appraise, auction, or negotiate
703 the sale, exchange, purchase, or rental of business enterprises
704 or business opportunities or any real property or any interest
705 in or concerning the same, including mineral rights or leases,
706 or who advertises or holds out to the public by any oral or
707 printed solicitation or representation that she or he is engaged
708 in the business of appraising, auctioning, buying, selling,
709 exchanging, leasing, or renting business enterprises or business
710 opportunities or real property of others or interests therein,
711 including mineral rights, or who takes any part in the procuring
712 of sellers, purchasers, lessors, or lessees of business
713 enterprises or business opportunities or the real property of
714 another, or leases, or interest therein, including mineral
715 rights, or who directs or assists in the procuring of prospects
716 or in the negotiation or closing of any transaction which does,
717 or is calculated to, result in a sale, exchange, or leasing
718 thereof, and who receives, expects, or is promised any
719 compensation or valuable consideration, directly or indirectly
720 therefor; and all persons who advertise rental property
721 information or lists. A broker renders a professional service
722 and is a professional within the meaning of s. 95.11(4)(b) ~~s.~~
723 ~~95.11(4)(a)~~. Where the term "appraise" or "appraising" appears
724 in the definition of the term "broker," it specifically excludes
725 those appraisal services which must be performed only by a

726 state-licensed or state-certified appraiser, and those appraisal
727 services which may be performed by a registered trainee
728 appraiser as defined in part II. The term "broker" also includes
729 any person who is a general partner, officer, or director of a
730 partnership or corporation which acts as a broker. The term
731 "broker" also includes any person or entity who undertakes to
732 list or sell one or more timeshare periods per year in one or
733 more timeshare plans on behalf of any number of persons, except
734 as provided in ss. 475.011 and 721.20.

735 (j) "Sales associate" means a person who performs any act
736 specified in the definition of "broker," but who performs such
737 act under the direction, control, or management of another
738 person. A sales associate renders a professional service and is
739 a professional within the meaning of s. 95.11(4)(b) ~~s.~~
740 ~~95.11(4)(a)~~.

741 Section 21. Paragraph (h) of subsection (1) of section
742 475.611, Florida Statutes, is amended to read:

743 475.611 Definitions.—

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

745 (h) "Appraiser" means any person who is a registered
746 trainee real estate appraiser, a licensed real estate appraiser,
747 or a certified real estate appraiser. An appraiser renders a
748 professional service and is a professional within the meaning of
749 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

750 Section 22. Subsection (7) of section 517.191, Florida

751 Statutes, is amended to read:

752 517.191 Injunction to restrain violations; civil
753 penalties; enforcement by Attorney General.—

754 (7) Notwithstanding s. 95.11(4) (f) ~~s. 95.11(4) (e)~~, an
755 enforcement action brought under this section based on a
756 violation of any provision of this chapter or any rule or order
757 issued under this chapter shall be brought within 6 years after
758 the facts giving rise to the cause of action were discovered or
759 should have been discovered with the exercise of due diligence,
760 but not more than 8 years after the date such violation
761 occurred.

762 Section 23. Subsection (2) of section 627.441, Florida
763 Statutes, is amended to read:

764 627.441 Commercial general liability policies; coverage to
765 contractors for completed operations.—

766 (2) A liability insurer must offer coverage at an
767 appropriate additional premium for liability arising out of
768 current or completed operations under an owner-controlled
769 insurance program for any period beyond the period for which the
770 program provides liability coverage, as specified in s.
771 255.0517(2) (b). The period of such coverage must be sufficient
772 to protect against liability arising out of an action brought
773 within the time limits provided in s. 95.11(3) (b) ~~s.~~
774 ~~95.11(3) (c)~~.

775 Section 24. Subsection (11) of section 632.638, Florida

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776 Statutes, is amended to read:

777 632.638 Applicability of other code provisions.—In
778 addition to other provisions contained or referred to in this
779 chapter, the following chapters and provisions of this code
780 apply to fraternal benefit societies, to the extent applicable
781 and not in conflict with the express provisions of this chapter
782 and the reasonable implications thereof:

783 ~~(11) Section 627.428;~~

784 Section 25. The Division of Law Revision is directed to
785 replace the phrase "the effective date of this act" wherever it
786 occurs in this act with the date this act becomes a law.

787 Section 26. This act shall take effect July 1, 2023.