

By the Committees on Rules; Appropriations; and Governmental Oversight and Accountability; and Senators Brodeur and Rouson

595-03783-24

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1 A bill to be entitled
2 An act relating to suits against the government;
3 amending s. 768.28, F.S.; increasing the statutory
4 limits on liability for tort claims against the state
5 and its agencies and subdivisions; prohibiting
6 insurance policies from placing conditions for payment
7 upon the enactment of a claim bill; authorizing a
8 subdivision of the state to settle a claim in excess
9 of the statutory limit without further action by the
10 Legislature regardless of insurance coverage limits;
11 prohibiting a party from lobbying against any agreed
12 upon settlement brought to the Legislature as a claim
13 bill; specifying that the limitations in effect on the
14 date when the claim incident occurred apply to a
15 claim; requiring the Department of Financial Services,
16 beginning on a specified date and every 5 years
17 thereafter, to adjust the limitations of liability for
18 claims, not to exceed a certain percentage for each
19 such adjustment; revising the period within which
20 certain claims must be presented to certain entities;
21 revising exceptions relating to instituting actions on
22 tort claims against the state or one of its agencies
23 or subdivisions; revising the period after which the
24 failure of certain entities to make final disposition
25 of a claim shall be deemed a final denial of the claim
26 for certain purposes; revising the statute of
27 limitations for tort claims against the state or one
28 of its agencies or subdivisions and exceptions
29 thereto; providing a claimant a specific timeframe to

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30 file suit; reenacting ss. 45.061, 110.504, 111.071,
31 125.01015, 163.01, 190.043, 213.015, 252.51, 252.89,
32 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19,
33 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075,
34 394.9085, 395.1055, 403.706, 409.175, 409.993,
35 420.504, 420.507, 455.221, 455.32, 456.009, 456.076,
36 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,
37 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112,
38 768.1355, 768.1382, 768.295, 944.713, 946.5026,
39 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.351,
40 1002.37, 1002.55, 1002.83, 1002.88, 1006.24, and
41 1006.261, F.S., to incorporate the amendments made to
42 s. 768.28, F.S., in references thereto; providing
43 applicability; providing an effective date.

44

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

46

47 Section 1. Subsection (5), paragraphs (a) and (d) of
48 subsection (6), and subsection (14) of section 768.28, Florida
49 Statutes, are amended to read:

50 768.28 Waiver of sovereign immunity in tort actions;
51 recovery limits; civil liability for damages caused during a
52 riot; limitation on attorney fees; statute of limitations;
53 exclusions; indemnification; risk management programs.—

54 (5) (a) The state and its agencies and subdivisions shall be
55 liable for tort claims in the same manner and to the same extent
56 as a private individual under like circumstances, but liability
57 shall not include punitive damages or interest for the period
58 before judgment. Neither the state nor its agencies or

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59 subdivisions shall be liable to pay a claim or a judgment by any
60 one person which exceeds the sum of \$300,000 ~~\$200,000~~ or any
61 claim or judgment, or portions thereof, which, when totaled with
62 all other claims or judgments paid by the state or its agencies
63 or subdivisions arising out of the same incident or occurrence,
64 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or
65 judgments may be claimed and rendered in excess of these amounts
66 ~~and may be settled~~ and paid pursuant to this act up to \$300,000
67 ~~or \$500,000~~ ~~\$200,000~~ ~~or \$300,000~~, as the case may be; and that
68 portion of the judgment that exceeds these amounts may be
69 reported to the Legislature, and ~~but~~ may be paid in part or in
70 whole ~~only~~ by further act of the Legislature.

71 (b) Notwithstanding the limited waiver of sovereign
72 immunity provided in paragraph (a):

73 1. ~~herein~~, The state or an agency ~~or subdivision~~ thereof
74 may agree, within the limits of insurance coverage provided, to
75 settle a claim made or a judgment rendered against it in excess
76 of the waiver provided in paragraph (a) without further action
77 by the Legislature.

78 2. A subdivision of the state may agree to settle a claim
79 made or a judgment rendered against it in excess of the waiver
80 provided in paragraph (a) without further action by the
81 Legislature.

82
83 However, ~~but~~ the state or an agency or subdivision thereof may
84 ~~shall~~ not be deemed to have waived any defense of sovereign
85 immunity or to have increased the limits of its liability as a
86 result of its obtaining insurance coverage for tortious acts in
87 excess of the ~~\$200,000~~ ~~or \$300,000~~ waiver provided in paragraph

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88 (a). However, a party may not lobby against any agreed upon
89 settlement brought to the Legislature as a settled claim bill
90 above. An insurance policy may not condition the payment of
91 benefits, in whole or in part, on the enactment of a claim bill.

92 (c) The limitations of liability set forth in this
93 subsection shall apply to the state and its agencies and
94 subdivisions whether or not the state or its agencies or
95 subdivisions possessed sovereign immunity before July 1, 1974.

96 (d) ~~(b)~~ A municipality has a duty to allow the municipal law
97 enforcement agency to respond appropriately to protect persons
98 and property during a riot or an unlawful assembly based on the
99 availability of adequate equipment to its municipal law
100 enforcement officers and relevant state and federal laws. If the
101 governing body of a municipality or a person authorized by the
102 governing body of the municipality breaches that duty, the
103 municipality is civilly liable for any damages, including
104 damages arising from personal injury, wrongful death, or
105 property damages proximately caused by the municipality's breach
106 of duty. The sovereign immunity recovery limits in paragraph (a)
107 do not apply to an action under this paragraph.

108 (e) When determining liability limits for a claim, the
109 limitations of liability in effect on the date when the claim
110 incident occurred apply to the claim.

111 (f) Beginning July 1, 2029, and on July 1 every 5 years
112 thereafter, the Department of Financial Services shall adjust
113 the limitations of liability in this subsection to reflect
114 changes in the Consumer Price Index for the Southeast or a
115 successor index as calculated by the United States Department of
116 Labor, not to exceed 3 percent for any such adjustment.

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117 (6) (a) An action may not be instituted on a claim against
118 the state or one of its agencies or subdivisions unless the
119 claimant presents the claim in writing to the appropriate
120 agency, and also, except as to any claim against a municipality,
121 county, or the Florida Space Authority, presents such claim in
122 writing to the Department of Financial Services, within 18
123 months ~~3 years~~ after such claim accrues and the Department of
124 Financial Services or the appropriate agency denies the claim in
125 writing; except that, if:

126 1. Such claim is for contribution pursuant to s. 768.31, it
127 must be so presented within 6 months after the judgment against
128 the tortfeasor seeking contribution has become final by lapse of
129 time for appeal or after appellate review or, if there is no
130 such judgment, within 6 months after the tortfeasor seeking
131 contribution has either discharged the common liability by
132 payment or agreed, while the action is pending against her or
133 him, to discharge the common liability; or

134 2. Such action arises from a violation of s. 794.011
135 involving a victim who was younger than 16 years of age at the
136 time of the act, the claimant may present the claim in writing
137 at any time pursuant to s. 95.11(9) ~~is for wrongful death, the~~
138 ~~claimant must present the claim in writing to the Department of~~
139 ~~Financial Services within 2 years after the claim accrues.~~

140 (d) For purposes of this section, complete, accurate, and
141 timely compliance with the requirements of paragraph (c) shall
142 occur prior to settlement payment, close of discovery or
143 commencement of trial, whichever is sooner; provided the ability
144 to plead setoff is not precluded by the delay. This setoff shall
145 apply only against that part of the settlement or judgment

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146 payable to the claimant, minus claimant's reasonable attorney's
147 fees and costs. Incomplete or inaccurate disclosure of unpaid
148 adjudicated claims due the state, its agency, officer, or
149 subdivision, may be excused by the court upon a showing by the
150 preponderance of the evidence of the claimant's lack of
151 knowledge of an adjudicated claim and reasonable inquiry by, or
152 on behalf of, the claimant to obtain the information from public
153 records. Unless the appropriate agency had actual notice of the
154 information required to be disclosed by paragraph (c) in time to
155 assert a setoff, an unexcused failure to disclose shall, upon
156 hearing and order of court, cause the claimant to be liable for
157 double the original undisclosed judgment and, upon further
158 motion, the court shall enter judgment for the agency in that
159 amount. Except as provided otherwise in this subsection, the
160 failure of the Department of Financial Services or the
161 appropriate agency to make final disposition of a claim within 4
162 ~~6~~ months after it is filed shall be deemed a final denial of the
163 claim for purposes of this section. For purposes of this
164 subsection, in medical malpractice actions and in wrongful death
165 actions, the failure of the Department of Financial Services or
166 the appropriate agency to make final disposition of a claim
167 within 90 days after it is filed shall be deemed a final denial
168 of the claim. The statute of limitations ~~for medical malpractice~~
169 ~~actions and wrongful death actions~~ is tolled as to all
170 prospective defendants for the period of time taken by the
171 Department of Financial Services or the appropriate agency to
172 deny the claim. The claimant has 60 days from the date of the
173 Department of Financial Services' or the appropriate agency's
174 final disposition of a claim or the date at which final denial

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175 of the claim is deemed to have occurred, or the remainder of the
176 period of the statute of limitations, whichever is greater,
177 within which to file suit. The provisions of this subsection do
178 not apply to such claims as may be asserted by counterclaim
179 pursuant to s. 768.14.

180 (14) Every claim against the state or one of its agencies
181 or subdivisions for damages for a negligent or wrongful act or
182 omission pursuant to this section shall be forever barred unless
183 the civil action is commenced by filing a complaint in the court
184 of appropriate jurisdiction:

185 (a) Within 2 4 years for an action founded on negligence.

186 (b) Within the limitations provided in s. 768.31(4) for an
187 action for contribution.

188 (c) Within the limitations provided in s. 95.11(4) for an
189 action for damages arising from medical malpractice or wrongful
190 death.

191 (d) At any time for an action arising from acts
192 constituting a violation of s. 794.011 involving a victim who
193 was younger than 16 years of age pursuant to s. 95.11(9).

194 (e) Within 4 years for any other action not specified in
195 this subsection after such claim accrues; except that an action
196 for contribution must be commenced within the limitations
197 provided in s. 768.31(4), and an action for damages arising from
198 medical malpractice or wrongful death must be commenced within
199 the limitations for such actions in s. 95.11(4).

200 Section 2. Sections 45.061, 110.504, 111.071, 125.01015,
201 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125,
202 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395,
203 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706,

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207 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33,
208 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88,
209 1006.24, and 1006.261, Florida Statutes, are reenacted for the
210 purpose of incorporating the amendments made by this act to s.
211 768.28, Florida Statutes, in references thereto.

212 Section 3. This act applies to claims accruing on or after
213 October 1, 2024.

214 Section 4. This act shall take effect October 1, 2024.