



# *The Journal* OF THE *House of Representatives*

**Number 4**

**Wednesday, March 10, 1999**

The House was called to order by the Speaker at 8:50 a.m.

## **Prayer**

The following prayer was offered by the Reverend David L. Poole, Sr., of First Presbyterian Church of Frostproof, upon invitation of Rep. Alexander:

Almighty God, these legislators gather today to ponder the wise course. This course will take them to the end of their collective wisdom. Then they will ask for your blessing of wisdom as they debate, discuss, and decide what is best for this state. You, O Father, are the author of the laws of nature and of the heart. When you set the universe into motion, your laws governed the outcome of daily life as they do to this very day. Grant these men and women grace to know wisdom, to stand on principle, to discern the good, the true, and the beautiful.

You alone, Lord God, are the author of life and our various relationships to one another. The primary relationship, apart from our relationship with you, is that of the family. Bless the moms and dads in this Chamber as they struggle with their time commitments to the state of Florida and the families they represent. Give them grace as they try to be good parents and good legislators. Both callings are ordained by you and both need your daily blessing. Bless their families, and may they have as much impact on the state of Florida as any law written in this Chamber. You have ordained that the good society should follow after good families as well as good laws. Strengthen their feet of clay with the iron of your wise counsel. Govern their lives as they govern this state.

Now, may we look to you for this day as a day of blessing and a challenge; shouldering the weight of responsibility and the privilege of service to this great state for the sake of Christ. Amen.

The following Members were recorded present:

The Chair	Bloom	Crady	Flanagan
Albright	Boyd	Crist	Frankel
Alexander	Bradley	Crow	Fuller
Andrews	Bronson	Dennis	Futch
Argenziano	Brown	Detert	Garcia
Arnall	Brummer	Dockery	Gay
Bainter	Bush	Edwards	Goode
Ball	Byrd	Effman	Goodlette
Barreiro	Cantens	Eggelation	Gottlieb
Bense	Casey	Farkas	Green, C.
Betancourt	Chestnut	Fasano	Greene, A.
Bilirakis	Constantine	Feeney	Greenstein
Bitner	Cosgrove	Fiorentino	Hafner

Harrington	Littlefield	Pruitt	Stafford
Hart	Logan	Putnam	Stansel
Healey	Lynn	Rayson	Starks
Henriquez	Maygarden	Reddick	Sublette
Heyman	Melvin	Ritchie	Trovillion
Hill	Merchant	Ritter	Tullis
Jacobs	Miller, J.	Roberts	Turnbull
Johnson	Miller, L.	Rojas	Valdes
Jones	Minton	Russell	Villalobos
Kelly	Morrone	Ryan	Wallace
Kilmer	Murman	Sembler	Warner
Kosmas	Ogles	Smith, C.	Wasserman Schultz
Kyle	Patterson	Smith, K.	Waters
Lacasa	Peaden	Sobel	Wiles
Lawson	Posey	Sorensen	Wilson
Levine	Prieguez	Spratt	Wise

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

## **Pledge**

The Members, led by Robin D. Eberly and Matthew Stokes of Blountstown, Lauren Victoria Thornton of Tallahassee, Nichole V. Floyd of High Springs, Hannah Sumner of Hosford, and Ethan Arrow of Longwood, pledged allegiance to the Flag. Lauren Victoria Thornton served at the invitation of Rep. Heyman. Nichole V. Floyd served at the invitation of Rep. Stansel. Ethan Arrow served at the invitation of Rep. Trovillion.

## **House Physician**

The Speaker introduced Dr. Jerry Boland of Perry, who served in the Clinic today upon invitation of Rep. Boyd.

## **Correction of the *Journal***

The *Journal* of March 9 was corrected and approved as corrected.

## **Reports of Councils and Standing Committees**

### **Committee and Floor Amendment Procedure for the General Appropriations Bills**

*The Honorable John Thrasher*  
*Speaker, Florida House of Representatives*

March 10, 1999

*Dear Speaker Thrasher:*

In accordance with the vote of the House, the following is the procedure for committee and floor action on the general appropriations bills, and the implementing bills, for the 1999 regular legislative session.

No later than 4:30 p.m. on Monday, March 15, 1999, the General Appropriations Committee will file notice of the proposed committee bills to be considered at its meeting on Friday, March 19, 1999. The proposed committee bills will be available to the Members and the public at that time.

All amendments must be filed no later than 12:00 p.m. on Wednesday, March 17, 1999. Packages of amendments for the proposed committee bills will be available from the General Appropriations Committee as early as possible on Thursday morning, March 18, 1999.

All amendments to amendments and substitute amendments must be filed no later than 1:00 p.m. on Thursday, March 18, 1999.

Amendments will be filed with the General Appropriations Committee, Room 221, The Capitol. Member requests for staff to draft amendments, which requests are received before the relevant deadline, will be considered timely filed.

Amendment deadlines apply to all Members, including members of all Appropriations Committees.

The General Appropriations Committee will meet at the noticed time on the morning of Friday, March 19, 1999, and will consider all timely filed amendments.

The General Appropriations Committee will publish the General Appropriations Bill and related implementing bills, as amended, on Monday, March 22, 1999.

All floor amendments to be considered on second reading of the bill must be filed no later than 12:00 p.m. on Wednesday, March 24, 1999.

Packages of amendments for the General Appropriations Bill and implementing bills will be available from the General Appropriations Committee as early as possible on Thursday morning, March 25, 1999.

All amendments to floor amendments and substitute amendments to floor amendments must be filed no later than 1:00 p.m. on Thursday, March 25, 1999.

The bills will be read a second time on the floor on Friday, March 26, 1999.

Floor amendments will be filed with the General Appropriations Committee, Room 221, The Capitol. Member requests for staff to draft amendments, which requests are received before the relevant deadline, will be considered timely filed.

Pursuant to House Rule 142(j) all amendments to the appropriations bill, both in committee and on the floor, must be balanced with increases offset by equivalent or greater decreases within the jurisdiction of the same fiscal committee. Requests to draft amendments must include the item to be funded and the item from which funding is to be reduced.

Amendments can only be accepted from House Members, their legislative assistants, and staff of the Majority and Democratic Offices on behalf of the Member.

Respectfully Submitted,  
*Joseph Arnall*

#### Time Schedule

#### Procedure for Committee and Floor Action on the Appropriations Bill and related Implementing Bills

Monday, March 15, 1999  
(file by 4:30 p.m.)

Notice for the General Appropriations Committees Proposed Committee Bills for the General Appropriations Bill and related implementing bills available

Wednesday, March 17, 1999  
(filed no later than 12:00 p.m.)

All amendments to the General Appropriations Bill and implementing bills must be filed

Thursday morning, March 18, 1999

Packages of amendments will be available as early as possible

Thursday, March 18, 1999  
(filed no later than 1:00 p.m.)

All amendments to the amendments and substitute amendments must be filed

Amendments will be filed with the General Appropriations Committee Room 221, The Capitol

Member requests for staff to draft amendments, which requests are received before the relevant deadline, will be considered timely filed.

Friday, March 19, 1999

General Appropriations Committee Meeting

Monday, March 22, 1999

General Appropriations Bill and related implementing bills, as amended, will be published

Wednesday, March 24, 1999  
(filed no later than 12:00 p.m.)

All floor amendments to be considered must be filed

Thursday morning, March 25, 1999

Packages of amendments will be available as early as possible

Thursday, March 25, 1999  
(filed no later than 1:00 p.m.)

All amendments to floor amendments and substitute amendments to floor amendments must be filed

Friday, March 26, 1999

Bills to be read second time on the floor

Floor amendments will be filed with the General Appropriations Committee Room 221, The Capitol

Member requests for staff to draft amendments, which requests are received before the relevant deadline, will be considered timely filed.

On motion by Rep. Arnall, the above procedures were adopted.

#### Motions Relating to Committee References

On motion by Rep. Lynn, agreed to by two-thirds vote, HB 869 was withdrawn from the Committee on Education Innovation and remains referred to the Committees on Finance & Taxation and Health & Human Services Appropriations.

On motion by Rep. Jones, agreed to by two-thirds vote, CS/HB 287 was withdrawn from the Committee on Health Care Licensing & Regulation and remains referred to the Committee on Health & Human Services Appropriations.

On motion by Rep. Logan, agreed to by two-thirds vote, HBs 497 and 693 were withdrawn from further consideration of the House.

On motion by Rep. Argenziano, agreed to by two-thirds vote, HB 439 was withdrawn from further consideration of the House.

#### Bills and Joint Resolutions on Third Reading

**CS/CS/HB 113**—A bill to be entitled An act relating to punishment of felons; amending s. 775.087, F.S., relating to felony reclassification and minimum sentence and other penalties for offenders who committed aggravated battery or committed certain acts involving a weapon,

firearm, or destructive device during the commission of a felony; conforming terminology to changes made by the act; increasing from 3 to 10 years the minimum prison term for certain felonies or attempted felonies under specified circumstances when the offender possessed a firearm or destructive device during the commission of the offense or flight therefrom; providing exceptions; revising the category of such offenses to include murder, sexual battery, robbery, burglary, arson, aggravated assault or aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, unlawful throwing, placing, or discharging of a destructive device or bomb, carjacking, home-invasion robbery, aggravated stalking, and trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, or other specified violation of s. 893.135(1), F.S.; providing for imposition of a 20-year minimum term of imprisonment when, in addition to such circumstances, the firearm or destructive device was discharged while the person was carrying, displaying, using, or threatening or attempting to use the firearm or destructive device; providing for imposition of a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison when, in further addition to such circumstances, the discharging of the firearm or destructive device resulted in infliction of death or great bodily harm upon any person; providing for construction; providing legislative intent with respect to punishment of offenders who possess, carry, display, use, or threaten or attempt to use firearms or destructive devices; providing imposition of the minimum term of imprisonment consecutive to any other term of imprisonment imposed; providing that the minimum term of imprisonment imposed is authorized by law regardless of the maximum sentence that may be imposed for the underlying felony; increasing from 8 to 15 years the minimum prison term for certain felonies or attempted felonies under specified circumstances when, during the commission of the offense, the offender possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; providing for the category of such offenses to include murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, unlawful throwing, placing, or discharging of a destructive device or bomb, carjacking, home-invasion robbery, aggravated stalking, and trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, or other specified violation of s. 893.135(1); providing for imposition of a 20-year minimum term of imprisonment when, in addition to such circumstances, the semiautomatic firearm and its high-capacity detachable box magazine or a machine gun was discharged while the person was carrying, displaying, using, or threatening or attempting to use the semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; providing for imposition of a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison when, in further addition to such circumstances, the discharging of the semiautomatic firearm and its high-capacity detachable box magazine or a machine gun resulted in infliction of death or great bodily harm upon any person; providing for construction; providing legislative intent with respect to punishment of offenders who possess, carry, display, use, or threaten or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; providing for

imposition of the minimum term of imprisonment consecutive to any other term of imprisonment imposed; providing that the minimum term of imprisonment imposed is authorized by law regardless of the maximum sentence that may be imposed for the underlying felony; providing for legislative policy and intent; providing for a report; requiring the state attorney to explain mandatory sentence deviations in writing; requiring state attorneys to submit such writings to its association where it must remain available to the public for at least 10 years; reenacting s. 921.0022(2), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.0024(1)(b), F.S., relating to Florida Criminal Punishment Code worksheet computations and key, and s. 947.146(3)(b), F.S., relating to Control Release Authority, to incorporate said amendment in references; providing for public service announcements with respect to the penalties provided in the act; providing an effective date.

—was read the third time by title.

Representative(s) Heyman offered the following:

**Amendment 19**—On page 11, lines 15, 16, and 24, and on page 12, line 1,

remove from the bill: *or the flight therefrom.*

Rep. Heyman moved the adoption of the amendment, which was adopted by the required two-thirds vote.

On motion by Rep. Cantens, under Rule 142(h), the following late-filed amendment was considered.

Representative(s) Cantens, Roberts, and Flanagan offered the following:

**Amendment 20**—On page 13, line 27, of the bill

after the period insert: *It is the intent of the Legislature to establish zero tolerance of criminals who use, threaten to use, or avail themselves of firearms in order to commit crimes and thereby demonstrate their lack of value for human life. It is also the intent of the Legislature that prosecutors should appropriately exercise their discretion in those cases in which the offenders' possession of the firearm is incidental to the commission of a crime and not used in furtherance of the crime, used in order to commit the crime, or used in preparation to commit the crime.*

Rep. Cantens moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Further consideration of **CS/CS/HB 113** was temporarily postponed under Rule 141.

### Special Election of Members

The Department of State notified the Clerk of the House that the following Representatives had been elected on March 9 in special general elections: Rep. Ken Littlefield, Rep. Anthony "Tony" Suarez, and Rep. James F. "Jim" Tullis. Rep. Littlefield was elected as a Member from the 61st District, replacing Rep. Carl Littlefield, who resigned effective January 8. Rep. Suarez was elected as a Member from the 35th District, replacing Rep. Bob Brooks, who resigned effective January 15. Rep. Tullis was elected as a Member from the 17th District, replacing Rep. James E. "Jim" King, Jr., who resigned effective January 8.

### Oath of Office Administered

On a motion by Rep. Arnall, the Speaker, with the concurrence of Rep. L. Miller, appointed Reps. Feeney, Byrd, Dockery, Reddick, and Frankel as a committee to escort Reps. Littlefield, Tullis, and Suarez to the well for the administration of the Oath of Office.

The Speaker invited Kay Tullis (wife of Rep. Tullis) and Carole Littlefield (wife of Rep. Littlefield) to accompany their husbands to the

well during the administration of the Oath. Rep. Frankel accompanied Rep. Suarez to the well.

Chief Justice Major B. Harding, Florida Supreme Court, administered the Oath of Office prescribed by the Constitution.

The Speaker welcomed the three newest Members to the House of Representatives.

Rep. Tullis was recognized for brief remarks and introduced his family: brother, Gary; daughter, Kimberly; daughter's boyfriend, Dan Fink; brother-in-law, Randy Hammond; and aide, Debra Harris.

Rep. Suarez was recognized for brief remarks.

Rep. Littlefield was recognized for brief remarks and introduced his family: mother, Cora Littlefield; father, Spurgeon Littlefield; daughter, LeAnne Webb; son-in-law, Henry Webb; daughter, Lori Bartle; cousin, Lyle Fox; and aide, Linda Harris.

Rep. Arnall suggested the absence of a quorum. A quorum was present.

On motion by Rep. Arnall, the rules were suspended and the House moved to the order of—

### Motions Relating to Committee References

On motion by Rep. Ritchie, agreed to by two-thirds vote, HB 217 was withdrawn from further consideration of the House.

### Continuation of Bills and Joint Resolutions on Third Reading

**CS/CS/HB 113**—A bill to be entitled An act relating to punishment of felons; amending s. 775.087, F.S., relating to felony reclassification and minimum sentence and other penalties for offenders who committed aggravated battery or committed certain acts involving a weapon, firearm, or destructive device during the commission of a felony; conforming terminology to changes made by the act; increasing from 3 to 10 years the minimum prison term for certain felonies or attempted felonies under specified circumstances when the offender possessed a firearm or destructive device during the commission of the offense or flight therefrom; providing exceptions; revising the category of such offenses to include murder, sexual battery, robbery, burglary, arson, aggravated assault or aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, unlawful throwing, placing, or discharging of a destructive device or bomb, carjacking, home-invasion robbery, aggravated stalking, and trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, or other specified violation of s. 893.135(1), F.S.; providing for imposition of a 20-year minimum term of imprisonment when, in addition to such circumstances, the firearm or destructive device was discharged while the person was carrying, displaying, using, or threatening or attempting to use the firearm or destructive device; providing for imposition of a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison when, in further addition to such circumstances, the discharging of the firearm or destructive device resulted in infliction of death or great bodily harm upon any person; providing for construction; providing legislative intent with respect to punishment of offenders who possess, carry, display, use, or threaten or attempt to use firearms or destructive devices; providing imposition of the minimum term of imprisonment consecutive to any

other term of imprisonment imposed; providing that the minimum term of imprisonment imposed is authorized by law regardless of the maximum sentence that may be imposed for the underlying felony; increasing from 8 to 15 years the minimum prison term for certain felonies or attempted felonies under specified circumstances when, during the commission of the offense, the offender possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; providing for the category of such offenses to include murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, unlawful throwing, placing, or discharging of a destructive device or bomb, carjacking, home-invasion robbery, aggravated stalking, and trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, or other specified violation of s. 893.135(1); providing for imposition of a 20-year minimum term of imprisonment when, in addition to such circumstances, the semiautomatic firearm and its high-capacity detachable box magazine or a machine gun was discharged while the person was carrying, displaying, using, or threatening or attempting to use the semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; providing for imposition of a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison when, in further addition to such circumstances, the discharging of the semiautomatic firearm and its high-capacity detachable box magazine or a machine gun resulted in infliction of death or great bodily harm upon any person; providing for construction; providing legislative intent with respect to punishment of offenders who possess, carry, display, use, or threaten or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; providing for imposition of the minimum term of imprisonment consecutive to any other term of imprisonment imposed; providing that the minimum term of imprisonment imposed is authorized by law regardless of the maximum sentence that may be imposed for the underlying felony; providing for legislative policy and intent; providing for a report; requiring the state attorney to explain mandatory sentence deviations in writing; requiring state attorneys to submit such writings to its association where it must remain available to the public for at least 10 years; reenacting s. 921.0022(2), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.0024(1)(b), F.S., relating to Florida Criminal Punishment Code worksheet computations and key, and s. 947.146(3)(b), F.S., relating to Control Release Authority, to incorporate said amendment in references; providing for public service announcements with respect to the penalties provided in the act; providing an effective date.

—was taken up, having been read the third time, and amended, earlier today; now pending roll call.

The question recurred on the passage of CS/CS/HB 113. The vote was:

Yeas—108

The Chair	Bense	Brummer	Crow
Albright	Betancourt	Byrd	Detert
Alexander	Bilirakis	Cantens	Diaz de la Portilla
Andrews	Bitner	Casey	Dockery
Argenziano	Bloom	Chestnut	Edwards
Arnall	Boyd	Constantine	Effman
Bainter	Bradley	Cosgrove	Farkas
Ball	Bronson	Crady	Fasano
Barreiro	Brown	Crist	Feeney

Florentino	Jacobs	Ogles	Sorensen	Goode	Lawson	Putnam	Suarez
Flanagan	Johnson	Patterson	Spratt	Goodlette	Littlefield	Reddick	Sublette
Frankel	Jones	Peaden	Stafford	Green, C.	Logan	Ritchie	Trovillion
Fuller	Kelly	Posey	Stansel	Greenstein	Lynn	Ritter	Tullis
Futch	Kilmer	Prieguez	Starks	Hafner	Maygarden	Roberts	Turnbull
Garcia	Kosmas	Pruitt	Suarez	Harrington	Melvin	Rojas	Valdes
Gay	Kyle	Putnam	Sublette	Hart	Miller, J.	Russell	Villalobos
Goode	Lacasa	Rayson	Trovillion	Henriquez	Miller, L.	Ryan	Wallace
Goodlette	Littlefield	Ritchie	Tullis	Heyman	Minton	Sembler	Warner
Gottlieb	Logan	Ritter	Turnbull	Hill	Morrone	Smith, C.	Wasserman Schultz
Green, C.	Lynn	Roberts	Valdes	Johnson	Murman	Smith, K.	Waters
Greenstein	Maygarden	Rojas	Villalobos	Jones	Ogles	Sobel	Wiles
Hafner	Melvin	Russell	Wallace	Kelly	Patterson	Sorensen	Wilson
Harrington	Merchant	Ryan	Warner	Kilmer	Peaden	Spratt	Wise
Hart	Miller, J.	Sanderson	Wasserman Schultz	Kosmas	Posey	Stafford	
Healey	Minton	Sembler	Waters	Kyle	Prieguez	Stansel	
Henriquez	Morrone	Smith, K.	Wiles	Lacasa	Pruitt	Starks	
Heyman	Murman	Sobel	Wise				
Nays—11				Nays—8			
Bush	Greene, A.	Levine	Smith, C.	Effman	Greene, A.	Jacobs	Merchant
Dennis	Hill	Miller, L.	Wilson	Gottlieb	Healey	Levine	Rayson
Eggelletion	Lawson	Reddick		Votes after roll call:			
				Yeas—Bainter, Sanderson			
				Yeas to Nays—Brown			

So the bill passed, as amended. On motion by Reps. Crist and L. Miller, the rules were suspended and the bill was immediately certified to the Senate after engrossment.

**CS/HB 107**—A bill to be entitled An act relating to the Administrative Procedure Act; amending s. 120.52, F.S.; removing entities described in ch. 298, F.S., relating to water control districts, from the definition of “agency”; providing additional restrictions with respect to an agency’s rulemaking authority; amending s. 120.536, F.S.; providing additional restrictions with respect to an agency’s rulemaking authority; requiring agencies to provide the Administrative Procedures Committee with a list of existing rules which exceed such rulemaking authority and providing for legislative consideration of such rules; requiring agencies to initiate proceedings to repeal such rules for which authorizing legislation is not adopted; requiring a report to the Legislature; providing that the committee or a substantially affected person may petition for repeal of such rules after a specified date; restricting challenge of such rules before that date; amending s. 120.54, F.S.; specifying when rules may take effect; restricting adoption of retroactive rules; amending s. 120.56, F.S.; revising an agency’s responsibilities in response to a challenge to a proposed rule and specifying the petitioner’s responsibility of going forward; amending s. 120.57, F.S., relating to hearings involving disputed issues of material fact; revising an agency’s authority with respect to rejection or modification of conclusions of law in its final order; amending s. 120.68, F.S., relating to judicial review; providing a directive with respect to consideration by the court of an agency’s construction of a statute or rule; providing an effective date.

—was read the third time by title. On passage, the vote was:

Yeas—109

The Chair	Bitner	Chestnut	Eggelletion
Albright	Bloom	Constantine	Farkas
Alexander	Boyd	Cosgrove	Fasano
Andrews	Bradley	Crady	Feeney
Argenziano	Bronson	Crist	Florentino
Arnall	Brown	Crow	Flanagan
Ball	Brummer	Dennis	Frankel
Barreiro	Bush	Detert	Fuller
Bense	Byrd	Diaz de la Portilla	Futch
Betancourt	Cantens	Dockery	Garcia
Bilirakis	Casey	Edwards	Gay

So the bill passed and was certified to the Senate.

**HB 775**—A bill to be entitled An act relating to civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; amending s. 44.104, F.S.; providing for voluntary trial resolution upon the agreement of parties to a civil dispute; providing for the appointment and compensation of a trial resolution judge; providing guidelines for conducting a voluntary trial resolution; providing for enforcement and appeal; amending s. 57.105, F.S.; revising conditions for award of attorney’s fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 768.79, F.S.; providing for the applicability of offers of judgment and demand of judgment in cases involving multiple plaintiffs; providing that subsequent offers shall void previous offers; providing that prior to awarding costs and fees the court shall determine whether the offer was reasonable under the circumstances known at the time the offer was made; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; providing for discussion of structured settlements; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross reference; amending s. 95.031, F.S.; imposing a 12-year statute of repose on actions founded upon violations of chapter 517; imposing a 12-year statute of repose on actions brought to recover for harm caused by products with a specified expected useful life; exempting certain categories of products from the statute of repose; imposing variable repose periods based on specific warranties by the manufacturer; providing an exception for certain injuries; providing for tolling under particular circumstances; specifying the date by which certain actions must be brought or be otherwise barred by the statute of repose; amending s. 90.407, F.S.; providing limitations on the admissibility of subsequent remedial measures; providing exceptions; creating s.768.044, F.S.; requiring the finder of fact, in certain product defect actions, to consider circumstances that existed at the time of manufacture; amending s. 95.11,F.S.; deleting a 5 year limit on

commencing actions founded on chapter 517; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain products liability actions; providing for a rebuttable presumption; creating s. 768.0705, F.S.; providing limitations on premises liability for a person or organization owning or controlling an interest in a business premises; providing an exception; providing for a presumption against liability for convenience businesses under specified circumstances; amending s. 768.075, F.S.; delineating the duty owed to trespassers by a person or organization owning or controlling an interest in real property; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.725, F.S.; providing for evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing an exception with respect to intentional misconduct; providing for the effect of certain previous punitive damages awards; providing for the application of the section; creating s. 768.736, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds a certain percentage; limiting the applicability of joint and several liability based on the amount of damages; providing for the allocation of fault to a nonparty; requiring that such fault must be proved by a preponderance of the evidence; amending s. 324.021, F.S.; providing the lessor of a motor vehicle under certain rental agreements shall be deemed the owner of the vehicle for the purpose of determining liability for the operation of the vehicle within certain limits; providing for the liability of the owner of a motor vehicle who loans the vehicle to certain users; limiting the liability of employers in a joint employment relationship under specific circumstances; providing exceptions and limitations; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(5), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; amending s. 400.023(1), F.S., limiting the recovery of attorney fees; providing that an attorney may receive additional fees from his or her client; providing for severability; creating s. 768.737, F.S., providing for application of punitive damages statutes to arbitration; providing an effective date.

—was read the third time by title.

The Committee on Rules & Calendar offered the following:

**Technical Amendment 18**—On page 17, lines 28-31, remove from the bill: all of said lines  
and insert in lieu thereof:

Section 9. Subsections (1) and (2) of section 768.78, Florida Statutes, are renumbered as subsections (2) and (3), respectively, paragraph (a) of present subsection (1) is amended, and a new subsection (1) is added to said section, to read:  
on page 19, line 6,  
remove from the bill “even”

and insert: *event*  
on page 19, line 3, after “*agreed*”

insert: *to*  
on page 20, line 1, after “(2)”

insert: *(a)*  
on page 36, line 13, remove “*fail*”

and insert: “*failed*”  
on page 36, line 29, remove: “*such a*”

and insert: *such*

Rep. Arnall moved the adoption of the amendment, which was adopted.

Representative(s) Cosgrove offered the following:

**Amendment 19 (with title amendment)—**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Section 40.50, Florida Statutes, is created to read:

*40.50 Jury duty and instructions in civil cases.—*

*(1) In any civil action immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of proceedings, the procedure for submitting written questions of witnesses, and the elementary legal principles that will govern the proceeding as provided in this section.*

*(2) The court shall instruct that the jurors may take notes regarding the evidence and keep the notes for the purpose of refreshing their memory for use during recesses and deliberations. The court may provide materials suitable for this purpose. The confidentiality of the notes should be emphasized to the jurors. After the jury has rendered its verdict, the notes shall be collected by the bailiff or clerk who shall promptly destroy them.*

*(3) In any case in which the court determines that the trial could exceed 5 days, the court shall provide a notebook for each juror. Notebooks may contain:*

*(a) A copy of the preliminary jury instructions, including special instructions on the issues to be tried.*

*(b) Jurors' notes.*

*(c) Witnesses' names and either photographs or biographies or both.*

*(d) Copies of key documents admitted into evidence and an index of all exhibits in evidence.*

*(e) A glossary of technical terms.*

*(f) A copy of the court's final instructions.*

*In its discretion, the court may authorize documents and exhibits in evidence to be included in notebooks for use by the jurors during trial to aid them in performing their duties. The preliminary jury instructions should be removed, discarded, and replaced by the final jury instructions before the latter are read to the jury by the court.*

*(4) The court shall permit jurors to have access to their notes and, in appropriate cases, notebooks during recesses and deliberations.*

*(5) The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. Opportunity shall be given to counsel to object to such questions out of the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.*

*(6) The court shall instruct the jury that any questions directed to witnesses or the court must be in writing, unsigned, and given to the*

*bailiff. If the court determines that the juror's question calls for admissible evidence, the question may be asked by court or counsel in the court's discretion. Such question may be answered by stipulation or other appropriate means, including, but not limited to, additional testimony upon such terms and limitations as the court prescribes. If the court determines that the juror's question calls for inadmissible evidence, the question shall not be read or answered. If a juror's question is rejected, the jury should be told that trial rules do not permit some questions to be asked and that the jurors should not attach any significance to the failure of having their question asked.*

*(7) The court has discretion to give final instructions to the jury before closing arguments of counsel instead of after, in order to enhance jurors' ability to apply the applicable law to the facts. In that event, the court may wish to withhold giving the necessary procedural and housekeeping instructions until after closing arguments.*

Section 2. Section 44.102, Florida Statutes, is amended to read:

44.102 Court-ordered mediation.—

(1) Court-ordered mediation shall be conducted according to rules of practice and procedure adopted by the Supreme Court.

(2) A court, under rules adopted by the Supreme Court:

*(a) Must refer to mediation any filed civil action for monetary damages, unless:*

*1. The action is a landlord and tenant dispute that does not include a claim for personal injury.*

*2. The action is filed for the purpose of collecting a debt.*

*3. The action is a claim of medical malpractice.*

*4. The action is governed by the Florida Small Claims Rules.*

*5. The court determines that the action is proper for referral to nonbinding arbitration under this chapter.*

*6. The parties have agreed to binding arbitration.*

*(b)(a) May refer to mediation all or any part of a filed civil action for which mediation is not required under this section.*

*(c)(b) In circuits in which a family mediation program has been established and upon a court finding of a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.*

*(d)(e) In circuits in which a dependency or in need of services mediation program has been established, may refer to mediation all or any portion of a matter relating to dependency or to a child in need of services or a family in need of services.*

(3) Each party involved in a court-ordered mediation proceeding has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding. All oral or written communications in a mediation proceeding, other than an executed settlement agreement, shall be exempt from the requirements of chapter 119 and shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(4) There shall be no privilege and no restriction on any disclosure of communications made confidential in subsection (3) in relation to disciplinary proceedings filed against mediators pursuant to s. 44.106 and court rules, to the extent the communication is used for the

purposes of such proceedings. In such cases, the disclosure of an otherwise privileged communication shall be used only for the internal use of the body conducting the investigation. Prior to the release of any disciplinary files to the public, all references to otherwise privileged communications shall be deleted from the record. When an otherwise confidential communication is used in a mediator disciplinary proceeding, such communication shall be inadmissible as evidence in any subsequent legal proceeding. "Subsequent legal proceeding" means any legal proceeding between the parties to the mediation which follows the court-ordered mediation.

(5) The chief judge of each judicial circuit shall maintain a list of mediators who have been certified by the Supreme Court and who have registered for appointment in that circuit.

(a) Whenever possible, qualified individuals who have volunteered their time to serve as mediators shall be appointed. If a mediation program is funded pursuant to s. 44.108, volunteer mediators shall be entitled to reimbursement pursuant to s. 112.061 for all actual expenses necessitated by service as a mediator.

(b) Nonvolunteer mediators shall be compensated according to rules adopted by the Supreme Court. If a mediation program is funded pursuant to s. 44.108, a mediator may be compensated by the county or by the parties. When a party has been declared indigent or insolvent, that party's pro rata share of a mediator's compensation shall be paid by the county at the rate set by administrative order of the chief judge of the circuit.

(6)(a) When an action is referred to mediation by court order, the time periods for responding to an offer of settlement pursuant to s. 45.061, or to an offer or demand for judgment pursuant to s. 768.79, respectively, shall be tolled until:

1. An impasse has been declared by the mediator; or

2. The mediator has reported to the court that no agreement was reached.

(b) Sections 45.061 and 768.79 notwithstanding, an offer of settlement or an offer or demand for judgment may be made at any time after an impasse has been declared by the mediator, or the mediator has reported that no agreement was reached. An offer is deemed rejected as of commencement of trial.

Section 3. Section 44.1051, Florida Statutes, is created to read:

44.1051 Voluntary trial resolution.—

*(1) Two or more parties who are involved in a civil dispute may agree in writing to submit the controversy to voluntary trial resolution in lieu of litigation of the issues involved, prior to or after a lawsuit has been filed, provided that no constitutional issue is involved.*

*(2) If the parties have entered into an agreement that provides for a method for appointment of a member of The Florida Bar in good standing for more than 5 years to act as trial resolution judge, the court shall proceed with the appointment as prescribed.*

*(3) The trial resolution judge shall be compensated by the parties according to their agreement.*

*(4) Within 10 days after the submission of the request for binding voluntary trial resolution, the court shall provide for the appointment of the trial resolution judge. Once appointed, the trial resolution judge shall notify the parties of the time and place for the hearing.*

*(5) Application for voluntary trial resolution shall be filed and fees paid to the clerk of the court as if for complaints initiating civil actions. The clerk of the court shall handle and account for these matters in all respects as if they were civil actions except that the clerk of the court shall*

keep separate the records of the applications for voluntary binding trial resolution from all other civil actions.

(6) Filing of the application for binding voluntary trial resolution will toll the running of the applicable statutes of limitation.

(7) The appointed trial resolution judge shall have such power to administer oaths or affirmations and to conduct the proceedings as the rules of court provide. At the request of any party, the trial resolution judge shall issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and may apply to the court for orders compelling attendance and production. Subpoenas shall be served and shall be enforceable as provided by law.

(8) The hearing shall be conducted by the trial resolution judge, who may determine any question and render a final decision.

(9) The Florida Evidence Code shall apply to all proceedings under this section.

(10) Any party may enforce a final decision rendered in a voluntary trial by filing a petition for final judgment in the circuit court in the circuit in which the voluntary trial took place. Upon entry of final judgment by the circuit court an appeal may be taken to the appropriate appellate court. The "harmless error doctrine" shall apply in all appeals. No further review shall be permitted unless a constitutional issue is raised. Factual findings determined in the voluntary trial shall not be subject to appeal.

(11) If no appeal is taken within the time provided by rules of the Supreme Court, the decision shall be referred to the presiding court judge in the case, or, if one has not been assigned, to the chief judge of the circuit for assignment to a circuit judge, who shall enter such orders and judgments as are required to carry out the terms of decision, which orders shall be enforceable by the contempt powers of the court and for which judgment executions shall issue on request of a party.

(12) This section does not apply to any dispute involving child custody, visitation, or child support, or to any dispute that involves the rights of a person who is not a party to the voluntary trial resolution.

Section 4. Section 57.105, Florida Statutes, is amended to read:

57.105 Attorney's fee; sanctions for raising unfounded claims or defenses; damages for delay of litigation.—

(1) Upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a ~~in any~~ civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:

(a) Was not supported by the material facts necessary to establish the claim or defense; or

(b) Would not be supported by the application of then-existing law to those material facts. ~~there was a complete absence of a justiciable issue of either law or fact raised by the complaint or defense of the losing party; provided,~~

However, ~~that~~ the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client ~~as to the existence of those material facts~~. If the court awards attorney's fees to a claimant pursuant to this subsection ~~finds that there was a complete absence of a justiciable issue of either law or fact raised by the defense~~, the court shall also award prejudgment interest.

(2) Subsection (1) does not apply if the court determines that the claim or defense was initially presented to the court as a good-faith

attempt with a reasonable probability of changing then-existing law as it applied to the material facts.

(3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for the time necessitated by the conduct in question.

(4) The court also may impose such additional sanctions or other remedies as are just and warranted under the circumstances of the particular case, including, but not limited to, contempt of court, award of taxable costs, striking of a claim or defense, or dismissal of the pleading.

(5)(2) If a contract contains a provision allowing attorney's fees to a party when he or she is required to take any action to enforce the contract, the court may also allow reasonable attorney's fees to the other party when that party prevails in any action, whether as plaintiff or defendant, with respect to the contract. *This subsection applies to any contract entered into on or after October 1, 1988. This act shall take effect October 1, 1988, and shall apply to contracts entered into on said date or thereafter.*

Section 5. Subsections (3), (5), and (7) of section 768.79, Florida Statutes, are amended to read:

768.79 Offer of judgment and demand for judgment.—

(3) The offer shall be served upon the party to whom it is made, but it shall not be filed unless it is accepted or unless filing is necessary to enforce the provisions of this section. *In any case involving multiple party plaintiffs or multiple party defendants, an offer shall specify its applicability to each party and may specify any conditions thereof. Each individual party may thereafter accept or reject the offer as the offer applies to such party.*

(5) An offer may be withdrawn in writing which is served before the date a written acceptance is filed. Once withdrawn, an offer is void. A subsequent offer to a party shall have the effect of voiding any previous offer to that party.

(7)(a) If a party is entitled to costs and fees pursuant to the provisions of this section, the court may, in its discretion, determine that an offer was not made in good faith. In such case, the court may disallow an award of costs and attorney's fees.

(b) When determining the *entitlement to and* reasonableness of an award of attorney's fees pursuant to this section, the court shall consider, along with all other relevant criteria, the following additional factors:

1. The then apparent merit or lack of merit in the claim.
2. The number and nature of offers made by the parties.
3. The closeness of questions of fact and law at issue.
4. *Whether the proposal was reasonably rejected.*

5.4- *Whether the person making the offer had unreasonably refused to furnish information necessary to evaluate the reasonableness of such offer.*

6.5- *Whether the suit was in the nature of a test case presenting questions of far-reaching importance affecting nonparties.*

7.6- *The amount of the additional delay cost and expense that the person making the offer reasonably would be expected to incur if the litigation should be prolonged.*



Section 6. Section 57.071, Florida Statutes, is amended to read:

57.071 Costs; what taxable.—

(1) If costs are awarded to any party, the following shall also be allowed:

(a)(4) The reasonable premiums or expenses paid on all bonds or other security furnished by such party.

(b)(2) The expense of the court reporter for per diem, transcribing proceedings and depositions, including opening statements and arguments by counsel.

(c)(3) Any sales or use tax due on legal services provided to such party, notwithstanding any other provision of law to the contrary.

(2) Expert witness fees shall not be awarded as taxable costs unless:

(a) The party retaining the expert witness files a written notice with the court and with each opposing party within 30 days after the entry of an order setting the trial date, which notice shall specify the expertise and experience of the expert, the rate of compensation of the expert witness, the subject matters or issues on which the expert is expected to render an opinion, and an estimate of the overall fees of the expert witness, including the fee for trial testimony. If the rate of compensation is hourly, the estimated overall fee may be stated in terms of estimated hours; and

(b) The party retaining the expert witness furnishes each opposing party with a written report signed by the expert witness which summarizes the expert witness's opinions and the factual basis of the opinions, including documentary evidence and the authorities relied upon in reaching the opinions. Such report shall be filed at least 10 days prior to discovery cut-off, 45 days prior to the trial, or as otherwise determined by the court.

(c) This section does not apply to any action proceeding under the Florida Family Law Rules of Procedure.

Section 7. Expedited trials.—Upon the joint stipulation of the parties to any civil case, the court may conduct an expedited trial as provided in this section. Where two or more plaintiffs or defendants have a unity of interest, such as a husband and wife, they shall be considered one party for the purpose of this section. Unless otherwise ordered by the court or agreed to by the parties with approval of the court, an expedited trial shall be conducted as follows:

(1) All discovery in the trial shall be completed within 60 days after the court enters an order adopting the joint expedited trial stipulation.

(2) All interrogatories and requests for production must be served within 10 days after the court enters an order adopting the joint expedited trial stipulation, and all responses must be served within 20 days after receipt.

(3) The court shall determine the number of depositions required.

(4) The case may be tried to a jury.

(5) The case must be tried within 30 days after the 60-day discovery cut-off.

(6) The trial must be limited to 1 day.

(7) The jury selection must be limited to 1 hour.

(8) The plaintiff will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.

(9) The defendant will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.

(10) The jury will be given "plain language" jury instructions at the beginning of the trial as well as a "plain language" jury verdict form. The jury instructions and verdict form must be agreed to by the parties.

(11) The parties will be permitted to introduce a written report of any expert and the expert's curriculum vitae instead of calling the expert to testify live at trial.

(12) At trial the parties may use excerpts from depositions, including video depositions, regardless of where the deponent lives or whether the deponent is available to testify.

(13) The Florida Evidence Code and the Florida Rules of Civil Procedure will apply.

(14) There will be no continuances of the trial absent extraordinary circumstances.

Section 8. Section 768.77, Florida Statutes, is amended to read:

768.77 Itemized verdict.—

(4) In any action to which this part applies in which the trier of fact determines that liability exists on the part of the defendant, the trier of fact shall, as a part of the verdict, itemize the amounts to be awarded to the claimant into the following categories of damages:

(1)(a) Amounts intended to compensate the claimant for economic losses;

(2)(b) Amounts intended to compensate the claimant for noneconomic losses; and

(3)(c) Amounts awarded to the claimant for punitive damages, if applicable.

(2) ~~Each category of damages, other than punitive damages, shall be further itemized into amounts intended to compensate for losses which have been incurred prior to the verdict and into amounts intended to compensate for losses to be incurred in the future. Future damages itemized under paragraph (1)(a) shall be computed before and after reduction to present value. Damages itemized under paragraph (1)(b) or paragraph (1)(c) shall not be reduced to present value. In itemizing amounts intended to compensate for future losses, the trier of fact shall set forth the period of years over which such amounts are intended to provide compensation.~~

Section 9. Present subsection (1) of section 768.78, Florida Statutes, is amended and redesignated as subsection (2), present subsection (2) is redesignated as subsection (3), and a new subsection (1) is added to that section to read:

768.78 Alternative methods of payment of damage awards.—

(1) In both pre-judgment and post-judgment cases, the parties shall specifically discuss the option and advantages for the plaintiff of settlement through use of structured periodic payments. If, in connection with a settlement, the plaintiff chooses to receive payment in the form of periodic payments, the defendant or the defendant's liability carrier is obligated to provide such payments, and the following apply:

(a) To the extent that the liability for payment of damages to the plaintiff qualifies for assignment under Section 130, or any successor section, of the Internal Revenue Code, as amended from time to time, the defendant or the defendant's liability carrier shall assign the liability to make such periodic payments to a third party assignee selected by the plaintiff.

(b) Once a structured settlement is agreed to by the parties, the defendant or the defendant's liability carrier may not withdraw from the agreement because of the plaintiff's choice of third-party assignee.

(c) The plaintiff has the right to select a licensed structured-settlement broker to place the structured settlement.

(d) Any order approving or adopting a settlement to which this subsection applies must include a finding that the settlement complies with this subsection.

(e) *This subsection does not apply to cases the settlement of which is under \$50,000.*

(f) *Nothing in this subsection creates an additional cause of action against the defendant or his attorneys.*

(g) *This subsection applies only to cases impacted by s. 104(a)(1), (2), and (3) of the Internal Revenue Code.*

(2)(4)(a) In any action to which this part applies in which the court determines that ~~the trier of fact~~ makes an award to compensate the claimant ~~includes for~~ future economic losses which exceed \$250,000, payment of amounts intended to compensate the claimant for these losses shall be made by one of the following means, unless an alternative method of payment of damages is provided in this section:

1. The defendant may make a lump-sum payment for all damages so assessed, with future economic losses and expenses reduced to present value; or

2. Subject to the provisions of this subsection, the court shall, at the request of either party, unless the court determines that manifest injustice would result to any party, enter a judgment ordering future economic damages, as itemized pursuant to s. 768.77(1)(a), in excess of \$250,000 to be paid in whole or in part by periodic payments rather than by a lump-sum payment.

(b) In entering a judgment ordering the payment of such future damages by periodic payments, the court shall make a specific finding of the dollar amount of periodic payments which will compensate the judgment creditor for these future damages after offset for collateral sources. The total dollar amount of the periodic payments shall equal the dollar amount of all such future damages before any reduction to present value, less any attorney's fees payable from future damages in accordance with paragraph (f). The period of time over which the periodic payments shall be made is the period of years determined by the trier of fact in arriving at its itemized verdict and shall not be extended if the plaintiff lives beyond the determined period. If the claimant has been awarded damages to be discharged by periodic payments and the claimant dies prior to the termination of the period of years during which periodic payments are to be made, the remaining liability of the defendant, reduced to present value, shall be paid into the estate of the claimant in a lump sum. The court may order that the payments be equal or vary in amount, depending upon the need of the claimant.

(c) As a condition to authorizing periodic payments of future damages, the court shall require the defendant to post a bond or security or otherwise to assure full payment of these damages awarded by the judgment. A bond is not adequate unless it is written by a company authorized to do business in this state and is rated A+ by Best's. If the defendant is unable to adequately assure full payment of the damages, the court shall order that all damages be paid to the claimant in a lump sum pursuant to the verdict. No bond may be canceled or be subject to cancellation unless at least 60 days' advance written notice is filed with the court and the judgment creditor. Upon termination of periodic payments, the court shall order the return of the security, or so much as remains, to the judgment debtor.

(d)1. In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to timely make the required periodic payments, the court shall:

a. Order that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order;

b. Order that, in addition to the required periodic payments, the judgment debtor pay the claimant all damages caused by the failure to

timely make periodic payments, including court costs and attorney's fees; or

c. Enter other orders or sanctions as appropriate to protect the judgment creditor.

2. If it appears that the judgment debtor may be insolvent or that there is a substantial risk that the judgment debtor may not have the financial responsibility to pay all amounts due and owing the judgment creditor, the court may:

a. Order additional security;

b. Order that the balance of payments due be placed in trust for the benefit of the claimant;

c. Order that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order; or

d. Order such other protection as may be necessary to assure the payment of the remaining balance of the judgment.

(e) The judgment providing for payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amounts of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Periodic payments shall be subject to modification only as specified in this subsection.

(f) Claimant's attorney's fee, if payable from the judgment, shall be based upon the total judgment, adding all amounts awarded for past and future damages. The attorney's fee shall be paid from past and future damages in the same proportion. If a claimant has agreed to pay her or his attorney's fees on a contingency fee basis, the claimant shall be responsible for paying the agreed percentage calculated solely on the basis of that portion of the award not subject to periodic payments. The remaining unpaid portion of the attorney's fees shall be paid in a lump sum by the defendant, who shall receive credit against future payments for this amount. However, the credit against each future payment is limited to an amount equal to the contingency fee percentage of each periodic payment. Any provision of this paragraph may be modified by the agreement of all interested parties.

(g) Nothing in this subsection shall preclude any other method of payment of awards, if such method is consented to by the parties.

Section 10. Section 47.025, Florida Statutes, is created to read:

*47.025 Actions against contractors.—Any venue provision in a contract for improvement to real property which requires legal action involving a resident contractor, subcontractor, sub-subcontractor, or materialman, as defined in part I of chapter 713, to be brought outside this state is void as a matter of public policy. To the extent that the venue provision in the contract is void under this section, any legal action arising out of that contract shall be brought only in this state in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located, unless, after the dispute arises, the parties stipulate to another venue.*

Section 11. *Through the state's uniform case reporting system, the clerk of court shall report to the Office of the State Courts Administrator information from each settlement or jury verdict and final judgment in negligence cases as defined in section 768.81(4), Florida Statutes, as the President of the Senate and the Speaker of the House of Representatives deem necessary from time to time. The information shall include, but need not be limited to: the name of each plaintiff and defendant; the verdict; the percentage of fault of each; the amount of economic damages and noneconomic damages awarded to each plaintiff, identifying those damages that are to be paid jointly and severally and by which*

defendants; and the amount of any punitive damages to be paid by each defendant.

Section 12. Subsection (3) of section 768.81, Florida Statutes, is amended, and subsection (5) of that section is repealed, to read:

768.81 Comparative fault.—

(3) APPORTIONMENT OF DAMAGES.—In cases to which this section applies, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability; provided that with respect to any party whose percentage of fault equals or exceeds that of a particular claimant and whose fault exceeds 25 percent, the court shall enter judgment with respect to economic damages against that party on the basis of the doctrine of joint and several liability.

~~(5) APPLICABILITY OF JOINT AND SEVERAL LIABILITY.—Notwithstanding the provisions of this section, the doctrine of joint and several liability applies to all actions in which the total amount of damages does not exceed \$25,000.~~

Section 13. (1) The Department of Insurance shall, after issuing a request for proposals, contract with a national independent actuarial firm to conduct an actuarial analysis, consistent with generally accepted actuarial practices, of the expected reduction in liability judgments, settlements, and related costs resulting from the provisions of this act. The analysis must be based on credible loss-cost data derived from the settlement or adjudication of liability claims, other than liability claims insured under private passenger automobile insurance or personal lines residential property insurance, accruing after October 1, 1999. The analysis must include an estimate of the percentage decrease in such judgments, settlements, and costs by type of coverage affected by this act, including the time period when such savings or reductions are expected.

(2) The report must be completed and submitted to the Department of Insurance by March 1, 2001.

(3) After March 1, 2001, the Department of Insurance shall review the filed rates of insurers and underwriting profits and losses for Florida liability insurance businesses and shall require any prospective rate modifications that the department deems necessary, consistent with the applicable rating law, in order to cause the rates of any specific insurer to comply with the applicable rating law. The department shall require each liability insurer's first rate filing after March 1, 2001, other than rate filings for private passenger automobile insurance or personal lines residential property insurance, to include specific data on the impact of this act on the insurer's liability judgments, settlements, and costs for the purpose of enabling the department and the Legislature to accurately monitor and evaluate the effects of this act.

(4) The report under subsection (1) is admissible in any proceedings relating to a liability insurance rate filing if the actuary who prepared the report is made available by the department to testify regarding the report's preparation and validity. Each party shall otherwise bear its own cost of any such proceeding.

(5) This section does not limit the authority of the department to order an insurer to refund excessive profits, as provided in sections 627.066 and 627.215, Florida Statutes.

Section 14. Subsections (6), (7), and (8) are added to section 400.023, Florida Statutes, to read:

400.023 Civil enforcement.—

(6) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before

trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.

(7) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(8) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 15. Effective October 1, 1999, the minimum per claim financial responsibility required under sections 458.320(2)(b) and (c) and 459.0085(2)(b) and (c), Florida Statutes, shall be increased from \$250,000 to \$500,000 and the minimum aggregate requirement specified in said sections shall be increased from \$750,000 to \$1,000,000; provided, further that the provisions of sections 458.320(5)(g) and 459.0085(5)(g), Florida Statutes, respectively, shall not apply to any physician or osteopathic physician with hospital staff privileges.

Section 16. Section 768.1256, Florida Statutes, is created to read:

768.1256 Government rules defense.—

(1) In a product liability action brought against a manufacturer or seller for harm allegedly caused by a product, there is a rebuttable presumption pursuant to s. 90.302(1) that the product is not defective or unreasonably dangerous and the manufacturer or seller is not liable if, at the time the specific unit of the product was sold or delivered to the initial purchaser or user, the aspect of the product that allegedly caused the harm:

(a) Complied with federal or state codes, statutes, rules, regulations or standards relevant to the event causing the death or injury;

(b) The codes, statutes, rules, regulations or standards are designed to prevent the type of harm that allegedly occurred; and

(c) Compliance with the codes, statutes, rules, regulations or standards is required as a condition for selling or distributing the product.

(2) In a product liability action as described in subsection (1), there is a rebuttable presumption pursuant to s. 90.302(1) that the product is defective or unreasonably dangerous and the manufacturer or seller is liable if the manufacturer or seller did not comply with the federal or state codes, statutes, rules, regulations or standards which:

(a) Were relevant to the event causing the death or injury;

(b) Are designed to prevent the type of harm that allegedly occurred; and

(c) Require compliance as a condition for selling or distributing the product.

(3) This section does not apply to an action brought for harm allegedly caused by a drug that is ordered off the market or seized by the Federal Food and Drug Administration.

Section 17. Section 768.096, Florida Statutes, is created to read:

768.096 Employer presumption against negligent hiring.—

(1) In a civil action for the death of, or injury or damage to, a third person caused by the intentional tort of an employee, such employee's employer is presumed not to have been negligent in hiring such employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee and the investigation did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or for the employment in general. A background investigation under this section must include:

(a) Obtaining a criminal background investigation on the prospective employee under subsection (2);

(b) Making a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;

(c) Requiring the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime, the date of conviction and the penalty imposed, and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;

(d) Obtaining, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; and

(e) Interviewing the prospective employee.

(2) To satisfy the criminal-background-investigation requirement of this section, an employer must request and obtain from the Department of Law Enforcement a check of the information as reported and reflected in the Florida Crime Information Center system as of the date of the request.

(3) The election by an employer not to conduct the investigation specified in subsection (1) does not raise any presumption that the employer failed to use reasonable care in hiring an employee.

Section 18. Section 768.095, Florida Statutes, is amended to read:

768.095 Employer immunity from liability; disclosure of information regarding former or current employees.—An employer who discloses information about a former or current employee ~~employee's job performance~~ to a prospective employer of the former or current employee upon request of the prospective employer or of the former or current employee is ~~presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences unless it is shown by clear and convincing evidence. For purposes of this section, the presumption of good faith is rebutted upon a showing that the information disclosed by the former or current employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former or current employee protected under chapter 760.~~ immune from civil liability for such disclosure or its consequences ~~unless it is shown by clear and convincing evidence. For purposes of this section, the presumption of good faith is rebutted upon a showing that the information disclosed by the former or current employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former or current employee protected under chapter 760.~~

Section 19. Section 768.071, Florida Statutes, is created to read:

768.071 Business premises liability; areas outside enclosed buildings.—Notwithstanding any other provision of law to the contrary, a person or organization owning or controlling an interest in a business premises shall be liable for civil damages for the death of, or injury or damage to, an invitee or guest caused by a criminal act committed by a person who is not an employee or agent of the business and occurring on part of the business premises that is not within an enclosed building only if the person or organization owning or controlling an interest in the business premises disregarded his or her duty to protect invitees or guests on the property. For purposes of this section a person or organization owning or controlling an interest in a business premises may be found to have disregarded his or her duty to protect invitees or guests only if the person or organization owning or controlling an interest in the business premises knew that a criminal act was likely to occur on the portions of the property that are not within an enclosed building and failed to take any corrective action which could have prevented the injury.

Section 20. Section 768.075, Florida Statutes, is amended to read:

768.075 Immunity from liability for injury to trespassers on real property.—

(1) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to a trespasser upon the property ~~resulting from or arising by reason of the trespasser's commission of the offense of trespass as described in s. 810.08 or s. 810.09~~ when such trespasser was under the influence of alcoholic beverages with a blood-alcohol level of 0.08 ~~0.10~~ percent or higher, when such trespasser was under the influence of any chemical substance set forth in s. 877.111, when such trespasser was illegally under the influence of any substance controlled under chapter 893, or if the trespasser is affected by any of the aforesaid substances to the extent that her or his normal faculties are impaired. ~~For the purposes of this section, voluntary intoxication or impediment of faculties by use of alcohol or any of the aforementioned substances shall not excuse a party bringing an action or on whose behalf an action is brought from proving the elements of trespass.~~ However, the person or organization owning or controlling the interest in real property shall not be immune

from liability if gross negligence or ~~intentional willful and wanton~~ misconduct on the part of such person or organization or agent thereof is a proximate cause of the death of or injury or damage to the trespasser.

(2) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, is not liable for any civil damages for the death of or injury or damage to any discovered or undiscovered trespasser, except as provided in paragraphs (3)(a), (b), and (c), and regardless of whether the trespasser was intoxicated or otherwise impaired.

(3)(a) As used in this subsection, the term:

1. "Invitation" means that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs.

2. "Discovered trespasser" means a person who enters real property without invitation, either express or implied, and whose actual physical presence was detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property or to whose actual physical presence the person or organization owning or controlling an interest in real property was alerted by a reliable source within 24 hours preceding the accident. The status of a person who enters real property shall not be elevated to that of an invitee, unless the person or organization owning or controlling an interest in real property has issued an express invitation to enter the property or has manifested a clear intent to hold the property open to use by persons pursuing purposes such as those pursued by the person whose status is at issue.

3. "Undiscovered trespasser" means a person who enters property without invitation, either express or implied, and whose actual physical presence was not detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property.

(b) To avoid liability to undiscovered trespassers, a person or organization owning or controlling an interest in real property must refrain from intentional misconduct, but has no duty to warn of dangerous conditions. To avoid liability to discovered trespassers, a person or organization owning or controlling an interest in real property must refrain from gross negligence or intentional misconduct, and must warn the trespasser of dangerous conditions that are known to the person or organization owning or controlling an interest in real property but that are not readily observable by others.

(c) This subsection shall not be interpreted or construed to alter the common law as it pertains to the "attractive nuisance doctrine."

(4) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for negligence that results in the death of, injury to, or damage to a person who is attempting to commit a felony or who is engaged in the commission of a felony on the property.

Section 21. Section 768.36, Florida Statutes, is created to read:

768.36 Alcohol or drug defense.—

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

(a) "Alcoholic beverage" means distilled spirits and any beverage that contains 0.5 percent or more alcohol by volume as determined in accordance with s. 561.01(4)(b).

(b) "Drug" means any chemical substance set forth in s. 877.111 or any substance controlled under chapter 893. The term does not include any drug or medication obtained pursuant to a prescription as defined in s. 893.02 which was taken in accordance with the prescription, or any

medication that is authorized under state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

(2) In any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

(a) The plaintiff was under the influence of any alcoholic beverage or drug to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and

(b) As a result of the influence of such alcoholic beverage or drug the plaintiff was more than 50 percent at fault for his or her own harm.

Section 22. Section 768.098, Florida Statutes, is created to read:

768.098 Limitation of liability for employee leasing.—

(1) An employer in a joint employment relationship pursuant to s. 468.520 shall not be liable for the tortious actions of another employer in that relationship, or for the tortious actions of any jointly employed employee under that relationship, provided that:

(a) The employer seeking to avoid liability pursuant to this section did not authorize or direct the tortious action;

(b) The employer seeking to avoid liability pursuant to this section did not have actual knowledge of the tortious conduct and fail to take appropriate action;

(c) The employer seeking to avoid liability pursuant to this section did not have actual control over the day to day job duties of the jointly employed employee who has committed a tortious act nor actual control over the portion of a job site at which or from which the tortious conduct arose or at which and from which a jointly employed employee worked, and that said control was assigned to the other employer under the contract;

(d) The employer seeking to avoid liability pursuant to this section is expressly absolved in the written contract forming the joint employment relationship of control over the day to day job duties of the jointly employed employee who has committed a tortious act, and of the portion of the job site at which or from which the tortious conduct arose or at which and from which the jointly employed employee worked, and that said control was assigned to the other employer under the contract; and

(e) Complaints, allegations or incidents of any tortious misconduct or workplace safety violations, regardless of the source, are required to be reported to the employer seeking to avoid liability pursuant to this section by all other joint employers under the written contract forming the joint employment relationship, and that the employer seeking to avoid liability pursuant to this section did not fail to take appropriate action as a result of receiving any such report related to a jointly employed employee who has committed a tortious act.

(2) An employer seeking to avoid liability pursuant to this section shall not be presumed to have actual control over the day to day job duties of the jointly employed employee who has committed a tortious act, nor actual control over the portion of a job site at which or from which that employee worked, based solely upon the fact that the employee at issue is a leased employee.

(3) This section shall not alter any responsibilities of the joint employer who has actual control over the day to day job duties of the jointly employed employee and who has actual control over the portion of a job site at which or from which the employee is employed, which arises from s. 768.096.

Section 23. Section 768.725, Florida Statutes, is created to read:

*768.725 Punitive damages; burden of proof.—In all civil actions the plaintiff must establish at trial by clear and convincing evidence its entitlement to an award of punitive damages. The “greater weight of the evidence” burden of proof applies to a determination of the amount of damages.*

Section 24. Section 768.72, Florida Statutes, is amended to read:

**768.72 Pleading in civil actions; claim for punitive damages.—**

(1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) *A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:*

(a) *“Intentional misconduct” means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.*

(b) *“Gross negligence” means that the defendant’s conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.*

(3) *In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:*

(a) *The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;*

(b) *The officers, directors, or managers of the employer, principal, corporation, or other legal entity knowingly condoned, ratified, or consented to such conduct; or*

(c) *The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.*

(4) *The provisions of this section are remedial in nature and must be applied to all civil actions pending on October 1, 1999, in which the trial or retrial of the action has not commenced.*

Section 25. Section 768.73, Florida Statutes, is amended to read:

**768.73 Punitive damages; limitation.—**

(1)(a) In any civil action in which the judgment for compensatory damages is for \$50,000 or less, judgment for punitive damages awarded to a claimant may not exceed \$250,000, except as provided in paragraph (b). In any civil action in which the judgment for compensatory damages exceeds \$50,000, the judgment for punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages or \$250,000, whichever is higher, except as provided in paragraph (b). ~~based on negligence, strict liability, products liability,~~

~~misconduct in commercial transactions, professional liability, or breach of warranty, and involving willful, wanton, or gross misconduct, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). However, this subsection does not apply to any class action.~~

(b) ~~An If any~~ award for punitive damages ~~may not exceed exceeds~~ the ~~limitations~~ limitation specified in paragraph (a), ~~the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the defendant engaged in intentional misconduct or gross negligence and that the award is not excessive in light of the facts and circumstances which were presented to the trier of fact.~~

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(2)(a) *Except as provided in paragraph (b), punitive damages may not be awarded against a defendant in a civil action if that defendant establishes, before trial, that punitive damages have previously been awarded against that defendant in any state or federal court in any action alleging harm from the same act or single course of conduct for which the claimant seeks compensatory damages. For purposes of a civil action, the term “the same act or single course of conduct” includes acts resulting in the same manufacturing defects, acts resulting in the same defects in design, or failure to warn of the same hazards, with respect to similar units of a product.*

(b) *In subsequent civil actions involving the same act or single course of conduct for which punitive damages have already been awarded, if the court determines by clear and convincing evidence that the amount of prior punitive damages awarded was insufficient to punish that defendant’s behavior, the court may permit a jury to consider an award of subsequent punitive damages. In permitting a jury to consider awarding subsequent punitive damages, the court shall make specific findings of fact in the record to support its conclusion. In addition, the court may consider whether the defendant’s act or course of conduct has ceased. Any subsequent punitive damage awards must be reduced by the amount of any earlier punitive damage awards rendered in state or federal court.*

(3) *The claimant attorney’s fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated based on the final judgment for punitive damages. This subsection does not limit the payment of attorney’s fees based upon an award of damages other than punitive damages.*

(4)(2) The jury may neither be instructed nor informed as to the provisions of this section.

(5) *The provisions of this section are remedial in nature and must be applied to all civil actions pending on October 1, 1999, in which the trial or retrial of the action has not commenced.*

Section 26. Section 768.735, Florida Statutes, is created to read:

**768.735 Punitive damages; exceptions; limitation.—**

(1) *Sections 768.72(2)-(4), 768.725, and 768.73 do not apply to any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled or any civil action arising under chapter 400. Such actions are governed by applicable statutes and controlling judicial precedent.*

(2)(a) *In any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or actions arising under chapter 400 and involving the award of punitive damages, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). This subsection does not apply to any class action.*

(b) *If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances that were presented to the trier of fact.*

(c) *This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages which is less than three times the amount of compensatory damages.*

(d) *The jury may not be instructed or informed as to the provisions of this section.*

Section 27. Section 768.736, Florida Statutes, is created to read:

**768.736 Punitive damages; exceptions for intoxication.**—Sections 768.725 and 768.73 do not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher.

Section 28. Paragraph (b) of subsection (9) of section 324.021, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

**324.021 Definitions; minimum insurance required.**—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(b) Owner/lessor.—Notwithstanding any other provision of the Florida Statutes or existing case law:;

1. The lessor, under an agreement to lease a motor vehicle for 1 year or longer which requires the lessee to obtain insurance acceptable to the lessor which contains limits not less than \$100,000/\$300,000 bodily injury liability and \$50,000 property damage liability or not less than \$500,000 combined property damage liability and bodily injury liability, shall not be deemed the owner of said motor vehicle for the purpose of determining financial responsibility for the operation of said motor vehicle or for the acts of the operator in connection therewith; further, this ~~subparagraph~~ paragraph shall be applicable so long as the insurance meeting these requirements is in effect. The insurance meeting such requirements may be obtained by the lessor or lessee, provided, if such insurance is obtained by the lessor, the combined coverage for bodily injury liability and property damage liability shall contain limits of not less than \$1 million and may be provided by a lessor's blanket policy.

2. The lessor, under an agreement to rent or lease a motor vehicle for a period of less than 1 year, shall be deemed the owner of the motor vehicle for the purpose of determining liability for the operation of the vehicle or the acts of the operator in connection therewith only up to \$100,000 per person and up to \$300,000 per incident for bodily injury and up to \$50,000 for property damage. If the lessee or the operator of the

motor vehicle is uninsured or has any insurance with limits less than \$500,000 combined property damage and bodily injury liability, the lessor shall be liable for up to an additional \$500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages shall be reduced by amounts actually recovered from the lessee, from the operator, and from any insurance or self insurance covering the lessee or operator. Nothing in this subparagraph shall be construed to affect the liability of the lessor for its own negligence.

3. The owner who is a natural person and loans a motor vehicle to any permissive user other than a relative residing in the same household as defined in s. 627.732(4) shall be liable for the operation of the vehicle or the acts of the operator in connection therewith only up to \$100,000 per person and up to \$300,000 per incident for bodily injury and up to \$50,000 for property damage. If the permissive user of the motor vehicle is uninsured or has any insurance with limits less than \$500,000 combined property damage and bodily injury liability, the owner shall be liable for up to an additional \$500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the owner for economic damages shall be reduced by amounts actually recovered from the permissive user and from any insurance or self-insurance covering the permissive user. Nothing in this subparagraph shall be construed to affect the liability of the owner for his or her own negligence.

(c) *Application.*—The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days. Furthermore, the limits on liability in subparagraphs (b)2. and 3. do not apply to a motor vehicle that has a gross vehicle weight of greater than 26,000 pounds.

Section 29. Subsection (2) of section 95.031, Florida Statutes, is amended to read:

**95.031 Computation of time.**—Except as provided in subsection (2) and in s. 95.051 and elsewhere in these statutes, the time within which an action shall be begun under any statute of limitations runs from the time the cause of action accrues.

(2)(a) ~~An action for products liability and fraud under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, instead of running from any date prescribed elsewhere in s. 95.11(3), but in any event an action for fraud under s. 95.11(3) must be begun within 12 years after the date of the commission of the alleged fraud, regardless of the date the fraud was or should have been discovered.~~

(b) *An action for products liability under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the date that the facts giving rise to the cause of action were discovered, or should have been discovered with the exercise of due diligence, rather than running from any other date prescribed elsewhere in s. 95.11(3), but in no event may an action for products liability under s. 95.11(3) be commenced unless the complaint is served and filed within 18 years after the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of*

*another product, regardless of the date that the defect in the product was or should have been discovered. However, the 18-year limitation on filing an action for products liability does not apply if the manufacturer knew of a defect in the product and concealed or attempted to conceal this defect. In addition, the 18-year limitation does not apply if the claimant was exposed to or used the product within the 18-year period, but an injury caused by such exposure or use did not manifest itself until after the 18-year period.*

Section 30. *Any action for products liability which would not have been barred under section 95.031(2), Florida Statutes, prior to the amendments to that section made by this act may be commenced before July 1, 2003, and, if it is not commenced by that date and is barred by the amendments to section 95.031(2), Florida Statutes, made by this act, it shall be barred.*

Section 31. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 32. This act shall take effect October 1, 1999.

And the title is amended as follows:

On page 1,  
remove from the title of the bill: everything before the enacting clause  
and insert in lieu thereof: A bill to be entitled An act relating to civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for notebooks; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; creating s. 44.1051, F.S.; providing for voluntary trial resolution; providing for the appointment of a trial resolution judge; providing for compensation; providing for fees; providing for the tolling of applicable statutes of limitation; providing for powers of trial resolution judges; providing for hearings and evidence; providing for appeal; providing for application; amending s. 57.105, F.S.; revising conditions for award of attorney's fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 768.79, F.S.; providing for the applicability of offers of judgment and demand of judgment in cases involving multiple plaintiffs; providing that subsequent offers shall void previous offers; providing that prior to awarding costs and fees the court shall consider whether the proposal was reasonably rejected; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; providing for proposals for structured settlements; requiring structured-settlement discussion in settlement negotiations; requiring assignment of liability for payment to a third-party assignee selected by the plaintiff; granting the plaintiff the right to select a settlement broker; providing for findings in orders approving or adopting a settlement; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross-reference; creating s. 47.025, F.S.; providing that certain venue provisions in a contract for improvement to real property are void; specifying appropriate venue for actions against resident contractors, subcontractors, sub-subcontractors, and materialmen; requiring the clerk of court to report certain information on negligence cases to the Office of the State Courts Administrator; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds a certain

percentage; repealing s. 768.81(5), F.S.; relating to the applicability of joint and several liability to actions in which the total amount of damages does not exceed a specified amount; requiring the Department of Insurance to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing for a review of rate filings by certain types of insurers after a specified date; providing that such provisions do not limit the refund of excessive profits by certain insurers; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain products liability actions; providing for rebuttable presumptions; providing an exception; amending s. 400.023, F.S., relating to actions brought on behalf of nursing home residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for any award of punitive damages; increasing minimum financial responsibility requirements for physicians and osteopathic physicians and eliminating an alternative method of satisfying financial responsibility requirements for physicians and osteopathic physicians with hospital staff privileges; creating s. 768.096, F.S.; providing an employer with a presumption against negligent hiring under specified conditions in an action for civil damages resulting from an intentional tort committed by an employee; amending s. 768.095, F.S.; revising the conditions under which an employer is immune from civil liability for disclosing information regarding an employee to a prospective employer; creating s. 768.071, F.S.; providing limitations on premises liability for a person or organization owning or controlling an interest in a business premises; amending s. 768.075, F.S.; modifying the conditions under which a person or organization owning or controlling an interest in real property is liable for a trespasser's injury or death; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.36, F.S.; prohibiting a plaintiff from recovering damages if plaintiff is more than a specified percentage at fault due to the influence of alcoholic beverages or drugs; creating s. 768.098, F.S.; providing a limitation of liability for employee leasing under specified conditions; creating s. 768.725, F.S.; providing evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing an exception with respect to intentional misconduct; prohibiting the award of subsequent punitive damages against a defendant if punitive damages were previously awarded against the defendant for harm arising out of the same act or single course of conduct; providing an exception; specifying the basis for calculating attorney's fees on judgments for punitive damages; providing for the application of the section; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(4), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; creating s. 768.736, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; amending s. 324.021, F.S.; providing a limitation on the liability for bodily injury, property, and economic damages for certain



lessors and owners of motor vehicles; providing for applicability; amending s. 95.031; providing a statute of repose of 18 years; providing for severability; providing an effective date.

Rep. Cosgrove moved the adoption of the amendment.

Representative(s) Cosgrove offered the following:

**Substitute Amendment 19 (with title amendment)—**

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 40.50, Florida Statutes, is created to read:

*40.50 Jury duty and instructions in civil cases.—*

(1) *In any civil action immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of proceedings, the procedure for submitting written questions of witnesses, and the elementary legal principles that will govern the proceeding as provided in this section.*

(2) *The court shall instruct that the jurors may take notes regarding the evidence and keep the notes for the purpose of refreshing their memory for use during recesses and deliberations. The court may provide materials suitable for this purpose. The confidentiality of the notes should be emphasized to the jurors. After the jury has rendered its verdict, the notes shall be collected by the bailiff or clerk who shall promptly destroy them.*

(3) *In any case in which the court determines that the trial could exceed 5 days, the court shall provide a notebook for each juror. Notebooks may contain:*

(a) *A copy of the preliminary jury instructions, including special instructions on the issues to be tried.*

(b) *Jurors' notes.*

(c) *Witnesses' names and either photographs or biographies or both.*

(d) *Copies of key documents admitted into evidence and an index of all exhibits in evidence.*

(e) *A glossary of technical terms.*

(f) *A copy of the court's final instructions.*

*In its discretion, the court may authorize documents and exhibits in evidence to be included in notebooks for use by the jurors during trial to aid them in performing their duties. The preliminary jury instructions should be removed, discarded, and replaced by the final jury instructions before the latter are read to the jury by the court.*

(4) *The court shall permit jurors to have access to their notes and, in appropriate cases, notebooks during recesses and deliberations.*

(5) *The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. Opportunity shall be given to counsel to object to such questions out of the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.*

(6) *The court shall instruct the jury that any questions directed to witnesses or the court must be in writing, unsigned, and given to the bailiff. If the court determines that the juror's question calls for admissible evidence, the question may be asked by court or counsel in the court's discretion. Such question may be answered by stipulation or other appropriate means, including, but not limited to, additional testimony upon such terms and limitations as the court prescribes. If the court determines that the juror's question calls for inadmissible evidence, the question shall not be read or answered. If a juror's question is rejected, the jury should be told that trial rules do not permit some questions to*

*be asked and that the jurors should not attach any significance to the failure of having their question asked.*

(7) *The court has discretion to give final instructions to the jury before closing arguments of counsel instead of after, in order to enhance jurors' ability to apply the applicable law to the facts. In that event, the court may wish to withhold giving the necessary procedural and housekeeping instructions until after closing arguments.*

Section 2. Section 44.102, Florida Statutes, is amended to read:

**44.102 Court-ordered mediation.—**

(1) Court-ordered mediation shall be conducted according to rules of practice and procedure adopted by the Supreme Court.

(2) A court, under rules adopted by the Supreme Court:

(a) *Must refer to mediation any filed civil action for monetary damages, unless:*

1. *The action is a landlord and tenant dispute that does not include a claim for personal injury.*

2. *The action is filed for the purpose of collecting a debt.*

3. *The action is a claim of medical malpractice.*

4. *The action is governed by the Florida Small Claims Rules.*

5. *The court determines that the action is proper for referral to nonbinding arbitration under this chapter.*

6. *The parties have agreed to binding arbitration.*

(b)(a) *May refer to mediation all or any part of a filed civil action for which mediation is not required under this section.*

(c)(b) *In circuits in which a family mediation program has been established and upon a court finding of a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.*

(d)(e) *In circuits in which a dependency or in need of services mediation program has been established, may refer to mediation all or any portion of a matter relating to dependency or to a child in need of services or a family in need of services.*

(3) Each party involved in a court-ordered mediation proceeding has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding. All oral or written communications in a mediation proceeding, other than an executed settlement agreement, shall be exempt from the requirements of chapter 119 and shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(4) There shall be no privilege and no restriction on any disclosure of communications made confidential in subsection (3) in relation to disciplinary proceedings filed against mediators pursuant to s. 44.106 and court rules, to the extent the communication is used for the purposes of such proceedings. In such cases, the disclosure of an otherwise privileged communication shall be used only for the internal use of the body conducting the investigation. Prior to the release of any disciplinary files to the public, all references to otherwise privileged communications shall be deleted from the record. When an otherwise confidential communication is used in a mediator disciplinary proceeding, such communication shall be inadmissible as evidence in any subsequent legal proceeding. "Subsequent legal proceeding" means

any legal proceeding between the parties to the mediation which follows the court-ordered mediation.

(5) The chief judge of each judicial circuit shall maintain a list of mediators who have been certified by the Supreme Court and who have registered for appointment in that circuit.

(a) Whenever possible, qualified individuals who have volunteered their time to serve as mediators shall be appointed. If a mediation program is funded pursuant to s. 44.108, volunteer mediators shall be entitled to reimbursement pursuant to s. 112.061 for all actual expenses necessitated by service as a mediator.

(b) Nonvolunteer mediators shall be compensated according to rules adopted by the Supreme Court. If a mediation program is funded pursuant to s. 44.108, a mediator may be compensated by the county or by the parties. When a party has been declared indigent or insolvent, that party's pro rata share of a mediator's compensation shall be paid by the county at the rate set by administrative order of the chief judge of the circuit.

(6)(a) When an action is referred to mediation by court order, the time periods for responding to an offer of settlement pursuant to s. 45.061, or to an offer or demand for judgment pursuant to s. 768.79, respectively, shall be tolled until:

1. An impasse has been declared by the mediator; or
2. The mediator has reported to the court that no agreement was reached.

(b) Sections 45.061 and 768.79 notwithstanding, an offer of settlement or an offer or demand for judgment may be made at any time after an impasse has been declared by the mediator, or the mediator has reported that no agreement was reached. An offer is deemed rejected as of commencement of trial.

Section 3. Section 44.1051, Florida Statutes, is created to read:

*44.1051 Voluntary trial resolution.—*

(1) *Two or more parties who are involved in a civil dispute may agree in writing to submit the controversy to voluntary trial resolution in lieu of litigation of the issues involved, prior to or after a lawsuit has been filed, provided that no constitutional issue is involved.*

(2) *If the parties have entered into an agreement that provides for a method for appointment of a member of The Florida Bar in good standing for more than 5 years to act as trial resolution judge, the court shall proceed with the appointment as prescribed.*

(3) *The trial resolution judge shall be compensated by the parties according to their agreement.*

(4) *Within 10 days after the submission of the request for binding voluntary trial resolution, the court shall provide for the appointment of the trial resolution judge. Once appointed, the trial resolution judge shall notify the parties of the time and place for the hearing.*

(5) *Application for voluntary trial resolution shall be filed and fees paid to the clerk of the court as if for complaints initiating civil actions. The clerk of the court shall handle and account for these matters in all respects as if they were civil actions except that the clerk of the court shall keep separate the records of the applications for voluntary binding trial resolution from all other civil actions.*

(6) *Filing of the application for binding voluntary trial resolution will toll the running of the applicable statutes of limitation.*

(7) *The appointed trial resolution judge shall have such power to administer oaths or affirmations and to conduct the proceedings as the rules of court provide. At the request of any party, the trial resolution*

*judge shall issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and may apply to the court for orders compelling attendance and production. Subpoenas shall be served and shall be enforceable as provided by law.*

(8) *The hearing shall be conducted by the trial resolution judge, who may determine any question and render a final decision.*

(9) *The Florida Evidence Code shall apply to all proceedings under this section.*

(10) *Any party may enforce a final decision rendered in a voluntary trial by filing a petition for final judgment in the circuit court in the circuit in which the voluntary trial took place. Upon entry of final judgment by the circuit court an appeal may be taken to the appropriate appellate court. The "harmless error doctrine" shall apply in all appeals. No further review shall be permitted unless a constitutional issue is raised. Factual findings determined in the voluntary trial shall not be subject to appeal.*

(11) *If no appeal is taken within the time provided by rules of the Supreme Court, the decision shall be referred to the presiding court judge in the case, or, if one has not been assigned, to the chief judge of the circuit for assignment to a circuit judge, who shall enter such orders and judgments as are required to carry out the terms of decision, which orders shall be enforceable by the contempt powers of the court and for which judgment executions shall issue on request of a party.*

(12) *This section does not apply to any dispute involving child custody, visitation, or child support, or to any dispute that involves the rights of a person who is not a party to the voluntary trial resolution.*

Section 4. Section 57.105, Florida Statutes, is amended to read:

*57.105 Attorney's fee; sanctions for raising unfounded claims or defenses; damages for delay of litigation.—*

(1) *Upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a ~~in any~~ civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:*

(a) *Was not supported by the material facts necessary to establish the claim or defense; or*

(b) *Would not be supported by the application of then-existing law to those material facts. ~~there was a complete absence of a justiciable issue of either law or fact raised by the complaint or defense of the losing party; provided,~~*

*However, that the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client as to the existence of those material facts. If the court awards attorney's fees to a claimant pursuant to this subsection finds that there was a complete absence of a justiciable issue of either law or fact raised by the defense, the court shall also award prejudgment interest.*

(2) *Subsection (1) does not apply if the court determines that the claim or defense was initially presented to the court as a good-faith attempt with a reasonable probability of changing then-existing law as it applied to the material facts.*

(3) *At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any*

*request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for the time necessitated by the conduct in question.*

(4) *The court also may impose such additional sanctions or other remedies as are just and warranted under the circumstances of the particular case, including, but not limited to, contempt of court, award of taxable costs, striking of a claim or defense, or dismissal of the pleading.*

(5)(2) *If a contract contains a provision allowing attorney's fees to a party when he or she is required to take any action to enforce the contract, the court may also allow reasonable attorney's fees to the other party when that party prevails in any action, whether as plaintiff or defendant, with respect to the contract. This subsection applies to any contract entered into on or after October 1, 1988. This act shall take effect October 1, 1988, and shall apply to contracts entered into on said date or thereafter.*

Section 5. Subsections (3), (5), and (7) of section 768.79, Florida Statutes, are amended to read:

768.79 Offer of judgment and demand for judgment.—

(3) *The offer shall be served upon the party to whom it is made, but it shall not be filed unless it is accepted or unless filing is necessary to enforce the provisions of this section. In any case involving multiple party plaintiffs or multiple party defendants, an offer shall specify its applicability to each party and may specify any conditions thereof. Each individual party may thereafter accept or reject the offer as the offer applies to such party.*

(5) *An offer may be withdrawn in writing which is served before the date a written acceptance is filed. Once withdrawn, an offer is void. A subsequent offer to a party shall have the effect of voiding any previous offer to that party.*

(7)(a) *If a party is entitled to costs and fees pursuant to the provisions of this section, the court may, in its discretion, determine that an offer was not made in good faith. In such case, the court may disallow an award of costs and attorney's fees.*

(b) *When determining the entitlement to and reasonableness of an award of attorney's fees pursuant to this section, the court shall consider, along with all other relevant criteria, the following additional factors:*

1. *The then apparent merit or lack of merit in the claim.*
2. *The number and nature of offers made by the parties.*
3. *The closeness of questions of fact and law at issue.*
4. *Whether the proposal was reasonably rejected.*

5.4- *Whether the person making the offer had unreasonably refused to furnish information necessary to evaluate the reasonableness of such offer.*

6.5- *Whether the suit was in the nature of a test case presenting questions of far-reaching importance affecting nonparties.*

7.6- *The amount of the additional delay cost and expense that the person making the offer reasonably would be expected to incur if the litigation should be prolonged.*

Section 6. Section 57.071, Florida Statutes, is amended to read:

57.071 Costs; what taxable.—

(1) *If costs are awarded to any party, the following shall also be allowed:*

(a)(1) *The reasonable premiums or expenses paid on all bonds or other security furnished by such party.*

(b)(2) *The expense of the court reporter for per diem, transcribing proceedings and depositions, including opening statements and arguments by counsel.*

(c)(3) *Any sales or use tax due on legal services provided to such party, notwithstanding any other provision of law to the contrary.*

(2) *Expert witness fees shall not be awarded as taxable costs unless:*

(a) *The party retaining the expert witness files a written notice with the court and with each opposing party within 30 days after the entry of an order setting the trial date, which notice shall specify the expertise and experience of the expert, the rate of compensation of the expert witness, the subject matters or issues on which the expert is expected to render an opinion, and an estimate of the overall fees of the expert witness, including the fee for trial testimony. If the rate of compensation is hourly, the estimated overall fee may be stated in terms of estimated hours; and*

(b) *The party retaining the expert witness furnishes each opposing party with a written report signed by the expert witness which summarizes the expert witness's opinions and the factual basis of the opinions, including documentary evidence and the authorities relied upon in reaching the opinions. Such report shall be filed at least 10 days prior to discovery cut-off, 45 days prior to the trial, or as otherwise determined by the court.*

(c) *This section does not apply to any action proceeding under the Florida Family Law Rules of Procedure.*

Section 7. *Expedited trials.—Upon the joint stipulation of the parties to any civil case, the court may conduct an expedited trial as provided in this section. Where two or more plaintiffs or defendants have a unity of interest, such as a husband and wife, they shall be considered one party for the purpose of this section. Unless otherwise ordered by the court or agreed to by the parties with approval of the court, an expedited trial shall be conducted as follows:*

(1) *All discovery in the trial shall be completed within 60 days after the court enters an order adopting the joint expedited trial stipulation.*

(2) *All interrogatories and requests for production must be served within 10 days after the court enters an order adopting the joint expedited trial stipulation, and all responses must be served within 20 days after receipt.*

(3) *The court shall determine the number of depositions required.*

(4) *The case may be tried to a jury.*

(5) *The case must be tried within 30 days after the 60-day discovery cut-off.*

(6) *The trial must be limited to 1 day.*

(7) *The jury selection must be limited to 1 hour.*

(8) *The plaintiff will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.*

(9) *The defendant will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.*

(10) *The jury will be given "plain language" jury instructions at the beginning of the trial as well as a "plain language" jury verdict form. The jury instructions and verdict form must be agreed to by the parties.*

(11) *The parties will be permitted to introduce a written report of any expert and the expert's curriculum vitae instead of calling the expert to testify live at trial.*

(12) *At trial the parties may use excerpts from depositions, including video depositions, regardless of where the deponent lives or whether the deponent is available to testify.*

(13) *The Florida Evidence Code and the Florida Rules of Civil Procedure will apply.*

(14) *There will be no continuances of the trial absent extraordinary circumstances.*

Section 8. Section 768.77, Florida Statutes, is amended to read:

768.77 Itemized verdict.—

(4) In any action to which this part applies in which the trier of fact determines that liability exists on the part of the defendant, the trier of fact shall, as a part of the verdict, itemize the amounts to be awarded to the claimant into the following categories of damages:

(1)(a) Amounts intended to compensate the claimant for economic losses;

(2)(b) Amounts intended to compensate the claimant for noneconomic losses; and

(3)(c) Amounts awarded to the claimant for punitive damages, if applicable.

~~(2) Each category of damages, other than punitive damages, shall be further itemized into amounts intended to compensate for losses which have been incurred prior to the verdict and into amounts intended to compensate for losses to be incurred in the future. Future damages itemized under paragraph (1)(a) shall be computed before and after reduction to present value. Damages itemized under paragraph (1)(b) or paragraph (1)(c) shall not be reduced to present value. In itemizing amounts intended to compensate for future losses, the trier of fact shall set forth the period of years over which such amounts are intended to provide compensation.~~

Section 9. Present subsection (1) of section 768.78, Florida Statutes, is amended and redesignated as subsection (2), present subsection (2) is redesignated as subsection (3), and a new subsection (1) is added to that section to read:

768.78 Alternative methods of payment of damage awards.—

(1) *In both pre-judgment and post-judgment cases, the parties shall specifically discuss the option and advantages for the plaintiff of settlement through use of structured periodic payments. If, in connection with a settlement, the plaintiff chooses to receive payment in the form of periodic payments, the defendant or the defendant's liability carrier is obligated to provide such payments, and the following apply:*

(a) *To the extent that the liability for payment of damages to the plaintiff qualifies for assignment under Section 130, or any successor section, of the Internal Revenue Code, as amended from time to time, the defendant or the defendant's liability carrier shall assign the liability to make such periodic payments to a third party assignee selected by the plaintiff.*

(b) *Once a structured settlement is agreed to by the parties, the defendant or the defendant's liability carrier may not withdraw from the agreement because of the plaintiff's choice of third-party assignee.*

(c) *The plaintiff has the right to select a licensed structured-settlement broker to place the structured settlement.*

(d) *Any order approving or adopting a settlement to which this subsection applies must include a finding that the settlement complies with this subsection.*

(e) *This subsection does not apply to cases the settlement of which is under \$50,000.*

(f) *Nothing in this subsection creates an additional cause of action against the defendant or his attorneys.*

(g) *This subsection applies only to cases impacted by s. 104(a)(1), (2), and (3) of the Internal Revenue Code.*

(2)(4)(a) In any action to which this part applies in which the court determines that trier of fact makes an award to compensate the claimant includes for future economic losses which exceed \$250,000, payment of amounts intended to compensate the claimant for these losses shall be made by one of the following means, unless an alternative method of payment of damages is provided in this section:

1. The defendant may make a lump-sum payment for all damages so assessed, with future economic losses and expenses reduced to present value; or

2. Subject to the provisions of this subsection, the court shall, at the request of either party, unless the court determines that manifest injustice would result to any party, enter a judgment ordering future economic damages, as itemized pursuant to s. 768.77(1)(a), in excess of \$250,000 to be paid in whole or in part by periodic payments rather than by a lump-sum payment.

(b) In entering a judgment ordering the payment of such future damages by periodic payments, the court shall make a specific finding of the dollar amount of periodic payments which will compensate the judgment creditor for these future damages after offset for collateral sources. The total dollar amount of the periodic payments shall equal the dollar amount of all such future damages before any reduction to present value, less any attorney's fees payable from future damages in accordance with paragraph (f). The period of time over which the periodic payments shall be made is the period of years determined by the trier of fact in arriving at its itemized verdict and shall not be extended if the plaintiff lives beyond the determined period. If the claimant has been awarded damages to be discharged by periodic payments and the claimant dies prior to the termination of the period of years during which periodic payments are to be made, the remaining liability of the defendant, reduced to present value, shall be paid into the estate of the claimant in a lump sum. The court may order that the payments be equal or vary in amount, depending upon the need of the claimant.

(c) As a condition to authorizing periodic payments of future damages, the court shall require the defendant to post a bond or security or otherwise to assure full payment of these damages awarded by the judgment. A bond is not adequate unless it is written by a company authorized to do business in this state and is rated A+ by Best's. If the defendant is unable to adequately assure full payment of the damages, the court shall order that all damages be paid to the claimant in a lump sum pursuant to the verdict. No bond may be canceled or be subject to cancellation unless at least 60 days' advance written notice is filed with the court and the judgment creditor. Upon termination of periodic payments, the court shall order the return of the security, or so much as remains, to the judgment debtor.

(d)1. In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to timely make the required periodic payments, the court shall:

a. Order that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order;

b. Order that, in addition to the required periodic payments, the judgment debtor pay the claimant all damages caused by the failure to timely make periodic payments, including court costs and attorney's fees; or

c. Enter other orders or sanctions as appropriate to protect the judgment creditor.

2. If it appears that the judgment debtor may be insolvent or that there is a substantial risk that the judgment debtor may not have the financial responsibility to pay all amounts due and owing the judgment creditor, the court may:

- a. Order additional security;
- b. Order that the balance of payments due be placed in trust for the benefit of the claimant;
- c. Order that all remaining amounts of the award be paid by lump sum within 30 days after entry of the order; or
- d. Order such other protection as may be necessary to assure the payment of the remaining balance of the judgment.

(e) The judgment providing for payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amounts of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Periodic payments shall be subject to modification only as specified in this subsection.

(f) Claimant's attorney's fee, if payable from the judgment, shall be based upon the total judgment, adding all amounts awarded for past and future damages. The attorney's fee shall be paid from past and future damages in the same proportion. If a claimant has agreed to pay her or his attorney's fees on a contingency fee basis, the claimant shall be responsible for paying the agreed percentage calculated solely on the basis of that portion of the award not subject to periodic payments. The remaining unpaid portion of the attorney's fees shall be paid in a lump sum by the defendant, who shall receive credit against future payments for this amount. However, the credit against each future payment is limited to an amount equal to the contingency fee percentage of each periodic payment. Any provision of this paragraph may be modified by the agreement of all interested parties.

(g) Nothing in this subsection shall preclude any other method of payment of awards, if such method is consented to by the parties.

Section 10. Section 47.025, Florida Statutes, is created to read:

*47.025 Actions against contractors.—Any venue provision in a contract for improvement to real property which requires legal action involving a resident contractor, subcontractor, sub-subcontractor, or materialman, as defined in part I of chapter 713, to be brought outside this state is void as a matter of public policy. To the extent that the venue provision in the contract is void under this section, any legal action arising out of that contract shall be brought only in this state in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located, unless, after the dispute arises, the parties stipulate to another venue.*

Section 11. *Through the state's uniform case reporting system, the clerk of court shall report to the Office of the State Courts Administrator information from each settlement or jury verdict and final judgment in negligence cases as defined in section 768.81(4), Florida Statutes, as the President of the Senate and the Speaker of the House of Representatives deem necessary from time to time. The information shall include, but need not be limited to: the name of each plaintiff and defendant; the verdict; the percentage of fault of each; the amount of economic damages and noneconomic damages awarded to each plaintiff, identifying those damages that are to be paid jointly and severally and by which defendants; and the amount of any punitive damages to be paid by each defendant.*

Section 12. Subsection (3) of section 768.81, Florida Statutes, is amended, and subsection (5) of that section is repealed, to read:

768.81 Comparative fault.—

(3) APPORTIONMENT OF DAMAGES.—In cases to which this section applies, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability; provided that with respect to any party whose percentage of fault equals or exceeds that of a particular claimant *and whose fault exceeds 25 percent*, the court shall enter judgment with respect to economic damages against that party on the basis of the doctrine of joint and several liability.

~~(5) APPLICABILITY OF JOINT AND SEVERAL LIABILITY.—Notwithstanding the provisions of this section, the doctrine of joint and several liability applies to all actions in which the total amount of damages does not exceed \$25,000.~~

Section 13. (1) *The Department of Insurance shall, after issuing a request for proposals, contract with a national independent actuarial firm to conduct an actuarial analysis, consistent with generally accepted actuarial practices, of the expected reduction in liability judgments, settlements, and related costs resulting from the provisions of this act. The analysis must be based on credible loss-cost data derived from the settlement or adjudication of liability claims, other than liability claims insured under private passenger automobile insurance or personal lines residential property insurance, accruing after October 1, 1999. The analysis must include an estimate of the percentage decrease in such judgments, settlements, and costs by type of coverage affected by this act, including the time period when such savings or reductions are expected.*

(2) *The report must be completed and submitted to the Department of Insurance by March 1, 2001.*

(3) *After March 1, 2001, the Department of Insurance shall review the filed rates of insurers and underwriting profits and losses for Florida liability insurance businesses and shall require any prospective rate modifications that the department deems necessary, consistent with the applicable rating law, in order to cause the rates of any specific insurer to comply with the applicable rating law. The department shall require each liability insurer's first rate filing after March 1, 2001, other than rate filings for private passenger automobile insurance or personal lines residential property insurance, to include specific data on the impact of this act on the insurer's liability judgments, settlements, and costs for the purpose of enabling the department and the Legislature to accurately monitor and evaluate the effects of this act.*

(4) *The report under subsection (1) is admissible in any proceedings relating to a liability insurance rate filing if the actuary who prepared the report is made available by the department to testify regarding the report's preparation and validity. Each party shall otherwise bear its own cost of any such proceeding.*

(5) *This section does not limit the authority of the department to order an insurer to refund excessive profits, as provided in sections 627.066 and 627.215, Florida Statutes.*

Section 14. Subsections (6), (7), and (8) are added to section 400.023, Florida Statutes, to read:

400.023 Civil enforcement.—

(6) *To recover attorney's fees under this section, the following conditions precedent must be met:*

(a) *Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in*

mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.

(7) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(8) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 15. Effective October 1, 1999, the minimum per claim financial responsibility required under sections 458.320(2)(b) and (c) and 459.0085(2)(b) and (c), Florida Statutes, shall be increased from \$250,000 to \$500,000 and the minimum aggregate requirement specified in said sections shall be increased from \$750,000 to \$1,000,000; provided, further that the provisions of sections 458.320(5)(g) and 459.0085(5)(g), Florida Statutes, respectively, shall not apply to any physician or osteopathic physician with hospital staff privileges.

Section 16. Section 768.1256, Florida Statutes, is created to read:

768.1256 Government rules defense.—

(1) In a product liability action brought against a manufacturer or seller for harm allegedly caused by a product, there is a rebuttable

presumption pursuant to s. 90.302(1) that the product is not defective or unreasonably dangerous and the manufacturer or seller is not liable if, at the time the specific unit of the product was sold or delivered to the initial purchaser or user, the aspect of the product that allegedly caused the harm:

(a) Complied with federal or state codes, statutes, rules, regulations or standards relevant to the event causing the death or injury;

(b) The codes, statutes, rules, regulations or standards are designed to prevent the type of harm that allegedly occurred; and

(c) Compliance with the codes, statutes, rules, regulations or standards is required as a condition for selling or distributing the product.

(2) In a product liability action as described in subsection (1), there is a rebuttable presumption pursuant to s. 90.302(1) that the product is defective or unreasonably dangerous and the manufacturer or seller is liable if the manufacturer or seller did not comply with the federal or state codes, statutes, rules, regulations or standards which:

(a) Were relevant to the event causing the death or injury;

(b) Are designed to prevent the type of harm that allegedly occurred; and

(c) Require compliance as a condition for selling or distributing the product.

(3) This section does not apply to an action brought for harm allegedly caused by a drug that is ordered off the market or seized by the Federal Food and Drug Administration.

Section 17. Section 768.096, Florida Statutes, is created to read:

768.096 Employer presumption against negligent hiring.—

(1) In a civil action for the death of, or injury or damage to, a third person caused by the intentional tort of an employee, such employee's employer is presumed not to have been negligent in hiring such employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee and the investigation did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or for the employment in general. A background investigation under this section must include:

(a) Obtaining a criminal background investigation on the prospective employee under subsection (2);

(b) Making a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;

(c) Requiring the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime, the date of conviction and the penalty imposed, and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;

(d) Obtaining, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; and

(e) Interviewing the prospective employee.

(2) To satisfy the criminal-background-investigation requirement of this section, an employer must request and obtain from the Department

of Law Enforcement a check of the information as reported and reflected in the Florida Crime Information Center system as of the date of the request.

(3) The election by an employer not to conduct the investigation specified in subsection (1) does not raise any presumption that the employer failed to use reasonable care in hiring an employee.

Section 18. Section 768.095, Florida Statutes, is amended to read:

768.095 Employer immunity from liability; disclosure of information regarding former or current employees.—An employer who discloses information about a former or current employee ~~employee's job performance~~ to a prospective employer of the former or current employee upon request of the prospective employer or of the former or current employee is ~~presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences unless it is shown by clear and convincing evidence. For purposes of this section, the presumption of good faith is rebutted upon a showing that the information disclosed by the former or current employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former or current employee protected under chapter 760.~~ is immune from civil liability for such disclosure or its consequences unless it is shown by clear and convincing evidence. For purposes of this section, the presumption of good faith is rebutted upon a showing that the information disclosed by the former or current employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former or current employee protected under chapter 760.

Section 19. Section 768.071, Florida Statutes, is created to read:

768.071 Business premises liability; areas outside enclosed buildings.—Notwithstanding any other provision of law to the contrary, a person or organization owning or controlling an interest in a business premises shall be liable for civil damages for the death of, or injury or damage to, an invitee or guest caused by a criminal act committed by a person who is not an employee or agent of the business and occurring on part of the business premises that is not within an enclosed building only if the person or organization owning or controlling an interest in the business premises disregarded his or her duty to protect invitees or guests on the property. For purposes of this section a person or organization owning or controlling an interest in a business premises may be found to have disregarded his or her duty to protect invitees or guests only if the person or organization owning or controlling an interest in the business premises knew that a criminal act was likely to occur on the portions of the property that are not within an enclosed building and failed to take any corrective action which could have prevented the injury.

Section 20. Section 768.075, Florida Statutes, is amended to read:

768.075 Immunity from liability for injury to trespassers on real property.—

(1) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to a trespasser upon the property ~~resulting from or arising by reason of the trespasser's commission of the offense of trespass as described in s. 810.08 or s. 810.09, when such trespasser was under the influence of alcoholic beverages with a blood-alcohol level of 0.08 to 0.10 percent or higher, when such trespasser was under the influence of any chemical substance set forth in s. 877.111, when such trespasser was illegally under the influence of any substance controlled under chapter 893, or if the trespasser is affected by any of the aforesaid substances to the extent that her or his normal faculties are impaired. For the purposes of this section, voluntary intoxication or impediment of faculties by use of alcohol or any of the aforementioned substances shall not excuse a party bringing an action or on whose behalf an action is brought from proving the elements of trespass.~~ However, the person or organization owning or controlling the interest in real property shall not be immune from liability if gross negligence or intentional willful and wanton misconduct on the part of such person or organization or agent thereof

is a proximate cause of the death of or injury or damage to the trespasser.

(2) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, is not liable for any civil damages for the death of or injury or damage to any discovered or undiscovered trespasser, except as provided in paragraphs (3)(a), (b), and (c), and regardless of whether the trespasser was intoxicated or otherwise impaired.

(3)(a) As used in this subsection, the term:

1. "Invitation" means that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs.

2. "Discovered trespasser" means a person who enters real property without invitation, either express or implied, and whose actual physical presence was detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property or to whose actual physical presence the person or organization owning or controlling an interest in real property was alerted by a reliable source within 24 hours preceding the accident. The status of a person who enters real property shall not be elevated to that of an invitee, unless the person or organization owning or controlling an interest in real property has issued an express invitation to enter the property or has manifested a clear intent to hold the property open to use by persons pursuing purposes such as those pursued by the person whose status is at issue.

3. "Undiscovered trespasser" means a person who enters property without invitation, either express or implied, and whose actual physical presence was not detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property.

(b) To avoid liability to undiscovered trespassers, a person or organization owning or controlling an interest in real property must refrain from intentional misconduct, but has no duty to warn of dangerous conditions. To avoid liability to discovered trespassers, a person or organization owning or controlling an interest in real property must refrain from gross negligence or intentional misconduct, and must warn the trespasser of dangerous conditions that are known to the person or organization owning or controlling an interest in real property but that are not readily observable by others.

(c) This subsection shall not be interpreted or construed to alter the common law as it pertains to the "attractive nuisance doctrine."

(4) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for negligence that results in the death of, injury to, or damage to a person who is attempting to commit a felony or who is engaged in the commission of a felony on the property.

Section 21. Section 768.36, Florida Statutes, is created to read:

768.36 Alcohol or drug defense.—

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

(a) "Alcoholic beverage" means distilled spirits and any beverage that contains 0.5 percent or more alcohol by volume as determined in accordance with s. 561.01(4)(b).

(b) "Drug" means any chemical substance set forth in s. 877.111 or any substance controlled under chapter 893. The term does not include any drug or medication obtained pursuant to a prescription as defined in s. 893.02 which was taken in accordance with the prescription, or any medication that is authorized under state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

(2) In any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

(a) The plaintiff was under the influence of any alcoholic beverage or drug to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and

(b) As a result of the influence of such alcoholic beverage or drug the plaintiff was more than 50 percent at fault for his or her own harm.

Section 22. Section 768.098, Florida Statutes, is created to read:

**768.098 Limitation of liability for employee leasing.—**

(1) An employer in a joint employment relationship pursuant to s. 468.520 shall not be liable for the tortious actions of another employer in that relationship, or for the tortious actions of any jointly employed employee under that relationship, provided that:

(a) The employer seeking to avoid liability pursuant to this section did not authorize or direct the tortious action;

(b) The employer seeking to avoid liability pursuant to this section did not have actual knowledge of the tortious conduct and fail to take appropriate action;

(c) The employer seeking to avoid liability pursuant to this section did not have actual control over the day to day job duties of the jointly employed employee who has committed a tortious act nor actual control over the portion of a job site at which or from which the tortious conduct arose or at which and from which a jointly employed employee worked, and that said control was assigned to the other employer under the contract;

(d) The employer seeking to avoid liability pursuant to this section is expressly absolved in the written contract forming the joint employment relationship of control over the day to day job duties of the jointly employed employee who has committed a tortious act, and of the portion of the job site at which or from which the tortious conduct arose or at which and from which the jointly employed employee worked, and that said control was assigned to the other employer under the contract; and

(e) Complaints, allegations or incidents of any tortious misconduct or workplace safety violations, regardless of the source, are required to be reported to the employer seeking to avoid liability pursuant to this section by all other joint employers under the written contract forming the joint employment relationship, and that the employer seeking to avoid liability pursuant to this section did not fail to take appropriate action as a result of receiving any such report related to a jointly employed employee who has committed a tortious act.

(2) An employer seeking to avoid liability pursuant to this section shall not be presumed to have actual control over the day to day job duties of the jointly employed employee who has committed a tortious act, nor actual control over the portion of a job site at which or from which that employee worked, based solely upon the fact that the employee at issue is a leased employee.

(3) This section shall not alter any responsibilities of the joint employer who has actual control over the day to day job duties of the jointly employed employee and who has actual control over the portion of a job site at which or from which the employee is employed, which arises from s. 768.096.

Section 23. Section 768.725, Florida Statutes, is created to read:

**768.725 Punitive damages; burden of proof.—**In all civil actions the plaintiff must establish at trial by clear and convincing evidence its entitlement to an award of punitive damages. The "greater weight of the

evidence" burden of proof applies to a determination of the amount of damages.

Section 24. Section 768.72, Florida Statutes, is amended to read:

**768.72 Pleading in civil actions; claim for punitive damages.—**

(1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) "Intentional misconduct" means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

(b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

(3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:

(a) The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;

(b) The officers, directors, or managers of the employer, principal, corporation, or other legal entity knowingly condoned, ratified, or consented to such conduct; or

(c) The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

(4) The provisions of this section are remedial in nature and must be applied to all civil actions pending on October 1, 1999, in which the trial or retrial of the action has not commenced.

Section 25. Section 768.73, Florida Statutes, is amended to read:

**768.73 Punitive damages; limitation.—**

(1)(a) In any civil action in which the judgment for compensatory damages is for \$50,000 or less, judgment for punitive damages awarded to a claimant may not exceed \$250,000, except as provided in paragraph (b). In any civil action in which the judgment for compensatory damages exceeds \$50,000, the judgment for punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages or \$250,000, whichever is higher, except as provided in paragraph (b). ~~based on negligence, strict liability, products liability, misconduct in commercial transactions, professional liability, or breach of warranty, and involving willful, wanton, or gross misconduct, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact,~~



~~except as provided in paragraph (b). However, this subsection does not apply to any class action.~~

(b) ~~An If any~~ award for punitive damages ~~may not exceed exceeds~~ the limitations ~~limitation~~ specified in paragraph (a), ~~the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the defendant engaged in intentional misconduct or gross negligence and that the award is not excessive in light of the facts and circumstances which were presented to the trier of fact.~~

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(2)(a) *Except as provided in paragraph (b), punitive damages may not be awarded against a defendant in a civil action if that defendant establishes, before trial, that punitive damages have previously been awarded against that defendant in any state or federal court in any action alleging harm from the same act or single course of conduct for which the claimant seeks compensatory damages. For purposes of a civil action, the term "the same act or single course of conduct" includes acts resulting in the same manufacturing defects, acts resulting in the same defects in design, or failure to warn of the same hazards, with respect to similar units of a product.*

(b) *In subsequent civil actions involving the same act or single course of conduct for which punitive damages have already been awarded, if the court determines by clear and convincing evidence that the amount of prior punitive damages awarded was insufficient to punish that defendant's behavior, the court may permit a jury to consider an award of subsequent punitive damages. In permitting a jury to consider awarding subsequent punitive damages, the court shall make specific findings of fact in the record to support its conclusion. In addition, the court may consider whether the defendant's act or course of conduct has ceased. Any subsequent punitive damage awards must be reduced by the amount of any earlier punitive damage awards rendered in state or federal court.*

(3) *The claimant attorney's fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated based on the final judgment for punitive damages. This subsection does not limit the payment of attorney's fees based upon an award of damages other than punitive damages.*

(4)(2) The jury may neither be instructed nor informed as to the provisions of this section.

(5) *The provisions of this section are remedial in nature and must be applied to all civil actions pending on October 1, 1999, in which the trial or retrial of the action has not commenced.*

Section 26. Section 768.735, Florida Statutes, is created to read:

768.735 *Punitive damages; exceptions; limitation.—*

(1) *Sections 768.72(2)-(4), 768.725, and 768.73 do not apply to any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled or any civil action arising under chapter 400. Such actions are governed by applicable statutes and controlling judicial precedent.*

(2)(a) *In any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or actions arising under chapter 400 and involving the award of punitive damages, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each*

*person entitled thereto by the trier of fact, except as provided in paragraph (b). This subsection does not apply to any class action.*

(b) *If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances that were presented to the trier of fact.*

(c) *This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages which is less than three times the amount of compensatory damages.*

(d) *The jury may not be instructed or informed as to the provisions of this section.*

Section 27. Section 768.736, Florida Statutes, is created to read:

768.736 *Punitive damages; exceptions for intoxication.—Sections 768.725 and 768.73 do not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher.*

Section 28. Paragraph (b) of subsection (9) of section 324.021, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

324.021 *Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:*

(9) OWNER; OWNER/LESSOR.—

(b) Owner/lessor.—*Notwithstanding any other provision of the Florida Statutes or existing case law;:*

1. *The lessor, under an agreement to lease a motor vehicle for 1 year or longer which requires the lessee to obtain insurance acceptable to the lessor which contains limits not less than \$100,000/\$300,000 bodily injury liability and \$50,000 property damage liability or not less than \$500,000 combined property damage liability and bodily injury liability, shall not be deemed the owner of said motor vehicle for the purpose of determining financial responsibility for the operation of said motor vehicle or for the acts of the operator in connection therewith; further, this subparagraph paragraph shall be applicable so long as the insurance meeting these requirements is in effect. The insurance meeting such requirements may be obtained by the lessor or lessee, provided, if such insurance is obtained by the lessor, the combined coverage for bodily injury liability and property damage liability shall contain limits of not less than \$1 million and may be provided by a lessor's blanket policy.*

2. *The lessor, under an agreement to rent or lease a motor vehicle for a period of less than 1 year, shall be deemed the owner of the motor vehicle for the purpose of determining liability for the operation of the vehicle or the acts of the operator in connection therewith only up to \$100,000 per person and up to \$300,000 per incident for bodily injury and up to \$50,000 for property damage. If the lessee or the operator of the motor vehicle is uninsured or has any insurance with limits less than \$500,000 combined property damage and bodily injury liability, the lessor shall be liable for up to an additional \$500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages shall be reduced by*

amounts actually recovered from the lessee, from the operator, and from any insurance or self insurance covering the lessee or operator. Nothing in this subparagraph shall be construed to affect the liability of the lessor for its own negligence.

3. The owner who is a natural person and loans a motor vehicle to any permissive user shall be liable for the operation of the vehicle or the acts of the operator in connection therewith only up to \$100,000 per person and up to \$300,000 per incident for bodily injury and up to \$50,000 for property damage. If the permissive user of the motor vehicle is uninsured or has any insurance with limits less than \$500,000 combined property damage and bodily injury liability, the owner shall be liable for up to an additional \$500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the owner for economic damages shall be reduced by amounts actually recovered from the permissive user and from any insurance or self-insurance covering the permissive user. Nothing in this subparagraph shall be construed to affect the liability of the owner for his or her own negligence.

(c) *Application.*—The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days. Furthermore, the limits on liability in subparagraphs (b)2. and 3. do not apply to a motor vehicle that has a gross vehicle weight of greater than 26,000 pounds or any vehicle designed to transport 16 or more passengers including the driver. Furthermore, the limits on liability in subparagraphs (b)2. and 3. do not apply to a motor vehicle that is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.), and that is required pursuant to such act to carry placards warning others of the hazardous cargo.

Section 29. Subsection (2) of section 95.031, Florida Statutes, is amended to read:

95.031 Computation of time.—Except as provided in subsection (2) and in s. 95.051 and elsewhere in these statutes, the time within which an action shall be begun under any statute of limitations runs from the time the cause of action accrues.

(2)(a) ~~An action for products liability and fraud under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, instead of running from any date prescribed elsewhere in s. 95.11(3), but in any event an action for fraud under s. 95.11(3) must be begun within 12 years after the date of the commission of the alleged fraud, regardless of the date the fraud was or should have been discovered.~~

(b) *An action for products liability under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the date that the facts giving rise to the cause of action were discovered, or should have been discovered with the exercise of due diligence, rather than running from any other date prescribed elsewhere in s. 95.11(3), but in no event may an action for products liability under s. 95.11(3) be commenced unless the complaint is served and filed within 18 years after the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the*

*product or of using the product as a component in the manufacture of another product, regardless of the date that the defect in the product was or should have been discovered. However, the 18-year limitation on filing an action for products liability does not apply if the manufacturer knew of a defect in the product and concealed or attempted to conceal this defect. In addition, the 18-year limitation does not apply if the claimant was exposed to or used a product capable of causing a latent disease and an injury caused by such exposure or use did not manifest itself until after the 18-year period. The provisions of this paragraph shall not apply to any aircraft which, at the time of the accident, was engaged in scheduled passenger-carrying operations.*

Section 30. Any action for products liability which would not have been barred under section 95.031(2), Florida Statutes, prior to the amendments to that section made by this act may be commenced before July 1, 2003, and, if it is not commenced by that date and is barred by the amendments to section 95.031(2), Florida Statutes, made by this act, it shall be barred.

Section 31. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 32. This act shall take effect October 1, 1999.

And the title is amended as follows:

On page 1,  
remove from the title of the bill: everything before the enacting clause  
and insert in lieu thereof: A bill to be entitled An act relating to civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for notebooks; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; creating s. 44.1051, F.S.; providing for voluntary trial resolution; providing for the appointment of a trial resolution judge; providing for compensation; providing for fees; providing for the tolling of applicable statutes of limitation; providing for powers of trial resolution judges; providing for hearings and evidence; providing for appeal; providing for application; amending s. 57.105, F.S.; revising conditions for award of attorney's fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 768.79, F.S.; providing for the applicability of offers of judgment and demand of judgment in cases involving multiple plaintiffs; providing that subsequent offers shall void previous offers; providing that prior to awarding costs and fees the court shall consider whether the proposal was reasonably rejected; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; providing for proposals for structured settlements; requiring structured-settlement discussion in settlement negotiations; requiring assignment of liability for payment to a third-party assignee selected by the plaintiff; granting the plaintiff the right to select a settlement broker; providing for findings in orders approving or adopting a settlement; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross-reference; creating s. 47.025, F.S.; providing that certain venue provisions in a contract for improvement to real property are void; specifying appropriate venue for actions against resident contractors, subcontractors, sub-subcontractors, and materialmen; requiring the clerk of court to report certain information on negligence

cases to the Office of the State Courts Administrator; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds a certain percentage; repealing s. 768.81(5), F.S.; relating to the applicability of joint and several liability to actions in which the total amount of damages does not exceed a specified amount; requiring the Department of Insurance to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing for a review of rate filings by certain types of insurers after a specified date; providing that such provisions do not limit the refund of excessive profits by certain insurers; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain products liability actions; providing for rebuttable presumptions; providing an exception; amending s. 400.023, F.S., relating to actions brought on behalf of nursing home residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for any award of punitive damages; increasing minimum financial responsibility requirements for physicians and osteopathic physicians and eliminating an alternative method of satisfying financial responsibility requirements for physicians and osteopathic physicians with hospital staff privileges; creating s. 768.096, F.S.; providing an employer with a presumption against negligent hiring under specified conditions in an action for civil damages resulting from an intentional tort committed by an employee; amending s. 768.095, F.S.; revising the conditions under which an employer is immune from civil liability for disclosing information regarding an employee to a prospective employer; creating s. 768.071, F.S.; providing limitations on premises liability for a person or organization owning or controlling an interest in a business premises; amending s. 768.075, F.S.; modifying the conditions under which a person or organization owning or controlling an interest in real property is liable for a trespasser's injury or death; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.36, F.S.; prohibiting a plaintiff from recovering damages if plaintiff is more than a specified percentage at fault due to the influence of alcoholic beverages or drugs; creating s. 768.098, F.S.; providing a limitation of liability for employee leasing under specified conditions; creating s. 768.725, F.S.; providing evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing an exception with respect to intentional misconduct; prohibiting the award of subsequent punitive damages against a defendant if punitive damages were previously awarded against the defendant for harm arising out of the same act or single course of conduct; providing an exception; specifying the basis for calculating attorney's fees on judgments for punitive damages; providing for the application of the section; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(4), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; creating s. 768.736, F.S.; providing that ss. 768.725 and

768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; amending s. 324.021, F.S.; providing a limitation on the liability for bodily injury, property, and economic damages for certain lessors and owners of motor vehicles; providing for applicability; amending s. 95.031; providing a statute of repose of 18 years; providing for severability; providing an effective date. providing for severability; providing an effective date.

Rep. Cosgrove moved the adoption of the substitute amendment, which failed to receive the necessary two-thirds vote for adoption. The vote was:

#### Yeas—43

Betancourt	Effman	Kosmas	Ritter
Bloom	Frankel	Lawson	Roberts
Bradley	Gottlieb	Levine	Ryan
Brown	Greene, A.	Miller, L.	Sobel
Bush	Greenstein	Morrone	Stafford
Chestnut	Hafner	Ogles	Stansel
Cosgrove	Healey	Posey	Suarez
Crist	Henriquez	Prieguez	Turnbull
Crow	Heyman	Rayson	Wasserman Schultz
Dennis	Hill	Reddick	Wilson
Edwards	Jacobs	Ritchie	

#### Nays—73

The Chair	Crady	Jones	Sembler
Albright	Detert	Kelly	Smith, C.
Alexander	Diaz de la Portilla	Kilmer	Smith, K.
Andrews	Dockery	Kyle	Sorensen
Argenziano	Eggelletion	Lacasa	Spratt
Arnall	Farkas	Littlefield	Starks
Bainter	Fasano	Lynn	Sublette
Ball	Feeney	Maygarden	Trovillion
Barreiro	Fiorentino	Merchant	Tullis
Bense	Flanagan	Miller, J.	Valdes
Bilirakis	Fuller	Minton	Villalobos
Bitner	Futch	Murman	Wallace
Boyd	Garcia	Patterson	Warner
Bronson	Gay	Peaden	Waters
Brummer	Goode	Pruitt	Wiles
Byrd	Goodlette	Putnam	Wise
Cantens	Green, C.	Rojas	
Casey	Hart	Russell	
Constantine	Johnson	Sanderson	

The question recurred on the adoption of **Amendment 19**, which was withdrawn.

Representative(s) Warner and Byrd offered the following:

**Amendment 20**—On page 32, line 31  
remove from the bill:

All of said line

and insert in lieu thereof:

from pollution, to any action based upon an intentional tort,

Rep. Warner moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Rayson offered the following:

**Amendment 21 (with title amendment)**—On page 39, between pages 25 and 26, of the bill

insert:

Section 28. (1) *The Office of Program Policy Analysis and Governmental Accountability shall, after issuing a request for proposals, contract with a national independent actuarial firm to conduct an*

*actuarial analysis, consistent with generally accepted actuarial practices, of the expected reduction in liability judgments, settlements, and related costs resulting from the provisions of this act. The analysis shall be based on credible loss cost data derived from settlement or adjudication of liability claims accruing after the effective date of this act. The analysis shall include an estimate of the percentage decrease in such judgments, settlements, and costs by type of coverage affected by this act, including the time period when such savings or reductions are expected.*

(2) *The report shall be completed and submitted to the department by March 1, 2007.*

And the title is amended as follows:

On page 5, line 14,

after "arbitration;" insert: requiring the Office of Program Policy Analysis and Governmental Accountability to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report;

Rep. Rayson moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Rep. Arnall suggested the absence of a quorum. A quorum was present.

The question recurred on the passage of HB 775. The vote was:

Yeas—86

The Chair	Detert	Kilmer	Ryan
Albright	Diaz de la Portilla	Kosmas	Sanderson
Alexander	Dockery	Kyle	Sembler
Andrews	Edwards	Lacasa	Smith, C.
Argenziano	Eggelletion	Littlefield	Smith, K.
Arnall	Farkas	Logan	Sorensen
Bainter	Feeney	Lynn	Spratt
Ball	Fiorentino	Maygarden	Stansel
Barreiro	Flanagan	Melvin	Starks
Bense	Fuller	Merchant	Trovillion
Bilirakis	Futch	Miller, J.	Tullis
Bitner	Garcia	Minton	Turnbull
Boyd	Gay	Morrone	Valdes
Bradley	Goode	Ogles	Villalobos
Bronson	Goodlette	Patterson	Wallace
Brummer	Green, C.	Peaden	Warner
Byrd	Hafner	Posey	Waters
Cantens	Harrington	Pruitt	Wiles
Casey	Hart	Putnam	Wilson
Constantine	Johnson	Roberts	Wise
Crady	Jones	Rojas	
Crist	Kelly	Russell	

Nays—33

Betancourt	Fasano	Jacobs	Ritter
Bloom	Frankel	Lawson	Sobel
Brown	Gottlieb	Levine	Stafford
Bush	Greene, A.	Miller, L.	Suarez
Chestnut	Greenstein	Murman	Sublette
Cosgrove	Healey	Prieguez	Wasserman Schultz
Crow	Henriquez	Rayson	
Dennis	Heyman	Reddick	
Effman	Hill	Ritchie	

So the bill passed, as amended. On motion by Rep. Arnall, the rules were suspended and the bill was immediately certified to the Senate after engrossment.

## Motion to Adjourn

Rep. Arnall moved that the House adjourn for the purpose of holding committee meetings and conducting other House business, to reconvene at 8:50 a.m., Tuesday, March 16. The motion was agreed to.

## Recorded Votes

Rep. Hart:

Nay—Amendment 5 to CS/CS/HB 113

## Prime Sponsors

HB 737—Garcia

HB 1515—Merchant

## Cosponsors

CS/HB 21—Crist, Hill

HB 39—Greenstein

HB 53—Sublette

HB 91—Brown

HB 139—Sanderson

HB 149—Cosgrove

HB 185—Jacobs

CS/HB 231—Ball, Gay, Posey

HB 249—Sanderson

HB 299—Argenziano, Brown, Dennis, Hafner, Harrington, Heyman,

Jacobs, Melvin, Peaden, Rayson, Ritchie

CS/HB 303—Jacobs

CS/HB 305—Jacobs

HB 335—Jacobs

HB 365—Brown, Cosgrove, Dennis, Futch, Greenstein, Minton, Wise

HB 379—Gottlieb

HB 385—Jacobs, Kilmer, Villalobos

HB 411—Jacobs

HB 465—Boyd

HB 471—Cantens, Roberts, Wasserman Schultz

HB 557—Greenstein

HB 571—Boyd

HB 575—Jacobs

HB 585—Greenstein

HB 621—Bitner, Bronson, Bush, Kilmer, Melvin, Murman, Turnbull

HB 685—Greenstein

HB 711—Wilson

HB 741—Diaz de la Portilla, Fasano, C. Green

HM 777—Fasano

HB 815—Effman

HB 819—Flanagan

HB 829—Bense, Farkas, Fasano, Hafner, J. Miller

HB 845—Henriquez

HB 885—Maygarden

HB 915—Fasano

HB 935—Ritchie

HB 937—Alexander, Argenziano, Ball, Barreiro, Bense, Bronson,

Cantens, Dockery, Goode, C. Green, Johnson, Kelly, Kilmer,

Maygarden, Melvin, Peaden, Posey, Prieguez, Putnam, K. Smith,

Trovillion, Wallace

HB 953—Fasano

HB 961—Garcia, Greenstein, Kyle, Merchant, Villalobos

HB 991—Greenstein

HB 1083—Hart

HB 1123—Russell

HB 1407—Kilmer

HB 1411—Rayson

HB 1413—Morrone

## Introduction and Reference

By Representative Ryan—

**HB 1667**—A bill to be entitled An act relating to the high school grading system; amending s. 232.2463, F.S.; revising the high school grading system; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Bush, Roberts, L. Miller, Chestnut, Hill, A. Greene, Wilson, Reddick, Frankel, Levine, Healey, Dennis, Minton, Logan, Cosgrove, Eggleston, and Rayson—

**HB 1669**—A bill to be entitled An act relating to employment; creating s. 414.0275, F.S.; creating the “Florida Introduction to Employment Opportunity Act”; requiring that each state agency having an annual budget of \$1 million or more include a separate budget category for employment of persons who have never been employed; providing a portion of such budget category for the employment of minorities; providing legislative intent; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Valdes—

**HB 1671**—A bill to be entitled An act relating to corporate income tax; creating s. 220.187, F.S.; providing a credit against such tax for a percentage of preventative cancer-screening procedures contributions made by a business firm; providing eligibility and application requirements; providing limitations; providing for carryover of the credit; providing for administration by the Department of Health; amending s. 220.02, F.S.; providing order of credits against the tax; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Gottlieb, Ritchie, Greenstein, C. Smith, Sobel, Stansel, Levine, Henriquez, Wilson, Ryan, and Cosgrove—

**HB 1673**—A bill to be entitled An act relating to tax on sales, use, and other transactions; creating s. 212.099, F.S.; providing for a credit against the tax remitted under ch. 212, F.S., for any food service business that makes contributions to scholarship funds; providing definitions; providing the amount of the credit; providing application requirements; providing duties of the Department of Revenue; providing penalties for fraudulent claims; providing for rules; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Detert and Harrington—

**HB 1675**—A bill to be entitled An act relating to school funding; amending s. 236.081, F.S.; revising funding for enrollment in excess of the weighted enrollment ceiling for the fourth calculation of the 1998-1999 FEFP; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Detert—

**HB 1677**—A bill to be entitled An act relating to mediation; creating s. 44.1021, F.S.; providing that a court may not refer a case involving domestic violence to mediation except under specified conditions; providing legislative intent; requiring a court to assess whether domestic violence is present among the parties; providing factors that the court may consider in such assessment; amending ss. 44.102, 44.201, F.S.; conforming provisions; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Ogles—

**HB 1679**—A bill to be entitled An act relating to insurance; amending s. 627.311, F.S.; authorizing the use of policyholder surplus to fund workers’ compensation joint underwriting plan deficits; prohibiting insurers from providing workers’ compensation to certain employers; defining the term “affiliated person,” as used in s. 627.311, F.S.; exempting the plan from premium taxation; exempting the plan from assessments under ch. 440, F.S.; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Sobel, Jones, Peaden, Lynn, Detert, Bush, Barreiro, Cantens, Farkas, Hart, and Prieguez—

**HB 1681**—A bill to be entitled An act relating to expert witnesses in medical negligence actions; amending s. 766.102, F.S.; providing requirements for expert witness testimony in actions based on medical negligence; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Stansel—

**HB 1683**—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; defining “agricultural production”; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled, power-drawn, or power-driven farm equipment used exclusively on a farm or in a forest in specified activities and including rental or lease of such equipment in such exemption; reducing the rate of tax on such equipment over a specified period and exempting such equipment beginning October 1, 2001; requiring that the purchaser, renter, or lessee sign a certificate regarding the use of such equipment; amending s. 212.12, F.S., relating to promulgation of tax brackets by the Department of Revenue, to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Sorensen—

**HB 1685**—A bill to be entitled An act relating to stone crabs; amending s. 370.13, F.S.; providing for the display of endorsements for the taking of stone crabs on vessels; providing a fee for a stone crab endorsement on a saltwater products license; providing for the disposition of fees; creating s. 370.1322, F.S.; providing for a stone crab trap certificate program; providing legislative intent; providing for transferable trap certificates, trap tags, and fees; providing prohibitions and penalties; providing for trap reduction; providing for stone crab trap certificate technical, advisory, and appeals boards; providing powers and duties; providing for the disposition of fees; providing for rulemaking authority; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Sembler—

**HB 1687**—A bill to be entitled An act relating to Indian River County; amending chapter 61-2275, Laws of Florida, as amended; requiring a referendum of the electors of the county prior to any decision by the Indian River County Hospital District to sell Indian River Memorial Hospital; providing an effective date.

Proof of publication of the required notice was attached.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Patterson—

**HB 1689**—A bill to be entitled An act relating to transportation planning; amending s. 339.175, F.S.; revising provisions relating to

legislative intent regarding, and purposes of, metropolitan planning organizations (M.P.O.'s); providing that the jurisdictional boundary of an M.P.O. is the metropolitan planning area and providing requirements with respect thereto; revising provisions relating to designation of multiple M.P.O.'s within an area; revising provisions relating to the voting membership of an M.P.O.; authorizing approval of noncomplying membership apportionment plans; revising the elements to be considered in the development of long-range transportation plans and transportation improvement programs; deleting duties of the technical advisory committees relating to identification of school safety concerns; revising requirements with respect to the long-range transportation plan and the annual transportation improvement program and development thereof; requiring an M.P.O. to make certain information available for public review; clarifying and correcting language; amending s. 341.053, F.S.; providing that the Intermodal Development Program shall be administered by the Department of Transportation in cooperation with M.P.O.'s and local governments; providing that an M.P.O., rather than the department, shall review funding requests from rail authorities; providing that an M.P.O. shall be responsible for submitting intermodal access project funding requests to the department in urbanized areas and providing requirements with respect thereto; amending s. 320.20, F.S.; correcting a reference; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Reddick—

**HB 1691**—A bill to be entitled An act relating to the Excellent Teaching Program; amending s. 236.08106, F.S.; revising the Excellent Teaching Program to include guidance counselors who participate in the National Board of Certified Counselors certification program; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Waters, Feeney, Constantine, Kelly, C. Green, Melvin, Casey, and J. Miller—

**HB 1693**—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption from the tax for certain organizations that are primarily funded by local governments and that encourage the use of certain locations as venues for sporting events; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Starks, Posey, Trovillion, Feeney, Constantine, Brummer, Johnson, Reddick, and Sublette—

**HB 1695**—A bill to be entitled An act relating to Orange County; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the Orange County Library District, an independent special tax district in Orange County; codifying and reenacting chapter 80-555, Laws of Florida, as amended by chapters 81-450 and 91-372, Laws of Florida; providing legislative findings and intent; ratifying and confirming the creation and establishment of the Orange County Library District; clarifying powers regarding debt secured by non-ad valorem revenues; ratifying the appointments and terms of existing members of the Orange County Library Board of Trustees; deleting obsolete provisions; repealing ss. 10 and 11 of chapter 80-555, Laws of Florida, and chapters 81-450 and 91-372, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Betancourt—

**HB 1697**—A bill to be entitled An act relating to postsecondary student fees; amending s. 239.117, F.S.; revising provisions relating to

financial aid fees for workforce development programs; specifying authorized fees for workforce development programs; amending s. 240.319, F.S.; correcting cross references; specifying fees authorized to be established by community college boards of trustees; amending s. 240.35, F.S.; revising requirements regarding fee schedules, matriculation and tuition fees, financial aid fees, and capital improvement and technology fees; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Putnam and Dockery—

**HB 1699**—A bill to be entitled An act relating to water resources; creating s. 373.150, F.S.; providing legislative findings and intent; authorizing the South Florida Water Management District to act as local sponsor of the Central and Southern Florida Flood Control Project for specified project features; providing for oversight by the Legislature and the Department of Environmental Protection; requiring specified compliance by the water management district; requiring the implementation of certain environmental and water supply initiatives; requiring project modifications or additions to be developed and designed based upon specified criteria; requiring the Department of Environmental Protection and the water management district to pursue implementation of certain project modifications; requiring the department and the water management district to give priority in funding and construction to certain project modifications and additions; amending s. 373.026, F.S.; requiring the department to approve recommendations of the South Florida Water Management District for modifications or additions to the Central and Southern Florida Flood Control Project, based upon certain criteria; requiring the department to approve certain project cooperation agreements; providing for legislative review; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Healey—

**HB 1701**—A bill to be entitled An act relating to salary freezes; amending ss. 145.031, 145.051, 145.071, 145.09, 145.10, 145.11, 145.19, and 230.202, F.S.; providing that the salaries of the members of the board of county commissioners, clerk of the circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, tax collector, and members of the school board shall not be set by population formula, but shall be as approved by the board of county commissioners; providing that annual adjustments to such salaries shall also be set by the board of county commissioners; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Kyle—

**HB 1703**—A bill to be entitled An act relating to medical practice; creating s. 458.351, F.S.; requiring licensure of any physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state; providing an exception; providing applicability with respect to transmission of radiographic images; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Wilson—

**HB 1705**—A bill to be entitled An act relating to class size; amending s. 236.687, F.S.; providing for funds to be made available to certain schools for the construction of additional student stations to reduce class size; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Governmental Operations; Representatives Posey, Ball, A. Greene, Hafner, and Fasano—

**HB 1707**—A bill to be entitled An act relating to the Department of Management Services; amending s. 20.055, F.S.; requiring a report from agency heads on employee use of state motor vehicles; amending s. 20.22, F.S.; revising the organizational structure of the department relating to labor organizations; amending ss. 110.109 and 110.112, F.S.; revising reporting requirements; amending s. 110.1099, F.S.; providing conditions for the reimbursement of training expenses by an employee; amending s. 110.1245, F.S.; revising reporting requirements; increasing the cap on meritorious service awards; amending s. 110.131, F.S.; authorizing the designee of an agency head to extend the other-personal-services employment of a health care practitioner; amending s. 110.181, F.S.; providing that the fiscal agent for the Florida State Employees' Charitable Campaign need not reimburse costs under specified conditions; amending s. 110.201, F.S.; providing for adoption of rules; providing for a workforce report; amending s. 110.205, F.S.; conforming provisions to changes made by the act; providing for the designation of Senior Management Service exempt positions; amending s. 110.209, F.S.; adding critical market pay to the list of pay additives; amending s. 110.235, F.S.; deleting a requirement for a report; amending s. 110.503, F.S.; allowing agencies to incur expenses to recognize the service of volunteers; amending s. 110.504, F.S.; providing a limitation on volunteer awards; amending s. 110.605, F.S.; providing a uniform appraisal system for employees and positions in the Selected Exempt Service; amending s. 112.061, F.S.; authorizing the designee of an agency head to approve specified expenses for employees; amending s. 215.196, F.S.; revising the organizational structure of the department relating to the Architects Incidental Trust Fund; amending s. 215.422, F.S.; deleting a vendor's right to the name of an ombudsman; amending s. 216.011, F.S.; redefining the term "operating capital outlay"; amending s. 255.25, F.S.; exempting certain leases from the competitive bidding process; amending ss. 255.249 and 255.257, F.S.; revising the threshold for leased space facility requirements; amending s. 267.075, F.S.; revising the membership of The Grove Advisory Council; amending s. 272.18, F.S.; revising the membership of the Governor's Mansion Commission; amending s. 272.185, F.S.; revising the organizational structure of the department relating to maintenance of the Governor's Mansion; amending s. 273.02, F.S.; increasing the value of property required to be inventoried by custodians; amending s. 273.055, F.S.; providing for the disbursement of moneys received from disposition of state-owned tangible personal property; amending ss. 281.02, 281.03, 281.04, 281.05, 281.06, and 281.08, F.S.; including reference to the Florida Capitol Police; amending s. 281.07, F.S.; revising the organizational structure of the department relating to the capitol police; amending s. 282.105, F.S., relating to use of State Suncom Network by nonprofit schools; amending s. 282.111, F.S.; revising the organizational structure of the department relating to the statewide system of regional law enforcement communications; amending s. 287.017, F.S.; increasing purchasing category threshold amounts; amending s. 287.042, F.S.; revising the organizational structure of the department relating to the purchasing of goods and services; amending s. 287.057, F.S.; revising the organizational structure of the department relating to the procurement of insurance; amending s. 287.151, F.S.; revising purchasing requirements for certain state motor vehicles; amending ss. 287.16 and 287.18, F.S.; revising the organizational structure of the department relating to motor vehicles, watercraft, and aircraft; requiring a report on break-even mileage to be submitted biennially to agency inspectors general; amending s. 287.17, F.S.; providing definitions; providing criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; amending s. 365.171, F.S.; designating the director of the statewide emergency telephone number "911";

amending ss. 401.021 and 401.027, F.S.; designating the director of the statewide telecommunications system of the regional emergency medical service; amending s. 446.604, F.S.; providing for Government Services Direct to be included in the plan for One-Stop Career Centers; amending s. 447.208, F.S.; providing for the determination of attorney's fees in certain cases; repealing ss. 110.407 and 110.607, F.S., which provide for performance audits; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Jacobs—

**HB 1709**—A bill to be entitled An act relating to the long-term care community diversion pilot projects; amending s. 430.703, F.S.; defining "other qualified provider"; amending s. 430.707, F.S.; authorizing the Department of Elderly Affairs to contract with other qualified providers to provide long-term care within the pilot projects; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Waters—

**HB 1711**—A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; clarifying legislative findings; revising definitions; revising reimbursement contract provisions relating to equalization charges, reimbursable loss reporting, auditing of insurers, and confidentiality of certain audit information; revising reimbursement premium provisions relating to collection of interest; revising revenue bond provisions relating to emergency assessments against insurers, legislative findings as to the Florida Hurricane Catastrophe Fund Finance Corporation, and protections for bondholders; authorizing the State Board of Administration to enforce reimbursement contracts; providing severability; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bush—

**HB 1713**—A bill to be entitled An act relating to Enterprise Florida, Inc.; amending s. 288.9510, F.S.; providing legislative intent; amending s. 288.9515, F.S.; adding to the powers of the technology development board within Enterprise Florida, Inc.; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative A. Greene—

**HB 1715**—A bill to be entitled An act relating to children and families; creating s. 409.9072, F.S.; requiring the Agency for Health Care Administration to develop mechanisms for certification of local funds as state match for Medicaid projects, to maximize federal Title XIX funding for children and families; providing for return of funds to the generating districts and local entities; requiring prior approval of local projects by the agency and the Department of Children and Family Services; specifying project requirements; providing for modification of the Medicaid state plan; providing for federal waivers; providing responsibilities of the agency and department with respect to administrative and service costs, monitoring of service delivery, and standards and quality of care; providing a limitation on certain administrative costs; requiring the department to develop policies and procedures for certification of local funds as state match for foster care and related services projects, to maximize federal Title IV-E funding for services to eligible children; providing for return of funds to the generating districts and local entities; specifying project requirements; providing a limitation on certain administrative costs; providing for federal waivers; authorizing the department and the agency to adopt rules; requiring an annual report; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Detert—

**HB 1717**—A bill to be entitled An act relating to education; creating “The Student Services Act for the Prevention of Violence in Education”; creating a pilot project in specified counties to enable school districts in those counties to provide students with skills in conflict resolution, anger management, and related subjects; providing legislative intent; providing purpose; providing for funding; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Putnam—

**HB 1719**—A bill to be entitled An act relating to transportation; amending s. 334.044, F.S.; providing for the allocation of a certain percentage of road projects for roadside beautification by the Department of Transportation; providing for administration; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Betancourt—

**HB 1721**—A bill to be entitled An act relating to ad valorem taxation; amending s. 196.012, F.S.; defining certain training facilities as educational institutions for purposes of tax exemptions; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Constantine—

**HB 1723**—A bill to be entitled An act relating to the Florida Building Code; amending s. 161.56, F.S.; making a technical correction; amending s. 468.607, F.S.; providing for continuing validation of certifications of certain building inspectors and plans examiners for a certain period of time; amending s. 468.609, F.S.; clarifying the qualifications of persons eligible to take the certain certification examinations; amending ss. 489.115, 497.255, 553.06, 553.73, 553.74, 553.141, 553.503, 553.506, and 553.512; changing references from the Board of Building Codes and Standards to the Florida Building Commission; amending s. 62 of ch. 98-287, Laws of Florida; exempting the rule adopting the Florida Building Code from challenge as a proposed rule; specifying effectiveness; amending s. 553.73, F.S.; clarifying the effect on local governments of adopting and updating the Florida Building Code; specifying that amendments to certain standards or criteria are effective statewide only upon adoption by the commission; prohibiting persons who participate in the passage of a local amendment from sitting on a countywide compliance review board; providing for application of a certain edition of the Florida Building Code under certain circumstances; amending s. 553.77, F.S.; revising the powers of the commission; correcting a cross-reference; amending s. 553.781, F.S.; clarifying that the Department of Business and Professional Regulation conduct disciplinary investigations and take disciplinary actions; amending s. 553.80, F.S.; deleting a cross-reference; amending s. 553.842, F.S.; clarifying certain provisions relating to product evaluation and approval; amending s. 633.025, F.S.; clarifying certain provisions relating to smoke detector requirements in residential buildings; amending s. 68 of ch. 98-287, Laws of Florida, to revise a future repeal of certain sections of the Florida Statutes; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Fasano—

**HB 1725**—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.11, F.S.; revising the filing deadline applicable to dealers who are required to calculate and pay estimated

tax liability; increasing the threshold for determining whether a dealer is subject to said requirement; amending ss. 212.04 and 212.15, F.S., to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Law Enforcement & Crime Prevention; Representative Futch—

**HB 1727**—A bill to be entitled An act relating to criminal justice information; repealing s. 943.051(5), F.S., relating to the authority of the Department of Law Enforcement with respect to criminal justice information management; creating s. 943.0531, F.S.; providing the authority of the department regarding the information management needs of the criminal justice community; authorizing establishment of an intra-agency communication network for state criminal justice agencies; authorizing limited presence on the network for certain other entities and specifying the authority of the department with respect to contracts and pilot projects with, and collection of fees or other consideration from, such entities; authorizing the department to enter into certain agreements; providing for rules; creating s. 943.0545, F.S.; ratifying the National Crime Prevention and Privacy Compact; specifying that the department shall be the criminal history record repository under the compact and the executive director of the department or his or her designee shall administer the compact; providing for rules; creating s. 943.0565, F.S.; directing the department to provide a mechanism whereby employees or volunteers or applicants therefor of qualified entities that provide care to children, the elderly, or persons with disabilities may be screened using state and national criminal history information, in accordance with the National Child Protection Act of 1993; providing definitions; requiring qualified entities to register with the department and authorizing audits of such entities; providing requirements with respect to requests for screening; providing for fees; providing responsibilities of employees and volunteers subject to screening; providing conditions for provision of criminal history information to qualified entities and providing responsibilities with respect thereto; providing duties of qualified entities; authorizing the department to establish a database of qualified entities; specifying liability with respect to obtaining or providing such information; providing for rules; authorizing the department to establish positions to implement these provisions; reenacting and amending ss. 943.0585 and 943.059, F.S., which provide procedures and requirements for court-ordered expunction and sealing of criminal history records, to incorporate prior amendments to statutes referenced in said sections; specifying that statutory references in said sections are general references; clarifying the meaning of “previous” in provisions which require statements regarding previous offenses; correcting references; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Crady—

**HB 1729**—A bill to be entitled An act relating to random drug testing; creating s. 402.355, F.S.; providing authority for the Department of Children and Family Services to issue random drug testing for certain classes of employees; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bloom—

**HB 1731**—A bill to be entitled An act relating to children and families; creating the Families First program demonstration project to provide home visiting by nurses to first-time parents and their infants, for a specified period; providing for integration and coordination of services with existing programs; providing for expected outcomes and



critical elements; providing for specialized services; providing duty of the Department of Health to develop, implement, and administer the program; authorizing application for a federal Medicaid waiver; specifying criteria for implementation; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Garcia—

**HB 1733**—A bill to be entitled An act relating to judicial employees; amending s. 121.055, F.S.; adding assistant state attorneys, assistant statewide prosecutors, and assistant public defenders to the Senior Management Service Class of the Florida Retirement System; authorizing the state courts to pay Selected Exempt Service benefits to judicial assistants; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Colleges & Universities; Representatives Casey, J. Miller, Lawson, Bense, Dennis, and Waters—

**HB 1735**—A bill to be entitled An act relating to the designation of facilities; designating the baseball field at Florida Agricultural and Mechanical University as the “Oscar A. Moore - Costa Kittles Baseball Field”; designating the tennis courts at Florida Agricultural and Mechanical University as the “Althea Gibson Tennis Courts”; designating Building #2 at Florida Gulf Coast University as “Charles B. Reed Hall”; designating Building #5 at Florida Gulf Coast University as “Roy E. McTarnaghan Hall”; designating the Seminole Golf Course at Florida State University as the “Don A. Veller Seminole Golf Course”; designating Building 76 at Florida State University as “William A. Tanner Hall”; designating Building 1012 on the Panama City Campus of Florida State University as the “Larson M. Bland Conference Center”; designating the Administration Building at the University of Central Florida as “Millican Hall”; designating the Humanities and Fine Arts Building at the University of Central Florida as “Colburn Hall”; designating the Cancer Center at the University of Florida as the “Jerry W. and Judith S. Davis Cancer Center”; designating the University Athletic Center at the University of Florida as the “L. Gale Lemerand Athletics Center”; designating the tennis facility at the University of Florida as the “Alfred A. Ring Tennis Complex”; designating the Golf Management and Learning Center at the University of North Florida as the “John and Geraldine Hayt Golf Management & Learning Center”; authorizing the respective universities to erect suitable markers; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Greenstein and Jacobs—

**HR 9015**—A resolution declaring June 1999 as Scleroderma Awareness Month.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

By Representatives Flanagan, Casey, Healey, Cosgrove, Feeney, Kelly, Harrington, Detert, Ryan, Hart, Byrd, Kyle, and Thrasher—

**HR 9017**—A resolution commemorating the celebration of Saint Patrick’s Day on March 17, 1999.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

By Representative Murman—

**HR 9019**—A resolution commending Rebekah Smith.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

By Representative Merchant—

**HR 9021**—A resolution recognizing the week beginning March 14, 1999, as “Juvenile Justice Week.”

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

By Representative Arnall—

**HR 9023**—A resolution commending the Florida Big Brothers Big Sisters State Association.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

## Reference

**HR 9001**—Referred to the Calendar of the House.

**HR 9003**—Referred to the Calendar of the House.

**HR 9013**—Referred to the Calendar of the House.

## Reference of Committee Substitutes Combining Bills

Under Rule 113(c), all previous references for the bills combined in CS/HBs 109 & 31 were rescinded and CS/HBs 109 & 31 was subsequently referred to the Committees on Insurance, Finance & Taxation, and General Government Appropriations.

## First Reading of Committee Substitutes by Publication

By the Committee on Law Enforcement & Crime Prevention; Representatives Diaz de la Portilla, Prieguez, Rojas, Fasano, and Crist—

**CS/HB 69**—A bill to be entitled An act relating to criminal liability for failure to report a crime; creating s. 877.31, F.S.; requiring that a person who knows that a crime is being committed must report the crime to a law enforcement officer, under specified circumstances if the crime exposes the victim to serious bodily injury; providing penalties; providing for construction; providing an effective date.

By the Committees on Business Development & International Trade; Regulated Services; Representatives Cosgrove and Sorensen—

**CS/CS/HB 95**—A bill to be entitled An act relating to alcoholic beverage licenses; amending s. 561.01, F.S.; defining the term “historic structures”; amending s. 561.20, F.S.; providing for the issuance of special alcoholic beverage licenses to certain hotels and motels with no fewer than 10 and no more than 25 guest rooms in municipalities within constitutionally chartered counties which are within a specified population range; revising the definition of a specialty center; providing an effective date.

By the Committee on Business Development & International Trade; Representatives Bitner, Starks, Fasano, Constantine, and Lynn—

**CS/HBs 109 & 31**—A bill to be entitled An act relating to unemployment compensation; amending s. 1, ch. 97-29, Laws of Florida; extending for an additional year a temporary reduction in certain contribution rates for specified employers; amending s. 443.101, F.S.; clarifying provisions relating to disqualification for benefits; amending s. 443.111, F.S.; extending for a specified period a temporary increase in the maximum weekly and yearly benefit amounts for unemployment compensation benefits; specifying benefit years; amending s. 443.231, F.S.; providing an extension for the Florida Training Investment Program; providing an effective date.

By the Committee on Community Affairs; Representatives Constantine and Sanderson—

**CS/HB 223**—A bill to be entitled An act relating to governmental conflict resolution; amending s. 164.101, F.S.; renaming the “Florida Governmental Cooperation Act” as the “Florida Governmental Conflict Resolution Act”; amending s. 164.102, F.S.; providing purpose and intent; creating s. 164.1031, F.S.; providing definitions; creating s. 164.1041, F.S.; providing that, when a local or regional governmental entity files suit against another such governmental entity, court proceedings shall be abated by order of the court until the procedural options of the act have been exhausted, except in specified circumstances; providing for review by the court of the justification for failure to comply with the act; creating s. 164.1051, F.S.; specifying the governmental conflicts to which the act applies; creating s. 164.1052, F.S.; providing procedures and requirements for initiation of conflict resolution procedures and determination of participants; creating s. 164.1053, F.S.; providing for a conflict assessment meeting and providing requirements with respect thereto; creating s. 164.1055, F.S.; providing for a joint public meeting between conflicting entities; providing for mediation when no agreement is reached; creating s. 164.1056, F.S.; providing for final resolution of a conflict when there is a failure to resolve the conflict under the act; creating s. 164.1057, F.S.; specifying the manner of execution of the resolution of a conflict; renumbering and amending s. 164.104, F.S.; providing that a governmental entity that fails to participate in conflict resolution procedures shall be required to pay attorney’s fees and costs under certain conditions; creating s. 164.1061, F.S.; providing for extension of the time requirements of the act; repealing ss. 164.103, 164.105, and 164.106, F.S., which provide procedures and requirements for resolution of governmental disputes and for tolling of statutes of limitations; providing effect on existing contracts and agreements; providing an effective date.

By the Committee on Community Affairs; Representatives Cosgrove and Posey—

**CS/HJR 355**—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution, relating to finance and taxation, to allow the Legislature by general law to exclude from assessed value for ad valorem tax purposes value attributable to improvements made for purposes of disaster preparedness.

By the Committee on Business Development & International Trade; Representatives Feeney, Greenstein, and Fasano—

**CS/HB 397**—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the industries to which the exemption for electricity or steam used in certain manufacturing and related operations applies; providing an exemption for labor charges for, and parts and materials used in, the repair of machinery and equipment used to produce tangible personal property at a fixed location by specified industries; providing a schedule for implementing the exemption; providing an effective date.

By the Committee on Community Affairs; Representative Ball—

**CS/HB 401**—A bill to be entitled An act relating to bond financing; amending s. 159.804, F.S.; establishing an additional region for purposes of the allocation of private activity bonds issued in the state; amending s. 159.8075, F.S.; providing for applicability of certain bond conversion restrictions; providing an effective date.

By the Committee on Community Affairs; Representative Kelly—

**CS/HB 445**—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.101, F.S.; revising the income limitation

with respect to the exemption for the homestead of a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind; providing for submission of the income statement required in connection with said income limitation every third year, beginning in 2001; providing an effective date.

## Reports of Councils and Standing Committees

### Committee Reports

#### Received March 10:

The Committee on Community Affairs recommends a committee substitute for the following:

HB 223 (unanimous)

**The above committee substitute was placed on the appropriate Calendar, subject to review under Rule 113(b), and, under the rule, HB 223 was laid on the table.**

The Committee on Crime & Punishment recommends the following pass:

HB 71 (unanimous)

HB 137 (unanimous)

**The above bills were referred to the Committee on Criminal Justice Appropriations.**

The Committee on Governmental Operations recommends the following pass:

HB 829, with 1 amendment

**The above bill was referred to the Committee on General Government Appropriations.**

The Committee on Governmental Rules & Regulations recommends the following pass:

HB 985 (unanimous)

**The above bill was referred to the Committee on Transportation & Economic Development Appropriations.**

The Committee on Community Affairs recommends a committee substitute for the following:

HB 401 (unanimous)

**The above committee substitute was referred to the Committee on Transportation & Economic Development Appropriations, subject to review under Rule 113(b), and, under the rule, HB 401 was laid on the table.**

The Committee on Crime & Punishment recommends the following pass:

HB 323, with 1 amendment (unanimous)

HB 441, with 5 amendments (unanimous)

**The above bills were referred to the Committee on Corrections.**

The Committee on Governmental Rules & Regulations recommends the following pass:

HB 567, with 1 amendment (unanimous)

**The above bill was referred to the Committee on Finance & Taxation.**

The Committee on Law Enforcement & Crime Prevention recommends the following pass:

HB 157, with 3 amendments (unanimous)

**The above bill was referred to the Committee on Governmental Operations.**

The Committee on Juvenile Justice recommends the following pass:  
HB 847 (unanimous)

**The above bill was referred to the Committee on Law Enforcement & Crime Prevention.**

The Committee on Law Enforcement & Crime Prevention recommends a committee substitute for the following:  
HB 69

**The above committee substitute was referred to the Committee on Crime & Punishment, subject to review under Rule 113(b), and, under the rule, HB 69 was laid on the table.**

The Committee on Business Development & International Trade recommends committee substitutes for the following:  
CS/HB 95 (unanimous)  
HB 397 (unanimous)

**The above committee substitutes were referred to the Committee on Finance & Taxation, subject to review under Rule 113(b), and, under the rule, CS/HB 95 and HB 397 were laid on the table.**

The Committee on Community Affairs recommends a committee substitute for the following:  
HB 445 (unanimous)

**The above committee substitute was referred to the Committee on Finance & Taxation, subject to review under Rule 113(b), and, under the rule, HB 445 was laid on the table.**

The Committee on Business Development & International Trade recommends a committee substitute for the following:

HBs 109 & 31 (unanimous)

**The above committee substitute was referred to the Committee on Insurance, subject to review under Rule 113(b), and, under the rule, HBs 109 and 31 were laid on the table.**

The Committee on Community Affairs recommends a committee substitute for the following:  
HJR 355 (unanimous)

**The above committee substitute was referred to the Committee on Real Property & Probate, subject to review under Rule 113(b), and, under the rule, HJR 355 was laid on the table.**

## Enrolling Reports

HCR 1-Orig. has been enrolled, signed by the required constitutional officers, and filed with the Secretary of State on March 10, 1999.

*John B. Phelps, Clerk*

## Withdrawal of Bills

HB 255 and HB 343, filed by Rep. Brooks before his resignation, were withdrawn from further consideration.

## Excused

Rep. Bullard; Rep. Sanderson until 9:58 a.m.

## Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 12:47 p.m., to reconvene at 8:50 a.m., Tuesday, March 16.

### Pages and Messengers for the week of March 8-12

PAGES—Andrew “Blake” Brown, Orange Park; Emily Carlisle, Tampa; Robin D. Eberly, Blountstown; Nichole V. Floyd, High Springs; Akeem S. Jabouin, Sunrise; Amanda Leaders, Tampa; Shelton C. Lewis, Pompano Beach; Lawrence Bradley Page, Keystone Heights; Matthew Stokes, Blountstown; Hannah Sumner, Hosford; Lauren Victoria Thornton, Tallahassee.

MESSENGERS—Ethan Arrow, Longwood; Erica Burch, Tallahassee; Erin E. Carlisle, Tampa; Veronica Carroll, Largo; Alicia

D. Durham, Tallahassee; Amber Fillak, Hollywood; Alicia G. Hansen, Tallahassee; Ervin Johnson, Tallahassee; Constance Lawson, Sneads; Cristina Long, Fort Myers; Ashley Gray McLeod, Sarasota; Caleb McLeod, Quincy; Carrie M. Poye, Merritt Island; Bethany J. Saputo, Sarasota; Christopher Tola, Tallahassee; Andrea Lynn Vanstone, Quincy; Nicole Williams, Orange Park; Jack Franklin Wise III, Green Cove Springs.