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1
 2 An act relating to civil remedies; amending s. 57.104,
 3 F.S.; creating a rebuttable presumption that a
 4 lodestar fee is a sufficient and reasonable attorney
 5 fee in most civil actions; providing an exception;
 6 creating s. 86.121, F.S.; authorizing a court to award
 7 attorney fees in certain declaratory actions;
 8 prohibiting the transfer, assignment, or acquisition
 9 of the right to such attorney fees except by specified
 10 persons; providing applicability; amending s. 95.11,
 11 F.S.; reducing the statute of limitations for
 12 negligence actions; providing applicability of certain
 13 provisions to actions involving servicemembers;
 14 amending s. 624.155, F.S.; providing standards for bad
 15 faith actions; providing for the distribution of
 16 proceeds when two or more third-party claims arising
 17 out of a single occurrence exceed policy limits;
 18 creating s. 624.1552, F.S.; providing for
 19 applicability of specified offer of judgement
 20 provisions to civil actions involving insurance
 21 contracts; creating s. 768.0427, F.S.; providing
 22 definitions; providing standards for the admissibility
 23 of evidence to prove the cost of damages for medical
 24 expenses in certain civil actions; requiring certain
 25 disclosures with respect to claims for medical

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26 expenses for treatment rendered under letters of
 27 protection; specifying the damages that may be
 28 recovered by a claimant for the reasonable and
 29 necessary cost of medical care; creating s. 768.0701,
 30 F.S.; requiring the trier of fact to consider the
 31 fault of certain persons who contribute to an injury;
 32 creating s. 768.0706, F.S.; providing definitions;
 33 providing that the owner or principal operator of a
 34 multifamily residential property which substantially
 35 implements specified security measures on that
 36 property has a presumption against liability for
 37 negligence in connection with certain criminal acts
 38 that occur on the premises; requiring the Florida
 39 Crime Prevention Training Institute of the Department
 40 of Legal Affairs to develop a proposed curriculum or
 41 best practices for owners or principal operators;
 42 providing construction; amending s. 768.81, F.S.;
 43 providing that a party in a negligence action who is
 44 at fault by a specified amount may not recover damages
 45 under a comparative negligence action; providing
 46 applicability; repealing ss. 626.9373 and 627.428,
 47 F.S., relating to attorney fees awarded against
 48 surplus lines insurers and insurers, respectively;
 49 amending s. 627.756, F.S.; providing for the award of
 50 costs and attorney fees in certain actions; amending

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51 ss. 475.01, 475.611, 517.191, 624.123, 624.488,
 52 627.062, 627.401, 627.441, 627.727, 627.736, and
 53 628.6016, F.S.; conforming provisions to changes made
 54 by the act; repealing ss. 631.70 and 631.926, F.S.,
 55 relating to attorney fees; amending s. 632.638, F.S.;
 56 conforming provisions to changes made by the act;
 57 providing a directive to the Division of Law Revision;
 58 providing applicability and construction; providing an
 59 effective date.

60

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

62 Section 1. Section 57.104, Florida Statutes, is amended to
 63 read:

64 57.104 Computation of attorney ~~attorneys'~~ fees.—

65 (1) In any action in which attorney ~~attorneys'~~ fees are to
 66 be determined or awarded by the court, the court shall consider,
 67 among other things, time and labor of any legal assistants who
 68 contributed nonclerical, meaningful legal support to the matter
 69 involved and who are working under the supervision of an
 70 attorney. For purposes of this section "legal assistant" means a
 71 person, who under the supervision and direction of a licensed
 72 attorney engages in legal research, and case development or
 73 planning in relation to modifications or initial proceedings,
 74 services, processes, or applications; or who prepares or
 75 interprets legal documents or selects, compiles, and uses

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76 technical information from references such as digests,
 77 encyclopedias, or practice manuals and analyzes and follows
 78 procedural problems that involve independent decisions.

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

84 Section 2. Section 86.121, Florida Statutes, is created to
 85 read:

86 86.121 Attorney fees; actions for declaratory relief to
 87 determine insurance coverage after total coverage denial of
 88 claim.-

89 (1) In an action brought for declaratory relief in state
 90 or federal court to determine insurance coverage after the
 91 insurer has made a total coverage denial of a claim:

92 (a) Either party is entitled to the summary procedure
 93 provided in s. 51.011, and the court shall advance the cause on
 94 the calendar.

95 (b) The court shall award reasonable attorney fees to the
 96 named insured, omnibus insured, or named beneficiary under a
 97 policy issued by the insurer upon rendition of a declaratory
 98 judgment in favor of the named insured, omnibus insured, or
 99 named beneficiary. This right may not be transferred to,
 100 assigned to, or acquired in any other manner by anyone other

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101 than a named or omnibus insured or a named beneficiary. A
 102 defense offered by an insurer pursuant to a reservation of
 103 rights does not constitute a coverage denial of a claim. Such
 104 fees are limited to those incurred in the action brought under
 105 this chapter for declaratory relief to determine coverage of
 106 insurance issued under the Florida Insurance Code.

107 (2) This section does not apply to any action arising
 108 under a residential or commercial property insurance policy.

109 Section 3. Subsections (3), (4), and (10) of section
 110 95.11, Florida Statutes, are amended, and subsection (12) is
 111 added to that section, to read:

112 95.11 Limitations other than for the recovery of real
 113 property.—Actions other than for recovery of real property shall
 114 be commenced as follows:

115 (3) WITHIN FOUR YEARS.—

116 ~~(a) An action founded on negligence.~~

117 ~~(a)-(b)~~ An action relating to the determination of
 118 paternity, with the time running from the date the child reaches
 119 the age of majority.

120 ~~(b)-(e)~~ An action founded on the design, planning, or
 121 construction of an improvement to real property, with the time
 122 running from the date of actual possession by the owner, the
 123 date of the issuance of a certificate of occupancy, the date of
 124 abandonment of construction if not completed, or the date of
 125 completion of the contract or termination of the contract

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126 | between the professional engineer, registered architect, or
127 | licensed contractor and his or her employer, whichever date is
128 | latest; except that, when the action involves a latent defect,
129 | the time runs from the time the defect is discovered or should
130 | have been discovered with the exercise of due diligence. In any
131 | event, the action must be commenced within 10 years after the
132 | date of actual possession by the owner, the date of the issuance
133 | of a certificate of occupancy, the date of abandonment of
134 | construction if not completed, or the date of completion of the
135 | contract or termination of the contract between the professional
136 | engineer, registered architect, or licensed contractor and his
137 | or her employer, whichever date is latest. However,
138 | counterclaims, cross-claims, and third-party claims that arise
139 | out of the conduct, transaction, or occurrence set out or
140 | attempted to be set out in a pleading may be commenced up to 1
141 | year after the pleading to which such claims relate is served,
142 | even if such claims would otherwise be time barred. With respect
143 | to actions founded on the design, planning, or construction of
144 | an improvement to real property, if such construction is
145 | performed pursuant to a duly issued building permit and if a
146 | local enforcement agency, state enforcement agency, or special
147 | inspector, as those terms are defined in s. 553.71, has issued a
148 | final certificate of occupancy or certificate of completion,
149 | then as to the construction which is within the scope of such
150 | building permit and certificate, the correction of defects to

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151 completed work or repair of completed work, whether performed
 152 under warranty or otherwise, does not extend the period of time
 153 within which an action must be commenced. Completion of the
 154 contract means the later of the date of final performance of all
 155 the contracted services or the date that final payment for such
 156 services becomes due without regard to the date final payment is
 157 made.

158 (c)~~(d)~~ An action to recover public money or property held
 159 by a public officer or employee, or former public officer or
 160 employee, and obtained during, or as a result of, his or her
 161 public office or employment.

162 (d)~~(e)~~ An action for injury to a person founded on the
 163 design, manufacture, distribution, or sale of personal property
 164 that is not permanently incorporated in an improvement to real
 165 property, including fixtures.

166 (e)~~(f)~~ An action founded on a statutory liability.

167 (f)~~(g)~~ An action for trespass on real property.

168 (g)~~(h)~~ An action for taking, detaining, or injuring
 169 personal property.

170 (h)~~(i)~~ An action to recover specific personal property.

171 (i)~~(j)~~ A legal or equitable action founded on fraud.

172 (j)~~(k)~~ A legal or equitable action on a contract,
 173 obligation, or liability not founded on a written instrument,
 174 including an action for the sale and delivery of goods, wares,
 175 and merchandise, and on store accounts.

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176 (k)~~(l)~~ An action to rescind a contract.

177 (l)~~(m)~~ An action for money paid to any governmental
 178 authority by mistake or inadvertence.

179 (m)~~(n)~~ An action for a statutory penalty or forfeiture.

180 (n)~~(o)~~ An action for assault, battery, false arrest,
 181 malicious prosecution, malicious interference, false
 182 imprisonment, or any other intentional tort, except as provided
 183 in subsections (4), (5), and (7).

184 (o)~~(p)~~ Any action not specifically provided for in these
 185 statutes.

186 (p)~~(q)~~ An action alleging a violation, other than a
 187 willful violation, of s. 448.110.

188 (4) WITHIN TWO YEARS.—

189 (a) An action founded on negligence.

190 (b)~~(a)~~ An action for professional malpractice, other than
 191 medical malpractice, whether founded on contract or tort;
 192 provided that the period of limitations shall run from the time
 193 the cause of action is discovered or should have been discovered
 194 with the exercise of due diligence. However, the limitation of
 195 actions herein for professional malpractice shall be limited to
 196 persons in privity with the professional.

197 (c)~~(b)~~ An action for medical malpractice shall be
 198 commenced within 2 years from the time the incident giving rise
 199 to the action occurred or within 2 years from the time the
 200 incident is discovered, or should have been discovered with the

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201 exercise of due diligence; however, in no event shall the action
 202 be commenced later than 4 years from the date of the incident or
 203 occurrence out of which the cause of action accrued, except that
 204 this 4-year period shall not bar an action brought on behalf of
 205 a minor on or before the child's eighth birthday. An "action for
 206 medical malpractice" is defined as a claim in tort or in
 207 contract for damages because of the death, injury, or monetary
 208 loss to any person arising out of any medical, dental, or
 209 surgical diagnosis, treatment, or care by any provider of health
 210 care. The limitation of actions within this subsection shall be
 211 limited to the health care provider and persons in privity with
 212 the provider of health care. In those actions covered by this
 213 paragraph in which it can be shown that fraud, concealment, or
 214 intentional misrepresentation of fact prevented the discovery of
 215 the injury the period of limitations is extended forward 2 years
 216 from the time that the injury is discovered or should have been
 217 discovered with the exercise of due diligence, but in no event
 218 to exceed 7 years from the date the incident giving rise to the
 219 injury occurred, except that this 7-year period shall not bar an
 220 action brought on behalf of a minor on or before the child's
 221 eighth birthday. This paragraph shall not apply to actions for
 222 which ss. 766.301-766.316 provide the exclusive remedy.

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

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

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

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

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

239 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS
 240 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph
 241 (4) (e) ~~(4) (d)~~, an action for wrongful death seeking damages
 242 authorized under s. 768.21 brought against a natural person for
 243 an intentional tort resulting in death from acts described in s.
 244 782.04 or s. 782.07 may be commenced at any time. This
 245 subsection shall not be construed to require an arrest, the
 246 filing of formal criminal charges, or a conviction for a
 247 violation of s. 782.04 or s. 782.07 as a condition for filing a
 248 civil action.

249 (12) FOR ACTIONS INVOLVING SERVICEMEMBERS.—Any action
 250 involving a servicemember as defined in s. 250.01, in which the

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251 servicemember is a party, is subject to s. 250.5201 and part IV
 252 of chapter 250, which includes the Servicemembers Civil Relief
 253 Act, 50 U.S.C. ss. 501 et seq., providing for protections to
 254 members of the United States Armed Forces, the United States
 255 Reserve Forces, or the National Guard during terms of federal or
 256 state active duty which materially affect the servicemember's
 257 ability to appear.

258 Section 4. Section 624.155, Florida Statutes, is amended
 259 to read:

260 624.155 Civil remedy.—

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

263 (a) By a violation of any of the following provisions by
 264 the insurer:

- 265 1. Section 626.9541(1) (i), (o), or (x);
- 266 2. Section 626.9551;
- 267 3. Section 626.9705;
- 268 4. Section 626.9706;
- 269 5. Section 626.9707; or
- 270 6. Section 627.7283.

271 (b) By the commission of any of the following acts by the
 272 insurer:

- 273 1. Not attempting in good faith to settle claims when,
 274 under all the circumstances, it could and should have done so,
 275 had it acted fairly and honestly toward its insured and with due

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276 regard for her or his interests;

277 2. Making claims payments to insureds or beneficiaries not
 278 accompanied by a statement setting forth the coverage under
 279 which payments are being made; or

280 3. Except as to liability coverages, failing to promptly
 281 settle claims, when the obligation to settle a claim has become
 282 reasonably clear, under one portion of the insurance policy
 283 coverage in order to influence settlements under other portions
 284 of the insurance policy coverage.

285
 286 Notwithstanding the provisions of the above to the contrary, a
 287 person pursuing a remedy under this section need not prove that
 288 such act was committed or performed with such frequency as to
 289 indicate a general business practice.

290 (2) Any party may bring a civil action against an
 291 unauthorized insurer if such party is damaged by a violation of
 292 s. 624.401 by the unauthorized insurer.

293 (3) (a) As a condition precedent to bringing an action
 294 under this section, the department and the authorized insurer
 295 must have been given 60 days' written notice of the violation.
 296 Notice to the authorized insurer must be provided by the
 297 department to the e-mail address designated by the insurer under
 298 s. 624.422.

299 (b) The notice shall be on a form provided by the
 300 department and shall state with specificity the following

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301 information, and such other information as the department may
 302 require:

303 1. The statutory provision, including the specific
 304 language of the statute, which the authorized insurer allegedly
 305 violated.

306 2. The facts and circumstances giving rise to the
 307 violation.

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

309 4. Reference to specific policy language that is relevant
 310 to the violation, if any. If the person bringing the civil
 311 action is a third party claimant, she or he shall not be
 312 required to reference the specific policy language if the
 313 authorized insurer has not provided a copy of the policy to the
 314 third party claimant pursuant to written request.

315 5. A statement that the notice is given in order to
 316 perfect the right to pursue the civil remedy authorized by this
 317 section.

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

322 (d) The authorized insurer that is the recipient of a
 323 notice filed pursuant to this section shall report to the
 324 department on the disposition of the alleged violation.

325 (e) The applicable statute of limitations for an action

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326 | under this section shall be tolled for a period of:

327 | 1. Sixty days after the insurer receives from the
328 | department the notice required by this subsection.

329 | 2. Sixty days after the date appraisal is invoked pursuant
330 | to paragraph (f).

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

334 | (4) (a) An action for bad faith involving a liability
335 | insurance claim, including any such action brought under the
336 | common law, shall not lie if the insurer tenders the lesser of
337 | the policy limits or the amount demanded by the claimant within
338 | 90 days after receiving actual notice of a claim which is
339 | accompanied by sufficient evidence to support the amount of the
340 | claim.

341 | (b) If an insurer does not tender the lesser of the policy
342 | limits or the amount demanded by the claimant within the 90-day
343 | period provided in paragraph (a), the existence of the 90-day
344 | period and that no bad faith action could lie had the insurer
345 | tendered the lesser of policy limits or the amount demanded by
346 | the claimant pursuant to paragraph (a) is inadmissible in any
347 | action seeking to establish bad faith on the part of the
348 | insurer.

349 | (c) If the insurer fails to tender pursuant to paragraph
350 | (a) within the 90-day period, any applicable statute of

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351 limitations is extended for an additional 90 days.

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

355 (a) Mere negligence alone is insufficient to constitute
356 bad faith.

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

363 2. In any action for bad faith against an insurer, the
364 trier of fact may consider whether the insured, claimant, or
365 representative of the insured or claimant did not act in good
366 faith pursuant to this paragraph, in which case the trier of
367 fact may reasonably reduce the amount of damages awarded against
368 the insurer.

369 (6) If two or more third-party claimants have competing
370 claims arising out of a single occurrence, which in total may
371 exceed the available policy limits of one or more of the insured
372 parties who may be liable to the third-party claimants, an
373 insurer is not liable beyond the available policy limits for
374 failure to pay all or any portion of the available policy limits
375 to one or more of the third-party claimants if, within 90 days

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376 after receiving notice of the competing claims in excess of the
377 available policy limits, the insurer complies with either
378 paragraph (a) or paragraph (b).

379 (a) The insurer files an interpleader action under the
380 Florida Rules of Civil Procedure. If the claims of the competing
381 third-party claimants are found to be in excess of the policy
382 limits, the third-party claimants are entitled to a prorated
383 share of the policy limits as determined by the trier of fact.
384 An insurer's interpleader action does not alter or amend the
385 insurer's obligation to defend its insured.

386 (b) Pursuant to binding arbitration that has been agreed
387 to by the insurer and the third-party claimants, the insurer
388 makes the entire amount of the policy limits available for
389 payment to the competing third-party claimants before a
390 qualified arbitrator agreed to by the insurer and such third-
391 party claimants at the expense of the insurer. The third-party
392 claimants are entitled to a prorated share of the policy limits
393 as determined by the arbitrator, who must consider the
394 comparative fault, if any, of each third-party claimant, and the
395 total likely outcome at trial based upon the total of the
396 economic and noneconomic damages submitted to the arbitrator for
397 consideration. A third-party claimant whose claim is resolved by
398 the arbitrator must execute and deliver a general release to the
399 insured party whose claim is resolved by the proceeding.

400 (7)-(4) Upon adverse adjudication at trial or upon appeal,

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401 the authorized insurer shall be liable for damages, together
 402 with court costs and reasonable attorney ~~attorney's~~ fees
 403 incurred by the plaintiff.

404 ~~(8)-(5)~~ ~~No~~ Punitive damages may not ~~shall~~ be awarded under
 405 this section unless the acts giving rise to the violation occur
 406 with such frequency as to indicate a general business practice
 407 and these acts are:

- 408 (a) Willful, wanton, and malicious;
- 409 (b) In reckless disregard for the rights of any insured;
- 410 or
- 411 (c) In reckless disregard for the rights of a beneficiary
- 412 under a life insurance contract.

413
 414 Any person who pursues a claim under this subsection shall post
 415 in advance the costs of discovery. Such costs shall be awarded
 416 to the authorized insurer if no punitive damages are awarded to
 417 the plaintiff.

418 ~~(9)-(6)~~ This section does ~~shall~~ not ~~be construed to~~
 419 authorize a class action suit against an authorized insurer or a
 420 civil action against the commission, the office, or the
 421 department or any of their employees, or to create a cause of
 422 action when an authorized health insurer refuses to pay a claim
 423 for reimbursement on the ground that the charge for a service
 424 was unreasonably high or that the service provided was not
 425 medically necessary.

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426 (10)~~(7)~~ In the absence of expressed language to the
 427 contrary, this section shall not be construed to authorize a
 428 civil action or create a cause of action against an authorized
 429 insurer or its employees who, in good faith, release information
 430 about an insured or an insurance policy to a law enforcement
 431 agency in furtherance of an investigation of a criminal or
 432 fraudulent act relating to a motor vehicle theft or a motor
 433 vehicle insurance claim.

434 (11)~~(8)~~ The civil remedy specified in this section does
 435 not preempt any other remedy or cause of action provided for
 436 pursuant to any other statute or pursuant to the common law of
 437 this state. Any person may obtain a judgment under either the
 438 common-law remedy of bad faith or this statutory remedy, but is
 439 ~~shall not be~~ entitled to a judgment under both remedies. This
 440 section does ~~shall not be construed to~~ create a common-law cause
 441 of action. The damages recoverable pursuant to this section
 442 shall include those damages which are a reasonably foreseeable
 443 result of a specified violation of this section by the
 444 authorized insurer and may include an award or judgment in an
 445 amount that exceeds the policy limits.

446 (12)~~(9)~~ A surety issuing a payment or performance bond on
 447 the construction or maintenance of a building or roadway project
 448 is not an insurer for purposes of subsection (1).

449 Section 5. Section 624.1552, Florida Statutes, is created
 450 to read:

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451 624.1552 Civil actions involving an insurance contract;
 452 applicability of offer of judgment provisions.—The provisions of
 453 s. 768.79 apply to any civil action involving an insurance
 454 contract.

455 Section 6. Section 768.0427, Florida Statutes, is created
 456 to read:

457 768.0427 Admissibility of evidence to prove medical
 458 expenses in personal injury or wrongful death actions;
 459 disclosure of letters of protection; recovery of past and future
 460 medical expenses damages.—

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

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

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

471 (c) "Health care provider" means any of the following
 472 professionals and entities, and professionals and entities
 473 similarly licensed in another jurisdiction:

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

475 2. A clinical laboratory providing services in this state

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476 or services to health care providers in this state, if the
 477 clinical laboratory is certified by the Centers for Medicare and
 478 Medicaid Services under the federal Clinical Laboratory
 479 Improvement Amendments and the federal rules adopted thereunder.

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

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

484 5. A health care professional licensed under part IV of
 485 chapter 468.

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

487 7. A provider licensed under chapter 394 or chapter 397
 488 and its clinical and nonclinical staff providing inpatient or
 489 outpatient services.

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

491 9. A pharmacy permitted under chapter 465.

492 (d) "Letter of protection" means any arrangement by which
 493 a health care provider renders treatment in exchange for a
 494 promise of payment for the claimant's medical expenses from any
 495 judgment or settlement of a personal injury or wrongful death
 496 action. The term includes any such arrangement, regardless of
 497 whether referred to as a letter of protection.

498 (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE
 499 EXPENSES.—Evidence offered to prove the amount of damages for
 500 past or future medical treatment or services in a personal

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501 injury or wrongful death action is admissible as provided in
 502 this subsection.

503 (a) Evidence offered to prove the amount of damages for
 504 past medical treatment or services that have been satisfied is
 505 limited to evidence of the amount actually paid, regardless of
 506 the source of payment.

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

511 1. If the claimant has health care coverage other than
 512 Medicare or Medicaid, evidence of the amount which such health
 513 care coverage is obligated to pay the health care provider to
 514 satisfy the charges for the claimant's incurred medical
 515 treatment or services, plus the claimant's share of medical
 516 expenses under the insurance contract or regulation.

517 2. If the claimant has health care coverage but obtains
 518 treatment under a letter of protection or otherwise does not
 519 submit charges for any health care provider's medical treatment
 520 or services to health care coverage, evidence of the amount the
 521 claimant's health care coverage would pay the health care
 522 provider to satisfy the past unpaid medical charges under the
 523 insurance contract or regulation, plus the claimant's share of
 524 medical expenses under the insurance contract or regulation, had
 525 the claimant obtained medical services or treatment pursuant to

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526 | the health care coverage.

527 | 3. If the claimant does not have health care coverage or
528 | has health care coverage through Medicare or Medicaid, evidence
529 | of 120 percent of the Medicare reimbursement rate in effect on
530 | the date of the claimant's incurred medical treatment or
531 | services, or, if there is no applicable Medicare rate for a
532 | service, 170 percent of the applicable state Medicaid rate.

533 | 4. If the claimant obtains medical treatment or services
534 | under a letter of protection and the health care provider
535 | subsequently transfers the right to receive payment under the
536 | letter of protection to a third party, evidence of the amount
537 | the third party paid or agreed to pay the health care provider
538 | in exchange for the right to receive payment pursuant to the
539 | letter of protection.

540 | 5. Any evidence of reasonable amounts billed to the
541 | claimant for medically necessary treatment or medically
542 | necessary services provided to the claimant.

543 | (c) Evidence offered to prove the amount of damages for
544 | any future medical treatment or services the claimant will
545 | receive shall include, but is not limited to, evidence as
546 | provided in this paragraph.

547 | 1. If the claimant has health care coverage other than
548 | Medicare or Medicaid, or is eligible for any such health care
549 | coverage, evidence of the amount for which the future charges of
550 | health care providers could be satisfied if submitted to such

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551 health care coverage, plus the claimant's share of medical
 552 expenses under the insurance contract or regulation.

553 2. If the claimant does not have health care coverage or
 554 has health care coverage through Medicare or Medicaid, or is
 555 eligible for such health care coverage, evidence of 120 percent
 556 of the Medicare reimbursement rate in effect at the time of
 557 trial for the medical treatment or services the claimant will
 558 receive, or, if there is no applicable Medicare rate for a
 559 service, 170 percent of the applicable state Medicaid rate.

560 3. Any evidence of reasonable future amounts to be billed
 561 to the claimant for medically necessary treatment or medically
 562 necessary services.

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

566 (e) Individual contracts between providers and authorized
 567 commercial insurers or authorized health maintenance
 568 organizations are not subject to discovery or disclosure and are
 569 not admissible into evidence.

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

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

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

579 1. For health care providers billing at the provider
580 level, the American Medical Association's Current Procedural
581 Terminology (CPT), or the Healthcare Common Procedure Coding
582 System (HCPCS), in effect on the date the services were
583 rendered.

584 2. For health care providers billing at the facility level
585 for expenses incurred in a clinical or outpatient setting,
586 including when billing through an Ambulatory Payment
587 Classification (APC) or Enhanced Ambulatory Patient Grouping
588 (EAPG), the International Classification of Diseases (ICD)
589 diagnosis code and, if applicable, the American Medical
590 Association's Current Procedural Terminology (CPT), in effect on
591 the date the services were rendered.

592 3. For health care providers billing at the facility level
593 for expenses incurred in an inpatient setting, including when
594 billing through a Diagnosis Related Group (DRG), the
595 International Classification of Diseases (ICD) diagnosis and
596 procedure codes in effect on the date in which the claimant is
597 discharged.

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

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

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

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

609 (e) Whether the claimant was referred for treatment under
 610 a letter of protection and, if so, the identity of the person
 611 who made the referral. If the referral is made by the claimant's
 612 attorney, disclosure of the referral is permitted, and evidence
 613 of such referral is admissible notwithstanding s. 90.502.
 614 Moreover, in such situation, the financial relationship between
 615 a law firm and a medical provider, including the number of
 616 referrals, frequency, and financial benefit obtained, is
 617 relevant to the issue of the bias of a testifying medical
 618 provider.

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

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626 (a) Amounts actually paid by or on behalf of the claimant
 627 to a health care provider who rendered medical treatment or
 628 services;

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

632 (c) Amounts necessary to provide for any reasonable and
 633 necessary medical treatment or services the claimant will
 634 receive in the future.

635 Section 7. Section 768.0701, Florida Statutes, is created
 636 to read:

637 768.0701 Premises liability for criminal acts of third
 638 parties.—Notwithstanding s. 768.81(4), in an action for damages
 639 against the owner, lessor, operator, or manager of commercial or
 640 real property brought by a person lawfully on the property who
 641 was injured by the criminal act of a third party, the trier of
 642 fact must consider the fault of all persons who contributed to
 643 the injury.

644 Section 8. Section 768.0706, Florida Statutes, is created
 645 to read:

646 768.0706 Multifamily residential property safety and
 647 security; presumption against liability.—

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

649 (a) "Crime prevention through environmental design" has
 650 the same meaning as in s. 163.503(6).

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651 (b) "Multifamily residential property" means a residential
 652 building, or group of residential buildings, such as apartments,
 653 townhouses, or condominiums, consisting of at least five
 654 dwelling units on a particular parcel.

655 (c) "Parcel" means real property for which a distinct
 656 parcel identification number is assigned to the property by the
 657 property appraiser for the county in which the property is
 658 located.

659 (2) The owner or principal operator of a multifamily
 660 residential property which substantially implements the
 661 following security measures on that property has a presumption
 662 against liability in connection with criminal acts that occur on
 663 the premises which are committed by third parties who are not
 664 employees or agents of the owner or operator:

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

669 2. A lighted parking lot illuminated at an intensity of at
 670 least an average of 1.8 foot-candles per square foot at 18
 671 inches above the surface from dusk until dawn or controlled by
 672 photocell or any similar electronic device that provides light
 673 from dusk until dawn.

674 3. Lighting in walkways, laundry rooms, common areas, and
 675 porches. Such lighting must be illuminated from dusk until dawn

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676 or controlled by photocell or any similar electronic device that
 677 provides light from dusk until dawn.

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

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

681 6. Locked gates with key or fob access along pool fence
 682 areas.

683 7. A peephole or door viewer on each dwelling unit door
 684 that does not include a window or that does not have a window
 685 next to the door.

686 (b) By January 1, 2025, the owner or principal operator of
 687 a multifamily residential property has a crime prevention
 688 through environmental design assessment that is no more than 3
 689 years old completed for the property. Such assessment must be
 690 performed by a law enforcement agency or a Florida Crime
 691 Prevention Through Environmental Design Practitioner designated
 692 by the Florida Crime Prevention Training Institute of the
 693 Department of Legal Affairs. The owner or principal operator
 694 must remain in substantial compliance with the assessment for
 695 purposes of this paragraph.

696 (c)1. By January 1, 2025, the owner or principal operator
 697 of a multifamily residential property provides proper crime
 698 deterrence and safety training to its current employees. After
 699 January 1, 2025, the owner or principal operator must provide
 700 such training to an employee within 60 days after his or her

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701 hire date for purposes of this paragraph.

702 2. For purposes of this paragraph, "proper crime
703 deterrence and safety training" means training which trains and
704 familiarizes employees with the security principles, devices,
705 measures, and standards set forth under paragraph (a), and which
706 is reviewed at least every 3 years and updated as necessary. The
707 owner or principal operator may request a law enforcement agency
708 or the Florida Crime Prevention Through Environmental Design
709 Practitioner performing the assessment under paragraph (b) to
710 review the training curriculum.

711 (3) For purposes of establishing the presumption against
712 liability under subsection (2), the burden of proof is on the
713 owner or principal operator to demonstrate that the owner or
714 principal operator has substantially implemented the security
715 measures specified in subsection (2).

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

721 (5) This section does not establish a private cause of
722 action.

723 Section 9. Subsection (2) of section 768.81, Florida
724 Statutes, is amended, and subsection (6) is added to that
725 section, to read:

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726 768.81 Comparative fault.—

727 (2) EFFECT OF CONTRIBUTORY FAULT.—In a negligence action,
 728 contributory fault chargeable to the claimant diminishes
 729 proportionately the amount awarded as economic and noneconomic
 730 damages for an injury attributable to the claimant's
 731 contributory fault, but does not bar recovery, subject to
 732 subsection (6).

733 (6) GREATER PERCENTAGE OF FAULT.—In a negligence action to
 734 which this section applies, any party found to be greater than
 735 50 percent at fault for his or her own harm may not recover any
 736 damages. This subsection does not apply to an action for damages
 737 for personal injury or wrongful death arising out of medical
 738 negligence pursuant to chapter 766.

739 Section 10. Section 626.9373, Florida Statutes, is
 740 repealed.

741 Section 11. Section 627.428, Florida Statutes, is
 742 repealed.

743 Section 12. Subsection (1) of section 627.756, Florida
 744 Statutes, is amended to read:

745 627.756 Bonds for construction contracts; attorney fees in
 746 case of suit.—

747 (1) In a suit ~~Section 627.428 applies to suits brought by~~
 748 an owner, a contractor, a subcontractor, a laborer, or a
 749 materialman ~~owners, contractors, subcontractors, laborers, and~~
 750 ~~materialmen~~ against a surety insurer under payment or

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751 performance bonds written by the insurer under the laws of this
 752 state to indemnify against pecuniary loss by breach of a
 753 building or construction contract, upon the rendition of a
 754 judgment or decree by any of the courts of this state against
 755 the surety insurer and in favor of the owner, contractor,
 756 subcontractor, laborer, or materialman, the trial court or, in
 757 the event of an appeal in which the owner, contractor,
 758 subcontractor, laborer, or materialman prevails, the appellate
 759 court, shall adjudge or decree against the surety insurer and in
 760 favor of the owner, contractor, subcontractor, laborer, or
 761 materialman a reasonable sum as fees or compensation for the
 762 attorney prosecuting the suit in which the recovery is had.
 763 ~~Owners, contractors, subcontractors, laborers, and materialmen~~
 764 ~~shall be deemed to be insureds or beneficiaries for the purposes~~
 765 ~~of this section.~~

766 Section 13. Paragraphs (a) and (j) of subsection (1) of
 767 section 475.01, Florida Statutes, are amended to read:

768 475.01 Definitions.—

769 (1) As used in this part:

770 (a) "Broker" means a person who, for another, and for a
 771 compensation or valuable consideration directly or indirectly
 772 paid or promised, expressly or impliedly, or with an intent to
 773 collect or receive a compensation or valuable consideration
 774 therefor, appraises, auctions, sells, exchanges, buys, rents, or
 775 offers, attempts or agrees to appraise, auction, or negotiate

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776 | the sale, exchange, purchase, or rental of business enterprises
 777 | or business opportunities or any real property or any interest
 778 | in or concerning the same, including mineral rights or leases,
 779 | or who advertises or holds out to the public by any oral or
 780 | printed solicitation or representation that she or he is engaged
 781 | in the business of appraising, auctioning, buying, selling,
 782 | exchanging, leasing, or renting business enterprises or business
 783 | opportunities or real property of others or interests therein,
 784 | including mineral rights, or who takes any part in the procuring
 785 | of sellers, purchasers, lessors, or lessees of business
 786 | enterprises or business opportunities or the real property of
 787 | another, or leases, or interest therein, including mineral
 788 | rights, or who directs or assists in the procuring of prospects
 789 | or in the negotiation or closing of any transaction which does,
 790 | or is calculated to, result in a sale, exchange, or leasing
 791 | thereof, and who receives, expects, or is promised any
 792 | compensation or valuable consideration, directly or indirectly
 793 | therefor; and all persons who advertise rental property
 794 | information or lists. A broker renders a professional service
 795 | and is a professional within the meaning of s. 95.11(4) (b) ~~s.~~
 796 | ~~95.11(4) (a)~~. Where the term "appraise" or "appraising" appears
 797 | in the definition of the term "broker," it specifically excludes
 798 | those appraisal services which must be performed only by a
 799 | state-licensed or state-certified appraiser, and those appraisal
 800 | services which may be performed by a registered trainee

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801 appraiser as defined in part II. The term "broker" also includes
 802 any person who is a general partner, officer, or director of a
 803 partnership or corporation which acts as a broker. The term
 804 "broker" also includes any person or entity who undertakes to
 805 list or sell one or more timeshare periods per year in one or
 806 more timeshare plans on behalf of any number of persons, except
 807 as provided in ss. 475.011 and 721.20.

808 (j) "Sales associate" means a person who performs any act
 809 specified in the definition of "broker," but who performs such
 810 act under the direction, control, or management of another
 811 person. A sales associate renders a professional service and is
 812 a professional within the meaning of s. 95.11(4)(b) ~~s.~~
 813 ~~95.11(4)(a)~~.

814 Section 14. Paragraph (h) of subsection (1) of section
 815 475.611, Florida Statutes, is amended to read:

816 475.611 Definitions.—

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

818 (h) "Appraiser" means any person who is a registered
 819 trainee real estate appraiser, a licensed real estate appraiser,
 820 or a certified real estate appraiser. An appraiser renders a
 821 professional service and is a professional within the meaning of
 822 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

823 Section 15. Subsection (7) of section 517.191, Florida
 824 Statutes, is amended to read:

825 517.191 Injunction to restrain violations; civil

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826 penalties; enforcement by Attorney General.—

827 (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an
 828 enforcement action brought under this section based on a
 829 violation of any provision of this chapter or any rule or order
 830 issued under this chapter shall be brought within 6 years after
 831 the facts giving rise to the cause of action were discovered or
 832 should have been discovered with the exercise of due diligence,
 833 but not more than 8 years after the date such violation
 834 occurred.

835 Section 16. Subsection (4) of section 624.123, Florida
 836 Statutes, is amended to read:

837 624.123 Certain international health insurance policies;
 838 exemption from code.—

839 (4) Any international health insurance policy or
 840 application solicited, provided, entered into, issued, or
 841 delivered pursuant to this subsection is exempt from all
 842 provisions of the insurance code, except that such policy,
 843 contract, or agreement is subject to the provisions of ss.
 844 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,
 845 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,
 846 626.9601, 627.413, 627.4145, ~~627.428~~, and 627.6043.

847 Section 17. Subsection (4) of section 624.488, Florida
 848 Statutes, is amended to read:

849 624.488 Applicability of related laws.—In addition to
 850 other provisions of the code cited in ss. 624.460–624.488:

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851 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
 852 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~
 853 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
 854 627.913, and 627.918;

855
 856 apply to self-insurance funds. Only those sections of the code
 857 that are expressly and specifically cited in ss. 624.460-624.489
 858 apply to self-insurance funds.

859 Section 18. Paragraph (b) of subsection (3) of section
 860 627.062, Florida Statutes, is amended to read:

861 627.062 Rate standards.—

862 (3)

863 (b) Individual risk rates and modifications to existing
 864 approved forms are not subject to this part or part II, except
 865 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
 866 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
 867 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
 868 627.4265, and 627.427, ~~and 627.428,~~ but are subject to all other
 869 applicable provisions of this code and rules adopted thereunder.

870 Section 19. Subsections (3), (4), and (5) of section
 871 627.401, Florida Statutes, are amended to read:

872 627.401 Scope of this part.—No provision of this part of
 873 this chapter applies to:

874 (3) Wet marine and transportation insurance, except ss.
 875 627.409 and 627.420, ~~and 627.428.~~

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876 (4) Title insurance, except ss. 627.406, 627.415, 627.416,
877 627.419, and 627.427, ~~and 627.428.~~

878 (5) Credit life or credit disability insurance, except s.
879 627.419(5) ~~ss. 627.419(5) and 627.428.~~

880 Section 20. Subsection (2) of section 627.441, Florida
881 Statutes, is amended to read:

882 627.441 Commercial general liability policies; coverage to
883 contractors for completed operations.—

884 (2) A liability insurer must offer coverage at an
885 appropriate additional premium for liability arising out of
886 current or completed operations under an owner-controlled
887 insurance program for any period beyond the period for which the
888 program provides liability coverage, as specified in s.
889 255.0517(2)(b). The period of such coverage must be sufficient
890 to protect against liability arising out of an action brought
891 within the time limits provided in s. 95.11(3)(b) ~~s.~~
892 ~~95.11(3)(c).~~

893 Section 21. Subsection (8) of section 627.727, Florida
894 Statutes, is amended to read:

895 627.727 Motor vehicle insurance; uninsured and
896 underinsured vehicle coverage; insolvent insurer protection.—

897 ~~(8) The provisions of s. 627.428 do not apply to any~~
898 ~~action brought pursuant to this section against the uninsured~~
899 ~~motorist insurer unless there is a dispute over whether the~~
900 ~~policy provides coverage for an uninsured motorist proven to be~~

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901 ~~liable for the accident.~~

902 Section 22. Subsection (8) of section 627.736, Florida
 903 Statutes, is amended to read:

904 627.736 Required personal injury protection benefits;
 905 exclusions; priority; claims.—

906 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—
 907 With respect to any dispute under the provisions of ss. 627.730-
 908 627.7405 between the insured and the insurer, or between an
 909 assignee of an insured's rights and the insurer, the provisions
 910 of s. 768.79 ~~ss. 627.428 and 768.79~~ apply, except as provided in
 911 subsections (10) and (15), and except that any attorney fees
 912 recovered must:

913 (a) Comply with prevailing professional standards;

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

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

919
 920 Upon request by either party, a judge must make written
 921 findings, substantiated by evidence presented at trial or any
 922 hearings associated therewith, that any award of attorney fees
 923 complies with this subsection. ~~Notwithstanding s. 627.428,~~
 924 Attorney fees recovered under ss. 627.730-627.7405 must be
 925 calculated without regard to a contingency risk multiplier.

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926 Section 23. Subsection (4) of section 628.6016, Florida
 927 Statutes, is amended to read:

928 628.6016 Applicability of related laws.—In addition to
 929 other provisions of the code cited in ss. 628.6011–628.6018:

930 (4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418,
 931 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, ~~627.428,~~
 932 627.702, and 627.706; part XI of chapter 627; ss. 627.912,
 933 627.913, and 627.918; and

934
 935 apply to assessable mutual insurers; however, ss. 628.255,
 936 628.411, and 628.421 do not apply. No section of the code not
 937 expressly and specifically cited in ss. 628.6011–628.6018
 938 applies to assessable mutual insurers. The term "assessable
 939 mutual insurer" shall be substituted for the term "commercial
 940 self-insurer" as appropriate.

941 Section 24. Section 631.70, Florida Statutes, is repealed.

942 Section 25. Section 631.926, Florida Statutes, is
 943 repealed.

944 Section 26. Subsection (11) of section 632.638, Florida
 945 Statutes, is amended to read:

946 632.638 Applicability of other code provisions.—In
 947 addition to other provisions contained or referred to in this
 948 chapter, the following chapters and provisions of this code
 949 apply to fraternal benefit societies, to the extent applicable
 950 and not in conflict with the express provisions of this chapter

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951 and the reasonable implications thereof:

952 ~~(11) Section 627.428;~~

953 Section 27. The Division of Law Revision is directed to
 954 replace the phrase "the effective date of this act" wherever it
 955 occurs in this act with the date this act becomes a law.

956 Section 28. The amendments made by this act to s. 95.11,
 957 Florida Statutes, apply to causes of action accruing after the
 958 effective date of this act.

959 Section 29. This act shall not be construed to impair any
 960 right under an insurance contract in effect on or before the
 961 effective date of this act. To the extent that this act affects
 962 a right under an insurance contract, this act applies to an
 963 insurance contract issued or renewed after the effective date of
 964 this act.

965 Section 30. Except as otherwise expressly provided in this
 966 act, this act shall apply to causes of action filed after the
 967 effective date of this act.

968 Section 31. This act shall take effect upon becoming a
 969 law.