

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Gottlieb offered the following:

Amendment (with title amendment)

Remove lines 36-83 and insert:

him, to discharge the common liability; or

2. Such action arises from a violation of s. 794.011 involving a victim who was younger than the age of 16 at the time of the act, the claimant may present the claim in writing at any time pursuant to s. 95.11(9). This subparagraph applies to a claim accruing at any time but shall also be construed in accordance with s. 95.11(9) to apply only to claims which would not have been time barred on or before July 1, 2010 ~~is for wrongful death, the claimant must present the claim in writing~~

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14 ~~to the Department of Financial Services within 2 years after the~~
15 ~~claim accrues.~~

16 (d) For purposes of this section, complete, accurate, and
17 timely compliance with the requirements of paragraph (c) shall
18 occur prior to settlement payment, close of discovery or
19 commencement of trial, whichever is sooner; provided the ability
20 to plead setoff is not precluded by the delay. This setoff shall
21 apply only against that part of the settlement or judgment
22 payable to the claimant, minus claimant's reasonable attorney's
23 fees and costs. Incomplete or inaccurate disclosure of unpaid
24 adjudicated claims due the state, its agency, officer, or
25 subdivision, may be excused by the court upon a showing by the
26 preponderance of the evidence of the claimant's lack of
27 knowledge of an adjudicated claim and reasonable inquiry by, or
28 on behalf of, the claimant to obtain the information from public
29 records. Unless the appropriate agency had actual notice of the
30 information required to be disclosed by paragraph (c) in time to
31 assert a setoff, an unexcused failure to disclose shall, upon
32 hearing and order of court, cause the claimant to be liable for
33 double the original undisclosed judgment and, upon further
34 motion, the court shall enter judgment for the agency in that
35 amount. Except as provided otherwise in this subsection, the
36 failure of the Department of Financial Services or the
37 appropriate agency to make final disposition of a claim within 4
38 ~~6~~ months after it is filed shall be deemed a final denial of the

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39 claim for purposes of this section. For purposes of this
40 subsection, in medical malpractice actions and in wrongful death
41 actions, the failure of the Department of Financial Services or
42 the appropriate agency to make final disposition of a claim
43 within 90 days after it is filed shall be deemed a final denial
44 of the claim. The statute of limitations for medical malpractice
45 actions and wrongful death actions is tolled for the period of
46 time taken by the Department of Financial Services or the
47 appropriate agency to deny the claim. The provisions of this
48 subsection do not apply to such claims as may be asserted by
49 counterclaim pursuant to s. 768.14.

50 (14) Every claim against the state or one of its agencies
51 or subdivisions for damages for a negligent or wrongful act or
52 omission pursuant to this section shall be forever barred unless
53 the civil action is commenced by filing a complaint in the court
54 of appropriate jurisdiction within 2 4 years after such claim
55 accrues; except that:

56 (a) An action for contribution must be commenced within
57 the limitations provided in s. 768.31(4) ~~.7~~ and

58 (b) An action for damages arising from medical malpractice
59 or wrongful death must be commenced within the limitations for
60 such actions in s. 95.11(4).

61 (c) An action arising from any act constituting a
62 violation of s. 794.011 involving a victim who was younger than
63 the age of 16 at the time of the act may be commenced at any

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64 time pursuant to s. 95.11(9). This paragraph applies to a claim
65 accruing at any time as long as such claim would not have been
66 time barred on or before July 1, 2010, under s. 95.11(9).

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

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Between lines 8 and 9, insert:

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providing exceptions to such timeframes;

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