

1                                   A bill to be entitled  
 2           An act relating to timeframes for bringing certain  
 3           actions; amending s. 768.28, F.S.; revising the  
 4           timeframe within which a claimant must present certain  
 5           claims against a governmental entity in writing to  
 6           certain entities; revising the timeframe within which  
 7           a complaint must be filed in order to bring certain  
 8           claims against a governmental entity; providing  
 9           applicability; providing an effective date.

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

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13           Section 1. Paragraphs (a) and (d) of subsection (6) and  
 14           subsection (14) of section 768.28, Florida Statutes, are amended  
 15           to read:

16           768.28 Waiver of sovereign immunity in tort actions;  
 17           recovery limits; civil liability for damages caused during a  
 18           riot; limitation on attorney fees; statute of limitations;  
 19           exclusions; indemnification; risk management programs.—

20           (6) (a) An action may not be instituted on a claim against  
 21           the state or one of its agencies or subdivisions unless the  
 22           claimant presents the claim in writing to the appropriate  
 23           agency, and also, except as to any claim against a municipality,  
 24           county, or the Florida Space Authority, presents such claim in  
 25           writing to the Department of Financial Services, within 18

26 | months ~~3 years~~ after such claim accrues and the Department of  
27 | Financial Services or the appropriate agency denies the claim in  
28 | writing; however ~~except that~~, if:

29 |     ~~1.~~ such claim is for contribution pursuant to s. 768.31,  
30 | it must be so presented within 6 months after the judgment  
31 | against the tortfeasor seeking contribution has become final by  
32 | lapse of time for appeal or after appellate review or, if there  
33 | is no such judgment, within 6 months after the tortfeasor  
34 | seeking contribution has either discharged the common liability  
35 | by payment or agreed, while the action is pending against her or  
36 | him, to discharge the common liability; ~~or~~

37 |     ~~2. Such action is for wrongful death, the claimant must~~  
38 | ~~present the claim in writing to the Department of Financial~~  
39 | ~~Services within 2 years after the claim accrues.~~

40 |     (d) For purposes of this section, complete, accurate, and  
41 | timely compliance with the requirements of paragraph (c) shall  
42 | occur prior to settlement payment, close of discovery or  
43 | commencement of trial, whichever is sooner; provided the ability  
44 | to plead setoff is not precluded by the delay. This setoff shall  
45 | apply only against that part of the settlement or judgment  
46 | payable to the claimant, minus claimant's reasonable attorney's  
47 | fees and costs. Incomplete or inaccurate disclosure of unpaid  
48 | adjudicated claims due the state, its agency, officer, or  
49 | subdivision, may be excused by the court upon a showing by the  
50 | preponderance of the evidence of the claimant's lack of

51 | knowledge of an adjudicated claim and reasonable inquiry by, or  
52 | on behalf of, the claimant to obtain the information from public  
53 | records. Unless the appropriate agency had actual notice of the  
54 | information required to be disclosed by paragraph (c) in time to  
55 | assert a setoff, an unexcused failure to disclose shall, upon  
56 | hearing and order of court, cause the claimant to be liable for  
57 | double the original undisclosed judgment and, upon further  
58 | motion, the court shall enter judgment for the agency in that  
59 | amount. Except as provided otherwise in this subsection, the  
60 | failure of the Department of Financial Services or the  
61 | appropriate agency to make final disposition of a claim within 4  
62 | ~~6~~ months after it is filed shall be deemed a final denial of the  
63 | claim for purposes of this section. For purposes of this  
64 | subsection, in medical malpractice actions and in wrongful death  
65 | actions, the failure of the Department of Financial Services or  
66 | the appropriate agency to make final disposition of a claim  
67 | within 90 days after it is filed shall be deemed a final denial  
68 | of the claim. The statute of limitations for medical malpractice  
69 | actions and wrongful death actions is tolled for the period of  
70 | time taken by the Department of Financial Services or the  
71 | appropriate agency to deny the claim. The provisions of this  
72 | subsection do not apply to such claims as may be asserted by  
73 | counterclaim pursuant to s. 768.14.

74 |       (14) Every claim against the state or one of its agencies  
75 | or subdivisions for damages for a negligent or wrongful act or

76 omission pursuant to this section shall be forever barred unless  
77 the civil action is commenced by filing a complaint in the court  
78 of appropriate jurisdiction ~~within:~~

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

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

82 (c) Within the limitations provided in s. 95.11(4) for an  
83 action for damages arising from medical malpractice or wrongful  
84 death.

85 (d) Within 4 years for any other action not specified in  
86 this subsection 4 years after such claim accrues; except that an  
87 action for contribution must be commenced within the limitations  
88 provided in s. 768.31(4), and an action for damages arising from  
89 medical malpractice or wrongful death must be commenced within  
90 the limitations for such actions in s. 95.11(4).

91 Section 2. This act shall apply to causes of action  
92 accruing after the effective date of this act.

93 Section 3. This act shall take effect upon becoming a law.