

1 A bill to be entitled
 2 An act relating to statutes of limitations for
 3 negligence actions; amending s. 768.28, F.S.;
 4 providing timeframes for a notice of a claim;
 5 providing that a negligence claim against a government
 6 entity must be brought within 2 years of the accrual
 7 of such claim; providing an effective date.

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

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

14 768.28 Waiver of sovereign immunity in tort actions;
 15 recovery limits; civil liability for damages caused during a
 16 riot; limitation on attorney fees; statute of limitations;
 17 exclusions; indemnification; risk management programs.—

18 (6) (a) An action may not be instituted on a claim against
 19 the state or one of its agencies or subdivisions unless the
 20 claimant presents the claim in writing to the appropriate
 21 agency, and also, except as to any claim against a municipality,
 22 county, or the Florida Space Authority, presents such claim in
 23 writing to the Department of Financial Services, within 18
 24 months ~~3 years~~ after such claim accrues and the Department of
 25 Financial Services or the appropriate agency denies the claim in
 26 writing; however ~~except that~~, if:

27 | ~~1.~~ Such claim is for contribution pursuant to s.
 28 | 768.31, it must be so presented within 6 months after the
 29 | judgment against the tortfeasor seeking contribution has become
 30 | final by lapse of time for appeal or after appellate review or,
 31 | if there is no such judgment, within 6 months after the
 32 | tortfeasor seeking contribution has either discharged the common
 33 | liability by payment or agreed, while the action is pending
 34 | against her or him, to discharge the common liability; ~~or~~

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

38 | (d) For purposes of this section, complete, accurate, and
 39 | timely compliance with the requirements of paragraph (c) shall
 40 | occur prior to settlement payment, close of discovery or
 41 | commencement of trial, whichever is sooner; provided the ability
 42 | to plead setoff is not precluded by the delay. This setoff shall
 43 | apply only against that part of the settlement or judgment
 44 | payable to the claimant, minus claimant's reasonable attorney's
 45 | fees and costs. Incomplete or inaccurate disclosure of unpaid
 46 | adjudicated claims due the state, its agency, officer, or
 47 | subdivision, may be excused by the court upon a showing by the
 48 | preponderance of the evidence of the claimant's lack of
 49 | knowledge of an adjudicated claim and reasonable inquiry by, or
 50 | on behalf of, the claimant to obtain the information from public
 51 | records. Unless the appropriate agency had actual notice of the
 52 | information required to be disclosed by paragraph (c) in time to

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

72 | (14) Every claim against the state or one of its agencies
 73 | or subdivisions for damages for a negligent or wrongful act or
 74 | omission pursuant to this section shall be forever barred unless
 75 | the civil action is commenced by filing a complaint in the court
 76 | of appropriate jurisdiction within 2 4 years after such claim
 77 | accrues; except that an action for contribution must be
 78 | commenced within the limitations provided in s. 768.31(4), and

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79 | an action for damages arising from medical malpractice or
80 | wrongful death must be commenced within the limitations for such
81 | actions in s. 95.11(4).

82 | Section 2. This act shall take effect upon becoming a law.