

CHAPTER 2006-6

House Bill No. 145

An act relating to apportionment of damages in civil actions; amending s. 768.81, F.S.; deleting exceptions to a requirement for liability based on percentage of fault instead of joint and several liability; providing applicability; providing an effective date.

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

Section 1. Subsection (3) of section 768.81, Florida Statutes, is amended 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, ~~except as provided in paragraphs (a), (b), and (c):~~

(a) Where a plaintiff is found to be at fault, the following shall apply:

- ~~1. Any defendant found 10 percent or less at fault shall not be subject to joint and several liability.~~
- ~~2. For any defendant found more than 10 percent but less than 25 per sent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$200,000.~~
- ~~3. For any defendant found at least 25 percent but not *more* than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in except of \$500,000.~~
- ~~4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$1 million.~~

~~For any defendant under subparagraph 2., subparagraph 3., or subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the amount of economic and non-economic damages already apportioned to that defendant based on that defendant's percentage of fault.~~

~~(b) Where a plaintiff is found to be without fault, the following shall~~

- ~~1. Any defendant found less than 10 percent at fault shall not be subject to joint and several liability.~~
- ~~2. For any defendant found at least 10 percent but less than 25 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$500,000.~~

~~3. For any defendant found at least 25 percent but not more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$1 million.~~

~~4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$2 million.~~

~~For any defendant under subparagraph 2., subparagraph 3., or subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the amount of economic and non-economic damages already apportioned to that defendant based on that defendant's percentage of fault.~~

~~(c) With respect to any defendant whose percentage of fault is less than the fault of a particular plaintiff, the doctrine of joint and several liability shall not apply to any damages imposed against the defendant.~~

~~(a)(d)~~ In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to amendment any time before trial in accordance with the Florida Rules of Civil Procedure.

~~(b)(e)~~ In order to allocate any or all fault to a nonparty and include the named or unnamed nonparty on the verdict form for purposes of apportioning damages, a defendant must prove at trial, by a preponderance of the evidence, the fault of the nonparty in causing the plaintiffs injuries.

Section 2. This act shall take effect upon becoming a law and shall apply to causes of action that accrue on or after the effective date.

Approved by the Governor April 26, 2006.

Filed in Office Secretary of State April 26, 2006.