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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1987	Session Law No. 87-249	LOF Cite	#pp
Prime Bill# SB 866	Sponsor	Comp./Sim. Bills HB 71	
JLNC Hist. Leg. Cites	Senate pp.#s	House pp.#s	#pp
Committee of Ref.	Senate Judi. Civ. House Judiciary (sub court)	Previous versions?	

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H	Judic	1987	Bill files: HO 321	19/1601	✓
"	"		Meeting per: " " " "	19/1604	—
S	J. Civ	1987	Meeting file	18/1625	—
"	"	"	Bill file: SB 866	18/1628	1

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

87-249

HB 321 (1987) did not pass → substituted

FSA

H. JUD. - BILL FILE (S.19/1601)

- " - Mtg. FILE: SUBCMT ON COURT SYSTEMS, Probate + CONSUMER LAW, 4/9/87 (S.19/1604)
- " - Mtg. FILE, Full CMT. ^{5/17/87} 4/15/87 (S.19/1604)
- " - TAPRS, SUBCMT. 4/9/87 (S.414/618) #2
- " - TAPRS, Full CMT. ^{5/7/87} 4/15/87 (S.414/618 9) #2

CS/SB 866 (1987) - Passed

CMT.

SJCV - CMT. REPORT

- TAPE + Agenda 5/4/87 - ON Tape 1 +
CONT. onto Tape 2

S. Floor Debate/AMENDMENTS 5/28/87 (SJ 470)

H. Floor Debate/AMENDMENTS 6/2/87 (HJ 966)

By Senator Dudley

1 A bill to be entitled

2 An act relating to civil procedure; creating s.
3 45.061, F.S., providing for offers of
4 settlement in civil cases; providing for
5 sanctions in the case of offers which are
6 unreasonably rejected; providing for set off;
7 providing exceptions; providing exclusive
8 remedy; providing an effective date.

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

11
12 Section 1. Section 45.061, Florida Statutes, is
13 created to read:

14 45.061 Offers of settlement.--

15 (1) At any time more than 60 days after the service of
16 a summons and complaint on a party but not less than 60 days
17 (or 45 days if it is a counter-offer) before trial, any party
18 may serve upon an adverse party a written offer which shall
19 not be filed with the court, which offer shall be denominated
20 as an offer under this section, to settle a claim for the
21 money, property, or relief specified in the offer and to enter
22 into a stipulation dismissing the claim or to allow judgment
23 to be entered accordingly. The offer shall remain open for 45
24 days unless sooner withdrawn by a writing served on the
25 offeree prior to acceptance by the offeree. An offer that is
26 neither withdrawn nor accepted within 45 days shall be deemed
27 rejected. The fact that an offer is made but not accepted
28 does not preclude the making of a subsequent offer. Evidence
29 of an offer is not admissible except in proceedings to enforce
30 a settlement or to determine sanctions under this section.

1 (2) If, upon a motion by the offeror within 30 days
2 after the entry of judgment, the court determines that an
3 offer was rejected unreasonably, resulting in unnecessary
4 delay and needless increase in the cost of litigation, it may
5 impose an appropriate sanction upon the offeree. In making
6 this determination the court shall consider all of the
7 relevant circumstances at the time of the rejection,
8 including:

9 (a) Whether, upon specific request by the offeree, the
10 offeror had unreasonably refused to furnish information which
11 was necessary to evaluate the reasonableness of the offer.

12 (b) Whether the suit was in the nature of a "test-
13 case," presenting questions of far-reaching importance
14 affecting nonparties.

15
16 An offer shall be presumed to have been unreasonably rejected
17 by a defendant if the judgment entered is at least 25 percent
18 greater than the offer rejected, and shall be presumed to have
19 been unreasonably rejected by a plaintiff if the judgment
20 entered is at least 25 percent less than the offer rejected.
21 For the purposes of this section, the amount of the judgment
22 shall be the total amount of money damages awarded plus the
23 amount of costs and expenses reasonably incurred by the
24 plaintiff prior to the making of the offer for which recovery
25 is provided by operation of other provisions of Florida law.

26 (4) In determining the amount of any sanction to be
27 imposed under this section, the court shall award:

28 (a) The amount of the parties' costs and expenses,
29 including reasonable attorneys' fees, investigative expenses,
30 expert witness fees and other expenses which relate to the
31

1 preparation for trial, incurred after the making of the offer
2 of settlement;

3 (b) The statutory rate of interest that could have
4 been earned at the prevailing statutory rate on the amount
5 that a claimant offered to accept to the extent that the
6 interest is not otherwise included in the judgment;

7 (c) The amount of any costs or expenses which has been
8 awarded by operation of other provisions of Florida law;

9
10 The amount of any sanction imposed under this section against
11 a plaintiff shall be set off against any award to the
12 plaintiff, and if such sanction is in an amount in excess of
13 the award to the plaintiff, judgment shall be entered in favor
14 of the defendant and against the plaintiff in the amount of
15 the excess.

16 (5) This section shall not apply to any class action
17 or shareholder derivative suit or to matters relating to
18 dissolution of marriage, alimony, nonsupport, or child
19 custody.

20 (6) Sanctions authorized under this section may be
21 imposed notwithstanding any limitation on recovery of costs or
22 expenses which may be provided by contract or in other
23 provisions of Florida law.

24 Section 2. This act shall take effect July 1, 1987.

25
26 *****

27 HOUSE SUMMARY

28 Provides a procedure for offers of settlement in civil
29 cases excluding class actions, shareholders derivative
30 suits or matters relating to dissolution of marriage,
31 alimony, nonsupport, or child custody. Provides
sanctions with respect to offers which are rejected
unreasonably. See bill for details.

By Representative Rush

1 A bill to be entitled
2 An act relating to civil procedure; creating s.
3 45.061, F.S., providing for offers of
4 settlement in civil cases; providing for
5 sanctions in the case of offers which are
6 unreasonably rejected; providing for set off;
7 providing exceptions; providing exclusive
8 remedy; providing an effective date.
9

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

12 Section 1. Section 45.061, Florida Statutes, is
13 created to read:

14 45.061 Offers of settlement.--

15 (1) At any time more than 60 days after the service of
16 a summons and complaint on a party but not less than 60 days
17 (or 45 days if it is a counter-offer) before trial, any party
18 may serve upon an adverse party a written offer which shall
19 not be filed with the court, which offer shall be denominated
20 as an offer under this section, to settle a claim for the
21 money, property, or relief specified in the offer and to enter
22 into a stipulation dismissing the claim or to allow judgment
23 to be entered accordingly. The offer shall remain open for 45
24 days unless sooner withdrawn by a writing served on the
25 offeree prior to acceptance by the offeree. An offer that is
26 neither withdrawn nor accepted within 45 days shall be deemed
27 rejected. The fact that an offer is made but not accepted
28 does not preclude the making of a subsequent offer. Evidence
29 of an offer is not admissible except in proceedings to enforce
30 a settlement or to determine sanctions under this section.
31

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1	<u>(2) If, upon a motion by the offeror within 30 days</u>	1.20
2	<u>after the entry of judgment, the court determines that an</u>	
3	<u>offer was rejected unreasonably, resulting in unnecessary</u>	1.21
4	<u>delay and needless increase in the cost of litigation, it may</u>	
5	<u>impose an appropriate sanction upon the offeree. In making</u>	1.23
6	<u>this determination the court shall consider all of the</u>	1.24
7	<u>relevant circumstances at the time of the rejection,</u>	1.25
8	<u>including:</u>	
9	<u>(a) Whether, upon specific request by the offeree, the</u>	1.26
10	<u>offeror had unreasonably refused to furnish information which</u>	1.27
11	<u>was necessary to evaluate the reasonableness of the offer.</u>	
12	<u>(b) Whether the suit was in the nature of a "test-</u>	1.28
13	<u>case," presenting questions of far-reaching importance</u>	
14	<u>affecting nonparties.</u>	1.29
15		
16	<u>An offer shall be presumed to have been unreasonably rejected</u>	1:lus
17	<u>by a defendant if the judgment entered is at least 25 percent</u>	1.30
18	<u>greater than the offer rejected, and shall be presumed to have</u>	1.31
19	<u>been unreasonably rejected by a plaintiff if the judgment</u>	1.32
20	<u>entered is at least 25 percent less than the offer rejected.</u>	1.33
21	<u>For the purposes of this section, the amount of the judgment</u>	1.34
22	<u>shall be the total amount of money damages awarded plus the</u>	1.35
23	<u>amount of costs and expenses reasonably incurred by the</u>	
24	<u>plaintiff prior to the making of the offer for which recovery</u>	1.36
25	<u>is provided by operation of other provisions of Florida law.</u>	1.37
26	<u>(4) In determining the amount of any sanction to be</u>	1:lus
27	<u>imposed under this section, the court shall award:</u>	1.39
28	<u>(a) The amount of the parties' costs and expenses,</u>	1:lus
29	<u>including reasonable attorneys' fees, investigative expenses,</u>	1.40
30	<u>expert witness fees and other expenses which relate to the</u>	1.41
31		

1	<u>preparation for trial, incurred after the making of the offer</u>	
2	<u>of settlement;</u>	1.4
3	(b) <u>The statutory rate of interest that could have</u>	1:1
4	<u>been earned at the prevailing statutory rate on the amount</u>	1.4
5	<u>that a claimant offered to accept to the extent that the</u>	
6	<u>interest is not otherwise included in the judgment;</u>	1.4
7	(c) <u>The amount of any costs or expenses which has been</u>	1.4
8	<u>awarded by operation of other provisions of Florida law;</u>	1.4
9		
10	<u>The amount of any sanction imposed under this section against</u>	1:1
11	<u>a plaintiff shall be set off against any award to the</u>	1.4
12	<u>plaintiff, and if such sanction is in an amount in excess of</u>	
13	<u>the award to the plaintiff, judgment shall be entered in favor</u>	1.4
14	<u>of the defendant and against the plaintiff in the amount of</u>	1.4
15	<u>the excess.</u>	1.5
16	(5) <u>This section shall not apply to any class action</u>	1:1
17	<u>or shareholder derivative suit or to matters relating to</u>	1.5
18	<u>dissolution of marriage, alimony, nonsupport, or child</u>	
19	<u>custody.</u>	1.5
20	(6) <u>Sanctions authorized under this section may be</u>	1:1
21	<u>imposed notwithstanding any limitation on recovery of costs or</u>	1.5
22	<u>expenses which may be provided by contract or in other</u>	
23	<u>provisions of Florida law.</u>	1.5
24	Section 2. This act shall take effect July 1, 1987.	1.5
25		
26	*****	
27	HOUSE SUMMARY	
28	Provides a procedure for offers of settlement in civil	
29	cases excluding class actions, shareholders derivative	
30	suits or matters relating to dissolution of marriage,	
31	alimony, nonsupport, or child custody. Provides	
	sanctions with respect to offers which are rejected	
	unreasonably. See bill for details.	

FLORIDA LEGISLATURE

History of Legislation

1987 Regular Session

1987 Special Session A



prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371

HISTORY OF SENATE BILLS

S 860 GENERAL BILL by Plummer (Identical H 835)

Casino Gambling/Cruise Vessels, imposes tax on gross receipts from conduct of casino gambling on vessels while cruising between points in this state, or to & from a single point in state, if vessel does not dock at any point outside state during cruise, provides for reporting of gross receipts derived from such gambling & remitting taxes due, provides for disposition of tax revenues, provides for collection & enforcement of tax, etc Effective Date 10/01/87

04/08/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Finance, Taxation and Claims; Appropriations -SJ 142

04/30/87 SENATE Withdrawn from Finance, Taxation and Claims; Appropriations, Indefinitely postponed -SJ 242

S 861 GENERAL BILL/ENG by Hair (Similar H 745)

State Moneys/Investments, revises provisions which specify those state moneys which may be invested in short-term investments, provides additional eligible investments, amends provision re Treasurer's investment powers & duties; authorizes maintenance of certain demand & safekeeping accounts & loan of securities or investments to banks, etc Amends FS Effective Date 07/10/87

04/08/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Finance, Taxation and Claims, Appropriations -SJ 142

05/01/87 SENATE On Committee agenda—Finance, Taxation and Claims, 05/05/87, 2 00 pm, Room-1C

05/04/87 SENATE Extension of time granted Committee Finance, Taxation and Claims

05/05/87 SENATE Comm Report Favorable with 1 amendment(s) by Finance, Taxation and Claims -SJ 271

05/06/87 SENATE Now in Appropriations -SJ 271

05/21/87 SENATE Extension of time granted Committee Appropriations

05/27/87 SENATE On Committee agenda—Appropriations, 05/28/87, 1 00 pm, Room-A -SJ 446

05/28/87 SENATE Comm Report Favorable by Appropriations, placed on Calendar -SJ 499

06/02/87 SENATE Placed on Special Order Calendar -SJ 571, Passed as amended, YEAS 37 NAYS 0 -SJ 613

06/02/87 HOUSE In Messages, Received placed on Calendar -HJ 1058

06/04/87 HOUSE Substituted for HB 745, Read second time, Read third time, Passed, YEAS 108 NAYS 0 -HJ 1210

06/05/87 Ordered enrolled -SJ 1130

06/25/87 Signed by Officers and presented to Governor

07/10/87 Approved by Governor, Chapter No 87-331

S 862 GENERAL BILL/CS/ENG by Finance, Taxation and Claims; Grizzle (Similar CS/H 1176, Compare H 1081)

Ad Val Tax Exemption/Homes for Aged, modifies criteria for exemptions for homes for aged, revises provisions re use for charitable purpose, deletes requirement that applicant corporation be a Fla corporation, revises provisions re certain nonprofit housing projects, specifies that the \$25,000 per unit exemption applies to homes leased from a health facilities authority or industrial development authority; applies to 1987 tax year & thereafter, etc Amends 196 1975, 1976 Effective Date 07/10/87

04/08/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Finance, Taxation and Claims, Appropriations -SJ 142

05/04/87 SENATE Extension of time granted Committee Finance, Taxation and Claims

05/11/87 SENATE On Committee agenda—Finance, Taxation and Claims, 05/13/87, 2 00 pm, Room 1C

05/13/87 SENATE Comm Report CS by Finance, Taxation and Claims -SJ 325

05/15/87 SENATE CS read first time -SJ 329, Now in Appropriations -SJ 325

05/21/87 SENATE Extension of time granted Committee Appropriations

05/25/87 SENATE Withdrawn from Appropriations -SJ 414; Placed on Calendar

05/29/87 SENATE Placed on Consent Calendar -SJ 499, CS passed as amended, YEAS 36 NAYS 0 -SJ 512

06/01/87 SENATE Immediately certified -SJ 533

06/01/87 HOUSE In Messages

06/02/87 HOUSE Received, placed on Calendar -HJ 935, Read second time, Read third time, CS passed, YEAS 111 NAYS 0 -HJ 935

06/02/87 Ordered enrolled -SJ 590

06/25/87 Signed by Officers and presented to Governor

07/10/87 Approved by Governor, Chapter No 87-332

S 863 GENERAL BILL by Frank and others (Compare H 3, H 13, H 30, H 64, H 349, H 359, H 794, H 1101, ENG/H 1250, CS/ENG/H 1506, CS/S 2, S 10, S 17, S 247, S 262, S 322, S 595, S 669, CS/ENG/S 777, S 1101)

Sales Tax, amends provisions to continue sales tax exemptions that are repealed by certain provision, amends provisions to increase tax on transient rentals, lease or rental of or license in real property, admissions & sales, storage, & use, provides for retroactive effective date, etc Amends Ch 212, 288 385(13) Effective Date 06/30/87 at midnight, or as otherwise provided

04/08/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Finance, Taxation and Claims, Appropriations -SJ 142

S 863 (CONTINUED)

05/04/87 SENATE Extension of time granted Committee Finance, Taxation and Claims

05/19/87 SENATE Extension of time granted Committee Finance, Taxation and Claims

06/02/87 SENATE Extension of time granted Committee Finance, Taxation and Claims

06/06/87 SENATE Died in Committee on Finance, Taxation and Claims, Iden./Sim /Compare bill passed, refer to CS/SB 777 (Ch 87-6) & CS/HB 1506 (Ch 87-101)

S 864 GENERAL BILL by Kiser (Compare ENG/H 1278)

Investment Accounts/Service Charges, provides for review by Governor's office of certain investment account service charges, requires Administration Bd to consider such review Amends 215 515 Effective Date 07/01/87 or upon becoming law, whichever occurs later

04/09/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Governmental Operations -SJ 143

04/24/87 SENATE On Committee agenda—Governmental Operations, 04/28/87, 2 00 pm, Room-H

04/28/87 SENATE Comm Report Favorable by Governmental Operations, placed on Calendar -SJ 233

05/28/87 SENATE Placed on Special Order Calendar -SJ 453

05/29/87 SENATE Placed on Special Order Calendar -SJ 498 & -SJ 499, Passed, YEAS 33 NAYS 0 -SJ 521

06/01/87 HOUSE In Messages

06/03/87 HOUSE Received, placed on Calendar -HJ 1111, Read second time, Amendments adopted, Read third time, Passed as amended; YEAS 118 NAYS 0 -HJ 1112

06/03/87 SENATE In Messages

06/06/87 SENATE Died in Messages

S 865 GENERAL BILL/CS by Commerce; Dudley (Similar ENG/H 1348, Compare CS/ENG/S 1269)

Community Association Managers, provides for certification of community association managers, provides that Business Regulation Dept. shall administer act, provides qualifications & for examination of applicants to be such managers, establishes Community Association Managers Board & Community Association Management T F, etc Effective Date 10/01/87

04/09/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Commerce; Appropriations -SJ 143

05/08/87 SENATE Extension of time granted Committee Commerce

05/14/87 SENATE On Committee agenda—Commerce, 05/18/87, 2 00 pm, Room-A

05/18/87 SENATE Comm Report CS by Commerce -SJ 365

05/20/87 SENATE CS read first time -SJ 367, Now in Appropriations -SJ 366

05/21/87 SENATE Extension of time granted Committee Appropriations

06/03/87 SENATE Withdrawn from Appropriations -SJ 683, Placed on Calendar

06/06/87 SENATE Died on Calendar, Iden /Sim /Compare Bill passed, refer to CS/SB 1269 (Ch 87-343)

S 866 GENERAL BILL/CS/ENG by Judiciary-Civil; Dudley (Similar H 321)

Civil Cases/Settlements, provides for offers of settlement in civil cases, provides for sanctions in case of offers which are unreasonably rejected, provides for set off, exceptions & exclusive remedy. Creates 45 061, 062 Effective Date 07/02/87

04/09/87 SENATE Filed

04/23/87 SENATE Introduced, referred to Judiciary-Civil -SJ 143

04/30/87 SENATE On Committee agenda Judiciary-Civil, 05/04/87, 2 00 pm, Room-B

05/01/87 SENATE Extension of time granted Committee Judiciary-Civil

05/04/87 SENATE Comm Report CS by Judiciary-Civil, placed on Calendar -SJ 273

05/12/87 SENATE CS read first time -SJ 277

05/28/87 SENATE Placed on Special Order Calendar -SJ 452, CS passed as amended, YEAS 38 NAYS 0 -SJ 470, Immediately certified -SJ 470

05/28/87 HOUSE In Messages

05/29/87 HOUSE Received, placed on Calendar -HJ 804

06/01/87 HOUSE Placed on Special Order Calendar

06/02/87 HOUSE Substituted for HB 321, Read second time, Amendment adopted, Read third time, CS passed as amended, YEAS 113 NAYS 1 -HJ 966

06/02/87 SENATE In Messages

06/03/87 SENATE Concurred, CS passed as amended, YEAS 30 NAYS 0 -SJ 640

06/03/87 Ordered engrossed, then enrolled -SJ 640

06/16/87 Signed by Officers and presented to Governor

07/02/87 Became Law without Governor's Signature, Chapter No 87-249

S 867 GENERAL BILL by Kiser (Similar H 937)

Ad Valorem Tax/Assessment, provides for legal presumption, in administrative or court proceeding, that property appraiser's assessment or determination is correct, requires taxpayer to overcome such presumption by preponderance of evidence Amends 194 034 171 Effective Date 07/01/87 or upon becoming law, whichever occurs later

HISTORY OF HOUSE BILLS

H 312 (CONTINUED)

- 04/07/87 HOUSE Introduced, referred to Education, K - 12 -HJ 31, On subcommittee agenda—Education, K - 12, 04/07/87, 3 30 pm, 214C, Subcommittee Recommendation pending ratification by full Committee Favorable, with 4 amendments, On Committee agenda, pending subcommittee action—Education, K - 12, 04/08/87, 1 15 pm, 214C
- 04/08/87 HOUSE On Committee agenda, pending subcommittee action—Education, K - 12, 04/08/87, 1-15 pm, 214C—Temporarily passed
- 04/10/87 HOUSE On Committee agenda—Education, K - 12, 04/14/87, 10 00 am, 214C
- 04/14/87 HOUSE Preliminary Committee Action by Education, K - 12 Favorable, as a Committee Substitute, to Calendar
- 04/17/87 HOUSE Comm Report CS by Education, K - 12, placed on Calendar -HJ 182, CS read first time -HJ 182
- 05/13/87 HOUSE Placed on Special Order Calendar
- 05/26/87 HOUSE Read second time -HJ 608, Iden /Sim Senate Bill substituted, Laid on Table under Rule, Iden /Sim /Compare Bill passed, refer to CS/SB 496 (Ch 87-76) -HJ 608

H 313 JOINT RESOLUTION by Bainter (Identical H 342)

- Legislators' Terms/Increased, constitutional amendment to increase length of Senate members' terms from 4 years to 6 years, & House of Representatives from 2 years to 4 years, beginning with 1992 election Amends s 15, Art III, creates s 20, Art XII
- 02/23/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Judiciary
- 04/07/87 HOUSE Introduced, referred to Judiciary -HJ 32
- 04/28/87 HOUSE Subreferred to Subcommittee on Court Systems, Probate and Consumer Law, On Committee agenda—Judiciary, 04/30/87, 8 00 am, 214C, for ratification of subreferral
- 06/06/87 HOUSE Died in Committee on Judiciary

H 314 GENERAL BILL by Souto; Gonzalez-Quevedo and others (Similar CS/ENG/S 223)

- Schools/Work Experience Program, changes eligibility requirement for participation in public school work experience program, changes condition for renewal of financial assistance under such program Amends 240 604 Effective Date. Upon becoming law
- 02/23/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Higher Education
- 04/07/87 HOUSE Introduced, referred to Higher Education -HJ 32, On Committee agenda—Higher Education, 04/07/87, 3 30 pm, 212 HOB, for subreferral, Subreferred to Subcommittee on Administration and Finance, On subcommittee agenda—Higher Education, 04/07/87, 3 45 pm, 212 HOB, Subcommittee Recommendation pending ratification by full Committee Favorable, On Committee agenda, pending subcommittee action—Higher Education, 04/08/87, 1 15 pm, 212 HOB
- 04/08/87 HOUSE Preliminary Committee Action by Higher Education Favorable, to Calendar
- 04/09/87 HOUSE Comm Report, Favorable by Higher Education, placed on Calendar -HJ 104
- 05/26/87 HOUSE Placed on Special Order Calendar
- 05/27/87 HOUSE Iden /Sim Senate Bill substituted, Laid on Table under Rule, Iden /Sim /Compare Bill passed, refer to CS/SB 223 (Ch 87-304) -HJ 670

H 315 GENERAL BILL by Clark and others (Compare H 651, CS/S 982)

- Free Park Admission/65+ yr Olds, provides free admission to state parks to residents age 65 or older Amends 258 014 Effective Date 10/01/87
- 02/23/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Natural Resources, Finance & Taxation, Appropriations
- 04/07/87 HOUSE Introduced, referred to Natural Resources, Finance & Taxation, Appropriations -HJ 32
- 04/16/87 HOUSE On Committee agenda—Natural Resources, 04/20/87, 1 15 pm, Morris Hall, for ratification of subreferral
- 04/20/87 HOUSE Subreferred to Subcommittee III
- 06/06/87 HOUSE Died in Committee on Natural Resources, Iden /Sim / Compare bill passed, refer to CS/SB 982 (Ch 87-336)

H 316 GENERAL BILL by Regulatory Reform; Brown (Similar ENG/S 36)

- Peanut Marketing, (SUNDOWN) clarifies definitions, provides for appointment & terms of advisory council, provides for conduct of business, per diem & support services for council, provides for future review & repeal Amends 573 885, 895, re vives/readopts 573 885(14), 895- 897 Effective Date 10/01/87
- 02/24/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Appropriations
- 03/16/87 HOUSE Withdrawn from Appropriations, Placed on Calendar
- 04/07/87 HOUSE Introduced, placed on Calendar -HJ 32

H 316 (CONTINUED)

- 04/22/87 HOUSE Placed on Special Order Calendar. Read second time, Iden /Sim Senate Bill substituted, Laid on Table under Rule, Iden /Sim /Compare Bill passed, refer to SB 36 (Ch 87-12) -HJ 216

H 317 GENERAL BILL by Souto (Identical S 969, Compare S 929)

- DUI/Speeding/Fines Increased, increases fines for driving under influence & speeding, creates Impaired Drivers & Speeders Trust Fund Amends 316 193, 318 18 Effective Date 10/01/87
- 02/24/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Criminal Justice, Appropriations
- 04/03/87 HOUSE Subreferred to Subcommittee on Crimes, Penalties and Prosecutions
- 04/07/87 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 32, Subreferred to Subcommittee on Crimes, Penalties and Prosecutions
- 05/04/87 HOUSE On Committee agenda—Criminal Justice, 05/06/87, 3-30 pm, Morris Hall, for ratification of subreferral
- 06/06/87 HOUSE Died in Committee on Criminal Justice

H 318 RESOLUTION by Figg (Similar S 506)

- Tampa Bay Recognition Day, recognizes the singularity of Tampa Bay & declares April 21, 1987, to be Tampa Bay Recognition Day
- 02/24/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Natural Resources
- 04/07/87 HOUSE Introduced, referred to Natural Resources -HJ 32
- 04/15/87 HOUSE Withdrawn from Natural Resources -HJ 133, Placed on Calendar
- 04/21/87 HOUSE Read second time, Adopted -HJ 209

H 319 GENERAL BILL/CS by Judiciary; Dunbar and others (Compare CS/ENG/H 12, CS/ENG/H 115, CS/ENG/S 401, S 814)

- Condominiums & Cooperatives, redefines terms "public lodging establishment" to include reference to condos & co-ops, defines term "operator", provides that condominium accounting records may be maintained in another county if located within 50 miles of condominium property, provides that title insurers may act as escrow agents in condo transactions, amends provision re attorneys' fees in lawsuits involving cooperatives Amends 509 013, 718 111, 202, 719 303 Effective Date 10/01/87
- 02/24/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Judiciary, Finance & Taxation, Appropriations
- 04/07/87 HOUSE Introduced, referred to Judiciary, Finance & Taxation, Appropriations -HJ 32
- 04/14/87 HOUSE Subreferred to Subcommittee on Real Property and Family Law, On subcommittee agenda—Judiciary, 04/16/87, 3 30 pm, 16 HOB—Meeting cancelled
- 04/20/87 HOUSE On subcommittee agenda—Judiciary, 04/22/87, 8 00 am, 16 HOB
- 04/22/87 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable, with amendments
- 04/28/87 HOUSE On Committee agenda—Judiciary, 04/30/87, 8 00 am, 214C
- 05/06/87 HOUSE Comm Report CS by Judiciary -HJ 383, CS read first time -HJ 379, Now in Finance & Taxation -HJ 383
- 05/11/87 HOUSE On Committee agenda—Finance & Taxation, 05/13/87, 1 15 pm, 21 HOB, for ratification of subreferral
- 05/26/87 HOUSE Withdrawn from Finance & Taxation -HJ 574, Now in Appropriations
- 06/06/87 HOUSE Died in Committee on Appropriations, Iden /Sim / Compare bill passed, refer to CS/SB 401 (Ch 87-117)

H 320 GENERAL BILL by Arnold (Identical S 313)

- Public Lands/Settlers, repeals provisions re procedures authorizing settlers to enter public lands on which they reside or have in cultivation Repeals 270 03-06 Effective Date 07/01/87
- 02/24/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Natural Resources
- 04/07/87 HOUSE Introduced, referred to Natural Resources -HJ 32
- 04/16/87 HOUSE On Committee agenda—Natural Resources, 04/20/87, 1 15 pm, Morris Hall, for ratification of subreferral
- 04/20/87 HOUSE Subreferred to Subcommittee I
- 04/23/87 HOUSE On subcommittee agenda—Natural Resources, 04/27/87, 3 30 pm, 24 HOB, On Committee agenda, pending subcommittee action—Natural Resources, 04/27/87, 4 30 pm, Morris Hall
- 04/27/87 HOUSE Preliminary Committee Action by Natural Resources Favorable, to Calendar
- 04/30/87 HOUSE Comm Report Favorable by Natural Resources, placed on Calendar -HJ 336
- 06/06/87 HOUSE Died on Calendar, Iden /Sim /Compare Bill passed, refer to SB 313 (Ch 87-115)

H 321 GENERAL BILL by Rush (Similar CS/ENG/S 866)

- Civil Cases/Settlements, provides for offers of settlement in civil cases, provides for sanctions in case of offers which are unreasonably rejected, provides for set off, exceptions & exclusive remedy Creates 45 061 Effective Date 07/01/87
- 02/24/87 HOUSE Prefiled
- 03/05/87 HOUSE Referred to Judiciary, Appropriations

HISTORY OF HOUSE BILLS

H 321 (CONTINUED)

04/07/87 HOUSE Introduced, referred to Judiciary, Appropriations—HJ 32, Subreferred to Subcommittee on Court Systems, Probate and Consumer Law, On subcommittee agenda—Judiciary, 04/09/87, 10 00 am, 16 HOB
 04/09/87 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable, with 1 amendment
 04/13/87 HOUSE On Committee agenda—Judiciary, 04/15/87, 1 15 pm, 214C—Temporarily passed
 04/21/87 HOUSE On Committee agenda—Judiciary, 04/23/87, 10 00 am, 214C
 04/28/87 HOUSE On Committee agenda—Judiciary, 04/30/87, 8 00 am, 214C
 05/05/87 HOUSE On Committee agenda—Judiciary, 05/07/87, 8 00 am, 214C
 05/11/87 HOUSE Comm Report Favorable with 4 amendment(s) by Judiciary—HJ 400, Now in Appropriations—HJ 400
 05/19/87 HOUSE Withdrawn from Appropriations—HJ 480, Placed on Calendar
 06/01/87 HOUSE Placed on Special Order Calendar
 06/02/87 HOUSE Iden./Sim Senate Bill substituted, Laid on Table under Rule, Iden./Sim./Compare Bill passed, refer to CS/SB 866 (Ch 87-249)—HJ 966

H 322 GENERAL BILL by Youth; Cosgrove; Reddick (Similar CS/S 1032)

Delinquency Prevention Act, creates said act & authorizes establishment of council, authorizes HRS to establish delinquency prevention program grants, provides for application procedures & conditions, directs court to order payment of intake processing fee upon filing of delinquency petition, provides for deposit of fees, creates Delinquency Prevention Trust Fund, etc Creates 959 30, amends 39 04 Effective Date 07/01/87
 02/24/87 HOUSE Prefiled
 03/05/87 HOUSE Referred to Finance & Taxation, Appropriations
 04/07/87 HOUSE Introduced, referred to Finance & Taxation, Appropriations—HJ 32
 04/29/87 HOUSE Withdrawn from Finance & Taxation—HJ 315, Now in Appropriations
 05/19/87 HOUSE On Committee agenda—Appropriations, 05/21/87, 3 30 pm, 21 HOB
 05/21/87 HOUSE Preliminary Committee Action by Appropriations Favorable, to Calendar
 05/22/87 HOUSE Comm Report Favorable by Appropriations, placed on Calendar—HJ 567
 05/27/87 HOUSE Placed on Special Order Calendar
 05/28/87 HOUSE Read second time, Read third time, Passed, YEAS 113 NAYS 0—HJ 750
 05/28/87 SENATE In Messages
 06/01/87 SENATE Received, referred to Health and Rehabilitative Services, Finance, Taxation and Claims, Appropriations—SJ 538
 06/06/87 SENATE Died in Committee on Health and Rehabilitative Services

H 323 GENERAL BILL by Youth; Cosgrove; Reddick (Identical S 1031, Compare CS/H 813, CS/S 872)

Juveniles/Aftercare Program, requires establishment of aftercare program by H.R.S., requires participation of juveniles released from training schools & other residential commitment programs, provides for subsequent release from aftercare commitment status, provides for contracts with providers, provides for conformance with certain outcome evaluation programs, etc Amends 39 01, creates 39.115 Appropriation \$1,500,000 Effective Date 07/01/87
 02/24/87 HOUSE Prefiled
 03/05/87 HOUSE Referred to Appropriations
 04/07/87 HOUSE Introduced, referred to Appropriations—HJ 32
 05/04/87 HOUSE Subreferred to Subcommittee on HRS/Criminal Justice, On Committee agenda—Appropriations, 05/06/87, 8 00 am, 21 HOB, for ratification of subreferral
 05/25/87 HOUSE On Committee agenda—Appropriations, 05/26/87, 8 00 am, 21 HOB—Temporarily passed
 05/28/87 HOUSE On Committee agenda—Appropriations, 05/28/87, 3 30 pm, 21 HOB, Preliminary Committee Action by Appropriations Favorable, with 3 amendments, to Calendar
 06/03/87 HOUSE Comm Report Favorable with 3 amendment(s) by Appropriations, placed on Calendar—HJ 1133
 06/06/87 HOUSE Died on Calendar

H 324 GENERAL BILL/CS by Transportation; Webster; Healey, Lombard, Hanson; Sansom, Long, Morse and others (Identical CS/S 527, Compare H 168, H 341, H 531, CS/S 19, S 240, ENG/S 266)
Transportation Projects/Maintenance, (THIS BILL COMBINES H324,341,531,168) authorizes DOT to enter into contracts with counties & municipalities, revises purposes for which funds may be used under Local Government Transportation Assistance Act, provides for participation by municipalities in rights-of-way, state road building, & maintenance projects under certain circumstances, etc Creates 335 055, amends 335 20, 337 27, 339 08, 12 Effective Date 07/01/87
 02/25/87 HOUSE Prefiled
 03/05/87 HOUSE Referred to Transportation, Appropriations
 04/07/87 HOUSE Introduced referred to Transportation, Appropriations—HJ 32

H 324 (CONTINUED)

04/10/87 HOUSE On Committee agenda—Transportation, 04/14/87, 8 30 am, 214C, for subreferral
 04/14/87 HOUSE Subreferred to Subcommittee on Transportation Facilities and Service
 04/17/87 HOUSE On subcommittee agenda—Transportation, 04/21/87, 4 30 pm, 214C—Meeting cancelled
 04/23/87 HOUSE On subcommittee agenda—Transportation, 04/27/87, 1 15 pm, 214C
 04/27/87 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable, as a Committee Substitute, combined with HB's 341 & 531, On Committee agenda, pending subcommittee action—Transportation, 04/29/87, 1 15 pm, 214C
 04/29/87 HOUSE Preliminary Committee Action by Transportation Favorable, as a Committee Substitute, combined with HB's 168, 341 & 531
 05/04/87 HOUSE CS combines this bill and 341, 531 & 168, Combined CS additional reference(s) Finance & Taxation, Comm Report. CS by Transportation—HJ 348, CS read first time—HJ 346, Now in Finance & Taxation—HJ 348
 05/11/87 HOUSE On Committee agenda—Finance & Taxation, 05/13/87, 1 15 pm, 21 HOB, for ratification of subreferral
 05/15/87 HOUSE Withdrawn from Finance & Taxation—HJ 453, Now in Appropriations
 05/22/87 HOUSE Withdrawn from Appropriations—HJ 566, Placed on Calendar
 05/27/87 HOUSE Placed on Special Order Calendar, Read second time, Read third time, CS passed, YEAS 107 NAYS 0—HJ 678
 05/27/87 SENATE In Messages
 05/29/87 SENATE Received, referred to Transportation, Appropriations—SJ 500, Withdrawn from Transportation, Appropriations, Substituted for CS/SB 527, CS passed, YEAS 37 NAYS 0—SJ 515
 06/01/87 Ordered enrolled
 06/16/87 Signed by Officers and presented to Governor
 06/30/87 Approved by Governor, Chapter No 87-164

H 325 GENERAL BILL by Kelly (Similar CS/ENG/S 383)

Nonpublic Colleges/License Exemption, revises types of institutions required to apply for exemption from licensing requirements, provides requirements for exemption, specifies requirements for remaining in compliance for exemption, specifies institutions that are exempt upon submission of certain information, reenacts provision re participation in common course designation & numbering system by certain institutions, to incorporate said amendment in reference Amends 246 085, reenacts 246 013 Effective Date 07/01/87
 02/26/87 HOUSE Prefiled
 03/05/87 HOUSE Referred to Higher Education, Appropriations
 04/07/87 HOUSE Introduced, referred to Higher Education, Appropriations—HJ 32, On Committee agenda—Higher Education, 04/07/87, 3 30 pm, 212 HOB, for subreferral, Subreferred to Subcommittee on Planning and Programs
 05/13/87 HOUSE Withdrawn from Higher Education—HJ 439, Now in Appropriations
 05/26/87 HOUSE Withdrawn from Appropriations—HJ 608, Placed on Calendar
 05/29/87 HOUSE Placed on Special Order Calendar
 06/01/87 HOUSE Iden./Sim Senate Bill substituted, Laid on Table under Rule, Iden./Sim./Compare Bill passed, refer to CS/SB 383 (Ch 87-248)—HJ 875

H 326 GENERAL BILL/ENG by Hodges (Similar CS/S 644, Compare ENG/H 418, CS/H 525, CS/CS/ENG/S 392)

Saltwater Products License, amends provision to be consistent with current law, revises license fees, requires retail dealers to keep certain records, requires saltwater products license for certain harvest of crawfish, changes fee disposition, requires certain display of licenses & trap numbers, authorizes DNR to implement trap retrieval program, etc Amends 370 06, 07, 14 Effective Date 07/01/87
 02/26/87 HOUSE Prefiled
 03/05/87 HOUSE Referred to Natural Resources, Finance & Taxation, Appropriations
 04/07/87 HOUSE Introduced, referred to Natural Resources, Finance & Taxation, Appropriations—HJ 33
 04/16/87 HOUSE On Committee agenda—Natural Resources, 04/20/87, 1 15 pm, Morris Hall, for ratification of subreferral
 04/20/87 HOUSE Subreferred to Subcommittee IV
 04/23/87 HOUSE On subcommittee agenda—Natural Resources, 04/27/87, 3 30 pm, 317 HOB, On Committee agenda, pending subcommittee action—Natural Resources, 04/27/87, 4 30 pm, Morris Hall
 04/27/87 HOUSE Preliminary Committee Action by Natural Resources Favorable
 04/30/87 HOUSE Comm Report Favorable by Natural Resources—HJ 330, Now in Finance & Taxation—HJ 330
 05/04/87 HOUSE Withdrawn from Finance & Taxation—HJ 344, Now in Appropriations

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Lanq <i>AL</i></u>	Lester <i>BV</i>	1. <u>JCI</u>	_____
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Civil Cases/
Settlements

BILL NO. AND SPONSOR:

SB 866 by
Senator DudleyI. SUMMARY:

A. Present Situation:

18 *1-3*

Neither the Florida Statutes nor the Florida Rules of Civil Procedure provide for an offer of settlement. However, the Rules of Civil Procedure do provide for an offer of judgment, 1.442, F.R.C.P. Under the rule a defendant can make an offer of judgment to the adverse party any time more than 10 days before the trial begins. When such an offer is accepted, the defendant allows judgment to be entered against him for the money or property specified in the offer. If the adverse party does not accept the offer and the judgment he obtains at trial is not more favorable than the offer, he must pay the costs incurred after the making of the offer.

B. Effect of Proposed Changes:

Senate Bill 866 expands upon the offer of judgment concept to encourage settlements between parties. The bill would provide sanctions for the unreasonable rejection of an offer of settlement given by either a defendant or a plaintiff.

An offer will be presumed to have been unreasonably rejected by a defendant if the final judgment is at least 25 percent greater than the plaintiff's offer, or by a plaintiff if the final judgment is at least 25 percent less than the defendant's offer. As the 25 percent deviations raise only presumptions, the court may, in an appropriate case, determine that an offer was unreasonably rejected even though it was within 25 percent of the final judgment or that it was reasonably rejected although the offer deviated more than 25 percent from the final judgment.

Sanctions that could be imposed under the bill include payment of the costs and expenses incurred after the making of an offer. These sanctions may be imposed notwithstanding limitations on recoveries by operation of contract or Florida law.

If a sanction was imposed against a plaintiff, it would be set-off against any award to the plaintiff. If the sanction was greater than the award, judgment would be entered for the defendant in the amount of the excess.

An offer made under this act may not be made until 60 days after the service of the summons and complaint but must be made at least 60 days before trial. Counter-offers may be made up to 45 days before trial. Offers are valid for 45 days, unless withdrawn (if withdrawn, no sanctions would be imposed). Subsequent offers may be made. The making of an offer is inadmissible as evidence, except for the enforcement of an offer accepted or for the imposition of sanctions. Offers must be in writing and must be served on the offeror.

The provisions of this act do not apply to class actions, family law matters, or shareholders' derivative suits.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This legislation is designed to encourage settlements, and as such could result in lower litigation costs.

B. Government:

If this legislation is successful in encouraging out-of-court settlements, it should reduce the fiscal impact of litigation on the court system.

Subsection (6) of proposed s. 45.061, F.S., which allows sanctions to be imposed notwithstanding any limitation on recovery of costs or expenses in the Florida laws, could be interpreted as providing an additional waiver of sovereign immunity. However, such interpretation would be inconsistent with the requirement of an "Express Waiver," Carlile v. Game & Fresh Water Fish Commission, 354 So.2d 362 (Fla. 1977).

If interpreted as not providing a waiver, governmental agencies would be liable for sanctions imposed only within the present waiver, but would be entitled to sanctions wherever appropriate. Although awarded, sanctions could not be collected from a judgment-proof party.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

BILL VOTE SHEET

(VS-87: File with Secretary of Senate)

BILL NO. SB 866COMMITTEE ON Judiciary-CivilDATE May 4, 1987

FINAL ACTION:

TIME 2:00 - 5:00 P.M. Favorably with amendmentsPLACE Rm. B - Senate Office Bldg x Favorably with Committee SubstituteOTHER COMMITTEE REFERENCES:
(In order shown) UnfavorablyOTHER: Temporarily Passed Reconsidered Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	An. #1 Dudley		Am. #2 Dudley		Am. #3 Dudley					
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
		Crenshaw	W		W		W					
x		Dudley	I		I		I					
x		Frank	T		T		T					
x		Jenne	H		H		H					
	x	Weinstein	O		O		O					
x		VICE CHAIRMAN Grant	U		U		U					
x		CHAIRMAN Langley	T		T		T					
			O		O		O					
			B		B		B					
			J		J		J					
			E		E		E					
			C		C		C					
			T		T		T					
			I		I		I					
			O		O		O					
			N		N		N					
5	1	TOTAL	x		x		x					
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared (x)
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance (x)

By the Committee on Judiciary-Civil and Senator Dudley

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 366

The committee substitute creates s. 45.061, F.S. First, it clarifies that, for purposes of determining whether an offer of settlement was unreasonably rejected, the defendant also may be a counter-plaintiff and that as such the amount of the judgment awarded to him, from which the 25 per cent deviation is calculated, shall include money damages and costs and expenses reasonably incurred by him.

Second, the committee substitute prevents the possibility of double recovery of costs and expenses awarded by operation of other provisions of Florida law in the amount of the sanction awarded.

Finally, the committee substitute clarifies that nothing in s. 45.061, F.S., would waive the limits of sovereign immunity set forth in s. 768.28, F.S., 1986 Supp.

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

1 A bill to be entitled
2 An act relating to civil procedure; creating s.
3 45.061, F.S.; providing for offers of
4 settlement in civil cases; providing for
5 sanctions in the case of offers which are
6 unreasonably rejected; providing for set off;
7 providing exceptions; providing exclusive
8 remedy; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 45.061, Florida Statutes, is
13 created to read:
14 45.061 Offers of settlement.--
15 (1) At any time more than 60 days after the service of
16 a summons and complaint on a party but not less than 60 days
17 (or 45 days if it is a counteroffer) before trial, any party
18 may serve upon an adverse party a written offer which shall
19 not be filed with the court, which offer shall be denominated
20 as an offer under this section, to settle a claim for the
21 money, property, or relief specified in the offer and to enter
22 into a stipulation dismissing the claim or to allow judgment
23 to be entered accordingly. The offer shall remain open for 45
24 days unless sooner withdrawn by a writing served on the
25 offeree prior to acceptance by the offeree. An offer that is
26 neither withdrawn nor accepted within 45 days shall be deemed
27 rejected. The fact that an offer is made but not accepted
28 does not preclude the making of a subsequent offer. Evidence
29 of an offer is not admissible except in proceedings to enforce
30 a settlement or to determine sanctions under this section.
31

1 (2) If, upon a motion by the offeror within 30 days
 2 after the entry of judgment, the court determines that an
 3 offer was rejected unreasonably, resulting in unnecessary
 4 delay and needless increase in the cost of litigation, it may
 5 impose an appropriate sanction upon the offeree. In making
 6 this determination the court shall consider all of the
 7 relevant circumstances at the time of the rejection,
 8 including:

9 (a) Whether, upon specific request by the offeree, the
 10 offeror had unreasonably refused to furnish information which
 11 was necessary to evaluate the reasonableness of the offer.

12 (b) Whether the suit was in the nature of a "test-
 13 case," presenting questions of far-reaching importance
 14 affecting nonparties.

15
 16 An offer shall be presumed to have been unreasonably rejected
 17 by a defendant if the judgment entered is at least 25 percent
 18 greater than the offer rejected, and shall be presumed to have
 19 been unreasonably rejected by a plaintiff if the judgment
 20 entered is at least 25 percent less than the offer rejected.
 21 For the purposes of this section, the amount of the judgment
 22 shall be the total amount of money damages awarded plus the
 23 amount of costs and expenses reasonably incurred by the
 24 plaintiff or counter-plaintiff prior to the making of the
 25 offer for which recovery is provided by operation of other
 26 provisions of Florida law.

27 (4) In determining the amount of any sanction to be
 28 imposed under this section, the court shall award:

29 (a) The amount of the parties' costs and expenses,
 30 including reasonable attorneys' fees, investigative expenses,
 31 expert witness fees and other expenses which relate to the

1 preparation for trial, incurred after the making of the offer
 2 of settlement; and

3 (b) The statutory rate of interest that could have
 4 been earned at the prevailing statutory rate on the amount
 5 that a claimant offered to accept to the extent that the
 6 interest is not otherwise included in the judgment.

7
 8 The amount of any sanction imposed under this section against
 9 a plaintiff shall be set off against any award to the
 10 plaintiff, and if such sanction is in an amount in excess of
 11 the award to the plaintiff, judgment shall be entered in favor
 12 of the defendant and against the plaintiff in the amount of
 13 the excess.

14 (5) This section shall not apply to any class action
 15 or shareholder derivative suit or to matters relating to
 16 dissolution of marriage, alimony, nonsupport, or child
 17 custody.

18 (6) Sanctions authorized under this section may be
 19 imposed notwithstanding any limitation on recovery of costs or
 20 expenses which may be provided by contract or in other
 21 provisions of Florida law. This section shall not be
 22 construed to waive the limits of sovereign immunity set forth
 23 in s. 768.28.

24 Section 2. This act shall take effect July 1, 1987, or
 25 upon becoming a law, whichever occurs later.

26

27

28

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31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 866

The committee substitute creates s. 45.061, F.S. First, it clarifies that, for purposes of determining whether an offer of settlement was unreasonably rejected, the defendant also may be a counter-plaintiff and that as such the amount of the judgment awarded to him, from which the 25 per cent deviation is calculated, shall include money damages and costs and expenses reasonably incurred by him.

Second, the committee substitute prevents the possibility of double recovery of costs and expenses awarded by operation of other provisions of Florida law in the amount of the sanction awarded.

Finally, the committee substitute clarifies that nothing in s. 45.061, F.S., would waive the limits of sovereign immunity set forth in s. 768.28, F.S., 1986 Supp.

Committee on Judiciary-Civil


Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Lang</u> <i>HL</i>	<u>Lester</u> <i>BL</i>	1. <u>JCI</u>	<u>FAV/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT: Civil Cases/
Settlements

BILL NO. AND SPONSOR: SB 866 by Judiciary-Civil
Committee and Senator Dudley

I. SUMMARY:

A. Present Situation:

Neither the Florida Statutes nor the Florida Rules of Civil Procedure provide for an offer of settlement. The Rules of Civil Procedure provide for an offer of judgment, 1.442, F.R.C.P. Under the rule a defendant can make an offer of judgment to the adverse party any time more than 10 days before the trial begins. When such an offer is accepted, the defendant allows judgment to be entered against him for the money or property specified in the offer. If the adverse party does not accept the offer and the judgment he obtains at trial is not more favorable than the offer, he must pay the costs incurred after the making of the offer.

Section 768.79, F.S., 1986 Supp., provides for an offer of judgment and demand for judgment in an action for damages. The section provides an incentive for both the plaintiff and the defendant to accept an offer of judgment.

Under the statute, when the defendant files an offer of judgment which the plaintiff does not accept within 30 days, the defendant is entitled to reasonable costs and attorney's fees incurred from the date of filing the offer if the judgment obtained by the plaintiff is at least 25 percent less than the offer. To implement this, the court sets off the costs and fees against the award. If costs and attorney's fees exceed the award, the court must enter a judgment for defendant for the costs and fees, less the amount of the award. Plaintiff is entitled to reasonable costs and attorney's fees if he files a demand for judgment which the defendant does not accept and obtains a judgment which is at least 25 percent greater than the offer.

Under s. 768.79, F.S., 1986 Supp., offers and demands cannot be made until 60 days after filing the suit, and cannot be accepted later than 10 days before trial. The court has discretion to determine that an offer was not made in good faith and, if the court so finds, it may disallow award of costs and fees. When determining the reasonableness of an award of attorney's fees, the court may consider certain enumerated factors and all other relevant criteria.

B. Effect of Proposed Changes:

Committee Substitute for Senate Bill 866 expands upon the offer of judgment concept in s. 768.79, F.S., 1986 Supp., to encourage settlements between parties. The bill would provide sanctions for the unreasonable rejection of an offer of settlement given by either a defendant or a plaintiff.

An offer will be presumed to have been unreasonably rejected by a defendant if the final judgment is at least 25 percent

greater than the plaintiff's offer, or by a plaintiff if the final judgment is at least 25 percent less than the defendant's offer. As the 25 percent deviations raise only presumptions, the court may, in an appropriate case, determine that an offer was unreasonably rejected even though it was within 25 percent of the final judgment or that it was reasonably rejected although the offer deviated more than 25 percent from the final judgment.

Sanctions that could be imposed under the bill include payment of the costs and expenses incurred after the making of an offer. These sanctions may be imposed notwithstanding limitations on recoveries by operation of contract or Florida law. However, nothing in newly created s. 45.061, F.S., would waive the limits of sovereign immunity as set forth in s. 768.28, F.S., 1986 Supp.

If a sanction was imposed against a plaintiff, it would be set-off against any award to the plaintiff. If the sanction was greater than the award, judgment would be entered for the defendant in the amount of the excess.

An offer made under this act may not be made until 60 days after the service of the summons and complaint but must be made at least 60 days before trial. Counter-offers may be made up to 45 days before trial. Offers are valid for 45 days, unless withdrawn (if withdrawn, no sanctions would be imposed). Subsequent offers may be made. The making of an offer is inadmissible as evidence, except for the enforcement of an offer accepted or for the imposition of sanctions. Offers must be in writing and must be served on the offeror.

The provisions of this act do not apply to class actions, family law matters, or shareholders' derivative suits.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This legislation is designed to encourage settlements, and as such could result in lower litigation costs.

B. Government:

If this legislation is successful in encouraging out-of-court settlements, it should reduce the fiscal impact of litigation on the court system.

Subsection (6) of proposed s. 45.061, F.S., which allows sanctions to be imposed notwithstanding any limitation on recovery of costs or expenses in the Florida laws, could be interpreted as providing an additional waiver of sovereign immunity. However, such interpretation would be inconsistent with the requirement of an "Express Waiver," Carlile v. Game & Fresh Water Fish Commission, 354 So.2d 362 (Fla. 1977).

If interpreted as not providing a waiver, governmental agencies would be liable for sanctions imposed only within the present waiver, but would be entitled to sanctions wherever appropriate. Although awarded, sanctions could not be collected from a judgment-proof party.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

Journal
of the
S E N A T E
State of Florida

NINETEENTH REGULAR SESSION
UNDER THE CONSTITUTION AS REVISED IN 1968
APRIL 7 THROUGH JUNE 6, 1987



Plummer	Stuart	Weinstein
Ros-Lehtinen	Thomas	Weinstock
Scott	Thurman	Woodson

Nays—None

On motion by Senator Hill, by two-thirds vote HB 1355 was withdrawn from the Committee on Corrections, Probation and Parole

On motion by Senator Hill—

HB 1355—A bill to be entitled An act relating to corrections; providing for the awarding of gain-time to inmates who owe court costs, providing a limitation, providing an effective date

—a companion measure, was substituted for SB 1152 and read the second time by title On motion by Senator Hill, by two-thirds vote HB 1355 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Barron	Gordon	Kiser	Scott
Beard	Grant	Langley	Stuart
Brown	Grizzle	Lehtinen	Thomas
Childers, D	Hair	Malchon	Thurman
Childers, W D	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

SB 1152 was laid on the table

CS for SB 866—A bill to be entitled An act relating to civil procedure, creating § 45.061, F.S.; providing for offers of settlement in civil cases, providing for sanctions in the case of offers which are unreasonably rejected, providing for set off, providing exceptions; providing exclusive remedy; providing an effective date

—was read the second time by title

Senator Dudley moved the following amendment which was adopted

Amendment 1—On page 3, between lines 23 and 24, insert.

Section 2 Section 45 062, Florida Statutes, is created to read:

45 062 Settlements, conditions, or orders when an agency of the executive branch is a party.—In any civil action in which a state executive branch agency or officer is a party in state or federal court, no officer, agent, official or attorney who represents or is acting on behalf of such agency or officer may settle such action, consent to any condition, or agree to any order in connection therewith, if the settlement, condition, or order requires the expenditure of or obligation to expend any state funds or other state resources, or the establishment of any new program, unless

(1) The expenditure is provided for by an existing appropriation or program established by law; and

(2) Reasonable prior written notification is given to the President of the Senate and the Speaker of the House of Representatives

(Renumber subsequent section.)

On motion by Senator Dudley, by two-thirds vote CS for SB 866 as amended was read the third time by title, passed, ordered engrossed and then certified to the House The vote on passage was.

Yeas—38

Barron	Crawford	Girardeau	Hill
Beard	Crenshaw	Gordon	Hollingsworth
Brown	Deratany	Grant	Jenne
Childers, D	Dudley	Grizzle	Jennings
Childers, W D	Frank	Hair	Johnson

Kirkpatrick	McPherson	Ros-Lehtinen	Weinstein
Langley	Meek	Scott	Weinstock
Lehtinen	Myers	Stuart	Woodson
Malchon	Peterson	Thomas	
Margolis	Plummer	Thurman	

Nays—None

On motion by Senator Dudley, the rules were waived and CS for SB 866 was ordered immediately certified to the House

Motions

On motion by Senator Barron, House Bills 1114 and 1115 were added to the end of the local bill calendar.

LOCAL CALENDAR

Consideration of SB 1322 was deferred.

SB 1324—A bill to be entitled An act relating to Lee County; amending s. 15, chapter 74-522, Laws of Florida, requiring the Lee County Sheriff's Department to pay a portion of the health insurance costs of certain retired personnel; providing for eligibility for such benefit, providing an effective date

—was read the second time by title On motion by Senator Dudley, by two-thirds vote SB 1324 was read the third time by title, passed and certified to the House The vote on passage was

Yeas—39

Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D	Grizzle	Lehtinen	Stuart
Childers, W D	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 1327—A bill to be entitled An act relating to Lee County, providing for liens in favor of operators of hospitals upon causes of actions, suits, claims, counterclaims, and demands accruing to patients therein, or their legal representatives, and upon amounts due or payable under hospital insurance or the like, and upon judgments, settlements, and settlement agreements, related to illness or injuries to such patients, for all reasonable charges for hospital care, treatment, and maintenance necessitated by such illness or injuries, and upon amounts due under hospitalization, public liability, and other indemnity policies; providing for method of perfecting and enforcing such liens, providing for recovery of costs, attorney's fees, and expenses, requiring claims for liens to be recorded, providing for fees for recording, providing for method of satisfaction of such liens, providing that a release or satisfaction is not valid as against such a lien unless the lienholder joins therein or executes a release, providing that acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment, or any settlement in absence of release or satisfaction of lien, prima facie constitutes impairment of such lien, giving the lienholder a right of action at law for damages on account of such impairment; providing for recovery from one accepting a release or satisfaction or making settlement, exempting from provisions of this act matters within the purview of the Worker's Compensation Law of this state; providing an effective date

—was read the second time by title On motion by Senator Dudley, by two-thirds vote SB 1327 was read the third time by title, passed and certified to the House The vote on passage was

Yeas—39

Barron	Childers, W D	Dudley	Grant
Beard	Crawford	Frank	Grizzle
Brown	Crenshaw	Girardeau	Hair
Childers, D	Deratany	Gordon	Hill

Journal
of the
Florida
House of Representatives



Eighty-ninth
Regular Session
since Statehood in 1845

April 7 through June 6, 1987

[Including a record of transmittal of Acts subsequent to sine die adjournment]

Grindie	Jones, D L	Mitchell	Silver
Guber	Kelly	Morse	Simon
Gustafson	King	Mortham	Simone
Gutman	Langton	Nergard	Smith
Hanson	Lawson	Ogden	Souto
Harden	Lewis	Ostrau	Starks
Hargrett	Liberti	Patchett	Stone
Harris	Lippman	Peeples	Thomas
Hawkins	Locke	Press	Titone
Healey	Logan	Reaves	Tobiasen
Hill	Lombard	Reddick	Tobin
Hodges	Long	Renke	Trammell
Holland	Mackenzie	Rochlin	Troxler
Ireland	Mackey	Rudd	Upchurch
Irvine	Martin	Rush	Wallace
Jamerson	Martinez	Sample	Webster
Jennings	McEwan	Sanderson	Wetherell
Johnson, B L	Meffert	Sansom	Woodruff
Johnson, R C	Messersmith	Saunders	Young
Jones, C F	Metcalf	Shelley	

Nays—None

Votes after roll call

Yeas—Rehm

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

HB 321 was taken up On motion by Rep. Rush, CS/SB 866, a similar or companion measure, was substituted and taken up in lieu of HB 321 Under the rule, the House bill was laid on the table and—

CS for SB 866—A bill to be entitled An act relating to civil procedure, creating s 45 061, F.S., providing for offers of settlement in civil cases, providing for sanctions in the case of offers which are unreasonably rejected, providing for set off, providing exceptions, providing exclusive remedy, providing an effective date

—was read the second time by title

Representative Rush offered the following amendment

Amendment 1—On page 3, line 16, after "nonsupport" insert eminent domain,

Rep. Rush moved the adoption of the amendment, which was adopted without objection

On motion by Rep. Rush, the rules were waived by two-thirds vote and CS/SB 866, as amended, was read the third time by title On passage, the vote was—

Yeas—113

The Chair	Deutsch	Healey	Mackey
Arnold	Drage	Hill	Martin
Ascherl	Dunbar	Hodges	Martinez
Bainter	Figg	Holland	McEwan
Banjanin	Frankel	Ireland	Meffert
Bankhead	Friedman	Irvine	Messersmith
Bass	Frishe	Jamerson	Metcalf
Bell	Gaffney	Jennings	Mitchell
Bloom	Garcia	Johnson, B L	Morse
Bronson	Gardner	Johnson, R C	Mortham
Brown	Glickman	Jones, C F	Nergard
Burke	Gonzalez-	Jones, D L	Ogden
Burnsed	Quevedo	Kelly	Ostrau
Canady	Goode	King	Patchett
Carlton	Gordon	Langton	Peeples
Carpenter	Grindie	Lawson	Press
Casas	Guber	Lewis	Reaves
Clark	Gustafson	Liberti	Reddick
Clements	Gutman	Lippman	Rehm
Cosgrove	Hanson	Locke	Renke
Crady	Hargrett	Lombard	Rochlin
Crotty	Harris	Long	Rudd
Davis	Hawkins	Mackenzie	Rush

Sample	Simon	Thomas	Webster
Sanderson	Simone	Titone	Wetherell
Sansom	Smith	Trammell	Woodruff
Saunders	Souto	Troxler	Young
Shelley	Starks	Upchurch	
Silver	Stone	Wallace	

Nays—1

Diaz-Balart

Votes after roll call

Yeas to Nays—Simon

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

CS/HB 802—A bill to be entitled An act relating to toxic substances, amending ss 442 102, 442 103, 442 109, 442 115, and 442.118, F.S., creating s 442 130, F.S., revising the definition of "health professional", providing for regulation of toxic substances stored in a workplace by the Department of Labor and Employment Security, providing an additional source for the Florida Substance List, exempting sealed substances, consumer products, and stored substances from certain regulations, providing for information regarding the presence of toxic substances to be furnished to local emergency agencies, providing for enforcement of regulations of the department by counties and municipalities, providing a civil penalty, providing for a standard form, providing an effective date

—was read the second time by title

Representative Locke offered the following amendment

Amendment 1—On page 7, line 9, after the period, insert

Section 7 Toxic substances in construction, repair, or maintenance of public school facilities —

(1) All toxic substances enumerated in the Florida Substance List established pursuant to s 442 103, Florida Statutes, that are to be used in the construction, repair or maintenance of educational facilities are restricted to usage according to the following provisions:

(a) Before any such substance may be used, the contractor shall notify the district superintendent in writing at least three working days prior to using the substance. The notification shall contain

- 1 The name of the substance to be used,*
- 2 Where the substance is to be used, and*
- 3 When the substance is to be used*

There shall be attached to the notification a copy of a material safety data sheet as defined in s 442 102, Florida Statutes, for each such substance

(b) The district superintendent shall take all reasonable actions to ensure that the contractor complies with the safety precautions and handling instructions set forth in the material safety data sheet for each substance used by the contractor so that usage of the substance poses no threat to the health and safety of students, school personnel, and the general public

(2) This section shall not be construed to impair the validity of obligations under contracts in existence on the effective date of this act (renumber subsequent sections)

Rep. Locke moved the adoption of the amendment, which was adopted without objection.

Representative Locke offered the following title amendment

Amendment 2—On page 1, line 18, after the semicolon, insert requiring notice of toxic substances which may be used in the performance of such contract, providing the district superintendent with the responsibility of enforcing safety precautions set forth in the material safety data sheets for toxic substances used, providing a prohibition against the impairment of obligations of contract,

Rep. Locke moved the adoption of the amendment, which was adopted without objection

19

~~371~~ 1601

**PRELIMINARY DRAFT OF PROPOSED
AMENDMENTS TO THE
FEDERAL RULES OF APPELLATE PROCEDURE
FEDERAL RULES OF CIVIL PROCEDURE
FEDERAL RULES OF CRIMINAL PROCEDURE
AND
RULES GOVERNING SECTION 2254 CASES AND
SECTION 2255 PROCEEDINGS IN THE
UNITED STATES DISTRICT COURTS**

NOTICE

Public hearings will be held on
February 1, 1985 in Washington, D. C.
and on February 21, 1985 in
San Francisco, California

**COMMITTEE ON RULES OF PRACTICE
AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE
UNITED STATES**

SEPTEMBER 1984

unnecessary expense and delay. This amendment adds subdivision (a) to Rule 63, giving a successor judge the discretion to assume the duties of a judge who becomes disabled anytime after commencement without granting a new trial.

To avoid the injustice that may result in some cases due to the successor judge's unfamiliarity with the action, the new Rule 63(a) provides, in language similar to Federal Rule of Criminal Procedure 25(a), that the successor judge must certify familiarity with the record and determine that the case may be completed before that judge without prejudice to the parties. If the successor judge during trial determines that he cannot adequately familiarize himself with the evidence already presented to the court simply by reading the record, then a new trial may be ordered. This often would be the case when an assessment by the judge of the credibility of witnesses who have appeared is required.

Rule 63(b) continues the substance of the original rule and governs situations in which the trial has been completed and there has been a verdict or findings of fact and conclusions of law before the disability occurs. The text has been revised to align it with that of Rule 63(a).

Rule 68. Offer of Judgment Settlement; Sanctions

1 At any time more than 10 days before the trial begins, a party
2 defending against a claim may serve upon the adverse party an offer
3 to allow judgment to be taken against him for the money or property
4 or to the effect specified in his offer, with costs then accrued. If
5 within 10 days after the service of the offer the adverse party serves
6 written notice that the offer is accepted, either party may then file
7 the offer and notice of acceptance together with proof of service
8 thereof and thereupon the clerk shall enter judgment. An offer not
9 accepted shall be deemed withdrawn and evidence thereof is not
10 admissible except in a proceeding to determine costs. If the
11 judgment finally obtained by the offeree is not more favorable than
12 the offer, the offeree must pay the costs incurred after the making

13 of the offer. The fact that an offer is made but not accepted does
14 not preclude a subsequent offer. When the liability of one party to
15 another has been determined by verdict or order or judgment, but
16 the amount or extent of the liability remains to be determined by
17 further proceedings, the party adjudged liable may make an offer of
18 judgment, which shall have the same effect as an offer made before
19 trial if it is served within a reasonable time not less than 10 days
20 prior to the commencement of hearings to determine the amount or
21 extent of liability.

22 At any time more than 60 days after the service of the
23 summons and complaint on a party but not less than 90 days (or 75
24 days if it is a counter-offer) before trial, either party may serve
25 upon the other party but shall not file with the court a written offer,
26 denominated as a offer under this rule, to settle a claim for the
27 money, property, or relief specified in the offer and to enter into a
28 stipulation dismissing the claim or to allow judgment to be entered
29 accordingly. The offer shall remain open for 60 days unless sooner
30 withdrawn by a writing served on the offeree prior to acceptance by
31 the offeree. An offer that remains open may be accepted or
32 rejected in writing by the offeree. An offer that is neither
33 withdrawn nor accepted within 60 days shall be deemed rejected.
34 The fact that an offer is made but not accepted does not preclude a
35 subsequent offer. Evidence of an offer is not admissible except in
36 proceedings to enforce a settlement or to determine sanctions under
37 this rule.

If, upon a motion by the offeror within 10 days after the entry of judgment, the court determines that an offer was rejected unreasonably, resulting in unnecessary delay and needless increase in the cost of the litigation, it may impose an appropriate sanction upon the offeree. In making this determination the court shall consider all of the relevant circumstances at the time of the rejection, including (1) the then apparent merit or lack of merit in the claim that was the subject of the offer, (2) the closeness of the questions of fact and law at issue, (3) whether the offeror had unreasonably refused to furnish information necessary to evaluate the reasonableness of the offer, (4) whether the suit was in the nature of a "test case," presenting questions of far-reaching importance affecting non-parties, (5) the relief that might reasonably have been expected if the claimant should prevail, and (6) the amount of the additional delay, cost, and expense that the offeror reasonably would be expected to incur if the litigation should be prolonged.

In determining the amount of any sanction to be imposed under this rule the court also shall take into account (1) the extent of the delay, (2) the amount of the parties' costs and expenses, including any reasonable attorney's fees incurred by the offeror as a result of the offeree's rejection, (3) the interest that could have been earned at prevailing rates on the amount that a claimant

offered to accept to the extent that the interest is not otherwise included in the judgment, and (4) the burden of the sanction on the offeree.

This rule shall not apply to class or derivative actions under Rules 23, 23.1, and 23.2.

COMMITTEE NOTE

The purpose of Rule 68 as adopted in 1938 was to encourage settlements and avoid protracted litigation by taxing a claimant with costs if he should recover no more after trial than would have been received if the claimant had accepted the defending party's offer to enter judgment in the claimant's favor for a specified amount of money or property, or other relief. The rule, which has been amended twice but only in minor respects, rarely has been invoked and has been considered largely ineffective as a means of achieving its goals.

The principal reasons for the rule's past failure have been (1) that "costs," except in rare instances in which they are defined to include attorneys' fees, see, e.g., Civil Rights Act of 1964, 42 U.S.C. §2000e-5(k) (1976), are too small a factor to motivate parties to use the rule; and (2) that the rule is a "one-way street," available only to those defending against claims and not to claimants. Moreover, some parties defending against claims for money are inclined to delay making otherwise acceptable offers until trial so that in the interim they may have the use at favorable interest rates of funds that otherwise would have been available to the offeree under an offer accepted at an earlier time.

Rule 68 has been amended to remedy these weaknesses and render it effective as a means of accomplishing its original goals. It has been recaptioned to refer to "Settlement" to indicate it is that process rather than entry of judgment that is being fostered. Accordingly, the rule now authorizes a dismissal pursuant to a stipulation and no longer requires the formal filing of the offer and acceptance and the entry of a judgment. The parties, of course, remain free to do that if they wish. Nor need an offer under this rule be served on all adverse parties.

The first sentence of the rule has been revised to permit all parties, including claimants, to make offers of settlement. The earlier requirement that the offer be made at least 10 days before trial has been revised to at least 90 days before trial or to at least 75 days before trial if the offer is a counter-offer. This change reflects the view that parties should be

encouraged to consider settlement seriously at a reasonably early stage in the litigation after enough discovery has been had to appraise the strengths and weaknesses of a claim or defense. The first sentence also delays the Rule 68 procedure to at least 60 days after the service of the summons and complaint on a party to an offer in order to guard against premature offers under the rule that a defending party is unable to evaluate properly.

The rule also has been revised to eliminate the former provision that the offeror add to his offer the "costs then accrued." Some statutes presently provide that "costs" include attorneys' fees. See, e.g., Freedom of Information Act, 5 U.S.C. §552(a)(4)(E) (1976); Clayton Act, 15 U.S.C. §15 (1976); Copyright Act, 17 U.S.C. §505 (1976); Voting Rights Amendments Act of 1975, 42 U.S.C. §19731(e) (1976); Civil Rights Attorneys' Fees Awards Act, 42 U.S.C. §1988 (1976). This has led to uncertainty whether an offer under Rule 68 in such cases also must specifically add attorneys' fees. See, Delta Air Lines, Inc. v. August, 450 U.S. 346, 363-66 (1981) (Powell, J., concurring). Some courts have held that the term "costs" in existing Rule 68 includes attorneys' fees. Fulps v. City of Springfield, 715 F.2d 1088 (6th Cir. 1983); Waters v. Hueblein, 485 F.Supp. 110 (N.D. Cal. 1979); Scheriff v. Beck, 452 F.Supp. 254 (D. Colo. 1978); Chesny v. Marek, 720 F.2d 474 (7th Cir. 1983), cert. granted, 104 S.Ct. 2149 (1984). Others take a contrary view. Greenwood v. Stevenson, 88 F.R.D. 225 (D.R.I. 1980); Gamlen Chemical Co. v. Dacar Chemical Products Co., 5 F.R.D. 215 (W.D. Pa. 1946). The rule's purpose can be achieved with less confusion by deleting the former provision so that acceptance of the offer would amount to a settlement of the entire amount claimed by the offeree, including accrued costs and attorneys' fees.

The second sentence of the rule has been revised to give the offeree 60 days instead of 10 days (as formerly provided) within which to decide whether to accept. The 10-day period was thought to be too short to enable many offerees to act upon offers made to them, particularly when authority from others (for example, insurers or the government) had to be obtained before action could be taken on an offer or when the offeree needed additional information to which it would be entitled by way of discovery under the rules to appraise the fairness of the offer. The rule now makes it clear that the offer remains open throughout the 60-day period unless it is withdrawn before acceptance or rejection in writing. However, a written counter-offer would not constitute a rejection unless it expressly so stated. An offer that has neither been withdrawn nor accepted within the 60-day period is deemed to have been rejected. Only offers that have been rejected are affected by the remaining provisions of Rule 68.

The last sentence of the first paragraph provides that evidence of an offer shall not be admissible except in proceedings to enforce a settlement or to determine sanctions under the rule. This provision is designed to

encourage the making of offers under the rule by assuring that the offeror will be protected against prejudicial use of an offer. The provision is consistent with Fed. R. Evid. 408, which provides that offers of compromise are not admissible to prove liability for or the invalidity of a claim or its amount.

The second paragraph of the new rule provides that when the court finds that an offer of settlement is rejected unreasonably, resulting in unnecessary delay and needless increase in the cost of the litigation, the offeree, whether a claimant or a defendant, may be subjected by the court to an appropriate sanction. The increased risk faced by an offeree who has acted unreasonably, causing needless expense and delay, is expected to encourage more serious evaluation of a proposed settlement at an earlier stage than otherwise might occur, which should lead to more dispositions of cases before the heaviest expenses have been incurred.

The issue of what is an unreasonable rejection of an offer is expected to be determined objectively on the basis of the relevant surrounding circumstances, a number of which are enumerated in the rule. The court has sufficient authority to prevent the rule from being used by a party who makes an offer in bad faith. The purpose is to prevent a defendant-offeror from taking unfair advantage of a claimant-offeree by making a riskless offer; for example, offering to settle a non-frivolous claim for an amount so small in relation to the merits of the claim that the offeror should know that the offeree certainly will decline to accept it. In multiparty litigation, the court may find that the offeree's failure to accept an offer was not unreasonable because (1) the offer was out of proportion to a defendant's reasonably foreseeable share of all defendants' liability to the plaintiff; or (2) a claimant-offeree reasonably concluded that a settlement with one tortfeasor would damage his ability to collect the balance of his damages from other tortfeasors.

The rule also acknowledges that the offeree may need to resort to discovery to evaluate the offer. Certainly an offeror, after making an offer, must permit the offeree to have access to discoverable information in the offeror's control that is reasonably necessary to evaluate the fairness of the offer. Use of discovery should minimize the risk that the offeror may not have disclosed material information bearing on the fairness of the offer.

The new rule also provides that in determining the amount of any sanction, the court must take into account a number of additional factors that have been set out in the third paragraph of the rule to make certain that the award is neither excessive nor insufficient. The judge should make certain that the amount awarded is in proportion to the needs of the case. The judge, however, does not have unbridled discretion since that might destroy the rule's potential for encouraging parties to consider settlement seriously at an early stage in the action.

A sanction under Rule 68 must be sought within 10 days of the entry of judgment. A relatively short time period has been set in order to avoid problems created by a prompt appeal and a claim that the trial court has lost its power to make post-trial orders.

Nothing in the rule affects the court's statutory authority to award attorneys' fees to a prevailing party in certain types of cases. See, e.g., 15 U.S.C. §15 (1976) (Clayton Act); 15 U.S.C. §1640(a)(3) (1976) (truth in lending); 17 U.S.C. §505 (1976) (copyright); 33 U.S.C. §1365(d) (1976) (water pollution); 42 U.S.C. §§1988, 2000a-3(b), 2000e-5(k) (civil rights). Rule 68 implements an entirely different policy — encouraging settlements at the earliest possible time — by imposing a sanction on conduct that is found to be unreasonable and that results in unnecessary delay or needless increase in litigation costs. The rule thus applies the principle that a court may impose a reasonable sanction, including an award of attorneys' fees, as a means of facilitating the efficient operation of the litigative process, as in the case of litigants who threaten the process by refusing disclosure, Rule 37(b)(2)(E), (c), and (d), who file pleadings or motions without having a reasonable basis for believing they are well-grounded in fact or law, Rules 11 and 26(g), who file summary judgment affidavits in bad faith, Rule 56(g), who fail to attend a noticed deposition, Rule 30(g), or who have claims dismissed under Rule 41(a)(2). Even without the rule the court already has the power in determining the value of the attorney's services under a fee award statute to take into consideration a party's refusal to accept a reasonable offer that, if accepted, would have eliminated the necessity for further legal services from the date of the offer.

Conversely, statutory authority to award an attorney's fee to the prevailing party does not preclude the court from imposing a sanction under Rule 68 for unreasonable conduct causing unnecessary delay and expense when it otherwise is appropriate to do so. As in other situations (e.g., Rules 11, 16, 26(g), and 37), the rule's express grant of discretion to the judge should protect against any sanction that is unjustified under all of the circumstances. Indeed, this discretion should assure that sanctions under this rule do not frustrate the various policies of the fee statutes.

The last sentence makes it clear that the amended rule does not apply to class or derivative actions. They are excluded for the reason that acceptance of any offer would be subject to court approval, see Rules 23(e) and 23.1, and the offeree's rejection would burden a named representative-offeree with the risk of exposure to potentially heavy liability that could not be recouped from unnamed class members. The latter prospect, moreover, could lead to a conflict of interest between the named representative and other members of the class. See, *Gay v. Waiters & Dairy Lunchmen's Union, Local 30*, 86 F.R.D. 500 (N.D. Cal. 1980).

Finally, the rule does not exclude from its application cases in which a claimant-offeree who rejects an offer fails ultimately to obtain a judgment in its favor. As a result the rule would apply if the refusing claimant wins nothing or wins a judgment in its favor for less than the offer it declined. Thus, the rule avoids the problem of construction that was involved in *Delta Air Lines, Inc. v. August*, 450 U.S. 346 (1981). Other portions of the rule protect plaintiffs who recover nothing from being victimized by sham offers.

PROPOSED AMENDMENTS TO THE SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS

RULE C. ACTIONS IN REM: SPECIAL PROVISIONS

* * *

(3) PROCESS. Upon the filing of the complaint the clerk shall forthwith issue a warrant for the arrest of the vessel or other property that is the subject of the action and deliver it to the marshal for service. If other property, tangible or intangible, is the subject of the action, the warrant shall be delivered by the clerk to the marshal or a person specially appointed by the court for service. If the property that is the subject of the action consists in whole or in part of freight, or the proceeds of property sold, or other intangible property, the clerk shall issue a summons directing any person having control of the funds to show cause why they should not be paid into court to abide the judgment.

* * *

(5) ANCILLARY PROCESS. In any action in rem in which process has been served as provided by this rule, if any part of the property that is the subject of the action has not been brought within the control of the court because it has been removed or sold,

BILL VOTE SHEET

(VS-87: File with Secretary of Senate)

BILL NO. SB 866COMMITTEE ON Judiciary-CivilDATE May 4, 1987

FINAL ACTION:

TIME 2:00 - 5:00 P.M. Favorably with amendmentsPLACE Rm. B - Senate Office Bldg x Favorably with Committee SubstituteOTHER COMMITTEE REFERENCES:
(In order shown) UnfavorablyOTHER: Temporarily Passed Reconsidered Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	An. #1 Dudley		Am. #2 Dudley		Am. #3 Dudley					
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
		Crenshaw	W		W		W					
x		Dudley	I		I		I					
x		Frank	T		T		T					
x		Jenne	H		H		H					
	x	Weinstein	O		O		O					
x		VICE CHAIRMAN Grant	U		U		U					
x		CHAIRMAN Langley	T		T		T					
			O		O		O					
			B		B		B					
			J		J		J					
			E		E		E					
			C		C		C					
			T		T		T					
			I		I		I					
			O		O		O					
			N		N		N					
5	1	TOTAL	x		x		x					
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared (x)
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance (x)

[illegible]

HOUSE COMMITTEE AMENDMENT (in computer)

Amendment No. 3 (committee use only) Bill No. HB 321

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. Draft No.

The Committee on Judiciary offered the following
amendment:

Amendment

On page.3....., line.18.....,

and insert after "nonsupport,": eminent domain,

Orig.
Journal
Third
Fourth

Code: h0321/jud03
Date: 05/11/87
Time: 9:21 a.m.

HOUSE COMMITTEE AMENDMENT (in computer)

Amendment No. 4 (committee use only) Bill No. HB 321

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. Draft No.

The Committee on Judiciary offered the following
amendment:

Amendment

On page 3, line 23,

after the "period"

insert: Nothing herein contained shall be construed to waive
the limits of sovereign immunity set forth in s. 768.28, F.S.

Orig.
Journal
Third
Fourth

Code: h0321/jud04
Date: 05/11/87
Time: 9:22 a.m.

HOUSE COMMITTEE AMENDMENT (in computer)

Amendment No. 1 (committee use only) Bill No. HB 321

Senate Action

House Action

AS REPORTED TO CLERK

If amendment is text of another bill insert:
Bill No. Draft No.

The Committee on Judiciary offered the following
amendment:

Amendment

On page 2, line 24,
after the word "plaintiff"
insert: or counter-plaintiff

Orig.
Journal
Third
Fourth

Code: h0321/jud01
Date: 05/11/87
Time: 9:19 a.m.

HOUSE COMMITTEE AMENDMENT (in computer)

Amendment No. 2 (committee use only) Bill No. HB 321

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. Draft No.

The Committee on Judiciary offered the following
amendment:

Amendment

On page 3, lines 7-8,
strike all of said lines

Orig.
Journal
Third
Fourth

Code: h0321/jud02
Date: 05/11/87
Time: 9:20 a.m.

BILL VOTE SHEET

(VS-87: File with Secretary of Senate)

BILL NO. SB 866

COMMITTEE ON Judiciary-Civil

DATE May 4, 1987

FINAL ACTION:

TIME 2:00 - 5:00 P.M.

 Favorably with amendments

PLACE Rm. B - Senate Office Bldg

 x Favorably with Committee Substitute

OTHER COMMITTEE REFERENCES:
(In order shown)

 Unfavorably

OTHER: Temporarily Passed

 Reconsidered

 Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	Am. #1 Dudley		Am. #2 Dudley		Am. #3 Dudley					
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
		Crenshaw	W		W		W					
x		Dudley	I		I		I					
x		Frank	T		T		T					
x		Jenne	H		H		H					
	x	Weinstein	O		O		O					
x		VICE CHAIRMAN Grant	U		U		U					
x		CHAIRMAN Langley	T		T		T					
			O		O		O					
			B		B		B					
			J		J		J					
			E		E		E					
			C		C		C					
			T		T		T					
			I		I		I					
			O		O		O					
			N		N		N					
5	1	TOTAL	x		x		x					
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared (x)
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance (x)

STORAGE NAME: 87 SS HB 0321

Date: April 6, 1987

Revised: _____

Final: _____

HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
STAFF ANALYSIS

Orig

19 1601

BILL #: HB 321

RELATING TO: Civil cases/settlements

SPONSOR(S): Rush

EFFECTIVE DATE: July 1, 1987

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2) _____

I. SUMMARY:

A. Present Situation:

Pursuant to Rule 1.442, Florida Rules of Civil Procedure, a defendant may file at any time after the filing of his answer, an Offer of Judgment, by which he agrees to the imposition of a judgment against him for the amount specified in the offer. In the event the offer is refused, the person making the offer is entitled to recover any costs incurred thereafter if the final judgment does not exceed the offer. No provision is made for an award of costs or attorneys' fees where an unrecorded offer is unreasonably rejected.

B. Effect of Proposed Changes:

This proposed legislation would provide sanctions for the unreasonable rejection of an offer of settlement given by either a defendant or plaintiff. An offer will be presumed to have been unreasonably rejected by a defendant if the final judgment is 25 percent greater than the plaintiff's offer, or by a plaintiff if the final judgment is at least 25 percent less than the defendant's offer. As the 25 percent deviations raise only presumptions, the court may, in an appropriate case determine that an offer was unreasonably rejected which was closer to the final judgment or that it was reasonably rejected although the offer deviated more than 25 percent from the final judgment.

Sanctions provided under this act include costs and expenses, including attorneys' fees, investigative expenses, expert witness fees and other reasonably incurred trial preparation expenses, incurred after the making of an offer. These sanctions may be

imposed notwithstanding limitations on recoveries by operation of contract or other laws.

An offer made under this act may not be made until 60 days after the service of the summons and complaint, but must be made at least 60 days before trial. Counter-offers may be made up to 45 days before trial. Offers are valid for 45 days, unless withdrawn (if withdrawn, no sanctions would be imposed). Subsequent offers may be made. The making of an offer is inadmissible as evidence, except for the enforcement of an offer accepted or for the imposition of sanctions. Offers must be in writing and must be served on the offeror.

The provisions of this act do not apply to class actions, family law matters, or shareholders derivative suits.

II. ECONOMIC IMPACT:

A. Public:

This legislation is designed to encourage settlements, and as such could result in lower litigation costs. Any imposition of sanctions under this act should have an equal negative and positive fiscal impact on the public.

B. Government:

If this legislation is successful in encouraging out-of-court settlements, it should reduce the fiscal impact of litigation on the court system. Whether the impact would be sufficient to affect the need for judges cannot be accurately determined at this time.

Subsection (6) of proposed section 45.061, Florida Statutes, could be interpreted as providing an additional waiver of sovereign immunity. Such interpretation would be inconsistent with the requirement of an "Express Waiver." Carlile v. Game & Fresh Water Fish Commission, 354 So.2d 362 (Fla. 1977).

If interpreted as not providing a waiver, governmental agencies would be liable for sanctions imposed only within the present waiver, but would be entitled to sanctions wherever appropriate. Although awarded, sanctions could not be collected from a judgment-proof party.

III. STATE COMPREHENSIVE PLAN IMPACT:

None


IV. COMMENTS:

None

Page 3
HB 321
April 6, 1987

V. AMENDMENTS:

None

VI. PREPARED BY: Thomas R. Tedcastle 

VII. STAFF DIRECTOR: Richard Hixson 

Date: April 6, 1987

Revised: May 8, 1987

Final: _____

AS REPORTED TO CLERK

HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
STAFF ANALYSIS

BILL #: HB 321

RELATING TO: Civil cases/settlements

SPONSOR(S): Rush

EFFECTIVE DATE: July 1, 1987

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2) _____

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B. Effect of Proposed Changes:

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An offer made under this act may not be made until 60 days after the service of the summons and complaint, but must be made at least 60 days before trial. Counter-offers may be made up to 45 days before trial. Offers are valid for 45 days, unless withdrawn (if withdrawn, no sanctions would be imposed). Subsequent offers may be made. The making of an offer is inadmissible as evidence, except for the enforcement of an offer accepted or for the imposition of sanctions. Offers must be in writing and must be served on the offeror.

The provisions of this act do not apply to class actions, family law matters, or shareholders derivative suits.

II. ECONOMIC IMPACT:

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This legislation is designed to encourage settlements, and as such could result in lower litigation costs. Any imposition of sanctions under this act should have an equal negative and positive fiscal impact on the public.

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If this legislation is successful in encouraging out-of-court settlements, it should reduce the fiscal impact of litigation on the court system. Whether the impact would be sufficient to affect the need for judges cannot be accurately determined at this time.

Subsection (6) of proposed section 45.061, Florida Statutes, could be interpreted as providing an additional waiver of sovereign immunity. Such interpretation would be inconsistent with the requirement of an "Express Waiver." Carlile v. Game & Fresh Water Fish Commission, 354 So.2d 362 (Fla. 1977).

If interpreted as not providing a waiver, governmental agencies would be liable for sanctions imposed only within the present waiver, but would be entitled to sanctions wherever appropriate. Although awarded, sanctions could not be collected from a judgment-proof party.

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

None

V. AMENDMENTS:

Amendment Number 1 is a clarifying amendment which provides the same sanctions for counter-plaintiffs as is provided for plaintiffs. Amendment Number 2 provides that the provisions of this bill do not apply to eminent domain actions. Amendment Number 3 is designed to avoid double reimbursement for costs awarded to a prevailing party. Amendment 4 clearly specifies that the legislation is not a further waiver of sovereign immunity.

VI. PREPARED BY: Thomas R. Tedcastle *TMT*

VII. STAFF DIRECTOR: Richard Hixson *RH*

A bill to be entitled

An act relating to civil procedure; creating s.
45.061, F.S.; providing for offers of
settlement in civil cases; providing for
sanctions in the case of offers which are
unreasonably rejected; providing for set off;
providing exceptions; providing exclusive
remedy; providing an effective date.

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

Section 1. Section 45.061, Florida Statutes, is
created to read:

45.061 Offers of settlement.--

(1) At any time more than 60 days after the service of
a summons and complaint on a party but not less than 60 days
(or 45 days if it is a counteroffer) before trial, any party
may serve upon an adverse party a written offer which shall
not be filed with the court, which offer shall be denominated
as an offer under this section, to settle a claim for the
money, property, or relief specified in the offer and to enter
into a stipulation dismissing the claim or to allow judgment
to be entered accordingly. The offer shall remain open for 45
days unless sooner withdrawn by a writing served on the
offeree prior to acceptance by the offeree. An offer that is
neither withdrawn nor accepted within 45 days shall be deemed
rejected. The fact that an offer is made but not accepted
does not preclude the making of a subsequent offer. Evidence
of an offer is not admissible except in proceedings to enforce
a settlement or to determine sanctions under this section.

(2) If, upon a motion by the offeror within 30 days
after the entry of judgment, the court determines that an
offer was rejected unreasonably, resulting in unnecessary
delay and needless increase in the cost of litigation, it may
impose an appropriate sanction upon the offeree. In making
this determination the court shall consider all of the
relevant circumstances at the time of the rejection,
including:

(a) Whether, upon specific request by the offeree, the
offeror had unreasonably refused to furnish information which
was necessary to evaluate the reasonableness of the offer.

(b) Whether the suit was in the nature of a "test-
case," presenting questions of far-reaching importance
affecting nonparties.

An offer shall be presumed to have been unreasonably rejected
by a defendant if the judgment entered is at least 25 percent
greater than the offer rejected, and shall be presumed to have
been unreasonably rejected by a plaintiff if the judgment
entered is at least 25 percent less than the offer rejected.
For the purposes of this section, the amount of the judgment
shall be the total amount of money damages awarded plus the
amount of costs and expenses reasonably incurred by the
plaintiff or counter-plaintiff prior to the making of the
offer for which recovery is provided by operation of other
provisions of Florida law.

(4) In determining the amount of any sanction to be
imposed under this section, the court shall award:

(a) The amount of the parties' costs and expenses,
including reasonable attorneys' fees, investigative expenses,
expert witness fees and other expenses which relate to the

1 preparation for trial, incurred after the making of the offer
 2 of settlement; and

3 (b) The statutory rate of interest that could have
 4 been earned at the prevailing statutory rate on the amount
 5 that a claimant offered to accept to the extent that the
 6 interest is not otherwise included in the judgment.

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8 The amount of any sanction imposed under this section against
 9 a plaintiff shall be set off against any award to the
 10 plaintiff, and if such sanction is in an amount in excess of
 11 the award to the plaintiff, judgment shall be entered in favor
 12 of the defendant and against the plaintiff in the amount of
 13 the excess.

14 (5) This section shall not apply to any class action
 15 or shareholder derivative suit or to matters relating to
 16 dissolution of marriage, alimony, nonsupport, eminent domain,
 17 or child custody.

18 (6) Sanctions authorized under this section may be
 19 imposed notwithstanding any limitation on recovery of costs or
 20 expenses which may be provided by contract or in other
 21 provisions of Florida law. This section shall not be
 22 construed to waive the limits of sovereign immunity set forth
 23 in s. 768.28.

24 Section 2. Section 45.062, Florida Statutes, is
 25 created to read:

26 45.062 Settlements, conditions, or orders when an
 27 agency of the executive branch is a party.--In any civil
 28 action in which a state executive branch agency or officer is
 29 a party in state or federal court, no officer, agent, official
 30 or attorney who represents or is acting on behalf of such
 31 agency or officer may settle such action, consent to any

1 condition, or agree to any order in connection therewith, if
 2 the settlement, condition, or order requires the expenditure
 3 of or obligation to expend any state funds or other state
 4 resources, or the establishment of any new program, unless:

5 (1) The expenditure is provided for by an existing
 6 appropriation or program established by law; and

7 (2) Reasonable prior written notification is given to
 8 the President of the Senate and the Speaker of the House of
 9 Representatives.

10 Section 3. This act shall take effect July 1, 1987, or
 11 upon becoming a law, whichever occurs later.

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NOTICE of COMMITTEE MEETING
House of Representatives

5.414/618

JUDICIARY

Court Systems, Probate & Consumer Law

April 9 10:00 a.m.-12:00 noon 16 HOB

- Jav. 1am2. ✓ HB 0321 by Rush--Civil cases/settlements
Jav. 1am2. ✓ HB 0018 by Bell--Land acquisition/eminent domain (if recommitted to Subcommittee by the Full Committee)
Jav. 3. ✓ HJR 0214 by McEwan & others--Taxation/high water recharge lands
Jav. 1am2. ✓ HB 0236 by Canady--Uniform Fraudulent Transfer Act
Made PCS 5. ✓ HB 0383 by Canady--Creditors/benefit assignments
Jav. 6. ✓ HB 0343 by Upchurch--Punitive damages/treble
Jav. 7. ✓ HJR 0346 by Upchurch--Damage payments/interest
IP'd 8. ✓ HB 0402 by Upchurch--Business organizations/registered
Jav. 9. ✓ HB 0535 by Saunders--Attorney fee awards/legal assistants
WD 10. ✓ HB 0366 by Jennings--Attorney fee awards/legal assistants
Jav. 3am2 11. ✓ PCB JUD 87-16--Mechanics' liens

✓ WORKSHOP ON COUNTY COURT JURISDICTION

ON TAPE 1 of 2, Hrm 1

Received in the Office of
the Sergeant at Arms on

April 7 19 87

at 10:30 a.m. (time).

Dee V. Allen
Sergeant at Arms

Hamilton Upchurch
Chairman

Filed by me with the Sergeant
at Arms and the Clerk on

April 7 19 87

in compliance with Rule 6.

Lanita L. Lurcloth
Committee Secretary

Distribution: Sergeant; Clerk (Calendar);
Leg. Info.; others as required by Rule 6.

H-14(85C)

NOTICE of COMMITTEE MEETING
House of Representatives

JUDICIARY

Full Committee

May 7 8:00-10:00 a.m. 214 C

5.414/619

- Jaw 1. SB 0081 by W.D. Childers--Liens/cotton ginner
CS 2. HB 0585 by Burke & others--Electric devices/civil liability *Page 2 3'*
CS ~~3. HB 0586 by Burke & others--Civil liability/criminal entry~~ *Page 2 2'*
Jaw 4. HB 0135 by Gordon--Justice/judge retirees/compensation
CS 5. HB 0826 by Bankhead--Damages/apportionment exception
Jaw, lam 6. HB 1269 by Veterans, Military Affairs & Emergency Preparedness,
Locke & others--Organized militia/liability immunity
Jaw, lam 7. HB 0617 by Wallace--Guardians/powers increased
Jaw, lam 8. HB 0421 by Gustafson--Condominiums/storm protection
Jaw, lam 9. HB 0786 by Mackenzie--Warranty deeds/parcei ID number
CS 10. HB 0187 by Liberti & others--Lardlords & tenants *4-1-1*
CS 11. HB 0801 by Bass--Service of process/substituted
CS 12. HB 0714 by Cosgrove--Landlord & tenant/rentals
CS 13. HB 0452 by Rush & others--Service of process
Jaw 14. HB 0898 by Drage--Wastewater liability/irrigation
TPd 15. HB 1305 by Youth & Reddick--Minors/criminal
proceedings/guardians
TPd 16. HB 1082 by Sanderson & others--Labor or employment
dispute/violence
Jaw, lam 17. HB 0229 by Logan--Landlord & tenant/smoke detection
Jaw, lam 18. HB 0321 by Rush--Civil cases/settlements *Page 2 (4)*

Ratification of referral to subcommittees of the following bills:

Court Systems, Probate & Consumer Law: HB's 1342, 1354, 1382, 1383

Hamilton Upchurch
Chairman

Received in the Office of
the Sergeant at Arms on

Filed by me with the Sergeant
at Arms and the Clerk on

May 5 1987

May 5 1987

at 3:54 PM (time).

in compliance with Rule 6.

Cecilia Blankenship
Sergeant at Arms

Levita & Janeloth
Committee Secretary

Distribution: Sergeant; Clerk (Calendar);
Leg. Info.; others as required by Rule 6.

H-14(85C)

ON PAGE 2 of 2
4 to 14m