

1987

Session Law 87-042

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1987	Session Law No. 87-42	LOF Cite I, i, 177-178	#pp 2
Prime Bill# HB. 343	Sponsor Upchurch	Comp./Sim. Bills S. 503	
JLMC Hist. Leq. Cites	Senate pp.#s 100	House pp.#s 254	#pp 2
Committee of Ref.	Senate Commerce	House Judiciary (sub. Court.)	Previous versions? no yes

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
4	Judic	1987	bill file ER 503	19/1601	
5	Commerce	1987	bill file ER 503	18/1682	

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

Extract from:

Joint Legislative Management Committee, Legislative Information Division, *History of Legislation, 1987*, pp. 100 and 254 (S.B. 503 and H.B. 343, respectively):

S 503 GENERAL BILL by Hair and others (Identical H 343)

Punitive Damages/Treble, provides that in civil actions based on misconduct in commercial transactions, amount of punitive damages awarded shall not exceed three times amount of compensatory damages awarded. Amends 768.73. Effective Date 10/01/87

03/20/87 SENATE Prefiled

04/07/87 SENATE Introduced, referred to Commerce -SJ 46

04/17/87 SENATE On Committee agenda—Commerce, 04/21/87, 2:00 pm, Room-A

04/21/87 SENATE Comm Report: Favorable by Commerce, placed on Calendar -SJ 141

05/06/87 SENATE Placed on Special Order Calendar -SJ 254; Iden./Sim. House Bill substituted; Laid on Table under Rule, Iden./Sim./Compare Bill passed, refer to HB 343 (Ch. 87-42) -SJ 266

H 343 GENERAL BILL by Upchurch (Identical S 503)

Punitive Damages/Treble, provides that in civil actions based on misconduct in commercial transactions, amount of punitive damages awarded shall not exceed three times amount of compensatory damages awarded. Amends 768 73 Effective Date. 10/01/87

03/03/87 HOUSE Prefiled

03/06/87 HOUSE Referred to Judiciary

04/07/87 HOUSE Introduced, referred to Judiciary -HJ 34; 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

04/13/87 HOUSE On Committee agenda—Judiciary, 04/15/87, 1:15 pm, 214C

04/15/87 HOUSE Preliminary Committee Action by Judiciary: Favorable, to Calendar

04/17/87 HOUSE Comm. Report: Favorable by Judiciary, placed on Calendar -HJ 182

04/29/87 HOUSE Placed on Special Order Calendar

05/04/87 HOUSE Read second time -HJ 344

05/05/87 HOUSE Read third time, Passed, YEAS 92 NAYS 21 -HJ 354, Immediately certified -HJ 354

05/05/87 SENATE In Messages

05/06/87 SENATE Received, referred to Commerce -SJ 261; Immediately withdrawn from Commerce, Substituted for SB 503, Passed, YEAS 39 NAYS 0 -SJ 266

05/12/87 Ordered enrolled

05/14/87 Signed by Officers and presented to Governor -HJ 470

05/22/87 Became Law without Governor's Signature; Chapter No. 87-42 -HJ 570

To Chairman, Committee on Judiciary :

Subcommittee on Court Systems, Probate & Consumer Law

Date of meeting April 9, 1987

Time 10:00 a.m.

Place 16 HOB

Bill No. HS 343

FINAL ACTION: FAVORABLE
 FAVORABLE WITH AMENDMENTS
 UNFAVORABLE

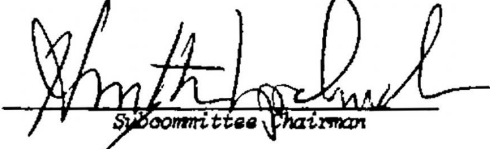
VOTE:

YEA	MEMBER	NAY
X	Cosgrove	
	Davis	
X	Diaz-Balart	
	Drage	X
X	Lawson	
X	Press	

YEA	MEMBER	NAY
X	Saunders	
X	Webster	
X	Titone, Chmn.	

Total
 Yeas 3

Total
 Nays 1


 Subcommittee Chairman

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

<u>Name</u>	<u>Representing</u>	<u>Address</u>
Fred Martin	Barnett Banks of Fla.	P. O. Box 5257, Tallah.FL

(If additional persons, enter on reverse side and check here)

NOTE: Please indicate by an "X" any State employee appearing at the request of Subcommittee Chairman

Received by Parent Committee.

Date

Received by

MOTION AND VOTE SHEET
COURT SYSTEMS, PROBATE AND CONSUMER LAW SUBCOMMITTEE
HOUSE JUDICIARY COMMITTEE

DATE: 4-9-87

BILL #: HB 34-3

Jaw.

	YEA	NAY
COSGROVE	✓	
DAVIS	✓	
DIAZ-BALART	✓	
DRAGE		✓
LAWSON	✓	
PRESS	✓	
SAUNDERS	✓	
WEBSTER	✓	
(Chair) TITONE	✓	
TOTAL:	8	1
	YEA	NAY

Speaker:
Fred Martin - Bennett Banks of Fla

By Senators Hair, Jennings and Barron

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.

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A bill to be entitled

An act relating to punitive damages; amending s. 768.73, F.S.; providing that in civil actions based on misconduct in commercial transactions, the amount of punitive damages awarded shall not exceed three times the amount of compensatory damages awarded; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 768.73, Florida Statutes, 1986 Supplement, is amended to read:

768.73 Punitive damages; limitation.--

(1)(a) In any civil action based on negligence, strict liability, products liability, misconduct in commercial transactions, professional liability, or breach of warranty that involves willful, wanton, or gross misconduct, the judgment for the total amount of punitive damages awarded to a claimant shall not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b).

However, this subsection does not apply to any class action.

Section 2. This act shall take effect October 1, 1987.

HOUSE SUMMARY

Provides that in a civil action based on misconduct in a commercial transaction, the amount of punitive damages awarded shall not exceed three times the amount of compensatory damages awarded.

By Representative Upchurch

1 A bill to be entitled
 2 An act relating to punitive damages; amending
 3 s. 768.73, F.S.; providing that in civil
 4 actions based on misconduct in commercial
 5 transactions, the amount of punitive damages
 6 awarded shall not exceed three times the amount
 7 of compensatory damages awarded; providing an
 8 effective date.

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

11
12 Section 1. Paragraph (a) of subsection (1) of section
13 768.73, Florida Statutes, 1986 Supplement, is amended to read:

14 768.73 Punitive damages; limitation.--

15 (1)(a) In any civil action based on negligence, strict
 16 liability, products liability, misconduct in commercial
 17 transactions, professional liability, or breach of warranty
 18 that involves willful, wanton, or gross misconduct, the
 19 judgment for the total amount of punitive damages awarded to a
 20 claimant shall not exceed three times the amount of
 21 compensatory damages awarded to each person entitled thereto
 22 by the trier of fact, except as provided in paragraph (b).

23 However, this subsection does not apply to any class action.

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

HOUSE SUMMARY

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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 498 (CONTINUED)

certain other assistance, requires HRS to minimize costs of health care services, provides for increase in certain Medicaid reimbursement, requires expansion of Medicaid program coverage, provides for uses of Public Medical Assistance Trust Fund, etc Amends 409 266, 2662, 381 493, 494, creates 741 22 Appropriation \$142,100,000 Effective Date 07/01/87 or upon becoming law, whichever occurs later

- 03/19/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Health and Rehabilitative Services, Appropriations -SJ 46
 04/20/87 SENATE Extension of time granted Committee Health and Rehabilitative Services; On Committee agenda—Health and Rehabilitative Services, 04/22/87, 9 00 am, Room-A
 04/22/87 SENATE CS combines this bill and 484 & 247, Comm Report: CS by Health and Rehabilitative Services -SJ 196
 04/28/87 SENATE Original bill laid on Table under Rule, refer to combined CS/SB 484 (Died in House Messages); refer to CS/HB 1384 (Ch. 87-92) -SJ 215

S 499 GENERAL BILL/CS by Judiciary-Civil; Grant (Identical CS/ENG/H 379, Compare CS/ENG/H 54, CS/S 737, S 975, S 1059, S 1197)

Mediation & Arbitration, provides for court-ordered mediation & court-ordered nonbinding arbitration, provides for voluntary binding arbitration; provides for limitation in referral; provides minimum standards for qualifications, rules of professional conduct & training of mediators & arbitrators, etc Creates 44 301-306 Effective Date 10/01/88

- 03/19/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Judiciary-Civil; Appropriations -SJ 46
 04/22/87 SENATE Extension of time granted Committee Judiciary-Civil
 05/01/87 SENATE Extension of time granted Committee Judiciary-Civil
 05/15/87 SENATE Extension of time granted Committee Judiciary-Civil
 05/28/87 SENATE On Committee agenda—Judiciary-Civil, 06/01/87, 12 00 noon, Room-B -SJ 491
 05/29/87 SENATE Extension of time granted Committee Judiciary-Civil
 06/01/87 SENATE Comm Report. CS by Judiciary-Civil -SJ 571
 06/02/87 SENATE CS read first time -SJ 572, Now in Appropriations -SJ 571
 06/05/87 SENATE Withdrawn from Appropriations -SJ 787, Placed on Special Order Calendar -SJ 881, Iden/Sim. House Bill substituted, Laid on Table under Rule, Iden/Sim./Compare Bill passed, refer to CS/HB 379 (Ch. 87-173) & CS/HB 54 (Ch. 87-133) -SJ 882

S 500 GENERAL BILL by Hollingsworth and others (Similar ENG/H 830)

Real Property Transactions, includes state & local governmental employees acting within scope of their employment under exemption from provisions regulating real estate brokers & salesmen, expands scope of authority under said exemption Amends 475 011 Effective Date 07/01/87

- 03/19/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Economic, Community and Consumer Affairs -SJ 46
 04/20/87 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs
 05/07/87 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs
 05/21/87 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs, On Committee agenda—Economic, Community and Consumer Affairs, 05/25/87, 10 00 am, Room-H
 05/25/87 SENATE Comm. Report Favorable by Economic, Community and Consumer Affairs, placed on Calendar -SJ 417
 06/06/87 SENATE Died on Calendar, Iden/Sim/Compare Bill passed, refer to HB 830 (Ch. 87-205)

S 501 GENERAL BILL/CS/CS by Health and Rehabilitative Services; Education, Hollingsworth (Similar CS/ENG/H 86)

School/Student & Employee Offenses, requires notification of appropriate superintendent of schools of student who commits certain offenses or employee of school district who is arrested, provides for release of information Creates 230 335 Effective Date 10/01/87

- 03/19/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Education, Health and Rehabilitative Services; Appropriations -SJ 46
 04/17/87 SENATE Extension of time granted Committee Education
 05/01/87 SENATE Extension of time granted Committee Education
 05/08/87 SENATE On Committee agenda—Education, 05/12/87, 2 00 pm, Room-A
 05/12/87 SENATE Comm Report CS by Education -SJ 325
 05/14/87 SENATE CS read first time -SJ 328, Now in Health and Rehabilitative Services -SJ 325
 05/25/87 SENATE On Committee agenda—Health and Rehabilitative Services, 05/27/87, 9:00 am, Room-A
 05/27/87 SENATE Comm Report. CS/CS by Health and Rehabilitative Services -SJ 453
 06/28/87 SENATE CS read first time -SJ 453, Now in Appropriations -SJ 453

S 501 (CONTINUED)

- 06/03/87 SENATE Withdrawn from Appropriations -SJ 628, Placed on Calendar
 06/04/87 SENATE Placed on Special Order Calendar -SJ 706 & -SJ 707, CS passed, YEAS 29 NAYS 0 -SJ 781
 06/04/87 HOUSE In Messages, Received, placed on Calendar -HJ 1192, Read second time, Read third time, CS passed, YEAS 114 NAYS 0 -HJ 1193
 06/05/87 Ordered enrolled -SJ 1130
 06/29/87 Signed by Officers and presented to Governor
 07/15/87 Became Law without Governor's Signature, Chapter No 87-408

S 502 GENERAL BILL by Brown (Similar CS/H 197, Compare ENG/S 790)

Land Development/Requirements, requires that notice re possible additional restrictions be included on each recorded plat of subdivision, imposes financial responsibility requirements upon land surveyors as condition of licensure, provides exception, prohibits issuance of building permits unless they include notice re possible additional restrictions, provides for review & repeal Amends 177 091, 553 79, creates 472 018 Effective Date 10/01/87

- 03/19/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Economic, Community and Consumer Affairs -SJ 46
 04/17/87 SENATE On Committee agenda—Economic, Community and Consumer Affairs, 04/21/87, 2:00 pm, Room-H
 04/20/87 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs
 04/21/87 SENATE Comm Report. Favorable with 1 amendment(s) by Economic, Community and Consumer Affairs, placed on Calendar -SJ 141
 06/06/87 SENATE Died on Calendar, Iden/Sim/Compare Bill passed, refer to SB 790 (Ch. 87-349)

S 503 GENERAL BILL by Hair and others (Identical H 343)

Punitive Damages/Treble, provides that in civil actions based on misconduct in commercial transactions, amount of punitive damages awarded shall not exceed three times amount of compensatory damages awarded Amends 768 73 Effective Date: 10/01/87

- 03/20/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Commerce -SJ 46
 04/17/87 SENATE On Committee agenda—Commerce, 04/21/87, 2 00 pm, Room-A
 04/21/87 SENATE Comm Report Favorable by Commerce, placed on Calendar -SJ 141
 05/06/87 SENATE Placed on Special Order Calendar -SJ 254, Iden/Sim House Bill substituted, Laid on Table under Rule, Iden/Sim/Compare Bill passed, refer to HB 343 (Ch. 87-42) -SJ 266

S 504 GENERAL BILL by Jennings (Similar H 648)

Comprehensive Health Association Act, abrogates repeal of laws re rates & tax offsets for assessments paid under comprehensive health insurance plan Amends 627 6494, 6498 Effective Date: 07/11/87

- 03/20/87 SENATE Prefiled
 04/07/87 SENATE Introduced, referred to Commerce, Finance, Taxation and Claims -SJ 47
 04/10/87 SENATE On Committee agenda—Commerce, 04/14/87, 9:00 am, Room-A
 04/14/87 SENATE Comm Report Favorable by Commerce -SJ 79
 04/15/87 SENATE Now in Finance, Taxation and Claims -SJ 79
 04/16/87 SENATE On Committee agenda—Finance, Taxation and Claims, 04/20/87, 2 00 pm, Room-1C
 04/20/87 SENATE Comm Report Favorable by Finance, Taxation and Claims, placed on Calendar -SJ 125
 04/28/87 SENATE Placed on Special Order Calendar -SJ 195, Passed, YEAS 36 NAYS 0 -SJ 229
 04/30/87 HOUSE In Messages
 05/04/87 HOUSE Received, referred to Finance & Taxation, Appropriations -HJ 333
 05/11/87 HOUSE On Committee agenda—Finance & Taxation, 05/13/87, 1 15 pm, 21 HOB—Time changed to 2 15 pm
 05/13/87 HOUSE Preliminary Committee Action by Finance & Taxation Favorable
 05/14/87 HOUSE Comm Report Favorable by Finance & Taxation -HJ 470, Now in Appropriations -HJ 470
 05/28/87 HOUSE On Committee agenda—Appropriations, 05/28/87, 3 30 pm, 21 HOB, Preliminary Committee Action by Appropriations Favorable, to Calendar
 05/29/87 HOUSE Comm Report Favorable by Appropriations, placed on Calendar -HJ 853
 06/02/87 HOUSE Placed on Special Order Calendar, Read second time, Read third time, Passed, YEAS 106 NAYS 0 -HJ 1055
 06/03/87 Ordered enrolled -SJ 642
 06/25/87 Signed by Officers and presented to Governor
 07/11/87 Became Law without Governor's Signature, Chapter No 87-345

HISTORY OF HOUSE BILLS

H 341 (CONTINUED)

projects, etc Amends Effective Date: 10/01/87
 03/03/87 HOUSE Prefiled
 03/06/87 HOUSE Referred to Transportation
 04/07/87 HOUSE Introduced, referred to Transportation -HJ 34
 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
 04/23/87 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 324 & 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, 324 & 531
 05/04/87 HOUSE CS combines this bill and 324, 531 & 168, Comm Report CS by Transportation -HJ 348, Original bill laid on Table under Rule, refer to combined CS/ HB 324 (Ch 87-164) -HJ 348

H 342 JOINT RESOLUTION by Healey (Identical H 313)

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.
 03/03/87 HOUSE Prefiled
 03/06/87 HOUSE Referred to Judiciary
 04/07/87 HOUSE Introduced, referred to Judiciary -HJ 34
 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 343 GENERAL BILL by Upchurch (Identical S 503)

Punitive Damages/Treble, provides that in civil actions based on misconduct in commercial transactions, amount of punitive damages awarded shall not exceed three times amount of compensatory damages awarded. Amends 768.73. Effective Date 10/01/87
 03/03/87 HOUSE Prefiled
 03/06/87 HOUSE Referred to Judiciary
 04/07/87 HOUSE Introduced, referred to Judiciary -HJ 34, 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
 04/13/87 HOUSE On Committee agenda—Judiciary, 04/15/87, 1 15 pm, 214C
 04/15/87 HOUSE Preliminary Committee Action by Judiciary Favorable, to Calendar
 04/17/87 HOUSE Comm Report. Favorable by Judiciary, placed on Calendar -HJ 182
 04/29/87 HOUSE Placed on Special Order Calendar
 05/04/87 HOUSE Read second time -HJ 344
 05/05/87 HOUSE Read third time, Passed, YEAS 92 NAYS 21 -HJ 354, Immediately certified -HJ 354
 05/05/87 SENATE In Messages
 05/06/87 SENATE Received, referred to Commerce -SJ 261, Immediately withdrawn from Commerce, Substituted for SB 503, Passed, YEAS 39 NAYS 0 -SJ 266
 Ordered enrolled
 05/14/87 Signed by Officers and presented to Governor -HJ 470
 05/22/87 Became Law without Governor's Signature, Chapter No 87-42 -HJ 570

H 344 GENERAL BILL/CS by Commerce; Canady (Similar S 932, S 1225)

Investment Securities/Revision, revises Uniform Commercial Code provisions re investment securities, specifies general provisions re registration of pledge & release of uncertificated securities & provides for registration of such securities, expands provisions re transfer by delivery of certificated securities, etc Amends Chs 671, 675, 678, 679 Effective Date 10/01/87
 03/03/87 HOUSE Prefiled
 03/12/87 HOUSE Referred to Commerce
 04/07/87 HOUSE Introduced, referred to Commerce -HJ 34
 04/08/87 HOUSE Subreferred to Subcommittee on Banking and Commerce
 04/10/87 HOUSE On subcommittee agenda—Commerce, 04/15/87, 1 15 pm, 317C
 04/15/87 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable, as a proposed Committee Substitute, On Committee agenda, pending subcommittee action—Commerce, 04/16/87, 3 30 pm, 317C—Meeting cancelled

H 344 (CONTINUED)

04/20/87 HOUSE On Committee agenda—Commerce, 04/22/87, 8 00 am, 317C, or if not heard, on 04/23/87, 10 00 am, 317C
 04/22/87 HOUSE Preliminary Committee Action by Commerce Favorable, as a Committee Substitute, to Calendar
 04/24/87 HOUSE Comm Report CS by Commerce, placed on Calendar -HJ 279, CS read first time -HJ 278
 04/29/87 HOUSE Placed on Special Order Calendar
 05/05/87 HOUSE Read second time -HJ 356
 05/06/87 HOUSE Read third time, CS passed, YEAS 108 NAYS 0 -HJ 370
 05/07/87 SENATE In Messages
 05/19/87 SENATE Received, referred to Commerce, Judiciary-Civil -SJ 331
 05/21/87 SENATE On Committee agenda—Commerce, 05/25/87, 10:00 am, Room-A
 05/25/87 SENATE Comm Report Favorable by Commerce -SJ 417
 05/26/87 SENATE Now in Judiciary-Civil -SJ 417
 05/29/87 SENATE Extension of time granted Committee Judiciary-Civil
 06/05/87 SENATE Withdrawn from Judiciary-Civil -SJ 828, Substituted for SB 1225, CS passed, YEAS 33 NAYS 0 -SJ 829
 06/05/87 Ordered enrolled
 06/23/87 Signed by Officers and presented to Governor
 07/04/87 Approved by Governor, Chapter No 87-275

H 345 GENERAL BILL by Woodruff (Similar S 151, Compare ENG/H 649)

PIP Benefits/Payment Withdrawal, provides conditions under which personal injury insurer may withdraw payment of treating physician without consent of injured person covered by insurance Amends 627 736. Effective Date: 10/01/87.
 03/03/87 HOUSE Prefiled
 03/06/87 HOUSE Referred to Insurance
 04/07/87 HOUSE Introduced, referred to Insurance -HJ 34, Subreferred to Subcommittee on Property and Casualty Insurance, On Committee agenda—Insurance, 04/07/87, 1 30 pm, 317C, for ratification of subreferral, On subcommittee agenda—Insurance, 04/08/87, 3 30 pm, 317C
 04/08/87 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable
 04/13/87 HOUSE On Committee agenda—Insurance, 04/15/87, 3 30 pm, 317C
 04/15/87 HOUSE Preliminary Committee Action by Insurance: Favorable, to Calendar
 04/16/87 HOUSE Comm. Report. Favorable by Insurance, placed on Calendar -HJ 173
 04/27/87 HOUSE Placed on Special Order Calendar, Read second time -HJ 275
 04/28/87 HOUSE Read third time, Passed; YEAS 119 NAYS 0 -HJ 286
 04/29/87 SENATE In Messages
 05/13/87 SENATE Received, referred to Commerce -SJ 297
 05/29/87 SENATE Extension of time granted Committee Commerce
 06/06/87 SENATE Died in Committee on Commerce, Ident./Sim /Compare bill passed, refer to HB 649 (Ch 87-282)

H 346 GENERAL BILL by Upchurch

Damage Payments/Interest, amends provision re damages in any action brought in circuit court, deletes unnecessary date, provides that damages shall include interest from date cause of action arose; applies to all actions filed on or after 07/01/87 Amends 768 042 Effective Date 07/01/87
 03/03/87 HOUSE Prefiled
 03/06/87 HOUSE Referred to Judiciary, Appropriations
 04/07/87 HOUSE Introduced, referred to Judiciary; Appropriations -HJ 34, 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
 04/13/87 HOUSE On Committee agenda—Judiciary, 04/15/87, 1 15 pm, 214C
 04/15/87 HOUSE Preliminary Committee Action by Judiciary Favorable
 04/17/87 HOUSE Comm Report Favorable by Judiciary -HJ 182, Now in Appropriations -HJ 182
 05/12/87 HOUSE Subreferred to Subcommittee on HRS/Criminal Justice, On Committee agenda—Appropriations, 05/14/87, 8 00 am, 21 HOB, for ratification of subreferral
 06/06/87 HOUSE Died in Committee on Appropriations

H 347 GENERAL BILL/CS by Natural Resources; Arnold; Martin (Identical ENG/S 312, Compare H 442, S 560)

Land Acquisition/Property Appraisal, provides that purchase negotiations for certain lands be initiated within 6 months of approval of appraisals, authorizes waiver of evidence of marketability for certain acquisitions of property; provides for procedures to establish price for disposition of state lands Amends 253 025.03 Effective Date Upon becoming law
 03/03/87 HOUSE Prefiled
 03/12/87 HOUSE Referred to Natural Resources
 04/07/87 HOUSE Introduced, referred to Natural Resources -HJ 34

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	Fort <i>AS</i>	Fort <i>AS</i>	1. COM	Favorable
2.	_____	_____	2. _____	_____
3.	_____	_____	3. _____	_____
4.	_____	_____	4. _____	_____

SUBJECT:

Punitive Damages

BILL NO. AND SPONSOR:

SB 503 by
Senator Hair

I. SUMMARY:

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1682

A. Present Situation:

Unless restricted by law, punitive damages may be awarded in any action in which it is demonstrated that the defendant has acted maliciously or in a manner exhibiting willful or wanton disregard for life or property, or in which the defendant has otherwise intentionally and willfully injured another (Como Oil Co. v. O'Loughlin, 466 So.2d 1061 (Fla. 1985)).

Unlike compensatory damages which are designed to "make whole" an injured plaintiff, the primary purposes for awarding punitive damages are to punish tortfeasors and to deter future tortious conduct by other potential tortfeasors (Mercury Motors Express, Inc. v. Smith, 393 So.2d 545, 549 (Fla. 1981)).

In awarding punitive damages, juries often consider the financial resources of the defendant in an effort to determine the amount of damages necessary to deter future conduct.

The Tort Reform and Insurance Act of 1986 (ch. 86-160, L.O.F.), creates s. 768.72, F.S., which prohibits the plaintiff in any civil action from pleading punitive damages unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages.

Additionally, the act creates s. 768.73, F.S., which limits the total amount of punitive damages awarded to the claimant to not more than three times the amount of compensatory damages in actions involving negligence, products liability, strict liability, professional liability, and breach of warranty involving gross, willful, or wanton misconduct. Any amount awarded in excess of three times the amount of compensatory damages would be presumed to be excessive and would be decreased by the court unless the claimant demonstrates by clear and convincing evidence that the award is not excessive in light of the facts and circumstances of the particular case.

The act also establishes a method of allocation of punitive damage awards. It provides that 40 percent is paid to the claimant and 60 percent is paid into the General Revenue Fund, or, in cases involving personal injury or wrongful death, to the Public Medical Assistance Trust Fund created in s. 409.2662, F.S. .

B. Effect of Proposed Changes:

This bill would extend the limitation on punitive damage awards to three times the amount of compensatory damages awarded to actions involving misconduct in commercial transactions.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This legislation would likely result in a decrease in recoveries for claimants and in payments by commercial institutions. Claimants would, however, receive only 40 percent of any awards, as the state (General Revenue Fund or Public Medical Assistance Trust Fund) is entitled to 60 percent of any amount awarded.

Florida public policy generally prohibits liability insurance coverage for punitive damages. The rationale for the general rule is that the purpose of punitive damages is to punish and deter misconduct; to allow insurance for punitive damages would be to thwart such punishment (U.S. Concrete Pipe Co. v. Bould, 437 So.2d 1061 (Fla. 1983)).

B. Government:

With a likely decrease in punitive damage awards resulting from the limitation of three times the award of any compensatory damages awarded, the state's recoveries in total dollars may be reduced.

III. COMMENTS:

Florida's corporate community, particularly the banking industry, expresses concerns over increased exposure to so-called business torts. Although many commercial transactions are contractual, a recent Rand Corporation Study provides the first empirical data of what some refer to as the "tortification of contract law."

This study, covering cases that reached jury verdict in Cook County, Ill., and San Francisco from 1960 to 1984 and in other California jurisdictions from 1980 to 1984, made several significant findings including:

- Punitive damages in business/contract cases have become more significant, with both routine and extraordinary awards larger and more frequent.
- Approximately one-third of the punitive damage awards imposed in contract cases originated from allegations of bad faith on the part of a corporate defendant (in California, generally in the 1980's).

For 1980-84, figures show Los Angeles juries returned punitive damage awards totaling \$194 million in 149 cases, an average of \$1.3 million per case and a median award of \$100,000. Totals for Chicago for the same period were 75 cases, \$55 million awarded, an average of \$729,000 a case and a median of \$32,000. San Francisco had 51 cases totaling \$19 million, for an average of \$381,000 and a median of \$58,000.

The Florida Bar Tort Litigation Review Commission studied various aspects of tort reform, including punitive damages (report issued January, 1984). The Commission commented that a study performed by Judge Gerald Wetherington, Chief Judge of the Eleventh Judicial Circuit, suggested that punitive damages are involved in relatively few jury awards.

The term "misconduct in commercial transactions" is vague and ambiguous as no explicit definition is provided. Although this phrase may be a familiar term of art, it is unclear as to the nature of actions to be deemed misconduct and the specific transactions involved.

REVISED: _____

BILL NO. SB 503

DATE: April 20, 1987

Page 3

IV. AMENDMENTS:

None

STORAGE NAME: 87 SS HB 0343

Date: March 30, 1987

Revised: _____

Final: _____

AS REPORTED TO CLERK

HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
STAFF ANALYSIS

19 1601

BILL #: HB 343

RELATING TO: Punitive Damages

SPONSOR(S): Rep. Upchurch

EFFECTIVE DATE: October 1, 1987

COMPANION BILL(S): SB 503

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

A. Present Situation:

Unless restricted by law, punitive damages may be awarded in any action in which it is demonstrated that the defendant has acted maliciously or in a manner exhibiting willful or wanton disregard for life or property, or in which the defendant has otherwise intentionally and willfully injured another. Punitive damages are frequently awarded, particularly in commercial litigation.

Unlike compensatory damages which are designed to "make whole" an injured plaintiff, punitive damages are awarded for the purpose of deterring further acts and are thus not measured in accordance with the amount of damage caused. In awarding punitive damages, the juries will generally consider the degree of culpability and the financial position of the defendant in an effort to determine the amount of damages necessary to deter future conduct. Thus, where a defendant has substantial financial resources, the punitive damages may be extremely large in relation to the compensatory damages awarded.

As part of the tort reform legislation in 1986, the Legislature determined that it was not appropriate for a plaintiff to receive a windfall where the jury determined that punitive damages were appropriate. To respond to that perception, the Legislature enacted provisions which were designed to redistribute an award of punitive damages and to limit the recovery of such damages to a "reasonable" amount. As a result, a plaintiff now receives only forty per cent of an award of punitive damages with the remainder awarded to the state or to a fund established by the

state. Additionally, punitive damages were limited to three times the compensatory damages awarded in actions based on negligence, strict liability, products liability, professional liability, or breach of warranty. The amount of punitive damages which may be awarded in cases involving commercial transactions remains unlimited, but the provision distributing sixty percent of the punitive damages does apply to commercial transaction litigation.

B. Effect of Proposed Changes:

This legislation would extend the limit on punitive damages of three-times compensatory damages to actions involving misconduct in commercial transactions.

II. ECONOMIC IMPACT:

A. Public:

This legislation would likely result in a decrease in recoveries for plaintiffs and in payments by commercial institutions. However the decrease to the public would be only 40 per cent of the decrease in punitive damages awards, as the state is entitled to sixty per cent of any amount awarded.

B. Government:

This legislation would limit recoveries by the state of punitive damage awards given to private plaintiffs in actions involving misconduct in commercial transactions. The amount of such loss cannot be reasonably calculated at this time.

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

This legislation was part of the tort reform package as adopted by the House of Representatives last year, but was eliminated after conference negotiations.

While there has been considerable discussion of the rising amounts awarded by juries over the past several years, studies have indicated that in most areas, jury awards have remained fairly constant except in products liability cases and business/commercial litigation. The increase in those areas has been largely due to an increased willingness of juries to award punitive damages in these areas. It would be consistent to include the same restrictions on punitive damages in commercial transaction litigation as currently apply in most other tort actions.

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Bill # HB 343
Date: March 30, 1987

V. AMENDMENTS:

None

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

VII. STAFF DIRECTOR: Richard Hixson *rh*

Committee on JUDICIARY

Bill No. HB 343

Date of meeting April 15, 1987

Time 1:15 p.m.

Place 214 Capitol

AS REPORTED TO CLERK

FINAL ACTION: FAVORABLE
 FAVORABLE WITH AMENDMENTS
 FAVORABLE WITH SUBSTITUTE
 UNFAVORABLE

VOTE:

YEA	MEMBER	NAY
	CANADY	X
X	COSGROVE	
X	DAVIS	
X	DIAZ-BALART	
	DRAGE	X
	DUNBAR	X
X	IRELAND	
X	LAWSON	
X	LIBERTI	
	MARTINEZ	X
X	PEEPLES	
	PRESS	X
X	RUSH	
X	SAUNDERS	
X	SIMON	

YEA	MEMBER	NAY
X	TITONE	
X	WEBSTER	
	WOODRUFF	
X	UPCHURCH (Chmn.)	

Total Yea 13 Total Nays 5

 Chairman

COMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

Name	Representing	Address
Fred A. Martin	FL Bankers Association	P. O. Box 5257 Tall., FL 32314
Tom Cardwell	FL Bankers Association	255 S. Orange Ave. Orlando, FL

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here)

File 2 copies with Clerk

MOTION AND VOTE SHEET
HOUSE JUDICIARY COMMITTEE

DATE: 4-15-87

BILL #: HB 343

Jaw.

am 1 by stage
1 p 1 & 12-23 failed 00

am 2 - wd

Speaker:

Armed Martin
Tom Cardwell

	YEA	NAY
CANADY		✓
COSGROVE	✓	
DAVIS	✓	
DIAZ-BALART	✓	
DRAGE		✓
DUNBAR		✓
IRELAND	✓	
LAWSON	✓	
LIBERTI	✓	
MARTINEZ		✓
PEEPLER	✓	
PRESS		✓
RUSH	✓	
SAUNDERS	✓	
SIMON	✓	
TITONE	✓	
WEBSTER	✓	
WOODRUFF		
(Chair) UPCHURCH	✓	
TOTAL:	<u>13</u>	<u>5</u>
	YEA	NAY

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

1

Representative ~~of~~ The Committee on Drainage

HB 343
SF _____

offered the following amendment

On page 1, line 17-23 strike

Strike all of said lines

and insert: *Section 1*
Paragraph (a) of subsection (1) of
§ 73, Florida Statutes, as
heretofore repealed.

adopted

failed of adoption

4-15-87 *UV*

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

WD 2

Representative ~~s/~~ The Committee on Drugs

title
offered the following amendment:

HB 343
SB _____

On page 1 line 2-8, strike

and insert An act relating to punitive damages; repealing S. 768.73(1)(a), F.S.; providing an

adopted

dated of adoption

WD 4-13-87