

1989

## Session Law 89-203

Florida Senate & House of Representatives

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**H 1102 GENERAL BILL/CS by Insurance; Frankel (Identical CS/S 1131)**

Collateral Sources of Indemnity; amends provision re collateral sources of indemnity re actions for personal injury or wrongful death arising out of ownership, operation, use or maintenance of motor vehicle; provides exceptions. Amends 627.7372. Effective Date: 10/01/89.

03/21/89 HOUSE Prefiled  
03/24/89 HOUSE Referred to Insurance; Appropriations  
04/03/89 HOUSE Subreferred to Subcommittee on Property and Casualty  
04/04/89 HOUSE Introduced, referred to Insurance; Appropriations -HJ 104; Subreferred to Subcommittee on Property and Casualty; On Committee agenda—Insurance, 04/05/89, 11:15 am, 317-C—For ratification to subcommittee  
04/06/89 HOUSE On subcommittee agenda—Insurance, 04/10/89, 1:15 pm, 317-C—Temporarily passed  
05/11/89 HOUSE On Committee agenda—Insurance, 05/15/89, 10:30 am, 317-C—to be withdrawn from subcommittee and considered  
05/15/89 HOUSE Preliminary Committee Action by Insurance: Favorable as a CS  
05/22/89 HOUSE Comm. Report: CS by Insurance -HJ 567; CS read first time -HJ 566; Now in Appropriations -HJ 567  
05/24/89 HOUSE Withdrawn from Appropriations -HJ 605; Placed on Calendar  
05/26/89 HOUSE Placed on Consent Calendar; Read second time; Read third time; CS passed; YEAS 108 NAYS 0 -HJ 685  
05/26/89 SENATE In Messages  
05/29/89 SENATE Received -SJ 496; Substituted for CS/SB 1131; CS passed; YEAS 36 NAYS 0 -SJ 509  
05/29/89 Ordered enrolled  
06/13/89 Signed by Officers and presented to Governor  
06/28/89 Approved by Governor; Chapter No. 89-203

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h1102-f.inj  
DATE: June 30, 1989

HOUSE OF REPRESENTATIVES  
INSURANCE COMMITTEE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1102

RELATING TO: Collateral Sources of Indemnity

SPONSOR(S): Committee on Insurance & Representative Frankel

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: June 28, 1989

CHAPTER #: 89-203, Laws of Florida

COMPANION BILL(S): SB 1131

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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I. SUMMARY:

This bill provides additional exceptions from collateral source provisions as they relate to any action arising out of the ownership, operation, use or maintenance of a motor vehicle.

A. PRESENT SITUATION:

Under section 627.7372, the court in any action arising out of the ownership, operation, use or maintenance of a motor vehicle, must admit into evidence the total amount of all collateral sources paid to the claimant. Furthermore, the court must instruct the jury to reduce its verdict by the value of all benefits received by the claimant from any collateral source. Collateral sources include federal, state or local disability acts, disability insurance and wage continuation plans (complete list found in section 627.7372(2)). Benefits received under Workers' Compensation Law or Medicaid program of Title XIX of the Social Security Act or from any medical service program administered by the Department of Health & Rehabilitative Services are not considered a collateral source.

Section 768.76 also addresses the issue of reduction of awards by collateral sources. This section applies to all negligence actions specified in Chapter 768 part III, including any civil action based on negligence, strict liability, products liability, or breach of warranty. This collateral source provision was enacted into law in 1986. Section 627.7372 was enacted into law in 1977 and amended in subsequent years. The major difference in these two sections is that section 768.76 does not allow the amount awarded to be reduced by the amount received from

collateral sources for which a subrogation right exists, whereas section 627.7372 requires the award to be reduced by the amount received from all collateral sources and does not address the issue of subrogation.

B. EFFECT OF PROPOSED CHANGES:

HB 1102 provides that benefits received under Medicare or any other federal program providing for a federal government lien on the plaintiff's recovery are not considered a collateral source for the purposes of section 627.7372, F.S., which requires that the total amount of all collateral sources paid to a claimant in any action arising out of the ownership, operation, use or maintenance of a motor vehicle, be admitted into evidence to reduce verdict awards by the value of benefits received from collateral sources.

C. SECTION-BY-SECTION ANALYSIS:

None

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

The addition of the specified exemptions may transfer liability for payment from another third party payor to auto insurers.

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

HB 1102 does not directly relate to and is not inconsistent with the goals and policies specified in the State Comprehensive Plan.

IV. COMMENTS:

The mission of the Insurance Committee is to construct insurance laws which will require payment of claims when due, promote the availability of affordable insurance, stabilize insurance rates, protect the solvency of insurance institutions, and expand the ability of companies to profit from wise investments. This bill does not relate to the specific mission of the Committee.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Sharon N. Jacob  
Sharon N. Jacob

Staff Director:  
John Guthrie  
John Guthrie

SECOND COMMITTEE OF REFERENCE:

Prepared by:

\_\_\_\_\_

Staff Director:  
\_\_\_\_\_

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:  
\_\_\_\_\_

REVISED: \_\_\_\_\_

BILL NO. CS/SB 1131

DATE: May 19, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Andrews</u> <i>AK</i>	<u>Fort</u> <i>AK</i>	1. <u>INS</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT: Collateral Sources of Indemnity

BILL NO. AND SPONSOR: CS/SB 1131 by Insurance and Senator Gordon-Davis

I. SUMMARY:

A. Present Situation:

Section 627.7372, F.S., currently provides that in any action for personal injury or wrongful death arising out of the ownership, operation, use, or maintenance of a motor vehicle, the court must admit into evidence the total amount of all collateral sources paid to the claimant, and the jury must be instructed to deduct from its verdict the value of all benefits received by the claimant from any collateral source.

"Collateral sources" is defined to mean any payments made to the claimant, or on his behalf, by or pursuant to the United States Social Security Act; any federal, state, or local income disability act; or any other public programs providing medical expenses, disability payments, or other similar benefits.

Any health, sickness, or income disability insurance, or automobile accident insurance providing health benefits or income disability coverage is a collateral source, as well as any contract or agreement of any group, organization, partnership, or corporation which covers the costs of hospital, medical, dental, or other health care services.

Collateral sources would also include any contractual or voluntary wage continuation plan provided by employers or any other system intended to provide wages during a period of disability.

However, benefits received under the Workers' Compensation Law or the Medicaid program of Title XIX of the Social Security Act or from any medical services program administered by the Department of Health and Rehabilitative Services, will not be considered a collateral source.

B. Effect of Proposed Changes:

This committee substitute would amend s. 627.7372(3), F.S., to provide that benefits received under Medicare or any other federal program providing for a federal government lien on the plaintiff's recovery would not be considered a collateral source.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This legislation could favorably impact recipients of Medicare or other federal program benefits which provide for a federal government lien on a plaintiff's recovery.

REVISED: \_\_\_\_\_

BILL NO. CS/SB 1131

DATE: May 19, 1989

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According to the Department of Insurance, this legislation could have an unfavorable impact on automobile liability insurance rates, but such impact should be negligible.

**B. Government:**

None.

**III. COMMENTS:**

None.

**IV. AMENDMENTS:**

None.

CS/HB 1102 [cs/sr 1131]

Committee Substitute for House Bill 1102 (Chapter 89- )  
amends s. 627.7372(3), F.S., to provide that benefits  
received under Medicare or any other federal program  
providing for a federal government lien on the plaintiff's  
recovery would not be considered a collateral source.