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# **Civil Justice Subcommittee**

**March 27, 2013**

**10:30 AM**

**404 HOB**

**Action Packet**

**Will Weatherford**  
Speaker

**Larry Metz**  
Chair

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

### Summary:

#### Civil Justice Subcommittee

Wednesday March 27, 2013 10:30 am

HB 813	Favorable With Committee Substitute	Yeas: 7	Nays: 6
	Amendment 254955	Withdrawn	
	Amendment 252383	Withdrawn	
	Amendment 548243	Adopted Without Objection	
CS/HB 927	Favorable	Yeas: 10	Nays: 2
HB 987	Favorable	Yeas: 13	Nays: 0
CS/HB 1129	Favorable With Committee Substitute	Yeas: 10	Nays: 2
	Amendment 696549	Adopted Without Objection	
	Amendment 816643	Adopted Without Objection	
	Amendment 051343	Adopted Without Objection	
PCS for HB 169	Favorable	Yeas: 13	Nays: 0
PCS for HB 717	Favorable	Yeas: 13	Nays: 0
PCS for HB 797	Favorable	Yeas: 12	Nays: 1

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Larry Metz (Chair)	X		
Jim Boyd	X		
Michael Clelland	X		
Daniel Davis	X		
Tom Goodson	X		
Bill Hager	X		
Jose Oliva	X		
Kathleen Passidomo	X		
José Rodríguez	X		
Ross Spano	X		
Cynthia Stafford	X		
Charlie Stone	X		
James Waldman	X		
<b>Totals:</b>	<b>13</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

### HB 813 : Civil Remedies Against Insurers

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Michael Clelland		X			
Daniel Davis	X				
Tom Goodson	X				
Bill Hager	X				
Jose Oliva		X			
Kathleen Passidomo	X				
José Rodriguez		X			
Ross Spano		X			
Cynthia Stafford		X			
Charlie Stone	X				
James Waldman		X			
Larry Metz (Chair)	X				
<b>Total Yeas: 7</b>		<b>Total Nays: 6</b>			

### HB 813 Amendments

#### Amendment 254955

Withdrawn

#### Amendment 252383

Withdrawn

#### Amendment 548243

Adopted Without Objection

### Appearances:

Farmer, Gary (General Public) - Opponent  
Florida Justice Association  
425 N Andrews Ave, #2  
Ft. Lauderdale FL 33301  
Phone: 954-524-2820

Kissane, Joe (Lobbyist) - Proponent  
Florida Justice Reform Institute  
4686 Sunbeam Rd  
Jacksonville FL 32257  
Phone: 904-672-4031

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

**Location:** 404 HOB

**HB 813 : Civil Remedies Against Insurers (continued)**

**Appearances: (continued)**

Weihmuller, John (General Public) - Waive In Support  
777 S Harbour Island Blvd  
Tampa FL 33602  
Phone: 813-281-1900

Mulholland, Jason (General Public) - Opponent  
Tampa Bay Trial Lawyers Association  
9312 N Armenia Ave  
Tampa FL 33612  
Phone: 813-935-8256

Swope, Dale (General Public) - Opponent  
Taxpayers Against Insurance Bad Faith  
1234 E 5th Ave  
Tampa FL 33605  
Phone: 813-273-0017

Meros, George (Lobbyist) - Waive In Support  
U.S. Chamber of Commerce  
301 S. Bronough  
Tallahassee FL 32302  
Phone: 850-577-5487

Fishman, Julie (General Public) - Opponent  
Governmental Affairs Liaison, Community Advocacy Network  
5297 W Copans Rd  
Margate FL 33064  
Phone: 954-213-0979

Diaz, Pablo (Lobbyist) - Waive In Support  
National Federation of Independent Business  
110 E Jefferson St  
Tallahassee FL 32301  
Phone: 850)385-1109

Camara, Christian (Lobbyist) - Waive In Support  
R Street Institute  
1728 Connecticut Ave NW 2nd Floor  
Washington DC 20009  
Phone: 305)608-4300

Hart, David (Lobbyist) - Waive In Support  
Florida Chamber of Commerce  
136 S Bronough St  
Tallahassee FL 32301  
Phone: 850)521-1200

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

**Location:** 404 HOB

**HB 813 : Civil Remedies Against Insurers (continued)**

**Appearances: (continued)**

Wester, Gerald (Lobbyist) - Waive In Support

Associated Industries of Florida

PO Box 784

Tallahassee FL 32302

Phone: (850)222-9075

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

*Withdrawn  
3.27.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee  
2 Representative Passidomo offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

6 Section 1. Subsection (10) is added to section 624.155,  
7 Florida Statutes, to read:

8 624.155 Civil remedy.—

9 (10) (a) As a condition precedent to a statutory or common-  
10 law action for bad-faith failure to settle a liability insurance  
11 claim, the claimant must provide the insurer a notice of loss.

12 (b) If the insurer timely provides the claimant the  
13 disclosure statement described in s. 627.4137 and within 45 days  
14 after receipt of the notice of loss offers to pay the claimant  
15 the lesser of the amount the claimant is willing to accept and  
16 the limits of liability coverage applicable to the claimant's  
17 insurance claim in exchange for a full release of the insured  
18 from any liability arising from the incident and the notice of  
19 insurance claim, then the insurer does not violate the duty to



Amendment No. 1

20 attempt in good faith to settle the claim, and is not liable for  
21 bad-faith failure to settle under this section or under the  
22 common law.

23 (c) The failure of an insurer to satisfy the conditions of  
24 this subsection is not admissible to establish bad-faith failure  
25 to settle, nor does it not raise a presumption of bad-faith  
26 failure to settle.

27 (d) In any action for bad-faith failure to settle under  
28 this section or under the common law, the finder of fact shall  
29 consider whether the insured or claimant reasonably cooperated  
30 to provide information relevant to the investigation of the  
31 claim by the insurer.

32 Section 2. This act shall take effect July 1, 2013.

33  
34  
35  
36 -----  
37 **T I T L E A M E N D M E N T**

38 Remove everything before the enacting clause and insert:  
39 An act relating to civil remedies against insurers; amending s.  
40 624.155, F.S.; requiring that before bringing a statutory or  
41 common-law bad faith action against an insurer, the party  
42 bringing the action must first provide a notice to the insurer;  
43 providing that an insurer is not acting in bad faith if the  
44 insurer tenders either the lesser of the amount claimed or the  
45 policy limits within a set period of time; providing that the  
46 failure of an insurer to tender payment within the notice period  
47 is not itself bad faith; providing that in any bad faith action





Amendment No. 1

48 | the court must consider whether the insured or claimant  
49 | reasonably cooperated with the insurer; providing an effective  
50 | date.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*Withdrawn  
3-27-13*

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
2 Representative Passidomo offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (10) is added to section 624.155,  
8 Florida Statutes, to read:

9 624.155 Civil remedy.—

10 (10) (a) As a condition precedent to a statutory or common-  
11 law action for bad-faith failure to settle a liability insurance  
12 claim, the insured, the claimant or anyone acting on behalf of  
13 the claimant must provide the insurer written notice of loss.

14 (b) If the insurer timely provides the claimant the  
15 disclosure statement described in s. 627.4137 and within 45 days  
16 after receipt of the notice of loss offers to pay the claimant  
17 the lesser of the amount the claimant is willing to accept or  
18 the limits of liability coverage applicable to the claimant's  
19 insurance claim in exchange for a full release of the insured  
20 from any liability arising from the incident and the notice of



Amendment No. 2

21 insurance claim, then the insurer does not violate the duty to  
22 attempt in good faith to settle the claim, and is not liable for  
23 bad-faith failure to settle under this section or under the  
24 common law.

25 (c) The failure of an insurer to satisfy the conditions of  
26 this subsection is not admissible to establish bad-faith failure  
27 to settle, nor does it not raise a presumption of bad-faith  
28 failure to settle.

29 (d) In any action for bad-faith failure to settle under  
30 this section or under the common law, the finder of fact shall  
31 consider whether the insured or claimant reasonably cooperated  
32 to provide information relevant to the investigation of the  
33 claim by the insurer.

34 Section 2. This act shall take effect July 1, 2013.

35  
36  
37 -----  
38 **T I T L E A M E N D M E N T**

39 Remove everything before the enacting clause and insert:  
40 An act relating to civil remedies against insurers; amending s.  
41 624.155, F.S.; requiring that before bringing a statutory or  
42 common-law bad faith action against an insurer, the party  
43 bringing the action must first provide a notice to the insurer;  
44 providing that an insurer is not acting in bad faith if the  
45 insurer tenders either the lesser of the amount claimed or the  
46 policy limits within a set period of time; providing that the  
47 failure of an insurer to tender payment within the notice period  
48 is not itself bad faith; providing that in any bad faith action



Amendment No. 2

49 the court must consider whether the insured or claimant  
50 reasonably cooperated with the insurer; providing an effective  
51 date.



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

*favorable  
3-27-13*

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
2 Representative Passidomo offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (10) is added to section 624.155,  
7 Florida Statutes, to read:

8 624.155 Civil remedy.—

9 (10) (a) As a condition precedent to a statutory or common-  
10 law action for bad-faith failure to settle a liability insurance  
11 claim, the insured, claimant, or anyone on behalf of the insured  
12 or the claimant must provide the insurer written notice of loss.  
13 If, prior to receipt of such written notice, the insurer  
14 receives a communication from the insured, the claimant, or  
15 anyone acting on behalf of the insured or the claimant which is  
16 not in writing, the insurer shall within 72 hours after such  
17 communication send a request for information to the person who  
18 initiated the communication requesting that the insured, the  
19 claimant, or someone acting on behalf of the insured or the



Amendment No. 3

20 claimant provide a written notice provided for in this  
21 paragraph.

22 (b) If the insurer timely provides the claimant the  
23 disclosure statement described in s. 627.4137 and within 45 days  
24 after receipt of the written notice of loss offers to pay the  
25 claimant the lesser of the amount the claimant is willing to  
26 accept or the limits of liability coverage applicable to the  
27 claimant's insurance claim in exchange for a full release of the  
28 insured from any liability arising from the incident and the  
29 notice of insurance claim, then the insurer does not violate the  
30 duty to attempt in good faith to settle the claim, and is not  
31 liable for bad-faith failure to settle under this section or  
32 under the common law.

33

34

35

36

-----  
**T I T L E   A M E N D M E N T**

38 Remove everything before the enacting clause and insert:  
39 An act relating to civil remedies against insurers; amending s.  
40 624.155, F.S.; requiring an insured or claimant to provide the  
41 insurer a written notice of loss as a condition precedent to a  
42 statutory or common law action for bad faith; providing that an  
43 insurer is not liable for a claim of bad faith if certain  
44 conditions are met; providing an effective date.

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

CS/HB 927 : Agritourism

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Michael Clelland	X				
Daniel Davis	X				
Tom Goodson	X				
Bill Hager	X				
Jose Oliva	X				
Kathleen Passidomo	X				
José Rodríguez	X				
Ross Spano			X		
Cynthia Stafford		X			
Charlie Stone	X				
James Waldman		X			
Larry Metz (Chair)	X				
<b>Total Yeas: 10</b>		<b>Total Nays: 2</b>			

### Appearances:

Cruz, David (Lobbyist) - Opponent  
Florida League of Cities  
P.O. Box 1751  
Tallahassee Florida 32302  
Phone: 850-701-3676

Basford, Adam (Lobbyist) - Proponent  
Florida Farm Bureau Federation  
PO Box 147030  
Gainesville FL 32614  
Phone: 850)222-2557

James, Stephen (Lobbyist) - Opponent  
Florida Association of Counties  
100 South Monroe Street  
Tallahassee FL 32302  
Phone: (850)922-4300

Calhoun, H. (Lobbyist) - Waive In Support  
Florida Fruit & Vegetable Association  
PO Box 948153  
Maitland FL  
Phone: 850)521-0455

Mann, Douglas (Lobbyist) - Waive In Support  
Associated Industries of Florida  
516 N Adams St  
Tallahassee FL 32301  
Phone: 850)222-7535

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# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

HB 987 : Driver Licenses

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Michael Clelland	X				
Daniel Davis	X				
Tom Goodson	X				
Bill Hager	X				
Jose Oliva	X				
Kathleen Passidomo	X				
José Rodríguez	X				
Ross Spano	X				
Cynthia Stafford	X				
Charlie Stone	X				
James Waldman	X				
Larry Metz (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

### Appearances:

Maclure, Eric (Lobbyist) - Waive In Support  
State Courts System  
Supreme Court Bldg 500 S Duval St  
Tallahassee FL  
Phone: 850)922-5692

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM



# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

CS/HB 1129 : Infants Born Alive

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Michael Clelland	X				
Daniel Davis	X				
Tom Goodson	X				
Bill Hager			X		
Jose Oliva	X				
Kathleen Passidomo	X				
José Rodríguez	X				
Ross Spano	X				
Cynthia Stafford		X			
Charlie Stone	X				
James Waldman		X			
Larry Metz (Chair)	X				
<b>Total Yeas: 10</b>		<b>Total Nays: 2</b>			

### CS/HB 1129 Amendments

#### Amendment 696549

Adopted Without Objection

#### Amendment 816643

Adopted Without Objection

#### Amendment 051343

Adopted Without Objection

### Appearances:

Bilbao, Ron (State Employee) - Waive In Opposition  
American Civil Liberties Union of Florida  
4500 Biscayne Blvd, Suite 340  
Miami Florida 33137  
Phone: 919-923-7288

Johnson, Sara (Lobbyist) - Waive In Support  
Florida Family Action  
4853 S. Orange Ave.  
Orlando Fl 32806  
Phone: 850-567-8143

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

**Location:** 404 HOB

**CS/HB 1129 : Infants Born Alive (continued)**

**Appearances: (continued)**

DeVane, Barbara (Lobbyist) - Waive In Opposition  
Florida NOW National Organization for Women, Inc  
625 E Brevard St  
Tallahssee FL 32308  
Phone: (850)222-3969

Young, Emily (General Public) - Opponent  
Nova Southeastern University  
12898 138th Ln  
Largo FL 33774  
Phone: 202-487-4719

Snow, Alisa (Lobbyist) - Opponent  
Florida Alliance of Planned Parenthood Affiliates  
2300 N Florida Mango Rd  
West Palm Beach FL 33409  
Phone: 850)443-1319

Hopkins, Sheila (Lobbyist) - Waive In Support  
Florida Conference of Catholic Bishops  
201 W Park Ave  
Tallahassee FL 32301-7715  
Phone: (850)205-6826

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	___	

*Favorable  
3-27-13*

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
2 Representative Rodríguez, J. offered the following:

3  
4  
5  
6  
7  
8

**Amendment**

Remove line 64 and insert:

care practitioner would render to an infant born alive at the  
same gestational age in the



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*Favorable  
3.27.13*

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
2 Representative Rodríguez, J. offered the following:

**Amendment (with title amendment)**

5 Remove line 79 and insert:

6 775.082 or s. 775.083. This subsection shall not be interpreted  
7 to be a specific statute covering a particular subject matter  
8 that would preclude prosecution of a more general offense,  
9 regardless of penalty.

13 -----  
14 **T I T L E A M E N D M E N T**

15 Between lines 18 and 19, insert:  
16 providing a rule of interpretation;



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*Favorable  
3.27.13*

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
2 Representative Rodríguez, J. offered the following:

**Amendment (with title amendment)**

Between lines 79 and 80, insert:

(f) Nothing in this subsection shall be construed to  
affirm, deny, expand, or contract any legal status or legal  
right applicable to any member of the species homo sapiens at  
any point prior to being born alive as defined in this  
subsection.

-----  
**T I T L E   A M E N D M E N T**

Between lines 18 and 19, insert:  
providing construction;

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

PCS for HB 169 : Residential Tenancies

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Michael Clelland	X				
Daniel Davis	X				
Tom Goodson	X				
Bill Hager	X				
Jose Oliva	X				
Kathleen Passidomo	X				
José Rodríguez	X				
Ross Spano	X				
Cynthia Stafford	X				
Charlie Stone	X				
James Waldman	X				
Larry Metz (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

### Appearances:

Vickers, Alice (Lobbyist) - Proponent  
Florida Consumer Action Network  
623 Beard Street  
Tallahassee FL 32303  
Phone: 850-556-3121

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

PCS for HB 717 : Discrimination

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Michael Clelland	X				
Daniel Davis	X				
Tom Goodson	X				
Bill Hager	X				
Jose Oliva	X				
Kathleen Passidomo	X				
José Rodríguez	X				
Ross Spano	X				
Cynthia Stafford	X				
Charlie Stone	X				
James Waldman	X				
Larry Metz (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM

# COMMITTEE MEETING REPORT

## Civil Justice Subcommittee

3/27/2013 10:30:00AM

Location: 404 HOB

PCS for HB 797 : Search and Seizure of Portable Electronic Device

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Michael Clelland	X				
Daniel Davis	X				
Tom Goodson	X				
Bill Hager		X			
Jose Oliva	X				
Kathleen Passidomo	X				
José Rodríguez	X				
Ross Spano	X				
Cynthia Stafford	X				
Charlie Stone	X				
James Waldman	X				
Larry Metz (Chair)	X				
<b>Total Yeas: 12</b>		<b>Total Nays: 1</b>			

### Appearances:

Trammell, Robert (Lobbyist) - Waive In Support  
Florida Public Defender Association, Inc  
PO Box 11057  
Tallahassee FL 32302  
Phone: (850)510-2187

Gualtieri, Bob (General Public) - Opponent  
Sheriff, Pinellas County

Daniels, Nancy (State Employee) - Proponent  
Public Defender, 2nd Circuit  
Leon County Courthouse 301 S Monroe Street  
Tallahassee FL 32301  
Phone: 850-606-1010

Cervone, Bill (State Employee) - Opponent  
State Attorney, Florida Prosecuting Attorneys Association  
120 West University Avenue  
Gainesville FL 32601  
Phone: (352) 374-3686

Stanfield, Timothy (Lobbyist) - Waive In Opposition  
Florida Police Chiefs Association  
PO Box 14038  
Tallahassee FL 32317  
Phone: 954)492-4010

Committee meeting was reported out: Wednesday, March 27, 2013 3:12:07PM