



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3911

Introduced 12/11/2011, by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1205

from Ch. 110, par. 2-1205

Amends the Code of Civil Procedure. Provides, with regard to a reduction in the amount of recovery from a judgment, additional reductions in an amount equal to the sum of (i) 100% of the amount of the benefits that is in excess of the amount which has been paid, not the amount billed (as shown through evidence that proves that the injured person's bill was paid in full by an amount that is less than the stated charge) by the injured person or third party and (ii) 100% of the amount of the medical benefits that is in excess of the amount which was paid by a governmental or charitable entity and for which the health provider has released the injured party from all claims shall be deducted from any judgment in an action based on an allegation of negligence or other wrongful act on the part of a licensed hospital or physician, provided that specified procedures are followed.

LRB097 14135 AJO 58828 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-1205 as follows:

6 (735 ILCS 5/2-1205) (from Ch. 110, par. 2-1205)

7 Sec. 2-1205. Reduction in amount of recovery. An amount
8 equal to the sum of (i) 50% of the benefits provided for lost
9 wages or private or governmental disability income programs,
10 which have been paid, or which have become payable to the
11 injured person by any other person, corporation, insurance
12 company or fund in relation to a particular injury, ~~and~~ (ii)
13 100% of the benefits provided for medical charges, hospital
14 charges, or nursing or caretaking charges, which have been
15 paid, or which have become payable to the injured person by any
16 other person, corporation, insurance company or fund in
17 relation to a particular injury, (iii) 100% of the amount of
18 the benefits provided for medical charges, hospital charges, or
19 nursing or caretaking charges that is in excess of the amount
20 which has been paid, not the amount billed (as shown by
21 evidence that proves that the injured person's bill was paid in
22 full by an amount that is less than the stated charge) by the
23 injured person or by any other person, corporation, insurance

1 company or fund in relation to a particular injury, and (iv)
2 100% of the amount of the benefits provided for medical
3 charges, hospital charges, or nursing or caretaking charges
4 that is in excess of the amount which has been paid by a
5 governmental or charitable entity and as to which the health
6 provider has released the injured party from all claims, as a
7 result of the payment, shall be deducted from any judgment in
8 an action to recover for that injury based on an allegation of
9 negligence or other wrongful act, not including intentional
10 torts, on the part of a licensed hospital or physician;
11 provided, however, that:

12 (1) Application is made within 30 days to reduce the
13 judgment;

14 (2) Such reduction shall not apply to the extent that there
15 is a right of recoupment through subrogation, trust agreement,
16 lien, or otherwise;

17 (3) The reduction shall not reduce the judgment by more
18 than 50% of the total amount of the judgment entered on the
19 verdict;

20 (4) The damages awarded shall be increased by the amount of
21 any insurance premiums or the direct costs paid by the
22 plaintiff for such benefits in the 2 years prior to plaintiff's
23 injury or death or to be paid by the plaintiff in the future
24 for such benefits; and

25 (5) There shall be no reduction for charges paid for
26 medical expenses which were directly attributable to the

1 adjudged negligent acts or omissions of the defendants found
2 liable.

3 (Source: P.A. 84-7.)