

1-1 By: Williams S.B. No. 890  
1-2 (In the Senate - Filed March 2, 2005; March 10, 2005, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 April 6, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 6, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 890 By: Williams

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the amount of recovery in a civil action.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Section 33.012, Civil Practice and Remedies  
1-13 Code, as amended by Chapter 136, Acts of the 74th Legislature,  
1-14 Regular Session, 1995, and Chapter 204, Acts of the 78th  
1-15 Legislature, Regular Session, 2003, is amended to read as follows:  
1-16 Sec. 33.012. AMOUNT OF RECOVERY. (a) If the claimant is  
1-17 not barred from recovery under Section 33.001, the court shall  
1-18 reduce the amount of damages to be recovered by the claimant with  
1-19 respect to a cause of action by a percentage equal to the claimant's  
1-20 percentage of responsibility.  
1-21 (b) If the claimant has settled with one or more persons,  
1-22 the court shall further reduce the amount of damages to be recovered  
1-23 by the claimant with respect to a cause of action by ~~[a percentage~~  
1-24 ~~equal to each settling person's percentage of responsibility.~~  
1-25 ~~[(c) Notwithstanding Subsection (b), if the claimant in a~~  
1-26 ~~health care liability claim filed under Chapter 74 has settled with~~  
1-27 ~~one or more persons, the court shall further reduce the amount of~~  
1-28 ~~damages to be recovered by the claimant with respect to a cause of~~  
1-29 ~~action by] an amount equal to [one of the following, as elected by~~  
1-30 ~~the defendant:~~  
1-31 ~~[(1)] the sum of the dollar amounts of all~~  
1-32 ~~settlements [or~~  
1-33 ~~[(2) a percentage equal to each settling person's~~  
1-34 ~~percentage of responsibility as found by the trier of fact].~~  
1-35 ~~(c) [(d) An election made under Subsection (c) shall be~~  
1-36 ~~made by any defendant filing a written election before the issues of~~  
1-37 ~~the action are submitted to the trier of fact and when made, shall~~  
1-38 ~~be binding on all defendants. If no defendant makes this election~~  
1-39 ~~or if conflicting elections are made, all defendants are considered~~  
1-40 ~~to have elected Subsection (c)(1).~~  
1-41 ~~[(d)] This section shall not apply to benefits paid by or on~~  
1-42 ~~behalf of an employer to an employee pursuant to workers'~~  
1-43 ~~compensation insurance coverage, as defined in Section~~  
1-44 ~~401.011(44), Labor Code, in effect at the time of the act, event, or~~  
1-45 ~~occurrence made the basis of claimant's suit.~~  
1-46 SECTION 2. (a) This Act applies to all actions:  
1-47 (1) commenced on or after the effective date of this  
1-48 Act; or  
1-49 (2) pending on the effective date of this Act and in  
1-50 which the trial, or any new trial or retrial following motion,  
1-51 appeal, or otherwise, begins on or after that effective date.  
1-52 (b) For an action commenced before the effective date of  
1-53 this Act, a trial, new trial, or retrial that is in progress on the  
1-54 effective date is governed by the law applicable to the trial, new  
1-55 trial, or retrial immediately before that date, and that law is  
1-56 continued in effect for that purpose.  
1-57 SECTION 3. To the extent of any conflict, this Act prevails  
1-58 over another Act of the 79th Legislature, Regular Session, 2005,  
1-59 relating to nonsubstantive additions to and corrections in enacted  
1-60 codes.  
1-61 SECTION 4. This Act takes effect immediately if it receives  
1-62 a vote of two-thirds of all the members elected to each house, as  
1-63 provided by Section 39, Article III, Texas Constitution. If this

2-1 Act does not receive the vote necessary for immediate effect, this  
2-2 Act takes effect September 1, 2005.

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