

# HOUSE BILL NO. 740

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

1596H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 537.065, RSMo, and to enact in lieu thereof one new section relating to contracts limiting tortfeasor liability.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 537.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.065, to read as follows:

537.065. **1.** Any person having an unliquidated claim for damages against a ~~[tort-feasor]~~ **tortfeasor**, on account of bodily injuries or death, **provided that such tortfeasor's insurer or indemnitor has the opportunity to defend the tortfeasor unconditionally but refuses to do so**, may enter into a contract with such ~~[tort-feasor]~~ **tortfeasor** or any insurer in his behalf or both, whereby, in consideration of the payment of a specified amount, the person asserting the claim agrees that in the event of a judgment against the ~~[tort-feasor]~~ **tortfeasor**, neither he nor any person, firm or corporation claiming by or through him will levy execution, by garnishment or as otherwise provided by law, except against the specific assets listed in the contract and except against any insurer which insures the legal liability of the ~~[tort-feasor]~~ **tortfeasor** for such damage and which insurer is not excepted from execution, garnishment or other legal procedure by such contract. Execution or garnishment proceedings in aid thereof shall lie only as to assets of the ~~[tort-feasor]~~ **tortfeasor** specifically mentioned in the contract or the insurer or insurers not excluded in such contract. Such contract, when properly acknowledged by the parties thereto, may be recorded in the office of the recorder of deeds in any county where a judgment may be rendered, or in the county of the residence of the ~~[tort-feasor]~~ **tortfeasor**, or in both such counties, and if the same is so recorded then such ~~[tort-feasor's]~~ **tortfeasor's** property, except as to the assets specifically listed in the contract, shall not be subject to any judgment lien as the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 result of any judgment rendered against the [~~tortfeasor~~] **tortfeasor**, arising out of the transaction  
19 for which the contract is entered into.

20 **2. If a judgment is entered under this section and is offered as proof of the**  
21 **tortfeasor's liability or the claimant's damages in a subsequent action against an insurer**  
22 **or indemnitor, such insurer or indemnitor shall have the right to challenge the**  
23 **reasonableness of the judgment and factual and legal determinations affecting coverage.**

✓

WITHDRAWN