

# HOUSE . . . . . No. 3989

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act relative to court proceedings..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 70A of chapter 111 of the General Laws, as appearing in the 2006  
2   Official Edition, is hereby amended by inserting after the first sentence the following sentence:-

3           The expense of any attorney's fees and costs incurred in enforcing the liability of the  
4   tortfeasor and in obtaining such judgment, compromise or settlement shall be divided between  
5   the health maintenance organization, or hospital, medical or dental service corporation and the  
6   injured person in proportion to the amounts received by them from any such judgment,  
7   settlement or compromise. If the settlement, judgment or funds available to satisfy the judgment  
8   are less than the amount of plaintiff's total damages, the court may reduce after a hearing the  
9   amount of said insurer's lien in the action, after evaluation of the plaintiff's total cognizable  
10   damages at law.

11          SECTION 2. Section 13B of chapter 231 of the General Laws, as so appearing is hereby  
12   amended by adding the following sentence:-

13 In civil actions in the superior court, plaintiffs, through their counsel, may ask at trial for  
14 a specific monetary amount for damages.

15 SECTION 3. Said chapter 231 is hereby further amended by inserting after section 72  
16 the following section:-

17 Section 72A. In any action in which an injured person enters into a settlement with, or  
18 obtains a judgment upon trial from a third party and benefits for his injuries have been paid  
19 under chapter 152, and the injured person and the insurer paying said benefits do not agree to the  
20 amount each is entitled to recover out of such settlement or judgment, there shall be a just and  
21 reasonable apportionment thereof in accordance with this section. If the settlement, judgment or  
22 funds available to satisfy the judgment are less than the amount of plaintiff's total damages, the  
23 court or other authority authorized to approve settlements under section 15 of chapter 152 may  
24 reduce after a hearing the amount of said insurer's lien in the action, after evaluation of the  
25 plaintiff's total cognizable damages at law. Except in the case of a final judgment, where the  
26 plaintiff is dissatisfied with the apportionment by the court, he may withdraw his consent to the  
27 settlement.