

Assembly passes measure limiting contingency fees

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By SIGRID BATHEN

Recorder Capital Correspondent

SACRAMENTO — A bill to limit the contingency fees attorneys may charge in claims for damages based on non-medical negligence has been passed by the state Assembly and sent to the Senate.

The measure, AB 1912 by Assemblyman Elihu Harris, D-Oakland, chairman of the Assembly Judiciary Committee, was passed by the Assembly Wednesday by a vote of 42-29. It is now expected to go to the Senate Judiciary Committee.

According to a legislative analysis of the bill, AB 1912 would limit an attorney's contingency fees in negligence cases to 33 1/3 percent of the recovery in actions resolved prior to trial, and 40 percent of the recovery in actions that proceed to trial.

The bill defines the amount recovered as the net sum after deducting disbursements or costs incurred in connection with the prosecution or settlement of the claim. It permits the court to approve a contract for a contingency fee beyond the limits authorized

"in any case in which the interests of justice so require."

The bill does not apply to actions against a health care provider based on professional negligence, actions covered by the Medical Injury Compensation Reform Act.

State Bar of California spokeswoman Anne Charles said the bar has taken no position on the issue, but said officials would watch it.

Nancy Drabble, legislative counsel to the California Trial Lawyers Association, said the group has taken no formal position on the measure.

"We decided not to oppose it in committee, but if it goes further, we'll have to take a serious look at it," she said.

The bill is opposed by the Association of California Insurance Companies.

According to the bill analysis, Harris said the limits established by the bill are "reasonable maximums" that attorneys may charge in ordinary contingency fee cases. In extraordinary cases, he said, fees that exceed the bill's limits may be justified.