



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0432 Introduced on January 12, 2021
Author: Alexander
Subject: Defense Costs
Requestor: Senate Banking and Insurance
RFA Analyst(s): Miller and Gardner
Impact Date: February 9, 2021

Fiscal Impact Summary

This bill will have no expenditure impact on the Department of Insurance as there is no alteration of current responsibilities. The Judicial Department indicates that should the bill increase caseloads in common pleas, magistrate, and municipal courts, it will manage any associated additional costs using existing General Fund resources.

This bill is not anticipated to have an impact on General Fund or Other Funds revenues as there is no anticipated change to insurance premiums nor insurance premium taxes.

Explanation of Fiscal Impact

Introduced on January 12, 2021

State Expenditure

This bill establishes the right of an insurer to claim contribution of defense costs from other liability insurers who owe a duty to defend. The court will allocate the defense costs among the insurers owing a duty to defend. Currently there is legal precedence for pro-rata sharing of costs among insurers for the losses, including cost of defenses, for the insured.

Department of Insurance. This bill does not alter the responsibilities of the Department of Insurance. Therefore, this bill will not result in an expenditure impact for the agency.

Judicial Department. The bill, which requires a court to allocate defense costs among insurers owing a duty to defend the insured, provides that the court may use equitable factors to make the determination and allows a civil action for contribution by the liability insurer. The department indicates that as the bill creates a new cause of action, it may increase the number of filings, hearings, or trials heard in common pleas, magistrate, and municipal courts. The department will use existing General Fund resources to manage any increase in costs associated with implementation of the bill.

State Revenue

This bill establishes the right of an insurer to claim contribution of defense costs from other liability insurers who owe a duty to defend. Revenue and Fiscal Affairs does not anticipate that

this bill will result in a change in insurance premiums nor insurance premium taxes. Therefore, there is no anticipated General Fund or Other Fund revenue impact.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director