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Client Alert: Proposed Bill Seeks to More Than Triple the Liability Limits Under the South Carolina Tort Claims Act

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Bill S0007 was prefiled on December 12, 2018 ahead of Legislative Session 123 (2019-2020). The bill is sponsored by Senators Gerald Malloy (Democrat, District 29), Wes Climer (Republican, District 15), Stephen Goldfinch (Republican, District 34), Scott Talley (Republican, District 12), and Dick Harpootlian (Democrat, District 20).

The bill seeks to amend the South Carolina Tort Claims Act, specifically S.C. Code Section 15-78-120, to:

1. increase the limits from a loss to one person from a single occurrence from \$300,000.00 to \$1 million;
2. increase the total limits from a loss arising out of a single occurrence from \$600,000.00 to \$2 million;
- and
3. to require the limits to be adjusted annually in accordance with the Consumer Price Index.

The bill has been referred to the Senate's Committee on Judiciary and assigned to a subcommittee comprised of sponsoring Senators Malloy, Climer, Goldfinch, and Talley, as well as Senator Ronnie Sabb (Democrat, District 32).

The current version of this bill does not propose an increase to the established statutory limits for claims brought against governmental entities for any tort caused by a licensed physician or dentist employed by the governmental entity and acting within the scope of their profession. This cap remains at \$1.2 million for a single occurrence regardless of the number of agencies or political subdivisions involved. S.C. Code Ann. § 15-78-120(a)(3).

Significantly, in specific cases, this bill would also increase the limits of liability for charitable organizations for tortious acts of commission or omission of employees acting within the scope of their employment, which is limited to the liability imposed by the South Carolina Tort Claims Act. S.C. Code Ann. § 33-56-180.

Please be aware that S0007 also seeks to delete current Section 15-78-120(c), which mandates that the

signature of an attorney or party constitutes a certificate that: (1) he has read the pleading, motion, or other paper; (2) that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and (3) that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. When tort reform was signed into law in 2005, this provision was seen as an important enforcement tool to combat frivolous claims and filings.