~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

April 9, 2019

**S. 7**

Introduced by Senators Malloy, Climer, Goldfinch, Talley, Harpootlian, Kimpson and Allen

S. Printed 4/9/19--S.

Read the first time January 8, 2019.

**A** **BILL**

TO AMEND SECTION 15-78-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIMITATION OF LIABILITY, SO AS TO INCREASE THE LIMITS FROM A LOSS TO ONE PERSON ARISING FROM A SINGLE OCCURRENCE TO ONE MILLION DOLLARS, TO INCREASE THE TOTAL LIMITS FROM A LOSS ARISING OUT OF A SINGLE OCCURRENCE TO TWO MILLION DOLLARS, AND TO REQUIRE THE LIMITS BE ADJUSTED ANNUALLY IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15‑78‑120 of the 1976 Code is amended to read:

“Section 15-78-120. (a) For any action or claim for damages brought under the provisions of this chapter, the liability shall not exceed the following limits:

(1) Except as provided in Section 15‑78‑120(a)(3), no person shall recover in any action or claim brought hereunder a sum exceeding five ~~three~~ hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(2) Except as provided in Section 15‑78‑120(a)(4), the total sum recovered hereunder arising out of a single occurrence shall not exceed one million ~~six~~ ~~hundred thousand~~ dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(3) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding one million two hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(4) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed one million two hundred thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(5) The provisions of Section 15‑78‑120(a)(3) and (a)(4) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity or fees received from any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State.

(b) No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment, except as provided in subsection (c).

(c) A party that files an offer of judgment under this chapter as provided in Section 15-35-400(A) shall be allowed to recover as provided in Section 15-35-400(B) from the offeree regardless of whether the total of administrative, filing, or other court costs, and the eight percent interest on the amount of the verdict or award from the date of the offer, combined with the verdict or award exceeds the liability limits specified in Sections 15-78-120(a)(1) through (a)(4). The eight percent interest must be determined from the date of the offer and must be computed on the amount of the verdict or award subsequent to the application of any limitations on liability in Section 15-78-120(a)(1) through (a)(4). Nothing in this subsection shall be construed to limit or restrict the right of a defendant who is an offeror pursuant to Section 15-35-400(A) from receiving administrative, filing, or other court costs, and a reduction from the judgment or award of eight percent interest on the amount of the verdict or award as provided in Sections 15-35-400(B)(1) and (B)(3).

~~(c)~~(d) In any claim, action, or proceeding to enforce a provision of this chapter, the signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; 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 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. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney’s fee.”

SECTION 2. Upon approval by the Governor, this act takes effect July 1, 2020, for causes of action with a date of loss arising on and after July 1, 2020.

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