COMMITTEE REPORT

March 24, 2021

**S. 432**

Introduced by Senator Alexander

S. Printed 3/24/21--S.

Read the first time January 12, 2021.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 432) to amend Article 1, Chapter 59, Title 38 of the 1976 Code, relating to claims practices, by adding Section 38‑59‑60, to allow for contributions, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

RONNIE W. CROMER for Committee.

**A** **BILL**

TO AMEND ARTICLE 1, CHAPTER 59, TITLE 38 OF THE 1976 CODE, RELATING TO CLAIMS PRACTICES, BY ADDING SECTION 38‑59‑60, TO ALLOW FOR CONTRIBUTIONS FOR DEFENSE COSTS FOR THE SAME CLAIM, SUIT, OR ACTION AMONG MORE THAN ONE LIABILITY INSURER.

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

SECTION 1. Article 1, Chapter 59, Title 38 of the 1976 Code is amended by adding:

“Section 38‑59‑60. (A) A liability insurer owing a duty to defend an insured, and that defends the insured against a claim, suit, or other action, has a right of contribution for defense costs against any other liability insurer owing a duty to defend the insured against the same claim, suit, or other action, provided that contributions may not be sought from any liability insurer for defense costs that are incurred before the liability insurer receives notice of the claim, suit, or other action.

(B) A court shall allocate defense costs among insurers owing a duty to defend the insured against the same claim, suit, or other action, in accordance with the terms of the liability insurance policies. If defense costs are not otherwise in conflict with the terms of the insurance policies, then the court may use such equitable factors as the court determines appropriate in making the allocation.

(C) This section is not intended to alter any terms of a liability insurance policy or to create any additional duty on the part of a liability insurer to an insured. An insured may not rely on this section as grounds for a complaint against a liability insurer.

(D) A liability insurer entitled to contribution from another liability insurer under this section may file an action for contribution in a court of competent jurisdiction.

(E) This section applies to liability insurance policies issued for delivery in this State, to include surplus lines insurance policies.”

SECTION 2. This act takes effect upon approval by the Governor.

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