

State Corporation Commission

2024 Session Fiscal Impact Statement

1. **Bill Number:** SB256

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Surovell

3. **Committee:** Courts of Justice

4. **Title:** Motor vehicle insurance claims; bad faith.

5. **Summary:** Provides that if an insurance company licensed in the Commonwealth to write motor vehicle insurance (i) denies, refuses, fails to pay, or fails to make a timely and reasonable settlement offer to its insured under the provisions of any uninsured or underinsured motorist benefits coverage in a policy of motor vehicle insurance applicable to the insured after the insured has become legally entitled to recover or (ii) after all applicable liability policy limits and underlying uninsured and underinsured motorists benefits have been tendered or paid, rejects a reasonable settlement demand made by the insured within the policy's coverage limits for uninsured or underinsured motorist benefits or fails to respond within a reasonable time after being presented with such demand after the insured has become legally entitled to recover, and it is subsequently found by a court of proper jurisdiction that such denial, refusal, or failure to timely pay or failure to make a timely and reasonable settlement offer, rejection of a reasonable settlement demand, or failure to timely accept a reasonable settlement demand was not made in good faith, in addition to the amount due and owing by the insurance company to its insured on the judgment against the tortfeasor, the insurance company shall also be liable to the insured in an amount double the amount of the judgment obtained against the underinsured motorist, uninsured motorist, immune motorist, unknown owner or operator, or released defendant in the underlying personal injury or wrongful death action, up to \$500,000, together with reasonable attorney fees for bringing the claim, and all costs and expenses incurred by the insured to secure a judgment against the tortfeasor, and interest from 30 days after the date of such denial or failure or the date the reasonable settlement demand.

Under the bill, the insured or the insured's representative may seek adjudication of a claim that the insurance company did not act in good faith as a posttrial motion before the court in which the underlying personal injury or wrongful death judgment was obtained or as a separate action against the company. If the insured or the insured's representative seeks adjudication as a separate action and the underlying judgment is appealed, any action filed under this subsection shall be stayed by the court pending final resolution of the appeal of the underlying judgment.

6. **Budget amendment necessary:** No

7. **Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission

8. **Fiscal Implications:** None on the State Corporation Commission

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance, Courts

10. Technical amendment necessary: No

11. Other comments: The amendment in the nature of a substitute (H1) removes revisions to the remedy for arbitrary refusal of motor vehicle insurance claim section that were to have been effective until July 1, 2024. Provisions of Senate Bill 256 will now apply to any claim for personal injury or wrongful death arising out of a motor vehicle accident that occurs on or after July 1, 2024.

Date: 02/26/24/V. Tompkins