

State Fiscal Accountability Authority

Insurance Reserve Fund
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Prepaid Legal Defense Costs Coverage

What is Prepaid Legal Defense Costs Coverage?

Prepaid Legal Defense Costs Coverage, offered by the Insurance Reserve Fund, is a program designed to pay the costs of defending legal suits that are not covered under the Tort Liability Insurance Policy. Examples of such suits include:

- * Breach of Contract suits;
- * Suits seeking injunctive relief; and
- * Suits seeking return of property.

Who is Eligible?

State-covered entities that are insured under the Tort Liability Insurance Policy are eligible to participate in the Prepaid Legal Defense Costs Coverage program.

How Does the Program Work?

The Prepaid Legal Defense Costs Coverage is made up of two parts:

- * \$15,000 annual insurance coverage is automatically added to your Tort Liability Insurance Policy. This coverage is used to pay legal expenses (up to \$15,000 annually) for law suits filed after January 1, 2001, that are not covered under the Tort Liability Policy. There is no premium charged for this coverage.
- * You may also purchase additional insurance coverage to protect your entity against legal expenses (those not covered under the Tort Liability Policy) greater than \$15,000 annually. Additional coverage amounts available are:
 - \$35,000
 - \$85,000
 - \$235,000
 - \$485,000
 - \$985,000

If you purchase additional insurance coverage, this is how it works. The first \$15,000 of defense costs is paid in full. If your legal defense costs exceed \$15,000, the additional coverage will pay 80 percent of your defense costs (you are responsible for the remaining 20 percent) until the amount of additional insurance which you purchases is exhausted.

The annual premium for the additional insurance is 10 percent of the additional amount of coverage that you select. For example, if you purchase \$85,000 additional coverage, your premium would be \$8,500 annually. This additional insurance applies to all law suits filed after the date you purchase the coverage.

Frequently Asked Questions.

Will this new program change the way claims are handled under the Tort Liability Policy?

No. This program applies only to claims filed for law suits that are not covered by the Tort Liability Policy. Claims filed for suits covered under the Tort Liability Policy will be handled the same way they are now.

Will the Insurance Reserve Fund select the attorney or set the hourly rate schedule for attorneys under the new program?

The Insurance Reserve Fund selects attorneys only for suits covered under the Tort Liability Policy. For all other suits, you select the attorney, negotiate the hourly rate schedule and manage the litigation of the law suit.

Does this new program apply to law suits against state-covered entities and/or individual employees?

The program applies to insured entities and to any person defined as an "insured" under the Tort Liability Policy (this means employees and volunteer employees within the scope of their employment would be covered under this program).

For more information on the Prepaid Legal Defense Costs Coverage, contact Athena Westernen at the South Carolina Insurance Reserve Fund.

State Fiscal Accountability Authority

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