



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
(803)734-0640 • RFA.SC.GOV/IMPACTS

---

<b>Bill Number:</b>	H. 3682	As signed by the Governor on June 9, 2016
<b>Author:</b>	Finlay	
<b>Subject:</b>	Bad Faith Assertion of Patent Infringement Act	
<b>Requestor:</b>	House of Representatives	
<b>RFA Analyst(s):</b>	Gardner and Stein	
<b>Impact Date:</b>	December 12, 2016	

---

**Estimate of Fiscal Impact**

	<b>FY 2016-17</b>	<b>FY 2017-18</b>
<b>State Expenditure</b>		
General Fund	\$0	Undetermined
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	Undetermined
<b>State Revenue</b>		
General Fund	\$0	\$0
Other and Federal	Undetermined	\$0
<b>Local Expenditure</b>	\$0	\$0
<b>Local Revenue</b>	\$0	\$0

**Fiscal Impact Summary**

This bill is estimated to have no expenditure impact on the General Fund in FY 2016-17, and an undetermined expenditure impact on the General Fund thereafter. The expenditure impact after FY 2016-17, if any, depends on the number of violations that arise and require legal action by the Attorney General. There is no expenditure impact on Federal Funds, or Other Funds. State revenue from civil penalties cannot be determined at this time as there is no historical basis for a projection.

**Explanation of Fiscal Impact**

**Explanation of Amendment by the Senate on May 24, 2016**

**State Expenditure**

This bill as amended enacts the Bad Faith Assertion of Patent Infringement Act which renders bad faith assertions of patent infringement an unlawful trade practice and creates a private right of action as well as a governmental cause of action enforceable by the Attorney General. The bill establishes civil penalties for willful violations and authorizes the Attorney General, upon motion to the court, to recover on behalf of the state a civil penalty of up to \$50,000 for each violation. The provisions of the patent infringement act are repealed as of July 1, 2021, unless the General Assembly reauthorizes these provisions by joint resolution within two years preceding the date of repeal.

**Office of the Attorney General.** The agency indicates that until the number of complaints becomes known, any costs associated with implementation of this bill will be absorbed within the agency's appropriated resources.

**Judicial Department.** The department reports that costs associated with any increase in the number of cases will be absorbed within the agency's appropriated resources. However, the department also notes that this bill could impact circuit court dockets due to additional hearings and trials conducted by the court of common pleas.

**State Revenue**

The bill establishes civil penalties for willful violations and authorizes the Attorney General, upon motion to the court, to recover on behalf of the state a civil penalty of up to \$50,000 for each violation. State revenue from civil penalties cannot be determined at this time as there is no historical basis for a projection.

**Local Expenditure**

N/A

**Local Revenue**

N/A

**Explanation of Bill Filed on February 18, 2015**

**State Expenditure**

This bill makes bad faith assertions of patent infringement an unlawful trade practice. This bill creates a new private cause of action, and also a new governmental cause of action enforceable by the Attorney General.

**Office of the Attorney General.** The agency reports there will be an expenditure impact of \$90,000 - \$150,000 in General Funds for the hiring of an additional civil attorney and a paralegal.

**Judicial Department.** The agency reports that while there is no data to determine the additional number of hearings or trials which may be initiated in Common Pleas courts as a result of the bill, any costs associated with an increase in the number of cases will be absorbed within current resources.

**State Revenue**

N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



---

Frank A. Rainwater, Executive Director