

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
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As Engrossed: H3/19/13
A Bill

HOUSE BILL 2022

By: Representative Vines

For An Act To Be Entitled

AN ACT TO CLARIFY THE MEANING OF THE UNIFORM
CONTRIBUTION AMONG TORTFEASORS ACT; AND FOR OTHER
PURPOSES.

Subtitle

TO CLARIFY THE MEANING OF THE UNIFORM
CONTRIBUTION AMONG TORTFEASORS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Legislative intent.

It is the intent of the General Assembly that the rights afforded to joint tortfeasors by this act apply with equal force after the modification of joint and several liability as provided in § 16-55-201, and that none of the rights granted to join tortfeasors by this act, including allocation of fault and credits for settlements entered into by other joint tortfeasors, shall be denied to joint tortfeasors.

SECTION 2. Arkansas Code § 16-61-201 is amended to read as follows:

16-61-201. ~~"Joint tortfeasors" defined~~ Definitions.

~~For the purpose of this subchapter the term "joint tortfeasors"~~ As used in this subchapter:

(1) "Joint tortfeasor" means two (2) or more persons ~~jointly or severally liable~~ or entities who may have joint liability or several liability in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them; ~~and~~

(2) "Several liability" means that each person or entity is liable only



for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault.

SECTION 3. Arkansas Code § 16-61-202 is amended to read as follows:

16-61-202. Right of contribution – Accrual – Pro rata share.

~~(1)~~(a) The right of contribution exists among joint tortfeasors.

~~(2)~~(b) *A joint tortfeasor is not entitled to a money judgment for contribution until he or she has by payment discharged the common liability or has paid more than his or her pro rata share ~~thereof~~ of the common liability.*

(c) The right of contribution is not limited to money damages but also includes the right to an allocation of fault as among all joint tortfeasors and the rights provided for in § 16-61-204.

~~(3)~~(d) *A joint tortfeasor who enters into a settlement with the injured person is not entitled to recover contribution from another joint tortfeasor whose liability to the injured person is not extinguished by the settlement.*

~~(4) When there is such a disproportion of fault among joint tortfeasors as to render inequitable an equal distribution among them of the common liability by contribution, the relative degrees of fault of the joint tortfeasors shall be considered in determining their pro rata shares solely for the purpose of determining their rights of contribution among themselves, each remaining severally liable to the injured person for the whole injury as at common law.~~

SECTION 4. Arkansas Code § 16-61-203 is repealed.

~~16-61-203. Judgment against one tortfeasor.~~

~~Nothing in this subchapter shall be construed to effect the several joint tortfeasors' common law liability to have judgment recovered and payment made from them individually by the injured person for the whole injury; but the recovery of a judgment by the injured person against one ~~(1)~~ joint tortfeasor does not discharge the other joint tortfeasor.~~

SECTION 5. Arkansas Code § 16-61-204 is amended to read as follows:

16-61-204. Release – Effect on injured person's claim and on right of contribution.

(a) A release by the injured person of one (1) joint tortfeasor, whether before or after judgment, does not discharge the other joint tortfeasors unless the release so provides; but reduces the claim against the other tortfeasors in the amount of the consideration paid for the release, or in any amount or proportion by which the release provides that the total claim shall be reduced, if greater than the consideration paid.

(b) A release by the injured person of a joint tortfeasor does not relieve the released tortfeasor from liability to make contribution to another joint tortfeasor unless the release is given before the right of the other joint tortfeasor to secure a money judgment for contribution has accrued and provides for a reduction, to the extent of the pro rata share of the released joint tortfeasor, of the injured person's damages recoverable against all other joint tortfeasors.

(c) When the injured person releases a joint tortfeasor, the injured person's damages recoverable against all the other joint tortfeasors shall be reduced by the greatest of the following:

(1) The amount of the consideration paid for the release;

(2) The pro rata share of the released joint tortfeasor's responsibility for the injured person's damages; or

(3) Any amount or proportion by which the release provides that the total claim shall be reduced.

(d) When the injured person releases a joint tortfeasor, the remaining defendants are entitled to a determination by the finder of fact of the released joint tortfeasor's pro rata share of responsibility for the injured person's damages.

SECTION 6. Arkansas Code § 16-61-205 is repealed.

~~16-61-205. Release—Effect on right of contribution.~~

~~A release by the injured person of one (1) joint tortfeasor does not relieve him or her from liability to make contribution to another joint tortfeasor unless the release is given before the right of the other tortfeasor to secure a money judgment for contribution has accrued, and provides for a reduction, to the extent of the pro rata share of the released tortfeasor, of the injured person's damages recoverable against all the other tortfeasors.~~

SECTION 7. Arkansas Code § 16-61-207(5) is repealed.

~~(5) As among joint tortfeasors against whom a judgment has been entered in a single action, the provisions of § 16-61-202(4) apply only if the issue of proportionate fault is litigated between them by cross-complaint in that action.~~

SECTION 8. DO NOT CODIFY. EFFECTIVE DATE.

This act is remedial in nature and applies to all causes of action accruing on or after March 25, 2003.

/s/Vines