

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 530

By: Senators D. Wallace, B. Ballinger, L. Eads, T. Garner, Hester, Irvin, Rapert
By: Representatives Ladyman, Barker, Beck, Bentley, M. Berry, Boyd, Brooks, Cavanaugh, Cloud, Coleman, Crawford, M. Davis, Deffenbaugh, Eaves, Evans, Hawks, Hollowell, L. Johnson, Lundstrum, McCollum, Milligan, Payton, Pilkington, Ray, Richmond, Rye, Tollett, Underwood, Watson

For An Act To Be Entitled

AN ACT TO AMEND CERTAIN PROVISIONS OF THE WORKERS' COMPENSATION LAW THAT RESULTED FROM INITIATED ACT NO. 4 OF 1948; TO REVISE THIRD-PARTY LIABILITY IN THE WORKERS' COMPENSATION LAW; TO MODIFY THE PROCESS FOR REQUESTING A HEARING ON A CLAIM FOR COMPENSATION; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND CERTAIN PROVISIONS OF THE WORKERS' COMPENSATION LAW THAT RESULTED FROM INITIATED ACT NO. 4 OF 1948; TO REVISE THIRD-PARTY LIABILITY IN THE WORKERS' COMPENSATION LAW; AND TO MODIFY THE PROCESS FOR REQUESTING A HEARING.

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

SECTION 1. Arkansas Code § 11-9-410(a)(1), concerning third-party liability, is amended to read as follows:

(1)(A)(i) The making of a claim for compensation against ~~any~~ an employer or carrier for the injury or death of an employee ~~shall~~ does not affect the right of the employee, or his or her dependents, to make a claim or maintain an action in court against ~~any~~ a third party for the injury, ~~but~~.
(ii) ~~the~~ The employer or the employer's carrier



shall be entitled to reasonable notice ~~and opportunity to join in~~ of the action.

(B) ~~If they, or either of them, join in the action, they shall be~~ An employer, carrier, or self-insured entity that is liable for compensation under this chapter is entitled to a first absolute lien upon ~~two-thirds (2/3)~~ one-half (1/2) of the net proceeds recovered in the action that remain after the payment of the reasonable costs of collection, for the payment to them of the amount paid and to be paid by them as compensation to the injured employee or his or her dependents.

SECTION 2. Arkansas Code § 11-9-410(b), concerning subrogation in a third-party claim, is amended to read as follows:

(b) Subrogation.

(1)(A) An employer, ~~or~~ carrier, or self-insured entity that is liable for compensation under this chapter for the injury or death of an employee shall have ~~the~~ an absolute right to maintain an action in tort against any third party responsible for the injury or death.

(B) The rights of the employer, carrier, or self-insured entity to recover benefits paid under this section as a result of either settlement or judgment against the third party shall be absolute.

(C) However, the employer, ~~or the~~ carrier, or self-insured entity ~~must~~ shall notify the claimant in writing that the claimant has the right to hire a private attorney to pursue any benefits to which the claimant is entitled in addition to the subrogation interest against any third party responsible for the injury or death.

(2) After reasonable notice and opportunity to be represented in the action has been given to the compensation beneficiary, the liability of the third party to the compensation beneficiary shall be determined in the action, as well as the third party's liability to the employer and carrier.

(3)(A) After recovery ~~shall be~~ is had against the third party, by suit or otherwise, the compensation beneficiary shall be entitled to any amount recovered over and above the amount that the employer and carrier have paid or are liable for in compensation, after deducting reasonable costs of collection.

(B) In no event shall the compensation beneficiary be entitled to less than ~~one-third (1/3)~~ one-half (1/2) of the amount recovered

from the third party, after deducting the reasonable cost of collection.

(4) An employer, ~~or~~ carrier, or self-insured entity ~~who~~ that is liable for compensation under this chapter on account of injury or death of an employee shall be entitled to maintain a third party action against the employer's uninsured motorist coverage or underinsured motorist coverage.

(5) The purpose and intent of this subsection is to ~~prevent double payment to the employee~~ provide an employer, carrier, or self-insured entity an absolute lien in any settlement with or judgment against a third-party tortfeasor.

SECTION 3. Arkansas Code § 11-9-702(a)(4), concerning the time for requesting a hearing on a claim for compensation, is amended to read as follows:

(4) If within six (6) months after the filing of a claim for compensation no bona fide request for a hearing has been made with respect to the claim, the claim ~~may~~ shall, upon motion and after a hearing, if necessary, be dismissed without prejudice to the refiling of the claim within limitation periods specified in subdivisions (a)(1)-(3) of this section.