

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Dowd**

A BILL ACT 349 OF 1991
SENATE BILL 246

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-79-208 PERTAINING TO
9 RECOVERY OF DAMAGES AND ATTORNEYS FEES ON LOSS CLAIMS; AND
10 FOR OTHER PURPOSES."

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

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14 SECTION 1. Arkansas Code 23-79-208 is hereby amended to read as
15 follows:

16 "23-79-208. Damages and attorney fees on loss claims.

17 (a) In all cases where loss occurs and the cargo, fire, marine,
18 casualty, fidelity, surety, cyclone, tornado, life, health, accident, medical,
19 hospital, or surgical benefit insurance company and fraternal benefit society
20 or farmers' mutual aid association liable therefor shall fail to pay the
21 losses within the time specified in the policy, after demand made therefor,
22 the person, firm, corporation, or association shall be liable to pay the
23 holder of the policy or his assigns, in addition to the amount of the loss,
24 twelve percent (12%) damages upon the amount of the loss, together with all
25 reasonable attorneys' fees for the prosecution and collection of the loss.

26 (b) The attorney's fee shall be taxed by the court where the same is
27 heard on original action, by appeal or otherwise, and shall be taxed up as a
28 part of the costs therein and collected as other costs are or may be by law
29 collected.

30 (c) Writs of attachment or garnishment filed or issued after proof of
31 loss or death has been received by the company shall not defeat the provisions
32 of this section, provided the company or association, desiring to pay the
33 amount of the claim as shown in the proof of loss or death may pay the amount
34 into the registry of the court, after issuance of writs of attachment and
35 garnishment in which event there shall be no further liability on the part of
36 the company.

1 (d) Recovery of less than the amount demanded by the person entitled to
2 recover under the policy shall not defeat the right to the twelve percent
3 (12%) damages and attorneys fees provided for in this section if the amount
4 recovered for the loss is within twenty percent (20%) of the amount demanded
5 or which is sought in the suit."

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7 SECTION 2. All provisions of this Act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 3. If any provision of this Act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the Act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 Act are declared to be severable.

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17 SECTION 4. All laws and parts of laws in conflict with this Act are
18 hereby repealed.

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APPROVED: 3-5-91

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