

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Gordon**

A Bill

ACT 292 OF 1993
SENATE BILL 334

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 19-10-305 AND § 21-9-301
9 TO CLARIFY THAT GRANTS OF IMMUNITY FROM SUIT FOR STATE AND
10 LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES WILL PERMIT THEM
11 TO BE NAMED PLAINTIFFS TO THE EXTENT OF THEIR INSURANCE
12 COVERAGE; TO PROVIDE FOR THE RETROACTIVE APPLICATION OF
13 THIS ACT; TO DECLARE AN EMERGENCY; AND FOR OTHER
14 PURPOSES . "

Subtitle

16 **"AN ACT TO CLARIFY THE GRANTS OF IMMUNITY FROM**
17 **SUIT FOR STATE AND LOCAL GOVERNMENT OFFICIALS**
18 **AND EMPLOYEES."**

20
21 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

22
23 **SECTION 1. Arkansas Code § 19-10-305 is hereby amended to read as follows:**

24 **"19-10-305. Immunity of state officers and employees - Status as employee.**

25 **(a) Officers and employees of the State of Arkansas are immune from liability and from**
26 **suit, except to the extent that they may be covered by liability insurance, for damages for acts or**
27 **omissions, other than malicious acts or omissions, occurring within the course and scope of**
28 **their employment. (b) For purposes of this chapter, agreements between the State of**
29 **Arkansas and a state of the United States or the District of Columbia entered into pursuant to**
30 **the Interlocal Cooperation Act, § 25-20-101 et seq., shall confer status of an employee for**
31 **purposes of this chapter on persons acting pursuant to such agreement."**

32
33 **SECTION 2. Arkansas Code § 21-9-301 is hereby amended to read as follows:**

34 **"21-9-301. Tort liability - Immunity declared.**

35 **It is declared to be the public policy of the State of Arkansas that all counties,**
36 **municipal corporations, school districts, special improvement districts, and all other political**

1 subdivisions of the state shall be immune from liability and from suit, except to the extent that
2 they may be covered by liability insurance, for damages. No tort action shall lie against any
3 such political subdivision because of the acts of their agents and employees."
4

5 **SECTION 3.** This act shall have a retroactive application to the effective date of Act
6 **542 of 1991** to avoid the misinterpretation of the intent of Act 542 as permitting suits directly
7 against liability insurers of state and local government officials and employees. This act is
8 intended to have retroactive effect so as to apply to any suits pending as of the effective date of
9 this act.
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11 **SECTION 4.** All provisions of this act of general and permanent nature are
12 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision
13 Commission shall incorporate the same in the Code.
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15 **SECTION 5.** If any provisions of this act or the application thereof to any person or
16 circumstance is held invalid, especially its retroactive application, the invalidity shall not affect
17 other provisions or applications of the act which can be given effect without the invalid
18 provisions or application, and to this end the provisions of this act are declared to be severable.
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20 **SECTION 6.** All laws and parts of laws in conflict with this act are hereby repealed.
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22 **SECTION 7. Emergency.** It is hereby found and determined by the Seventy-Ninth
23 General Assembly that a recent court decision regarding Act 542 of 1991 has led to
24 uncertainty and confusion in the area of immunity of officials and employees of the state and
25 local government of Arkansas; that this act is necessary to clarify the application and
26 immunities of Act 542 of 1991 and to avoid the unintended interpretation of Act 542 as
27 permitting suits directly against the liability insurers for state and local government officials
28 and employees; and that it is necessary to extend its coverage retroactively to the effective date
29 of Act 542 of 1991. Therefore, in order to prevent the misinterpretation of law, an emergency
30 is hereby declared to exist and this act being necessary for the immediate preservation of the
31 public peace, health and safety shall be in full force and effect from and after its passage and
32 approval.
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34 **APPROVED: 03/01/93**
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