

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

A Bill

SENATE BILL

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 SUIT FOR
17 STATE AND LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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

26 (a) Officers and employees of the State of Arkansas are immune from
27 liability and from suit, except to the extent that they may be covered by
28 liability insurance, for damages for acts or omissions, other than malicious
29 acts or omissions, occurring within the course and scope of their employment.

30 (b) For purposes of this chapter, agreements between the State of
31 Arkansas and a state of the United States or the District of Columbia entered
32 into pursuant to the Interlocal Cooperation Act, § 25-20-101 et seq., shall
33 confer status of an employee for purposes of this chapter on persons acting
34 pursuant to such agreement."
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1 SECTION 2. Arkansas Code § 21-9-301 is hereby amended to read as
2 follows:

3 "21-9-301. Tort liability - Immunity declared.

4 It is declared to be the public policy of the State of Arkansas that all
5 counties, municipal corporations, school districts, special improvement
6 districts, and all other political subdivisions of the state shall be immune
7 from liability and from suit, except to the extent that they may be covered by
8 liability insurance, for damages. No tort action shall lie against any such
9 political subdivision because of the acts of their agents and employees."

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11 SECTION 3. This act shall have a retroactive application to the
12 effective date of Act 542 of 1991 to avoid the misinterpretation of the intent
13 of Act 542 as permitting suits directly against liability insurers of state
14 and local government officials and employees. This act is intended to have
15 retroactive effect so as to apply to any suits pending as of the effective
16 date of this act.

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18 SECTION 4. All provisions of this act of general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 5. If any provisions of this act or the application thereof to
23 any person or circumstance is held invalid, especially its retroactive
24 application, the invalidity shall not affect other provisions or applications
25 of the act which can be given effect without the invalid provisions or
26 application, and to this end the provisions of this act are declared to be
27 severable.

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29 SECTION 6. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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32 SECTION 7. Emergency. It is hereby found and determined by the
33 Seventy-Ninth General Assembly that a recent court decision regarding Act 542
34 of 1991 has led to uncertainty and confusion in the area of immunity of
35 officials and employees of the state and local government of Arkansas; that

1 this act is necessary to clarify the application and immunities of Act 542 of
2 1991 and to avoid the unintended interpretation of Act 542 as permitting suits
3 directly against the liability insurers for state and local government
4 officials and employees; and that it is necessary to extend its coverage
5 retroactively to the effective date of Act 542 of 1991. Therefore, in order
6 to prevent the misinterpretation of law, an emergency is hereby declared to
7 exist and this act being necessary for the immediate preservation of the
8 public peace, health and safety shall be in full force and effect from and
9 after its passage and approval.

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