

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

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §23-89-102 TO PROVIDE FOR A
9 DIRECT CAUSE OF ACTION AGAINST INSURERS OF BANKRUPT
10 ENTITIES; AND FOR OTHER PURPOSES."

Subtitle

13 "AN ACT TO PROVIDE FOR A DIRECT LEGAL ACTION AGAINST
14 INSURERS OF BANKRUPT PERSONS."

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

18 SECTION 1. Arkansas Code §23-89-102 is hereby amended to read as
19 follows:

20 "23-89-102. Insolvency of insured does not release liability insurer.

21 (a) No policy of insurance against loss or damage resulting from
22 accident to or injury suffered by an employee or other person and for which
23 the person insured is liable, or against loss or damage to property caused by
24 horses or by any vehicles drawn, propelled, or operated by any motive power
25 and for which loss or damage the person insured is liable shall be issued or
26 delivered to any person in this state unless the policy contains a provision
27 that the insolvency or bankruptcy of the person insured shall not release the
28 insurer from the payment of damages for injury sustained or loss occasioned
29 during the life of the policy.

30 (b) The policy must also state that in case execution against the
31 insured is returned unsatisfied because of the insolvency or bankruptcy, in an
32 action brought by the injured or his or her personal representative in case
33 death results from the accident, that then an action may be maintained by the
34 injured person or his or her personal representative against the insurer under
35 the terms of the policy for the amount of the judgment in the action not

1 exceeding the amount of the policy.

2 (c) In the event an insured under a policy of liability insurance, or
3 indemnitee under an indemnity agreement written by an insurance company, is
4 adjudicated a bankrupt in an involuntary proceeding, or voluntarily seeks the
5 protection of bankruptcy laws, then any person having a claim against the
6 bankrupt may institute an action against the insurance company wherein he
7 would be entitled to recover, subject to the limits and conditions of the
8 policy or agreement, any damages which he would be entitled to recover against
9 the bankrupt insured.

10 (d) Venue of the action provided for in subsection (c) of this section
11 shall be in any county wherein an action against the bankrupt insured would
12 properly lie, and the proceeding shall be governed by the substantive law
13 which would be applicable to an action between the person claiming damages and
14 the bankrupt insured."

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16 SECTION 2. All provisions of this act of general and permanent nature
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 3. If any provisions of this act or the application thereof to
21 any person or circumstance is held invalid, the invalidity shall not affect
22 other provisions or applications of the act which can be given effect without
23 the invalid provisions or application, and to this end the provisions of this
24 act are declared to be severable.

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26 SECTION 4. All laws and parts of laws in conflict with this act are
27 hereby repealed.

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