

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1650

5 By: Representative Ladyman
6 By: Senator D. Wallace
7

For An Act To Be Entitled

9 AN ACT TO AMEND CERTAIN PROVISIONS OF THE WORKERS'
10 COMPENSATION LAW THAT RESULTED FROM INITIATED ACT NO.
11 4 OF 1948; TO REVISE THIRD-PARTY LIABILITY IN THE
12 WORKERS' COMPENSATION LAW; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND CERTAIN PROVISIONS OF THE
16 WORKERS' COMPENSATION LAW THAT RESULTED
17 FROM INITIATED ACT NO. 4 OF 1948; AND TO
18 REVISE THIRD-PARTY LIABILITY IN THE
19 WORKERS' COMPENSATION LAW.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

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

31 (ii) ~~the~~ The employer or the employer's carrier
32 shall be entitled to reasonable notice ~~and opportunity to join in~~ of the
33 action.

34 (B) ~~If they, or either of them, join in the action, they~~
35 ~~shall be~~ An employer, carrier, or self-insured entity that is liable for
36 compensation under this chapter is entitled to a first absolute lien upon



1 two-thirds (2/3) of the net proceeds recovered in the action that remain
 2 after the payment of the reasonable costs of collection, for the payment to
 3 them of the amount paid and to be paid by them as compensation to the injured
 4 employee or his or her dependents.

5
 6 SECTION 2. Arkansas Code § 11-9-410(b), concerning subrogation in a
 7 third-party claim, is amended to read as follows:

8 (b) Subrogation.

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

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

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

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

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

30 (B) In no event shall the compensation beneficiary be
 31 entitled to less than one-third (1/3) of the amount recovered from the third
 32 party, after deducting the reasonable cost of collection.

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

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

5
6 SECTION 3. Arkansas Code § 11-9-702(a)(4), concerning the filing of
7 claims for compensation, is amended to read as follows:

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