

Act 47 of the Third Special Session of 1989.

Act 47

SB46

By: Senator Dowd

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 21-9-303 TO PROVIDE THAT WHEN ANY POLITICAL SUBDIVISION OF THIS STATE ACQUIRES MOTOR VEHICLE LIABILITY INSURANCE OR PARTICIPATES IN A SELF-INSURANCE POOL PROVIDING COVERAGE IN AN AMOUNT IN EXCESS OF THE MINIMUM AMOUNT REQUIRED BY THE MOTOR VEHICLE SAFETY RESPONSIBILITY ACT, THE MAXIMUM LIABILITY OF THE INSURER SHALL BE THE POLICY LIMITS; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 21-9-303 is hereby amended to read as follows:

"21-9-303. Motor vehicle liability insurance required - Minimum amounts.

(a) All political subdivisions shall carry liability insurance on their motor vehicles or shall become self-insurers, individually or collectively, for their vehicles, or both, in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act, 27-19-101 et seq.

(b) The combined maximum liability of local government employees, volunteers, and the local government employer in any action involving the use of a motor vehicle within the scope of their employment shall be the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act, 27-19-101 et seq. unless the political subdivision has purchased insurance coverage or participates in a self-insurance pool providing for an amount of coverage in excess of the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act, in which event the maximum liability of the insurer or pool shall be the limits of the coverage provided for in the policy or agreement. Any person who suffers injury or damage to person or property caused by a motor vehicle operated by an employee, agent or volunteer of a local government covered by this section shall have a direct cause of action against the insurer if insured, or the governmental entity if uninsured, or the trustee or chief administrative officer of any self-insured or self-insurance pool. Any judgment against a trustee or administrator of a self-insurance pool shall be paid from pool assets up to the maximum limit of liability as herein provided."

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

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. Emergency. It is hereby found and determined by the General Assembly that some political subdivisions of this State have purchased motor vehicle liability insurance in excess of the minimum amounts required by the Motor Vehicle Safety Responsibility Act; that the insurers are refusing to honor the policy limits and instead claiming their maximum liability is the minimum amounts prescribed by the Motor Vehicle Safety Responsibility Act; that it is fundamentally unfair for insurance carriers to not provide the coverage for which they have collected a premium; that this will require the

insurance carriers to honor their contractual obligations; and that this Act should be given effect immediately in order to eliminate the inequity as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: November 16, 1989

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