

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 530

5 By: Senators D. Wallace, B. Ballinger, L. Eads, T. Garner, Hester, Irvin, Rapert
6 By: Representatives Ladyman, Barker, Beck, Bentley, M. Berry, Boyd, Brooks, Cavanaugh, Cloud,
7 Coleman, Crawford, M. Davis, Deffenbaugh, Eaves, Evans, Hawks, Hollowell, L. Johnson, Lundstrum,
8 McCollum, Milligan, Payton, Pilkington, Ray, Richmond, Rye, Tollett, Underwood, Watson
9

For An Act To Be Entitled

11 AN ACT TO AMEND CERTAIN PROVISIONS OF THE WORKERS'
12 COMPENSATION LAW THAT RESULTED FROM INITIATED ACT NO.
13 4 OF 1948; TO REVISE THIRD-PARTY LIABILITY IN THE
14 WORKERS' COMPENSATION LAW; TO MODIFY THE PROCESS FOR
15 REQUESTING A HEARING ON A CLAIM FOR COMPENSATION; AND
16 FOR OTHER PURPOSES.
17
18

Subtitle

19 TO AMEND CERTAIN PROVISIONS OF THE
20 WORKERS' COMPENSATION LAW THAT RESULTED
21 FROM INITIATED ACT NO. 4 OF 1948; TO
22 REVISE THIRD-PARTY LIABILITY IN THE
23 WORKERS' COMPENSATION LAW; AND TO MODIFY
24 THE PROCESS FOR REQUESTING A HEARING.
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27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

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

32 (1)(A)(i) The making of a claim for compensation against ~~any~~ an
33 employer or carrier for the injury or death of an employee ~~shall~~ does not
34 affect the right of the employee, or his or her dependents, to make a claim
35 or maintain an action in court against ~~any~~ a third party for the injury, ~~but~~.
36 (ii) ~~the~~ The employer or the employer's carrier



1 shall be entitled to reasonable notice ~~and opportunity to join in~~ of the
2 action.

3 (B) ~~If they, or either of them, join in the action, they~~
4 ~~shall be~~ An employer, carrier, or self-insured entity that is liable for
5 compensation under this chapter is entitled to a first absolute lien upon
6 ~~two-thirds (2/3)~~ one-half (1/2) of the net proceeds recovered in the action
7 that remain after the payment of the reasonable costs of collection, for the
8 payment to them of the amount paid and to be paid by them as compensation to
9 the injured employee or his or her dependents.

10

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

13 (b) Subrogation.

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

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

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

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

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

35 (B) In no event shall the compensation beneficiary be
36 entitled to less than ~~one-third (1/3)~~ one-half (1/2) of the amount recovered

1 from the third party, after deducting the reasonable cost of collection.

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

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

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11 SECTION 3. Arkansas Code § 11-9-702(a)(4), concerning the time for
12 requesting a hearing on a claim for compensation, is amended to read as
13 follows:

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