

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 1329

4  
5 By: Representative DeLay

## For An Act To Be Entitled

9 "AN ACT CONCERNING OFFERS TO SETTLE IN TORT ACTIONS; AND  
10 FOR OTHER PURPOSES."

### Subtitle

13 "AN ACT CONCERNING OFFERS TO SETTLE IN  
14 TORT ACTIONS."

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

19 SECTION 1. This act applies only to actions in tort. This act does not  
20 apply to actions in the small claims division of a municipal court.

22 SECTION 2. As used in this act:

23 (1) "Offeror" means a party to a civil action who makes a qualified  
24 settlement offer to a recipient who is an opposing party in the civil action.

25 (2) "Recipient" means a party to a civil action who receives a qualified  
26 settlement offer from an offeror who is an opposing party in the civil action.

27 (3) "Qualified settlement offer" means an offer of full and final  
28 settlement to resolve all claims and defenses at issue between the offeror and  
29 the recipient.

31 SECTION 3. A qualified settlement offer may be made at any time after a  
32 complaint has been filed in a civil action, but may not be made less than  
33 thirty (30) days before a trial of the action.

35 SECTION 4. A qualified settlement offer must resolve all claims and  
36 defenses at issue in the civil action between the offeror and the recipient

1 before the qualified settlement offer may be accepted by the recipient.

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3 SECTION 5. A qualified settlement offer must:

4 (1) be in writing;

5 (2) be signed by the offeror or the offeror's attorney of record;

6 (3) be designated on its face as a qualified settlement offer;

7 (4) be delivered to each recipient or recipient's attorney of  
 8 record by registered or certified mail or by any method that verifies the date  
 9 of receipt;

10 (5) set forth the complete terms of the settlement proposed by the  
 11 offeror to the recipient in sufficient detail to allow the recipient to decide  
 12 whether to accept or reject it;

13 (6) include the name and address of the offeror and the offeror's  
 14 attorney of record, if any; and

15 (7) expressly revoke all prior qualified settlement offers made by  
 16 the offeror to the recipient.

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18 SECTION 6. An acceptance of a qualified settlement offer must be:

19 (1) unconditional;

20 (2) in writing;

21 (3) signed by the accepting recipient or the accepting recipient's  
 22 attorney of record; and

23 (4) delivered:

24 (A) by registered or certified mail or by a means that  
 25 verifies the date of receipt to the offeror or the offeror's attorney of  
 26 record; and

27 (B) not more than thirty (30) days after the recipient  
 28 receives the qualified settlement offer.

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30 SECTION 7. (a)(1) If a recipient does not accept a qualified settlement  
 31 offer and the final judgment is less favorable to the recipient than the terms  
 32 of the qualified settlement offer, the court shall award attorney's fees,  
 33 costs, and expenses to the offeror upon the offeror's motion.

34 (2) If an offeror makes a qualified settlement offer and the  
 35 final judgment is more favorable to the recipient than the terms of the  
 36 qualified settlement offer, the court shall award attorney's fees, costs and

1 expenses to the recipient upon the recipient\_s motion.

2 (b) An award of attorney's fees, costs, and expenses under this section  
 3 shall consist of attorney's fees at a rate of not more than one hundred  
 4 dollars (\$100) per hour and other costs and expenses incurred by the offeror  
 5 after the date of the qualified settlement offer. However, the award of  
 6 attorney's fees, costs, and expenses may not total more than one thousand  
 7 dollars (\$1,000).

8 (c) A motion for an award of attorney's fees, costs, and expenses under  
 9 this section must be filed not more than thirty (30) days after entry of  
 10 judgment. The motion must be accompanied by an affidavit of the offeror or the  
 11 offeror's attorney establishing the amount of the attorney's fees and other  
 12 costs and expenses incurred by the offeror after the date of the qualified  
 13 settlement offer, constituting prima facie proof of the reasonableness of the  
 14 amount.

15 (d) Where appropriate, the court may order a judgment entered against  
 16 the offeror and in favor of the recipient reduced by the amount of attorney's  
 17 fees, costs, and expenses awarded to the offeror under this section.

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

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

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

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