

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S4/6/99
A Bill

SENATE BILL 514

5 By: Senator Gordon
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8 **For An Act To Be Entitled**

9 "AN ACT TO PROVIDE FOR THE ASSIGNMENT OF EXCESS
10 JUDGMENTS; AND FOR OTHER PURPOSES."
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12 **Subtitle**

13 "TO PROVIDE THAT AN INSURER MAY BE HELD
14 LIABLE FOR THE FAILURE TO SETTLE IN GOOD
15 FAITH."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. (a) An insurer may be held liable to its insured for any
21 judgment exceeding the insured's policy limits in the event the insurer fails
22 to settle a third-party claim within the policy limits due to fraud, bad faith
23 or negligence.

24 (b) Upon an excess judgment being rendered against the insured, the
25 insured shall have the right to directly bring suit against the insurer for
26 failure to settle, or to assign the insured's cause of action to the third
27 party judgment creditor. In the event the insured brings such action against
28 the insurer, then the third party judgment creditor shall be accorded the
29 right to intervene and participate in prosecuting the claim against the
30 insurer.

31 (c) In the event the insured refuses to bring suit or to assign any
32 cause of action against the insurer, then the third party judgment creditor
33 shall be deemed the assignee of the insured's cause of action and shall have
34 the right to bring direct action against the insurer, with or without any
35 assignment by the insured.

36 (d) Upon the insured or the third party judgment creditor, or both,

1 prevailing against the insurer, reasonable attorney's fees may be awarded, as
2 well as interest on the judgment to be calculated from the date the third
3 party judgment creditor obtained judgment against the insured.

4 (e) The payment of any judgment or settlement shall be to the third
5 party judgment creditor and constitutes full satisfaction of the third party
6 creditor's judgment against the insured.

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

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12 SECTION 3. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

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

20 /s/ Gordon
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