

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

As Engrossed: H4/3/19  
**A Bill**

HOUSE BILL 1955

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.  
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**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.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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)~~ one-half (1/2) of the net proceeds recovered in the action  
2 that remain after the payment of the reasonable costs of collection, for the  
3 payment to them of the amount paid and to be paid by them as compensation to  
4 the injured employee or his or her dependents.

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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)~~ one-half (1/2) of the amount recovered  
32 from the third 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.

