

By: Representatives Tullos, Clark, Sanford

To: Insurance

HOUSE BILL NO. 981

1 AN ACT TO AMEND SECTION 71-3-71, MISSISSIPPI CODE OF 1972, TO
2 AMEND THE WORKERS' COMPENSATION LAW TO PROVIDE THAT WHEN ANY
3 AMOUNT IS RECOVERED BY AN INJURED EMPLOYEE OR HIS DEPENDENTS (OR
4 LEGAL REPRESENTATIVE) FROM A THIRD PARTY, NOT MORE THAN
5 SEVENTY-FIVE PERCENT OF THAT AMOUNT SHALL BE USED TO SATISFY THE
6 WORKERS' COMPENSATION SUBROGATION LIEN; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 71-3-71, Mississippi Code of 1972, is
9 amended as follows:

10 71-3-71. The acceptance of compensation benefits from or the
11 making of a claim for compensation against an employer or insurer
12 for the injury or death of an employee shall not affect the right
13 of the employee or his dependents to sue any other party at law
14 for such injury or death, but the employer or his insurer shall be
15 entitled to reasonable notice and opportunity to join in any such
16 action or may intervene therein. If such employer or insurer join
17 in such action, they shall be entitled to repayment of the amount
18 paid by them as compensation and medical expenses from the net
19 proceeds of such action (after deducting the reasonable costs of
20 collection) as hereinafter provided.



21 The commencement of an action by an employee or his
22 dependents (or legal representative) against a third party for
23 damages by reason of the injury, or the adjustment of any such
24 claim, shall not affect the right of the injured employee or his
25 dependents (or legal representative) to recover compensation, but
26 any amount recovered by the injured employee or his dependents (or
27 legal representative) from a third party shall be applied as
28 follows: reasonable costs of collection as approved and allowed
29 by the court in which such action is pending, or by the commission
30 of this state in case of settlement without suit, shall be
31 deducted; the remainder, or so much thereof as is necessary, shall
32 be used to discharge not more than seventy-five percent (75%) of
33 the legal liability of the employer or insurer; and any excess
34 shall belong to the injured employee or his dependents. The
35 employee or his dependents bringing suit against the third party
36 must notify the employer or carrier within fifteen (15) days of
37 the filing of such suit.

38 An employer or compensation insurer who shall have paid
39 compensation benefits under this chapter for the injury or death
40 of the employee shall have the right to maintain an action at law
41 against any other party responsible for such injury or death, in
42 the name of such injured employee or his beneficiaries, or in the
43 name of such employer or insurer, or any or all of them. If
44 reasonable notice and opportunity to be represented in such action
45 by counsel shall have been given to the compensation beneficiary,



46 all claims of such compensation beneficiary shall be determined in
47 such action, as well as the claim of the employer or insurer. If
48 recovery shall be had against such other party, by suit or
49 otherwise, the compensation beneficiary shall be entitled to any
50 amount recovered over and above the amount that the employer and
51 insurer shall have paid or are liable for in compensation or other
52 benefits, after deducting the reasonable costs of collection.

53 In case of settlement of any action before the trial thereof,
54 such settlement shall be subject to the approval of the court
55 wherein such action is pending, and settlement before an action is
56 brought shall be subject to the approval of the commission.

57 Distribution of the portion belonging to the dependents shall be
58 made among such dependents in the manner provided in this chapter.

59 In case of liability of the employer or insurer to make
60 payment to the State Treasury under the Second Injury Fund
61 provisions, if the injury or death creates a legal liability
62 against a third party, the employer or insurer shall have a right
63 of action against such third party for reimbursement of any sum so
64 paid into the State Treasury, which right may be enforced in the
65 action heretofore provided or by an independent action.

66 **SECTION 2.** This act shall take effect and be in force from
67 and after July 1, 2023.

