

By: Representative Reeves

To: Insurance; Judiciary A

HOUSE BILL NO. 575

1 AN ACT TO AMEND SECTION 71-3-71, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT FOR AMOUNTS RECOVERED FROM ACTIONS AGAINST A THIRD
3 PARTY FOR DAMAGES BY REASON OF AN INJURY UNDER THE WORKERS'
4 COMPENSATION LAW, THE ATTORNEY'S FEE AND OTHER COSTS OF COLLECTION
5 SHALL BE DEDUCTED IN PROPORTIONATE SHARES FROM THAT SUBMITTED TO
6 THE WORKERS' COMPENSATION CARRIER AND THE INJURED EMPLOYEE; AND
7 FOR RELATED PURPOSES.

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

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

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

22 The commencement of an action by an employee or his
23 dependents (or legal representative) against a third party for
24 damages by reason of the injury, or the adjustment of any such
25 claim, shall not affect the right of the injured employee or his
26 dependents (or legal representative) to recover compensation, but
27 any amount recovered by the injured employee or his dependents (or
28 legal representative) from a third party shall be applied as
29 follows: reasonable costs of collection as approved and allowed

30 by the court in which such action is pending, or by the commission
31 of this state in case of settlement without suit, shall be
32 deducted and submitted to the attorney or other collection entity
33 as the case may be; the remainder, less one-half (1/2) of the
34 attorney's fee and other collection costs, shall be used to
35 discharge the legal liability of the employer or insurer; and any
36 excess shall belong to the injured employee or his dependents.
37 The employee or his dependents bringing suit against the third
38 party must notify the employer or carrier within fifteen (15) days
39 of the filing of such suit.

40 An employer or compensation insurer who shall have paid
41 compensation benefits under this chapter for the injury or death
42 of the employee shall have the right to maintain an action at law
43 against any other party responsible for such injury or death, in
44 the name of such injured employee or his beneficiaries, or in the
45 name of such employer or insurer, or any or all of them. If
46 reasonable notice and opportunity to be represented in such action
47 by counsel shall have been given to the compensation beneficiary,
48 all claims of such compensation beneficiary shall be determined in
49 such action, as well as the claim of the employer or insurer. If
50 recovery shall be had against such other party, by suit or
51 otherwise, the compensation beneficiary shall be entitled to any
52 amount recovered over and above the amount that the employer and
53 insurer shall have paid or are liable for in compensation or other
54 benefits, after deducting the reasonable costs of collection as
55 provided herein.

56 In case of settlement of any action before the trial thereof,
57 such settlement shall be subject to the approval of the court
58 wherein such action is pending, and settlement before an action is
59 brought shall be subject to the approval of the commission.
60 Distribution of the portion belonging to the dependents shall be
61 made among such dependents in the manner provided in this chapter.

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

69 **SECTION 2.** This act shall take effect and be in force from
70 and after July 1, 2006.