3 Regular Session, 2013 HOUSE BILL 210 4 By: Representative S. Malone HOUSE BILL 210 5 By: Representative S. Malone HOUSE BILL 210 6 For An Act To Be Entitled HOUSE BILL 210 7 For An Act To Be Entitled HOUSE BILL 210 8 AN ACT TO AMEND THE WORKERS' COMPENSATION LAW ENACTED HOUSE BILL 210 9 BY INITIATED ACT 4 OF 1948; TO REVISE THIRD-PARTY HIABILITY IN THE WORKERS' COMPENSATION LAW; AND FOR 10 LIABILITY IN THE WORKERS' COMPENSATION LAW; AND FOR HIADICAL 11 OTHER PURPOSES. HIADICAL 12 HIADICAL HIADICAL 13 HIADICAL HIADICAL 14 Subtitle HIADICAL 15 TO AMEND THE WORKERS' COMPENSATION LAW HIADICAL 16 ENACTED BY INITIATED ACT 4 OF 1948 AND TO HIADICAL 17 REVISE THIRD-PARTY LIABILITY IN THE HIADICAL 18 WORKERS' COMPENSATION LAW. HIADICAL 19 HIADICAL HIADICAL HIADICAL 19 HIADICAL HIADICAL HIADICAL 19 HIADICAL	1	State of Arkansas As Engrossed: H3/20/13 H3/27/13 89th General Assembly As Engrossed: Bill
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31 <u>credit in the claim for workers' compensation benefits in the amount paid to</u>		
32 <u>or on behalf of the injured or deceased employee or his or her dependents</u>		
33 <u>from the settlement or judgment in this subdivision (a)(2).</u>		
34 <u>(iii) An employer or carrier is not required to pay</u> 25 dilitized and the second		
 35 <u>additional workers' compensation benefits for the injuries or death arising</u> 36 <u>from an incident involving a third party until the future credit is</u> 		



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1	<u>exhausted.</u>
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3	SECTION 2. Arkansas Code § 11-9-410(b)(2), concerning subrogation in a
4	third-party claim, is amended to read as follows:
5	(2) After reasonable notice and opportunity to be represented in
6	the action has been given to the compensation beneficiary, the liability of
7	the third party to the compensation beneficiary, to the employer, and to the
8	carrier shall be determined in the action , as well as the third party's
9	liability to the employer and carrier.
10	
11	SECTION 3. Arkansas Code § 11-9-410(b)(3)(A), concerning recovery
12	amounts from a third-party liability action, is amended to read as follows:
13	(3)(A) After recovery shall be had against the third
14	party, by suit or otherwise, the compensation beneficiary shall be <u>is</u>
15	entitled to any amount recovered over and above the amount that the employer
16	and carrier have paid or are liable for in compensation, after deducting
17	reasonable costs of collection <u>except that:</u>
18	(i) An employer or carrier is entitled to a future
19	credit in a claim for workers' compensation benefits in the amount of a
20	settlement or judgment to be paid to or on behalf of the injured or deceased
21	employee or his or her dependents from a third party after the employer or
22	carrier has been reimbursed the amount paid to or on behalf of the injured or
23	deceased employee or his or her dependents; and
24	(ii) An employer or carrier is not required to pay
25	additional workers' compensation benefits for the injuries or death arising
26	from an incident involving a third party until the future credit is
27	<u>exhausted</u> .
28	
29	SECTION 4. Arkansas Code § 11-9-410, concerning third-party liability,
30	is amended to add additional subsections to read as follows:
31	(d) Waiver or Abrogation of Subrogation.
32	(1) The right of an employer or carrier to recover in an action
33	in tort from a third party that caused the injury or death of an employee is
34	absolute and may only be waived with the written consent of the employer or
35	<u>carrier.</u>
36	(2) The written consent of the employer of an injured employee

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1	or the carrier of the employer is required in any settlement of an action in
2	tort against a third party outside of this section.
3	(e) The purpose and intent of this section is to prevent any double
4	recovery to the injured employee.
5	(f) In considering the entitlement of an employer or carrier to an
6	absolute lien in any third party claim, the commission or court shall not
7	consider the "made whole doctrine" or whether the claimant has been made
8	whole by the settlement proceeds.
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12	/s/S. Malone
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