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**ACT 1020 OF 1995, AMENDING ARK. CODE ANN. §23-79-146**

The Legislature, in enacting Act 1020 clarifies the Limitations on Subrogation Recovery, bringing the code into conformity with the holding in *Higginbotham v. Arkansas Blue Cross and Blue Shield*, 312 Ark 199, which allowed subrogation despite the covered person not being made whole and allows the subrogee to recover up to the limit of the amount paid by it. The question of collection casts in the subrogation process is addressed in that these costs are to be shared in the same proportion as each participant shares in the recovery amount. However, the Act removes the apportionment provision among subrogees for the subrogation recovery benefits themselves. In other words, the Code no longer speaks to the issue of the subrogees sharing in the total recovery collected in the same proportion as they paid to the covered person's total amount received by all subrogees.

Lee Douglass  
INSURANCE COMMISSIONER