

BAD FAITH BLOG

# New Missouri Interpleader Law Caps Insurer Exposure for Multiple Claims

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On June 1, 2018, legislation affording new protections to insurers when interpleading policy limits was enacted. The legislation, known as HB 1531, amends R.S.Mo. § 507.060, which governs the joinder of parties in an interpleader action. Specifically, the amendment modifies existing language with insurance-specific terminology and adds five additional subsections with definitions, procedural mechanisms for interpleader, and rights and limitations of an interpleading insurer. The amended statute should operate to cap an insurer's exposure for multiple claims to its policy limits after interpleading the limits. The full text of the amended statute is recited at the end of this discussion. The law goes into effect August 28, 2018.

Subsection 1 of the statute now includes reference to persons with claims against a "plaintiff's insured" who may be joined as a defendant and required to interplead. The amendment also adds exposure to "multiple liability, including multiple claims against the same insurance coverage" to trigger the right of interpleader.

The newly added Subsection 2 includes a broad definition of "plaintiff," a previously undefined term. "Plaintiff" now means "the insurer, or any entity which is subject to sections 537.700 to 537.756 or which provides risk management services to any public or private entity, of an insured person or entity subject to more than one claim arising out of any one incident or occurrence." The definition of "plaintiff" includes a qualification for "only when such claims total an amount in excess of the plaintiff's total limits of coverage available for that one incident or occurrence."

Subsection 3 likewise contains a definition of a once-undefined term. The amendment defines "claim" to mean "all actual or potential claims against a plaintiff or plaintiff's insured arising from the one incident or occurrence referred to in subsection 2" of the statute.

Subsection 4 restricts an insurer's maximum amount of liability to all applicable policy limits and cuts off future liability when an insurer interpleads and deposits those policy limits in court. Now, an insurer "shall not be liable to any insured or defendant for any amount in excess of the plaintiff's contractual limits of coverage in the interpleader or any other action." To receive the statute's protections, an insurer must:

- (1) file an action for interpleader pursuant to R.S.Mo. § 507.060 within ninety days after receiving the first settlement offer or demand by a claimant;
- (2) deposit “all of its applicable limits of coverage” into court within thirty days of the court’s granting interpleader; and
- (3) defend “all of its insureds in good faith from any claims or lawsuits for damages allegedly caused by the incident or occurrence for which the limits of coverage were paid into court,” including defense after deposit of its limits, even if contrary policy language releases the insurer from its duty to defend.

If an insured refuses an insurer’s “good faith defense,” such refusal shall not affect the insurer’s rights under the interpleader statute. R.S.Mo. § 507.060.4. Thus, an insured’s rejection of a defense should not bar an insurer’s protections under the statute after successfully interpleading its policy limits. Notably, an insurer need not obtain a release or dismissal of any claims against an insured to limit its exposure by interpleading, as provided in Subsection 5. Finally, Subsection 6 clarifies that the statute shall not be construed to amend an insured’s rights regarding defense or settlement as set forth in the insurance contract.

Disputes interpreting and applying the amended statute can be expected. For example, the question of whether an insurer deposited “all of its applicable limits of coverage,” particularly if multiple policies and/or coverages are triggered by the claim, may be an area of litigation. Likewise, an insured may challenge whether an insurer offered a “good faith defense,” a potentially fact-sensitive issue. Regardless, the amendments to R.S.Mo. § 507.060 created by HB 1531 clarify the interpleader mechanism and implements protections for the benefit of insurers.

The full text of the statute appears below with amendments underlined.

507.060. 1. Persons having claims against the plaintiff or plaintiff’s insured may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to [double or] multiple liability, including multiple claims against the same insurance coverage. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this section supplement and do not in any way limit the joinder of parties permitted in section 507.040.

2. For purposes of this subsections 2 to 5 of this section, the term “plaintiff” means the insurer, or any entity which is subject to sections 537.700 to 537.756 or which provides risk management services to any public or private entity, of an insured person or entity subject to more than one claim arising out of any one incident or occurrence, but only when such claims total an amount in excess of the plaintiff’s total limits of coverage available for that one incident or occurrence.

3. For purposes of this subsections 2 to 5 of this section, the term “claim” means all actual or potential claims against a plaintiff or plaintiff’s insured arising from the one incident or occurrence referred to in subsection 2 of this section.

4. If, within ninety days after receiving the first offer of settlement or demand for payment by a claimant, a plaintiff files an action for interpleader under this section and the plaintiff timely deposits all of its applicable limits of coverage into court within thirty days of the court's order granting interpleader, the plaintiff shall not be liable to any insured or defendant for any amount in excess of the plaintiff's contractual limits of coverage in the interpleader or any other action, so long as the plaintiff defends all of its insureds in good faith from any claims or lawsuits for damages allegedly caused by the incident or occurrence for which the limits of coverage were paid into court, even after depositing its limits of coverage into court notwithstanding any policy provision releasing the plaintiff of its duty to defend any of the insureds. Any insured's refusal of the plaintiff's good faith defense shall not affect the plaintiff's rights under this section.

5. Nothing in this section shall require a release or dismissal of any claim for damages against any insured person or entity upon interpleader by an insurer of that person or entity.

6. Nothing in this section shall be construed, expressly or by implication, to amend, modify, or abrogate any insured's right to consent or control the defense or settlement of any claim as may be provided in any insurance contract.