



## Ohio Revised Code

### Section 2721.02 Force and effect of declaratory judgments - action or proceeding against insurer.

Effective: September 24, 1999

Legislation: House Bill 58 - 123rd General Assembly

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(A) Subject to division (B) of this section, courts of record may declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding is open to objection on the ground that a declaratory judgment or decree is prayed for under this chapter. The declaration may be either affirmative or negative in form and effect. The declaration has the effect of a final judgment or decree.

(B) A plaintiff who is not an insured under a particular policy of liability insurance may not commence against the insurer that issued the policy an action or proceeding under this chapter that seeks a declaratory judgment or decree as to whether the policy's coverage provisions extend to an injury, death, or loss to person or property that a particular insured under the policy allegedly tortiously caused the plaintiff to sustain or caused another person for whom the plaintiff is a legal representative to sustain, until a court of record enters in a distinct civil action for damages between the plaintiff and that insured as a tortfeasor a final judgment awarding the plaintiff damages for the injury, death, or loss to person or property involved.

(C) In an action or proceeding for declaratory relief that a judgment creditor commences in accordance with divisions (A) and (B) of this section against an insurer that issued a particular policy of liability insurance, the insurer has and may assert as an affirmative defense against the judgment creditor any coverage defenses that the insurer possesses and could assert against the holder of the policy in an action or proceeding under this chapter between the holder and the insurer.

If, prior to the judgment creditor's commencement of the action or proceeding for declaratory relief, the holder of the policy commences a similar action or proceeding against the insurer for a determination as to whether the policy's coverage provisions extend to the injury, death, or loss to person or property underlying the judgment creditor's judgment, and if the court involved in that action or proceeding enters a final judgment with respect to the policy's coverage or noncoverage of that injury, death, or loss, that final judgment shall be deemed to also have binding legal effect upon



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the judgment creditor for purposes of the judgment creditor's action or proceeding for declaratory relief against the insurer. This division shall apply notwithstanding any contrary common law principles of res judicata or adjunct principles of collateral estoppel.