

House Bill 497

By: Representatives Smith of the 12<sup>th</sup>, Martin of the 47<sup>th</sup>, Howard of the 118<sup>th</sup>, Hammontree of the 4<sup>th</sup> and Shanahan of the 10<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to  
2 workers' compensation, so as to change the rate of interest payable on final awards entered  
3 by the board; to provide for the award of reasonable litigation expenses under certain  
4 conditions; to allow an injured employee the right to an independent medical examination  
5 within 120 days of receipt of income benefits, rather than the current 60 days; to change  
6 provisions relating to the penalty for nonpayment of medical charges by an employer or an  
7 insurer; to increase the maximum temporary total disability benefits from \$375.00 per week  
8 to \$400.00 per week; to increase the minimum temporary total disability benefits from  
9 \$37.50 per week to \$40.00 per week; to increase the maximum temporary partial disability  
10 benefits from \$250.00 per week to \$268.00 per week; to provide that impairment ratings shall  
11 be based on the fifth edition of *Guides to the Evaluation of Permanent Impairment*; to  
12 provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'  
16 compensation, is amended by striking Code Section 34-9-107, relating to the amount of  
17 interest payable on a final award of the board in the event of an appeal, and inserting in lieu  
18 thereof the following:

19 "34-9-107.

20 Any final award for compensation entered by the board shall bear interest at the legal rate  
21 of 7 12 percent on all accrued amounts and on all amounts accruing prior to final judgment  
22 in the event of an appeal being taken from the board in the same manner in which it is now  
23 provided that interest shall run on a judgment of the superior court in the event an appeal  
24 is taken therefrom."



1 (d) When attorney's fees or reasonable litigation expenses are awarded under this Code  
 2 section, the administrative law judge or the board shall have the authority to order payment  
 3 of such fees or expenses on terms acceptable to the parties or within the discretion of the  
 4 board."

### 5 SECTION 3.

6 Said chapter is further amended by striking paragraph (1) of subsection (b) of Code Section  
 7 34-9-201, relating to the selection of a physician from a panel of physicians, and inserting  
 8 in lieu thereof the following:

9 "(1) The employer shall maintain a list of at least ~~four~~ six physicians or professional  
 10 associations or corporations of physicians who are reasonably accessible to the employees.  
 11 This list shall be known as the 'Panel of Physicians.' At least one of the physicians must  
 12 practice the specialty of orthopedic surgery. Not more than two industrial clinics shall be  
 13 included on the panel. An employee may accept the services of a physician selected by the  
 14 employer from the panel or may select another physician from the panel. The physicians  
 15 selected under this subsection from the panel may arrange for any consultation, referral,  
 16 and extraordinary or other specialized medical services as the nature of the injury shall  
 17 require without prior authorization from the board; provided, however, that any medical  
 18 practitioner providing services as arranged by a primary authorized treating physician  
 19 under this subsection shall not be permitted to arrange for any additional referrals. The  
 20 employee may make one change from one physician to another on the same panel without  
 21 prior authorization of the board;"

### 22 SECTION 4.

23 Said chapter is further amended by striking subsection (e) of Code Section 35-9-202, relating  
 24 to examination of an injured employee, and inserting in lieu thereof the following:

25 "(e) Notwithstanding the rights afforded an employee under Code Section 34-9-201, the  
 26 employee, after an accepted compensable injury and within ~~60~~ 120 days of receipt of any  
 27 income benefits, shall have the right to one examination at a reasonable time and place,  
 28 within this state or within 50 miles of the employee's residence, by a duly qualified  
 29 physician or surgeon designated by the employee and to be paid for by the employer. Such  
 30 examination, of which the employer or insurer shall be notified in writing in advance, shall  
 31 not repeat any diagnostic procedures which have been performed since the date of the  
 32 employee's injury unless the costs of such diagnostic procedures which are in excess of  
 33 \$250.00 are paid for by a party other than the employer or the insurer."

**SECTION 5.**

Said chapter is further amended by striking subsection (c) of Code Section 34-9-203, relating to an employer's pecuniary liability for medical charges, and inserting in lieu thereof the following:

~~"(c) The board may, in its discretion, assess a penalty of up to 20 percent of reasonable medical charges not paid within 30 days from the date that the employer or the employer's workers' compensation insurance carrier receives the charges and reports required by the board where there has been compliance with the requirements of law and board rules. Said penalty shall be payable to the medical provider.~~

(1) All reasonable charges for medical, surgical, hospital, and pharmacy goods and services shall be payable by the employer or its workers' compensation insurer within 30 days from the date that the employer or the insurer receives the charges and reports required by the board. The employer or insurer shall, within 30 days after receipt of charges for health care goods or services, mail to the provider of such health care goods or services payment of such charges or a letter or other written notice that states the reasons the employer or insurer has for not paying the claim, either in whole or in part, and which also gives the person so notified a written itemization of any documents or other information needed to process the claim or any portion thereof.

(2) The health care goods or services provider's failure to include with its submission of charges any reports or other documents required by the board shall constitute a defense for the employer's or insurer's failure to pay the submitted charges within 30 days of receipt of the charges. However, if the employer or insurer fails to send the health care goods or services provider the requisite notice indicating a need for further documentation within 30 days of receipt of the charges, the employer and insurer will be deemed to have waived the right to defend a claim for failure to pay such charges in a timely fashion on the grounds that the charges were not appropriately accompanied by required reports. Such waiver shall not extend to any other defense the employer and insurer may have with respect to a claim of untimely payment.

(3) If any charges for health care goods or services are not paid when due, penalties shall be added to such charges and paid at the same time as and in addition to the charges claimed for the health care goods or services. For any payment of charges paid more than 30 days after their due date, but paid within 60 days of such date, there shall be added to such charges an amount equal to 10 percent of the charges. For any payment of charges paid more than 60 days after their due date, but paid within 90 days of such date, there shall be added to such charges an amount equal to 20 percent of the charges. For any charges not paid within 90 days of their due date, in addition to the 20 percent add-on penalty, the employer or insurer shall pay interest on that combined sum in an amount

1 equal to 12 percent per annum from the ninety-first day after the date the charges were  
 2 due until full payment is made. All such penalties shall be paid to the provider of the  
 3 health care goods or services."

#### 4 SECTION 6.

5 Said chapter is further amended by striking Code Section 34-9-261, relating to compensation  
 6 for total disability, and inserting in lieu thereof the following:

7 "34-9-261.

8 While the disability to work resulting from an injury is temporarily total, the employer  
 9 shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the  
 10 employee's average weekly wage but not more than ~~\$375.00~~ \$400.00 per week nor less  
 11 than ~~\$37.50~~ \$40.00 per week, except that when the weekly wage is below ~~\$37.50~~ \$40.00  
 12 the employer shall pay a weekly benefit equal to the average weekly wage. The weekly  
 13 benefit under this Code section shall be payable for a maximum period of 400 weeks from  
 14 the date of injury; provided, however, in the event of a catastrophic injury as defined in  
 15 subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section  
 16 shall be paid until such time as the employee undergoes a change in condition for the  
 17 better as provided in paragraph (1) of subsection (a) of Code Section 34-9-104."

#### 18 SECTION 7.

19 Said chapter is further amended by striking Code Section 34-9-262, relating to compensation  
 20 for temporary partial disability, and inserting in lieu thereof the following:

21 "34-9-262.

22 Except as otherwise provided in Code Section 34-9-263, where the disability to work  
 23 resulting from the injury is partial in character but temporary in quality, the employer shall  
 24 pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the  
 25 difference between the average weekly wage before the injury and the average weekly  
 26 wage the employee is able to earn thereafter, but not more than ~~\$250.00~~ \$268.00 per week  
 27 for a period not exceeding 350 weeks from the date of injury."

#### 28 SECTION 8.

29 Said chapter is further amended by striking subsection (d) of Code Section 34-9-263, relating  
 30 to compensation for permanent partial disability, and inserting in lieu thereof the following:

31 "(d) *Impairment ratings.* In all cases arising under this chapter, any percentage of  
 32 disability or bodily loss ratings shall be based upon *Guides to the Evaluation of*  
 33 *Permanent Impairment*, ~~fourth~~ fifth edition, published by the American Medical  
 34 Association."

- 1 **SECTION 9.**
- 2 All laws and parts of laws in conflict with this Act are repealed.