

House Bill 1813

By: Representatives Houston of the 139th, Purcell of the 122nd, and Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to torts, so as to limit attorney's fees in medical malpractice
3 claims; to provide application to recovery by settlement, arbitration, mediation, or judgment;
4 to provide that the Act does not preclude contracts for fees less than the limits, court
5 assessment of reasonable fees, and court determination that attorney's fees are unreasonably
6 high; to provide for advice and opportunity to retain an attorney for the reasonable value of
7 the attorney's services; to provide for applicability; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
11 provisions relative to torts, is amended by inserting a new Code Section 51-1-27.1 to read
12 as follows:

13 "51-1-27.1.

14 (a) An attorney shall not contract for or collect a contingency fee for representing any
15 person seeking damages in connection with a claim or action sounding in tort, contract, or
16 otherwise for injury or damage based upon medical malpractice exceeding the following
17 limits:
18

- 19 (1) Forty percent of the first \$150,000.00 recovered;
20 (2) Thirty-three and one-third percent of the next \$150,000.00 recovered;
21 (3) Thirty percent of the next \$200,000.00 recovered; or
22 (4) Twenty-five percent of any amount by which the recovery exceeds \$500,000.00.

23 (b) The limitations set out in subsection (a) of this Code section shall apply to medical
24 malpractice claims or actions regardless of whether the recovery is by settlement,
25 arbitration, mediation, or judgment. Nothing in this Code section shall preclude any
26 attorney from contracting to represent a client in a medical malpractice claim or action for

1 less than the above limits nor shall anything in this Code section preclude a court from
2 assessing reasonable attorney's fees in a medical malpractice claim or action at any amount
3 below the limits set out in subsection (a) of this Code section or from determining that
4 attorney's fees in a medical malpractice claim or action below such limits are unreasonably
5 high in a particular case.

6 (c) No person shall enter into such a contingent fee arrangement with his or her client in
7 a medical malpractice claim or action without first advising the client of the right and
8 affording the client the opportunity to retain the attorney under an arrangement whereby
9 the attorney would be compensated on the basis of the reasonable value of the attorney's
10 services."

11 **SECTION 2.**

12 This Act shall apply to contingency fee contracts entered for medical malpractice claims or
13 actions on or after the effective date of this Act.

14 **SECTION 3.**

15 All laws and parts of laws in conflict with this Act are repealed.