

House Bill 307

By: Representatives Rogers of the 26<sup>th</sup> and Ralston of the 7<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 8-2-40 of the Official Code of Georgia Annotated, relating to the  
2 effect of a claimant's acceptance of a settlement in relation to a construction defect claim,  
3 so as to provide that a contractor's fulfillment of an offer for settlement or repair does not  
4 create insurance coverage or affect the parties' rights under a contractor's liability policy; to  
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 8-2-40 of the Official Code of Georgia Annotated, relating to the effect of a  
9 claimant's acceptance of a settlement in relation to a construction defect claim, is amended  
10 by striking said Code section in its entirety and inserting in lieu thereof the following:

11 "8-2-40.

12 (a) If a claimant accepts an offer made in compliance with this part and the contractor  
13 fulfills the offer in compliance with this part:

14 (1) The claimant shall thereafter be barred from bringing an action for the claim  
15 described in the notice of claim; and

16 (2) ~~The contractor shall be deemed, for insurance purposes, to have been legally~~  
17 ~~obligated to make the repairs or the monetary payment as if the claimant had recovered~~  
18 ~~a judgment against the contractor in the amount of the cost of the repairs or the amount~~  
19 ~~of the monetary payment or both. A contractor's performance of repairs or payment of~~  
20 ~~money to a claimant made pursuant to this Code section shall not, by itself, create~~  
21 ~~insurance coverage or otherwise affect the mutual rights and obligations of the parties~~  
22 ~~under a contractor's liability insurance policy or, by itself, be considered a voluntary~~  
23 ~~payment of an otherwise valid insured loss.~~

24 (b) An insurer paying a claim under this part shall be subrogated to the rights of the  
25 claimant to whom the amounts were paid against the person causing the construction  
26 defect, damages, or other reason for payment to the extent that claim payments were made,

