

House Bill 1405 (AS PASSED HOUSE AND SENATE)

By: Representatives Coan of the 101<sup>st</sup>, Burkhalter of the 50<sup>th</sup>, Heard of the 104<sup>th</sup>, Keen of the 179<sup>th</sup>, England of the 108<sup>th</sup>, and others

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 require that a claim be proven or documented within 36  
3 months after a notice of claim is filed; to provide for related matters; to provide an effective  
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'  
8 compensation, is amended by striking in Code Section 34-9-362, relating to notice by  
9 employer or insurer of claim against the Subsequent Injury Trust Fund, and inserting in its  
10 place the following:

11 "34-9-362.

12 (a) An employer or insurer shall notify the administrator of the fund of any possible claim  
13 against the fund as soon as practicable, but in no event later than 78 calendar weeks  
14 following the injury or the payment of an amount equivalent to 78 weeks of income or  
15 death benefits, whichever occurs last.

16 (b) ~~In those claims where the employer or insurer is contemplating filing against the fund,~~  
17 ~~the~~ The claim must be filed in accordance with the requirements of subsection (a) of this  
18 Code section prior to the final settlement of the claim.

19 (c) Failure to comply with the provisions of subsections (a) and (b) of this Code section  
20 will constitute a bar to recovery from the Subsequent Injury Trust Fund.

21 (d) For those notices of claim filed with the fund on or before July 1, 2006, the employer  
22 or insurer shall have until June 30, 2009, to obtain a reimbursement agreement issued by  
23 the fund or the claim for reimbursement shall be deemed automatically denied.

24 (e) For those notices of claim filed with the fund after July 1, 2006, the employer or  
25 insurer shall have three years from the date the notice was received by the fund to obtain

1 a reimbursement agreement issued by the fund or the claim for reimbursement shall be  
2 deemed automatically denied.  
3 (f) Notwithstanding subsections (d) and (e) of this Code section, if compensability of the  
4 underlying workers' compensation claim is at issue before the State Board of Workers'  
5 Compensation, then the employer or insurer shall have three years from the date of final  
6 adjudication of compensability by the State Board of Workers' Compensation or any  
7 appellate court to obtain a reimbursement agreement issued by the fund or the claim for  
8 reimbursement shall be deemed automatically denied.  
9 (g) Upon actual or statutory automatic denial pursuant to subsection (d), (e), or (f) of this  
10 Code section, the employer or insurer shall have 20 days from the date of denial to request  
11 a hearing with the State Board of Workers' Compensation pursuant to Code Section  
12 34-9-100; otherwise recovery shall be barred."

13 **SECTION 2.**

14 This Act shall become effective July 1, 2006.

15 **SECTION 3.**

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