

House Bill 450

By: Representative McKillip of the 115th

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 4 of Title 33 of the Official Code of Georgia Annotated, relating to claims
2 against insurance companies, so as to change provisions relating to an insurer's liability for
3 a bad faith refusal to pay for a loss covered by insurance; to provide for related matters; to
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 4 of Title 33 of the Official Code of Georgia Annotated, relating to claims against
8 insurance companies, is amended by revising subsection (a) of Code Section 33-4-6, relating
9 to the liability of an insurer for damages and attorney's fees, as follows:

10 "(a) In the event of a loss which is covered by a policy of insurance and the refusal of the
11 insurer to pay the same within 60 days after a demand has been made by the holder of the
12 policy and a finding has been made that such refusal was in bad faith, the insurer shall be
13 liable to pay such holder, in addition to the loss, not more than 50 percent of the liability
14 of the insurer for the loss or \$5,000.00, whichever is greater, and all reasonable attorney's
15 fees for the prosecution of the action against the insurer, and, where appropriate, the trier
16 of fact may award punitive damages. The action for bad faith shall not be abated by
17 payment after the 60 day period nor shall the testimony or opinion of an expert witness be
18 the sole basis for a summary judgment or directed verdict on the issue of bad faith. The
19 amount of any reasonable attorneys fees shall be determined by the trial jury and shall be
20 included in any judgment which is rendered in the action; provided, however, the attorney's
21 fees shall be fixed on the basis of competent expert evidence as to the reasonable value of
22 the services based on the time spent and legal and factual issues involved in accordance
23 with prevailing fees in the locality where the action is pending; provided, further, the trial
24 court shall have the discretion, if it finds the jury verdict fixing attorney's fees to be greatly
25 excessive or inadequate, to review and amend the portion of the verdict fixing attorney's
26 fees without the necessity of disapproving the entire verdict. The limitations contained in
27 this Code section in reference to the amount of attorney's fees are not controlling as to the

28 fees which may be agreed upon by the plaintiff and the plaintiff's attorney for the services
29 of the attorney in the action against the insurer.

30 **SECTION 2.**

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