

House Bill 1175

By: Representatives Rogers of the 26<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Smith of the 131<sup>st</sup>, Meadows of the 5<sup>th</sup>, and Lane of the 167<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 4 of Title 33 of the Official Code of Georgia Annotated, relating to  
2 actions against insurance companies, so as to provide for procedure relative to claimant's  
3 offers to settle tort claims involving liability insurance policies; to provide that failure to  
4 make an offer to settle in conformity with the law precludes the recovery of a claim for bad  
5 faith or negligent failure to settle; to provide for construction; to provide for related matters;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 4 of Title 33 of the Official Code of Georgia Annotated, relating to actions against  
10 insurance companies, is amended by adding a new Code section to read as follows:

11 "33-4-8.

12 (a) As used in this Code section, the term:

13 (1) 'Claimant' means a person pursuing a tort claim and shall also mean a plaintiff  
14 pursuing a tort claim if a civil action has been commenced.

15 (2) 'Medical release' means a release that is compliant with the requirements of the  
16 federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, P.L.  
17 104-191.

18 (3) 'Offer to settle' includes a demand for settlement.

19 (4) 'Tort claim' means a claim for personal injuries or wrongful death arising out of an  
20 incident involving liability insurance policies.

21 (b) In order to assert a claim, under either statutory or common law, for bad faith or  
22 negligent failure to settle against the insurer to whom the offer to settle was made, a  
23 claimant making an offer to settle a tort claim covered by a liability insurance policy shall:

24 (1) Serve the offer to settle on the insurer by hand delivery, certified mail, or statutory  
25 overnight delivery in the manner provided by Code Section 9-11-5;

26 (2) Allow the insurer at least 60 days to respond to the offer to settle;

27 (3) Include full and complete copies of the claimant's medical, pharmacy, therapy, and  
28 similar treatment records and billing statements for treatment in connection with the tort  
29 claim that are in the possession or control of the claimant or the claimant's attorney at the  
30 time of serving the offer to settle; and

31 (4) Include an executed medical release for medical records from or on behalf of the  
32 claimant.

33 (c) Any offer to settle a tort claim covered by a liability insurance policy that does not  
34 comply with all of the requirements of this Code section shall not give rise to a claim,  
35 under either statutory or common law, for bad faith or negligent failure to settle against the  
36 insurer or tort-feasor to whom the offer to settle was made.

37 (d) Nothing in this Code section shall be construed to affect the provisions of Code  
38 Section 9-11-68."

39 **SECTION 2.**

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