

Senate Bill 502

By: Senator Cowsert of the 46th

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 bodily or personal injuries or wrongful death arising
20 out of an incident involving liability insurance policies.

21 (b) In order for an insured to assert a claim against an insurer for bad faith or negligent
22 failure to settle a tort claim, a claimant making an offer to settle the tort claim covered by
23 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.