

House Bill 303

By: Representatives Hightower of the 68th, Mabra of the 63rd, Kelley of the 16th, Atwood of the 179th, Weldon of the 3rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to
2 uninsured motorist coverage under motor vehicle liability policies, so as to change provisions
3 relating to the recovery when an insurer refuses to pay for a loss within 60 days after a
4 demand has been made by the insured and a finding has been made that such refusal was
5 made in bad faith; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured
10 motorist coverage under motor vehicle liability policies, is amended by revising subsection
11 (j) as follows:

12 "(j)(1) If the insurer shall refuse to pay any insured any loss covered by this Code section
13 within 60 days after a demand has been made by the insured and a finding has been made
14 that such refusal was made in bad faith, the insurer shall be liable to the insured in
15 addition to any recovery under this Code section for ~~not more than 25:~~

16 (A) One hundred percent of the recovery or the full amount of the judgment rendered
17 against the uninsured motor vehicle in the original tort action, whichever amount is
18 greater; and

19 (B) All all reasonable attorney's fees for the prosecution of the case under this Code
20 section that were incurred after the sixtieth day of the demand made by the insured.

21 (2) The question of bad faith, the amount of the penalty, if any, and the reasonable
22 attorney's fees, if any, shall be determined in a separate action filed by the insured against
23 the insurer after a judgment has been rendered against the uninsured motorist in the
24 original tort action. The attorney's fees shall be fixed on the basis of competent expert
25 evidence as to the reasonable value of the services, based on the time spent and legal and
26 factual issues involved, in accordance with prevailing fees in the locality where the action

27 is pending. The trial court shall have the discretion, if it finds such jury verdict fixing
28 attorney's fees to be greatly excessive or inadequate, to review and amend such portion
29 of the verdict fixing attorney's fees without the necessity of disapproving the entire
30 verdict. The limitations contained in this subsection in reference to the amount of
31 attorney's fees ~~are~~ shall not be controlling as to the fees which may be agreed upon by the
32 plaintiff and his or her attorney for the services of the attorney in the action against the
33 insurer."

34 **SECTION 2.**

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