

The House Committee on Judiciary offers the following substitute to SB 34:

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 amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated,
6 relating to general provisions relative to torts, so as to revise the Good Samaritan law to
7 provide for damaging property in emergency situations; to provide for related matters; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

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

14 "(j)(1) If the insurer shall refuse to pay any insured any loss covered by this Code section
15 and the applicable automobile liability or motor vehicle liability policy within 60 days
16 after a written demand has been made by the insured and a finding has been made that
17 such refusal was made in bad faith, the insurer shall be liable to the insured in addition
18 to any recovery under this Code section for not more than 25 percent of the recovery and
19 all reasonable attorney's fees for the prosecution of the case under this Code section. for:

20 (A) Damages equal to the applicable policy limits or the principal balance of the
21 judgment rendered against the uninsured motorist in the original tort action, whichever
22 amount is less;

23 (B) If the fact finder determines that the insurer's refusal to pay the insured was made
24 in bad faith, a penalty of \$25,000.00 or 25 percent of the damages set forth in
25 subparagraph (A) of this paragraph, whichever amount is greater; and

26 (C) Postjudgment interest on the damages provided in subparagraph (A) of this
 27 paragraph pursuant to Code Section 7-4-12 calculated from the date of entry of the
 28 judgment against the uninsured motorist in the original tort action.

29 (2) When an insured has prevailed on a claim pursuant to subparagraph (B) of paragraph
 30 (1) of this subsection, the court in its discretion may hold the insurer liable to the insured
 31 for reasonable attorney's fees and expenses of litigation for the prosecution of the case
 32 under this Code section that were incurred after the sixtieth day of the demand made by
 33 the insured.

34 (3) The amounts set forth in paragraph (1) of this subsection and the question of bad
 35 faith, the amount of the penalty, if any, and the reasonable attorney's fees, if any, shall be
 36 determined in a separate action filed by the insured against the insurer after a judgment
 37 has been rendered against the uninsured motorist in the original tort action. The
 38 attorney's fees shall be fixed on the basis of competent expert evidence as to the
 39 reasonable value of the services, based on the time spent and legal and factual issues
 40 involved, in accordance with prevailing fees in the locality where the action is pending.
 41 The trial court shall have the discretion, if it finds such jury verdict fixing attorney's fees
 42 to be greatly excessive or inadequate, to review and amend such portion of the verdict
 43 fixing attorney's fees without the necessity of disapproving the entire verdict. The
 44 limitations contained in this subsection in reference to the amount of attorney's fees are
 45 not controlling as to the fees which may be agreed upon by the plaintiff and his attorney
 46 for the services of the attorney in the action against the insurer.

47 (4) Payment of the amounts provided in paragraph (1) of this subsection shall fully
 48 discharge the insurer's obligations under the judgment entered against the uninsured
 49 motorist in the original tort action. Payment of the damages provided in subparagraph
 50 (A) of paragraph (1) of this subsection shall reduce the principal amount of such
 51 judgment. Payment of the postjudgment interest provided in subparagraph (C) of
 52 paragraph (1) of this subsection shall reduce the postjudgment interest owed on such
 53 judgment."

54 SECTION 2.

55 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
 56 provisions relative to torts, is amended by revising Code Section 51-1-29, relating to liability
 57 of persons rendering emergency care, as follows:

58 "51-1-29.

59 (a) Any person, including any person licensed to practice medicine and surgery pursuant
 60 to Article 2 of Chapter 34 of Title 43 and including any person licensed to render services
 61 ancillary thereto, who in good faith renders emergency care at the scene of an accident or

62 emergency to the ~~victim~~ or victims thereof without making any charge therefor shall not
63 be liable for any civil damages as a result of any act or omission by such person in
64 rendering emergency care or as a result of any act or failure to act to provide or arrange for
65 further medical treatment or care for the injured person.

66 (b) As used in this Code section, the term 'emergency care' shall include, but shall not be
67 limited to, the rescue or attempted rescue of an incapacitated or endangered individual from
68 a locked motor vehicle."

69 **SECTION 3.**

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