

Senate Bill 374

By: Senators Kennedy of the 18th, Miller of the 49th, Dugan of the 30th, Gooch of the 51st, Walker III of the 20th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 8 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated,
2 relating to provisional and final remedies and special proceedings, so as to revise and provide
3 for new requirements under the "Georgia Civil Practice Act" for settlement offers and
4 arrangements for all tort claims for personal injury, bodily injury, and death; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 8 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
9 provisional and final remedies and special proceedings, is amended by revising Code Section
10 9-11-67.1, relating to settlement offers and agreements for personal injury, bodily injury, and
11 death from motor vehicle and payment methods, as follows:

12 "9-11-67.1.

13 (a) ~~Any~~ Prior to the filing of a civil action, any offer to settle a tort claim for personal
14 injury, bodily injury, or death ~~arising from the use of a motor vehicle and prepared by or~~
15 ~~with the assistance of an attorney on behalf of a claimant or claimants~~ shall be in writing
16 and contain the following material terms:

17 (1) The time period within which such offer must be accepted, which shall be not less
18 than 30 days from receipt of the offer;

19 (2) Amount of monetary payment;

20 (3) The party or parties the claimant or claimants will release if such offer is accepted;

21 (4) For any ~~The~~ type of release, ~~if any, whether the release is full or limited and an~~
22 itemization of what the claimant or claimants will provide to each releasee; and

23 (5) The claims to be released.

24 (b) When making an offer to settle under this Code section, the offeror shall include the
25 following information related to the tort claim that can be reasonably obtained by the
26 offeror:

27 (1) All medical records related to the subject of the tort claim, including, but not limited
 28 to, any prior injuries or medical treatment that are reasonably related to the injury or
 29 condition that is the subject of the tort claim; and

30 (2) Medical bills or receipts or other evidence of payment of such bills.

31 (c)(1) Unless otherwise agreed by both the offeror and the recipients in writing, the
 32 material terms outlined in subsection (a) of this Code section shall be the only material
 33 terms which can be included in an offer to settle made under this Code section.

34 (2) The recipients of an offer to settle made under this Code section may accept the same
 35 by providing written acceptance of the material terms outlined in subsection (a) of this
 36 Code section in their entirety.

37 ~~(e)~~(d) Nothing in this Code section is intended to prohibit parties from reaching a
 38 settlement agreement ~~in a manner and~~ under terms otherwise agreeable to both the parties
 39 offeror and the recipient of the offer.

40 ~~(d)~~(e) Upon receipt of an offer to settle set forth in subsection (a) of this Code section, the
 41 recipients shall have the right to seek clarification regarding terms, liens, subrogation
 42 claims, standing to release claims, medical bills, medical records, and other relevant facts.
 43 Any attempt to seek such clarification may be done verbally or in writing. An attempt to
 44 seek ~~reasonable~~ clarification shall not be deemed a counteroffer.

45 ~~(e)~~(f) An offer to settle made pursuant to this Code section shall be sent by certified mail
 46 or statutory overnight delivery, return receipt requested, ~~and~~ shall specifically reference this
 47 Code section, and shall include an address or a facsimile number or email address to which
 48 a written acceptance pursuant to subsection (c) of this Code section may be provided.

49 ~~(f)~~(g) The person or entity providing payment to satisfy the material term set forth in
 50 paragraph (2) of subsection (a) of this Code section may elect to provide payment by any
 51 one or more of the following means:

- 52 (1) Cash;
- 53 (2) Money order;
- 54 (3) Wire transfer;
- 55 (4) A cashier's check issued by a bank or other financial institution;
- 56 (5) A draft or bank check issued by an insurance company; or
- 57 (6) Electronic funds transfer or other method of electronic payment.

58 ~~(g)~~(h) Nothing in this Code section shall prohibit a party making an offer to settle from
 59 requiring payment within a specified period; provided, however, that such ~~period shall be~~
 60 ~~not less than ten days after the written acceptance of the offer to settle~~ date shall not be less
 61 than 40 days from the receipt of the offer.

62 ~~(h)~~(i) This Code section shall apply to causes of action for personal injury, bodily injury,
 63 and death arising from the use of a motor vehicle on or after July 1, ~~2013~~ 2020."

64

SECTION 2.

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