

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

**AS PASSED SENATE**

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; and

24 (6) An accompanying affidavit signed by the insurer and the insured affirming under  
25 oath the full policy amount and that no other insurance policies not already disclosed to  
26 the parties are applicable to the subject claim being released.

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

30 (1) Medical records related to the subject of the tort claim, including, but not limited to,  
 31 any prior injuries or medical treatment that are reasonably related to the injury or  
 32 condition that is the subject of the tort claim; and

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

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

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

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

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

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

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

55 (1) Cash;

56 (2) Money order;

57 (3) Wire transfer;

58 (4) A cashier's check issued by a bank or other financial institution;

59 (5) A draft or bank check issued by an insurance company; or

60 (6) Electronic funds transfer or other method of electronic payment.

61 ~~(g)~~(h) Nothing in this Code section shall prohibit a party making an offer to settle from  
 62 requiring payment within a specified period; provided, however, that such ~~period shall be~~

63 ~~not less than ten days after the written acceptance of the offer to settle~~ date shall not be less  
64 than 40 days from the receipt of the offer.  
65 ~~(h)(i)~~ This Code section shall apply to causes of action for personal injury, bodily injury,  
66 and death arising ~~from the use of a motor vehicle~~ on or after July 1, ~~2013~~ 2020."

67 **SECTION 2.**

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