

House Bill 1101

By: Representatives Momtahan of the 17<sup>th</sup>, Gullett of the 19<sup>th</sup>, Scoggins of the 14<sup>th</sup>, Hawkins of the 27<sup>th</sup>, Jackson of the 128<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to  
2 provide for requirements of insurers upon information requests by claimants; to require  
3 certain notices and disclosures to claimants and insureds; to provide for a private cause of  
4 action for unfair trade practices; to provide for related matters; to provide for an effective  
5 date and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
9 revising Code Section 33-3-28, relating to request by claimant for information as to name of  
10 insurer, name of each insured, and limits of coverage, as follows:

11 "33-3-28.

12 ~~(a)(1) Every insurer providing liability or casualty insurance coverage in this state and~~  
13 ~~which is or may be liable to pay all or a part of any claim shall provide, within 60 days of~~  
14 ~~receiving a written request from the claimant, a~~ Prior to making a settlement offer or  
15 contemporaneous with such settlement offer, every insurer providing liability or casualty  
16 insurance coverage in this state and which is or may be liable to pay all or a part of any  
17 claim shall provide a claimant or claimant's agent the following information within 14 days  
18 of receiving, by certified mail or statutory overnight delivery, a written request from the  
19 claimant or claimant's agent for information which shall include a statement under oath  
20 setting forth the specific nature of the claim or claims asserted:

21 (1) A statement, under oath, of a corporate officer or the insurer's claims manager stating  
22 with regard to each known applicable policy of insurance issued by it, including excess  
23 or umbrella insurance, the name of the insurer, the name of each insured, and the limits  
24 of coverage. Such insurer may provide a copy of the declaration page of each such policy  
25 in lieu of providing such information. The claimant's request shall set forth under oath

26 ~~the specific nature of the claim asserted and shall be mailed to the insurer by certified~~  
 27 ~~mail or statutory overnight delivery.:~~

28 (A) Name of the insurer;

29 (B) Name of each insured; and

30 (C) Limits of coverage, including, but not limited to, time limitations;

31 provided, however, that the insurer may additionally provide a copy of the declaration  
 32 page of each policy if the declaration page provides such information as otherwise  
 33 provided in this paragraph;

34 ~~(2) The insured, within 30 days of receiving a written request from a claimant or the~~  
 35 ~~claimant's attorney, shall disclose to the claimant or his attorney the name of each known~~  
 36 ~~insurer which may be liable to the claimant upon such claim. A statement, under oath,~~  
 37 ~~of a corporate officer or the insurer's claims manager stating with regard to the incident~~  
 38 ~~giving rise to the claim asserted:~~

39 (A) Whether the insured was operating or using a motor vehicle at the time of the  
 40 incident and, if so, the purpose of the operation or use;

41 (B) Whether the insured was acting within the scope of any business or employment  
 42 when the incident occurred and, if so, the name and address of the business or place of  
 43 employment and the name of the business's or employer's insurance company;

44 (C) The insured's place or places of residence at the time of the incident;

45 (D) If a motor vehicle was involved, whether the insured at the time of the incident  
 46 resided with any relatives that own a motor vehicle and, if so, the names of such  
 47 relatives and the names of the insurance carriers for those motor vehicles;

48 (E) Whether the insured owns any other motor vehicles and, if so, the make, model,  
 49 year, and names of the insurance carriers for those motor vehicles;

50 (F) The identity of any other person or legal entity that the insurer or insured believes  
 51 may be liable for injuries caused by the incident, the name and address of such person  
 52 or legal entity, and the basis for the insurer's or insured's belief; and

53 (G) The name of each known insurer which may be liable to the claimant upon such  
 54 claim; and

55 (3) The following statement which shall reference the policy number and claim number:  
 56 'You may seek representation by an attorney to ensure that your interests are protected  
 57 during this claim process.' Such statement shall be prepared in at least 16 point Arial font  
 58 and shall appear at the top of such written notification at least two inches apart from any  
 59 other text within such notification.

60 (b) Within 14 days of receiving a request from a claimant as provided for in subsection (a)  
 61 of this Code section, every insurer providing liability or casualty insurance coverage in this  
 62 state and which is or may be liable to pay all or a part of any claim shall provide the

63 insured or insured's agent, in at least 16 point Arial font and placed at least two inches apart  
 64 from any other text, a written notice stating the following:

65 'You may seek representation by an attorney to ensure that your interests are protected  
 66 during this claim process.

67 We, your insurer, are required to treat your financial interests as at least equal to that  
 68 of our own financial interests. However, this could create a conflict between the  
 69 financial interests of you (the insured) and our own (the insurer). Therefore, you may  
 70 seek to be represented by an attorney who is not provided by us, regardless of whether  
 71 we provide or offer to provide an attorney to you. You may also seek redress in the  
 72 courts of this state regarding the claim asserted and any claims arising under the law.

73 Please know that pursuant to O.C.G.A. § 9-3-30 actions for damage to property must  
 74 generally be brought within four years after the right of action accrues.

75 Please know that pursuant to O.C.G.A. § 9-3-33 actions for injuries to a person must  
 76 generally be brought within two years after the right of action accrues, except for  
 77 injuries to the reputation, which must be brought within one year after the right of  
 78 action accrues, and except for actions for injuries to a person involving loss of  
 79 consortium, which must be brought within four years after the right of action accrues.'

80 (c) An insurer's failure to comply with subsection (a) or (b) of this Code section shall give  
 81 rise to a claim for negligence or bad faith and may give rise to damages or equitable relief.

82 ~~(b)~~(d) If the request provided in subsection (a) of this Code section contains information  
 83 insufficient to allow compliance, the insurer or insured upon whom the request was made  
 84 may so state in writing, stating specifically what additional information is needed, and such  
 85 compliance shall constitute compliance with this Code section.

86 ~~(e)~~(e) The information provided to a claimant or ~~his attorney~~ claimant's agent as required  
 87 by subsection (a) of this Code section shall not create a waiver of any defenses to coverage  
 88 available to the insurer and shall not be admissible in evidence unless otherwise admissible  
 89 under Georgia law.

90 ~~(d)~~(f) The information provided to a claimant or ~~his attorney~~ claimant's agent as required  
 91 by subsection (a) of this Code section shall be amended upon the discovery of facts  
 92 inconsistent with or in addition to the information provided."

93 **SECTION 2.**

94 Said title is further amended by revising Code Section 33-6-37, relating to private cause of  
 95 action not created or implied, as follows:

96 "33-6-37.

97 Any person who is injured as a result of acts provided for under Code Section 33-6-34 shall  
98 have ~~Nothing contained in this article shall be construed to create or imply a private cause~~  
99 ~~of action for a violation of this article."~~

100 **SECTION 3.**

101 This Act shall become effective on January 1, 2021, and shall apply to any claim which  
102 accrues on or after said date.

103 **SECTION 4.**

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