

The House Special Committee on Access to the Civil Justice System offers the following substitute to HB 1116:

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 revise the liability
3 of an insurer upon refusal to pay an insured for any loss pursuant to uninsured motorist
4 coverage under motor vehicle liability policies; to provide for a penalty; 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 Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured
9 motorist coverage under motor vehicle liability policies, is amended by revising
10 subsection (j) as follows:

11 "(j) If the insurer shall refuse to pay any insured any loss covered by this Code section
12 within 60 days after a demand has been made by the insured and a finding has been made
13 that such refusal was made in bad faith, the insurer shall be liable to the insured in addition
14 to any recovery under this Code section for not more than 25 percent of the recovery or
15 \$25,000.00, whichever is greater, and all reasonable attorney's fees for the prosecution of
16 the case under this Code section. The question of bad faith, the amount of the penalty, if
17 any, and the reasonable attorney's fees, if any, shall be determined in a separate action filed
18 by the insured against the insurer after a judgment has been rendered against the uninsured
19 motorist in the original tort action. The attorney's fees shall be fixed on the basis of
20 competent expert evidence as to the reasonable value of the services, based on the time
21 spent and legal and factual issues involved, in accordance with prevailing fees in the
22 locality where the action is pending. The trial court shall have the discretion, if it finds
23 such jury verdict fixing attorney's fees to be greatly excessive or inadequate, to review and
24 amend such portion of the verdict fixing attorney's fees without the necessity of
25 disapproving the entire verdict. The limitations contained in this subsection in reference
26 to the amount of attorney's fees are not controlling as to the fees which may be agreed upon

27 by the plaintiff and his attorney for the services of the attorney in the action against the
28 insurer."

29 **SECTION 2.**

30 All laws and parts of laws in conflict with this Act are repealed.