

House Bill 1419

By: Representatives Franklin of the 160<sup>th</sup>, Stephens of the 164<sup>th</sup>, Ridley of the 6<sup>th</sup>, Gullett of the 19<sup>th</sup>, Gambill of the 15<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapters 6 and 34 of Title 33 of the Official Code of Georgia Annotated, relating  
2 to unfair trade practices and motor vehicle accident reparations, respectively, so as to provide  
3 for timely claims processing in supplemental estimates for repairs under motor vehicle  
4 liability insurance policies; to provide for unfair claims settlement practices; to provide for  
5 written explanations; to provide for definitions; to provide for rules and regulations; to  
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 6 of Title 33 of the Official Code of Georgia Annotated, relating to unfair trade  
10 practices, is amended by revising paragraphs (15) and (16) in Code Section 33-6-34, relating  
11 to unfair claims settlement practices, as follows:

12 "(15) Failure to comply with any insurer requirement in Chapter 20E of this title, the  
13 'Surprise Billing Consumer Protection Act,' including:

14 (A) The failure to designate whether the healthcare plan is subject to the exclusive  
15 jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec.  
16 1001, et seq.;

- 17 (B) The failure to directly pay the provider or facility within 15 working days for  
 18 electronic claims or 30 calendar days for paper claims any moneys due under Code  
 19 Section 33-20E-4 or 33-20E-5; or
- 20 (C) The failure to pay a resolution organization as required under Code  
 21 Section 33-20E-16; ~~and~~
- 22 (16) Failure to comply with any insurer requirement relating to emergency services or  
 23 care in Article 4 of Chapter 11 of Title 31, Article 1 of Chapter 20A of this title, Chapter  
 24 20E of this title, Chapter 21A of this title, Code Section 33-24-59.27, and Chapter 30 of  
 25 this title; and
- 26 (17) Failure to comply with any insurer requirement relating to timely claims processing  
 27 and supplemental estimates under a motor vehicle liability insurance policy as provided  
 28 under Code Section 33-34-10."

## 29 SECTION 2.

30 Chapter 34 of said title, relating to motor vehicle accident reparations, is amended by adding  
 31 a new Code section to read as follows:

32 "33-34-10.

33 (a) As used in this Code section, the term:

34 (1) 'Appraiser' means any person evaluating motor vehicle damage and determining the  
 35 cost of parts and labor required to repair such damage.

36 (2) 'Claimant' means either a first-party claimant or insured or a third-party claimant who  
 37 asserts a claim for payment, benefits, reimbursement, or damages under a motor vehicle  
 38 liability insurance policy arising out of, based on, or in any way related to a motor vehicle  
 39 collision, loss, ownership, maintenance, or use. Such term includes any assignee,  
 40 subrogee, or legal representative of a first-party claimant or third-party claimant to the  
 41 extent such assignee, subrogee, or legal representative asserts the claim.

42 (3) 'Motor vehicle liability insurance' means motor vehicle insurance that covers the use  
43 of a motor vehicle and its operating equipment; covers liability, collision, comprehensive,  
44 personal injury protection or medical payments, or uninsured or underinsured motorist  
45 protection; or provides the mandatory minimum limits required under this chapter for the  
46 personal use of a private passenger automobile. Such term includes coverage provided  
47 through an approved plan or certificate of self-insurance to the extent recognized under  
48 state law as satisfying such minimum limits.

49 (4) 'Repair facility' means a motor vehicle dealer, garage, body shop, or other  
50 commercial entity which undertakes the repair or replacement of parts of a motor vehicle,  
51 including, but not limited to, frames, doors, bumpers, and paint.

52 (5) 'Supplemental damage' means additional physical damage to a motor vehicle that was  
53 not visible or reasonably ascertainable at the time of the original inspection or appraisal  
54 and is discovered after the initial insurance claim or estimated repair cost is filed.

55 (6) 'Supplemental estimate' means a written estimate for supplemental damage prepared  
56 by an appraiser.

57 (b) An insurer providing coverage under a motor vehicle liability insurance policy shall  
58 promptly acknowledge and investigate claims of supplemental damage submitted by a  
59 repair facility or claimant by meeting at least the following requirements:

60 (1) Within one business day of a notification of supplemental damage and supplemental  
61 estimate, the insurer shall assign an appraiser to inspect the damaged motor vehicle in  
62 person or review the supplemental estimate; and

63 (2) Within three business days of a notification of supplemental damage and  
64 supplemental estimate, the insurer shall complete an inspection of the damaged motor  
65 vehicle in person or review the supplemental estimate and provide a written response;  
66 provided, however, that the time for inspection or review may be extended for an  
67 additional three business days if unforeseen circumstances make inspection or review  
68 within three business days impracticable, provided that the insurer notifies the repair

69 facility and claimant of the specific unforeseen circumstance that necessitates such  
70 extension.

71 (c) Within ten business days of receipt of a notification of supplemental damage and  
72 supplemental estimate, an insurer shall provide a repair facility and claimant with a written  
73 decision indicating the line items, parts, or operations that are approved and authorized for  
74 payment; those that are denied, reduced, or altered from the supplemental estimate; and a  
75 written explanation for such denial, reduction, or alteration, including, but not limited to,  
76 policy coverage limitations, prior payment, duplication, or unrelated to loss. No insurer  
77 shall issue payment or settlement for a supplemental estimate without such written decision  
78 and explanation.

79 (d) A violation of this Code section that occurs with such frequency as to constitute a  
80 general business practice shall be a violation of Article 2 of Chapter 6 of this title, the  
81 'Unfair Claims Settlement Practices Act.'

82 (e) The Commissioner shall promulgate rules and regulations necessary to implement this  
83 Code section, which may include, but shall not be limited to, prescribing uniform  
84 supplemental estimate and written explanation forms."

85 **SECTION 3.**

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