

House Bill 714 (AS PASSED HOUSE AND SENATE)

By: Representative Kelley of the 16<sup>th</sup>

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 tort claims for personal injury, bodily injury, and death; to amend Chapter  
5 7 of Title 33 of the Official Code of Georgia Annotated, relating to kinds of insurance, limits  
6 of risks, and reinsurance, so as to revise the liability of an insurer upon refusal to pay an  
7 insured for any loss pursuant to uninsured motorist coverage under motor vehicle liability  
8 policies; to revise a penalty; to amend an Act known as the “Metropolitan Atlanta Rapid  
9 Transit Authority Act of 1965,” approved March 10, 1965 (Ga. L. 1965, p. 2243), as  
10 amended, so as to provide for venue for actions against the authority or relative to revenue  
11 bonds; to provide for related matters; to provide for applicability; to repeal conflicting laws;  
12 and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Article 8 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to  
16 provisional and final remedies and special proceedings, is amended by revising Code Section

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17 9-11-67.1, relating to settlement offers and agreements for personal injury, bodily injury, and  
18 death from motor vehicle, and payment methods, as follows:

19 "9-11-67.1.

20 (a) Prior to the filing of a civil action an answer, any offer to settle a tort claim for personal  
21 injury, bodily injury, or death arising from the use of a motor vehicle and prepared by or  
22 with the assistance of an attorney on behalf of a claimant or claimants shall be in writing  
23 and:

24 (1) Shall contain the following material terms:

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

27 ~~(2)(B)~~ Amount of monetary payment;

28 ~~(3)(C)~~ The party or parties the claimant or claimants will release if such offer is  
29 accepted;

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

32 ~~(5)(E)~~ The claims to be released;

33 (2) Shall include medical or other records in the offeror's possession incurred as a result  
34 of the subject claim that are sufficient to allow the recipient to evaluate the claim; and

35 (3) May include a term requiring that in order to settle the claim the recipient shall  
36 provide the offeror a statement, under oath, regarding whether all liability and casualty  
37 insurance issued by the recipient that provides coverage or that may provide coverage for  
38 the claim at issue has been disclosed to the offeror.

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

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

45       (c) Nothing in this Code section is intended to prohibit parties from reaching a settlement  
46       agreement in a manner and under terms otherwise agreeable to both the parties offeror and  
47       recipient of the offer.

48       (d) Upon receipt of an offer to settle set forth in subsection (a) of this Code section, the  
49       recipients shall have the right to seek clarification regarding the terms, the terms of the  
50       release, liens, subrogation claims, standing to release claims, medical bills, medical  
51       records, and other relevant facts. An attempt to seek reasonable clarification shall be in  
52       writing and shall not be deemed a counteroffer. In addition, if a release is not provided  
53       with an offer to settle, a recipient's providing of a proposed release shall not be deemed a  
54       counteroffer.

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

59       (f) The person or entity providing payment to satisfy the material term set forth in  
60       ~~paragraph (2) of subsection (a)~~ subparagraph (a)(1)(B) of this Code section may elect to  
61       provide payment by any one or more of the following means:

- 62       (1) Cash;
- 63       (2) Money order;
- 64       (3) Wire transfer;
- 65       (4) A cashier's check issued by a bank or other financial institution;
- 66       (5) A draft or bank check issued by an insurance company; or
- 67       (6) Electronic funds transfer or other method of electronic payment.

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

72 (h) This Code section shall apply to causes of action for personal injury, bodily injury, and  
73 death arising from the use of a motor vehicle on or after July 1, ~~2013~~ 2021."

74

## SECTION 2.

75 Chapter 7 of Title 33 of the Official Code of Georgia Annotated, relating to kinds of  
76 insurance, limits of risks, and reinsurance, is amended by revising subsection (j) of Code  
77 Section 33-7-11, relating to uninsured motorist coverage under motor vehicle liability  
78 policies, as follows:

79 "(j) If the insurer shall refuse to pay any insured any loss covered by this Code section  
80 within 60 days after a demand has been made by the insured and a finding has been made  
81 that such refusal was made in bad faith, the insurer shall be liable to the insured in addition  
82 to any recovery under this Code section for not more than 25 percent of the recovery or  
83 \$25,000.00, whichever is greater, and all reasonable attorney's fees for the prosecution of  
84 the case under this Code section. The question of bad faith, the amount of the penalty, if  
85 any, and the reasonable attorney's fees, if any, shall be determined in a separate action filed  
86 by the insured against the insurer after a judgment has been rendered against the uninsured  
87 motorist in the original tort action. The attorney's fees shall be fixed on the basis of  
88 competent expert evidence as to the reasonable value of the services, based on the time  
89 spent and legal and factual issues involved, in accordance with prevailing fees in the  
90 locality where the action is pending. The trial court shall have the discretion, if it finds  
91 such jury verdict fixing attorney's fees to be greatly excessive or inadequate, to review and  
92 amend such portion of the verdict fixing attorney's fees without the necessity of  
93 disapproving the entire verdict. The limitations contained in this subsection in reference

94 to the amount of attorney's fees are not controlling as to the fees which may be agreed upon  
95 by the plaintiff and his or her attorney for the services of the attorney in the action against  
96 the insurer."

97 **SECTION 3.**

98 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965,"  
99 approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, is amended in Section 10  
100 by revising subsection (t) as follows:

101 "(t) Any action to protect or enforce any rights under the provisions of this Act or any  
102 suit or action against such Authority, except as provided in Section 9(c), shall be  
103 brought in ~~the~~ either State or Superior Court of Fulton County, Georgia, and any action  
104 pertaining to validation of any bonds issued under the provisions of this Act shall  
105 likewise be brought in said court, which shall have exclusive, original jurisdiction of  
106 such actions."

107 **SECTION 4.**

108 This Act shall apply to causes of action accruing on or after July 1, 2021.

109 **SECTION 5.**

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