

House Bill 1116

By: Representatives Gullett of the 19<sup>th</sup>, Efstoration of the 104<sup>th</sup>, and Scoggins of the 14<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured motorist coverage under motor vehicle liability policies, so as to revise the liability of an insurer upon refusal to pay an insured for any loss pursuant to uninsured motorist coverage under motor vehicle liability policies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured motorist coverage under motor vehicle liability policies, is amended by revising subsection (j) as follows:

"(j) If the insurer shall refuse to pay any insured any loss covered by this Code section within 60 days after a written demand has been made by the insured and a finding has been made that such refusal was made negligently or in bad faith, the insurer shall be liable to the insured, in addition to any recovery under this Code section, for not more than 25 percent of the recovery and the total amount of the claimant's damages, including, but not limited to, the amount in excess of the policy limits, any interest on unpaid benefits, all reasonable attorney's fees for the prosecution of the case under this Code section, and any damages caused by a violation of a law of this state. The total amount of the claimant's damages is recoverable whether caused by an insurer or by a third-party tort-feasor. The question of negligence, bad faith, ~~the amount of the penalty, if any~~, and the reasonable attorney's fees, if any, shall be determined in a separate action filed by the insured against the insurer after a judgment has been rendered against the uninsured motorist in the original tort action. The attorney's fees shall be fixed on the basis of competent expert evidence as to the reasonable value of the services, based on the time spent and legal and factual issues involved, in accordance with prevailing fees in the locality where the action is pending. The trial court shall have the discretion, if it finds such jury verdict fixing attorney's fees

27 to be greatly excessive or inadequate, to review and amend such portion of the verdict  
28 fixing attorney's fees without the necessity of disapproving the entire verdict. The  
29 limitations contained in this subsection in reference to the amount of attorney's fees are not  
30 controlling as to the fees which may be agreed upon by the plaintiff and his or her attorney  
31 for the services of the attorney in the action against the insurer."

32 **SECTION 2.**

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