

GEORGIA CODE

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*** Current Through the 2011 Regular Session ***

*** Annotations Current Through April 22, 2011 ***

TITLE 33. INSURANCE

CHAPTER 4. ACTIONS AGAINST INSURANCE COMPANIES

O.C.G.A. § 33-4-6 (2011)

§ 33-4-6. Liability of insurer for damages and attorney's fees; notice to Commissioner of Insurance and consumers' insurance advocate

(a) In the event of a loss which is covered by a policy of insurance and the refusal of the insurer to pay the same within 60 days after a demand has been made by the holder of the policy and a finding has been made that such refusal was in bad faith, the insurer shall be liable to pay such holder, in addition to the loss, not more than 50 percent of the liability of the insurer for the loss or \$5,000.00, whichever is greater, and all reasonable attorney's fees for the prosecution of the action against the insurer. The action for bad faith shall not be abated by payment after the 60 day period nor shall the testimony or opinion of an expert witness be the sole basis for a summary judgment or directed verdict on the issue of bad faith. The amount of any reasonable attorney's fees shall be determined by the trial jury and shall be included in any judgment which is rendered in the action; provided, however, 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; provided, further, the trial court shall have the discretion, if it finds the jury verdict fixing attorney's fees to be greatly excessive or inadequate, to review and amend the portion of the verdict fixing attorney's fees without the necessity of disapproving the entire verdict. The limitations contained in this Code section in reference to the amount of attorney's fees are not controlling as to the fees which may be agreed upon by the plaintiff and the plaintiff's attorney for the services of the attorney in the action against the insurer.

(b) In any action brought pursuant to subsection (a) of this Code section, and within 20 days of bringing such action, the plaintiff shall, in addition to service of process in accordance with Code Section 9-11-4, mail to the Commissioner of Insurance and the consumers' insurance advocate a copy of the demand and complaint by first-class mail. Failure to comply with this subsection may be cured by delivering same.

HISTORY: Ga. L. 1872, p. 43, § 1; Code 1873, § 2850; Code 1882, § 2850; Civil Code 1895, § 2140; Civil Code 1910, § 2549; Code 1933, § 56-706; Code 1933, § 56-1206, enacted by Ga. L. 1960, p. 289, § 1; Ga. L. 1962, p. 712, § 1; Ga. L. 2001, p. 784, § 1.