

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 515

Short Title: Prelitigation Insurance Info./Mediation.

(Public)

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Sponsors: Senators Dalton; Allran, Ballance, Ballantine, Blust, Cooper, Gulley, Hartsell, Horton, Kinnaird, Miller, Odom, Rand, Reeves, Weinstein, Wellons, and Winner.

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Referred to: Judiciary.

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March 26, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE INSURERS TO PROVIDE INFORMATION PRIOR TO  
2 LITIGATION REGARDING POLICY PROVISIONS AND POLICY LIMITS  
3 UPON WRITTEN REQUEST AND TO GIVE AN INSURER WHO PROVIDES  
4 SUCH INFORMATION THE OPTION OF INITIATING MEDIATION WITH THE  
5 PERSON WHO SOUGHT THE INFORMATION.  
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7 The General Assembly of North Carolina enacts:

8 Section 1. Article 3 of Chapter 58 of the General Statutes is amended by  
9 adding a new section to read:

10 "**§ 58-3-33. Insurer required to provide information.**

11 Upon receiving a written request for information regarding policy provisions or policy  
12 limits by any person who claims to have been physically injured or incurred property  
13 damage subject to the policy, an insurance company shall notify the person within five  
14 business days, on a form developed by the Department, that the insurer is required to  
15 provide this information under this section prior to litigation only if the person seeking  
16 the information gives written consent to participate in mediation of the person's claim  
17 subject to the policy pursuant to G.S. 7A-38.4. Within 30 days of receiving the person's  
18 written consent to participate in mediation pursuant to G.S. 7A-38.4, the insurer shall  
19 provide the policy limits and a copy of the policy to that person."

1 Section 2. Article 5 of Chapter 7A of the General Statutes is amended by  
2 adding a new section to read:

3 **"§ 7A-38.4. Prelitigation of insurance claims.**

4 (a) Initiation of Mediation. – Prelitigation mediation of an insurance claim may be  
5 initiated by an insurer that has provided the policy limits and a copy of the policy in  
6 accordance with G.S. 58-3-33 by filing a request for mediation with the clerk of superior  
7 court in a county in which the action may be brought. The insurer also shall mail a copy  
8 of the request by certified mail, return receipt requested, to the person who requested the  
9 information under G.S. 58-3-33.

10 (b) Costs of Mediation. – Costs of mediation, including the mediator's fees, shall  
11 be borne by the insurer. When a party to the mediation is represented by an attorney, that  
12 party shall pay his or her attorneys' fees.

13 (c) Mediation Procedure. – Except as otherwise expressly provided in this section,  
14 mediation under this section shall be conducted in accordance with the provisions for  
15 mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and  
16 standards adopted pursuant to those sections. The Supreme Court may adopt additional  
17 rules and standards to implement this section, including an exemption from the  
18 provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this  
19 section.

20 (d) Certification That Mediation Concluded. – Upon the conclusion of mediation,  
21 the mediator shall prepare a certification stating the date on which the mediation was  
22 concluded and the general results of the mediation, including, as applicable, that an  
23 agreement was reached, that mediation was attempted but an agreement was not reached,  
24 or that one or more parties, to be specified in the certification, failed or refused, without  
25 good cause, to attend one or more mediation meetings or otherwise participate in the  
26 mediation. The mediator shall file the original of the certification with the clerk and  
27 provide a copy to each party. Each party to the mediation has satisfied the requirements  
28 of this section upon the filing of the certification, except any party specified in the  
29 certification as having failed or refused to attend one or more mediation meetings or  
30 otherwise participate. The sanctions in G.S. 7A-38.1(g) do not apply to prelitigation  
31 mediation conducted under this section.

32 (e) Time Periods Tolled. – Time periods relating to the filing of a claim or the  
33 taking of other action with respect to an insurance claim, including any applicable  
34 statutes of limitations, shall be tolled upon the filing of a request for mediation under this  
35 section, until 30 days after the date on which the mediation is concluded as set forth in  
36 the mediator's certification, or if the mediator fails to set forth such date, until 30 days  
37 after the filing of the certification under subsection (d) of this section."

38 Section 3. This act is effective when it becomes law and applies to physical  
39 injury or property damage that is incurred on or after that date.