GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

SESSION LAW 2003-307
SENATE BILL 775

AN ACT TO CONDITIONALLY REQUIRE INSURERS TO PROVIDE INFORMATION REGARDING POLICY LIMITS PRIOR TO LITIGATION WHEN REQUESTED IN WRITING BY THE PERSONS WHO HAVE CLAIMS, OTHER THAN MEDICAL MALPRACTICE CLAIMS, SUBJECT TO NONFLEET PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICIES AND TO GIVE THESE INSURERS THE OPTION OF INITIATING PRELITIGATION MEDIATION OF THE CLAIMS.

The General Assembly of North Carolina enacts:

        SECTION 1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:
"**§ 58-3-33. Insurer conditionally required to provide information.**
        (a) A person who claims to have been physically injured or to have incurred property damage where such injury or damage is subject to a policy of nonfleet private passenger automobile insurance may request by certified mail directed to the insurance adjuster or to the insurance company (Attention Corporate Secretary) at its last known principal place of business that the insurance company provide information regarding the policy's limits of coverage under the applicable policy. Upon receipt of such a request, which shall include the policyholder's name, and, if available, policy number, the insurance company shall notify that person within 15 business days, on a form developed by the Department, that the insurer is required to provide this information prior to litigation only if the person seeking the information satisfies all of the following conditions:
                (1) The person seeking the information submits to the insurer the person's written consent to the person's physicians to release to the insurer the person's medical records for the three years prior to the date on which the claim arose.
                (2) The person seeking the information submits to the insurer the person's written consent to participate in mediation of the person's claim under G.S. 7A-38.3A.
                (3) The person seeking the information submits to the insurer a copy of the accident report required under G.S. 20-166.1 and a description of the events at issue with sufficient particularity to permit the insurer to make an initial determination of the potential liability of its insured.
        (b) Within 30 days of receiving the person's written documents required under subsection (a) of this section, the insurer shall provide the policy limits.
        (c) Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy.
        (d) This section does not apply to claims seeking recovery for medical malpractice or claims for which an insurer intends to deny coverage under any policy of insurance."
        SECTION 2. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:
"**§ 7A-38.3A. Prelitigation mediation of insurance claims.**

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

(b)   Costs of Mediation. – Costs of mediation, including the mediator's fees, shall be borne by the insurer and claimant equally. When an attorney represents a party to the mediation, that party shall pay his or her attorneys' fees.

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

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

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

(f)   Medical Malpractice Claims Excluded. – This section does not apply to claims seeking recovery for medical malpractice."

SECTION 3. This act becomes effective January 1, 2004, and applies to claims regarding physical injury or property damage that arise on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2003.

s/ Marc Basnight
      President Pro Tempore of the Senate

s/ James B. Black
      Speaker of the House of Representatives

s/ Michael F. Easley
      Governor

Approved 4:55 p.m. this 4th day of July, 2003