

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 213

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to time-limited offers to settle tort claims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Chapter 537, RSMo, is amended by adding thereto
2 one new section, to be known as section 537.058, to read as
3 follows:

4 537.058. 1. As used in this section, the following terms
5 shall mean:

6 (1) "Extra-contractual damages", any amount of damage that
7 exceeds the total available limit of liability insurance for all
8 of a liability insurer's liability insurance policies applicable
9 to a claim for personal injury, bodily injury, or wrongful death;

10 (2) "Time-limited demand", any offer to settle any claim
11 for personal injury, bodily injury, or wrongful death made by or
12 on behalf of a claimant to a tort-feasor with a liability
13 insurance policy for purposes of settling a claim against such
14 tort-feasor within the insurer's limit of liability insurance,
15 which by its terms must be accepted within a specified period of
16 time;

17 (3) "Tort-feasor", any person claimed to have caused or

1 contributed to cause personal injury, bodily injury, or wrongful
2 death to a claimant.

3 2. A time-limited demand to settle any claim for personal
4 injury, bodily injury, or wrongful death shall be in writing,
5 shall reference this section, shall be sent certified mail
6 return-receipt requested to the tort-feasor's liability insurer,
7 and shall contain the following material terms:

8 (1) The time period within which the offer shall remain
9 open for acceptance by the tort-feasor's liability insurer, which
10 shall not be less than ninety days from the date such demand is
11 received by the liability insurer;

12 (2) The amount of monetary payment requested or a request
13 for the applicable policy limits;

14 (3) The date and location of the loss;

15 (4) The claim number, if known;

16 (5) A description of all known injuries sustained by the
17 claimant;

18 (6) The party or parties to be released if such time-
19 limited demand is accepted;

20 (7) A description of the claims to be released if such
21 time-limited demand is accepted; and

22 (8) An offer of unconditional release for the liability
23 insurer's insureds from all present and future liability for that
24 occurrence under section 537.060.

25 3. Such time-limited demand shall be accompanied by:

26 (1) A list of the names and addresses of health care
27 providers who provided treatment to or evaluation of the claimant
28 or decedent for injuries suffered from the date of injury until

1 the date of the time-limited demand, and HIPPA compliant written
2 authorizations sufficient to allow the liability insurer to
3 obtain records from the health care providers listed; and

4 (2) A list of the names and addresses of all the claimant's
5 employers at the time the claimant was first injured until the
6 date of the time-limited demand, and written authorizations
7 sufficient to allow the liability insurer to obtain records from
8 all employers listed, if the claimant asserts a loss of wages,
9 earnings, compensation, or profits however denominated.

10 4. If a liability insurer with the right to settle on
11 behalf of an insured receives a time-limited demand, such insurer
12 may accept the time-limited demand by providing written
13 acceptance of the material terms outlined in subsection 2 of this
14 section, delivered or postmarked to the claimant or the
15 claimant's representative within the time period set in the time-
16 limited demand.

17 5. Nothing in this section shall prohibit a claimant making
18 a time-limited demand from requiring payment within a specified
19 period; provided, however, that such period for payment shall not
20 be less than ten days after the insurer's receipt of a fully
21 executed unconditional release under section 537.060 as specified
22 in subsection 2 of this section.

23 6. Nothing in this section applies to offers or demands or
24 time-limited demands issued within ninety days of the trial by
25 jury of any claim on which a lawsuit has been filed.

26 7. In any lawsuit filed by a claimant as an assignee of the
27 tort-feasor or by the tort-feasor for the benefit of the
28 claimant, a time-limited demand that does not comply with the

1 terms of this section shall not be considered as a reasonable
2 opportunity to settle for the insurer and shall not be admissible
3 in any lawsuit alleging extra-contractual damages against the
4 tort-feasor's liability insurer.