

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 213
99TH GENERAL ASSEMBLY

Reported from the Committee on Government Reform, February 16, 2017, with recommendation that the Senate Committee Substitute do pass.

0831S.03C

ADRIANE D. CROUSE, Secretary.

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:

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

**537.058. 1. As used in this section, the following terms shall
2 mean:**

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

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

13 **(3) "Tortfeasor", any person claimed to have caused or
14 contributed to cause personal injury, bodily injury, or wrongful death
15 to a claimant.**

16 **2. A time-limited demand to settle any claim for personal injury,
17 bodily injury, or wrongful death shall be in writing, shall reference this
18 section, shall be sent certified mail return-receipt requested to the
19 tortfeasor's liability insurer, and shall contain the following material
20 terms:**

21 (1) The time period within which the offer shall remain open for
22 acceptance by the tortfeasor's liability insurer, which shall not be less
23 than ninety days from the date such demand is received by the liability
24 insurer;

25 (2) The amount of monetary payment requested;

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

27 (4) The claim number, if known;

28 (5) A description of all the injuries sustained by the claimant;

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

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

33 (8) An unconditional release for the liability insurer's insureds
34 from all present and future liability under section 537.060.

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

36 (1) A list of the names and addresses of health care providers
37 who provided treatment to or evaluation of the claimant or decedent
38 for injuries suffered from the date of injury until the date of the time-
39 limited demand, and HIPPA compliant written authorizations sufficient
40 to allow the liability insurer to obtain records from the health care
41 providers listed; and

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

48 4. If a liability insurer with the right to settle on behalf of an
49 insured receives a time-limited demand, such insurer may accept the
50 time-limited demand by providing written acceptance of the material
51 terms outlined in subsection 2 of this section, delivered or postmarked
52 to the claimant or the claimant's representative within ninety days
53 after the liability insurer's receipt of the time-limited demand.

54 5. Nothing in this section shall prohibit a claimant making a
55 time-limited demand from requiring payment within a specified period;
56 provided, however, that such period for payment shall not be less than
57 ten days after the insurer's receipt of a fully executed unconditional

58 release under section 537.060 as specified in subsection 2 of this
59 section.

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

63 7. Any time-limited demand that does not strictly comply with
64 the terms of this section shall not be considered as a reasonable
65 opportunity to settle for the insurer and shall not be admissible in any
66 lawsuit alleging extra-contractual damages against the liability insurer
67 for any tortfeasor, if such lawsuit is filed by the claimant as assignee
68 of the tortfeasor or by the tortfeasor for the benefit of the claimant.

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