

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 573

99TH GENERAL ASSEMBLY

1114H.05P

D. ADAM CRUMBLISS, Chief Clerk

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 section, to be
2 known as section 537.058, to read as follows:

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

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

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

10 (3) "Tortfeasor", any person claimed to have caused or contributed to cause
11 personal injury, bodily injury, or wrongful death to a claimant.

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

19 **(2) The amount of monetary payment requested;**

20 **(3) The date and location of the loss;**

21 **(4) The claim number, if known;**

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

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

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

26 **(8) An unconditional release for the liability insurer's insured from all present and**
27 **future liability under section 537.060.**

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

29 **(1) A list of the names and addresses of health care providers who provided**
30 **treatment to or evaluation of the claimant or decedent for injuries suffered from the date**
31 **of injury until the date of the time-limited demand, and HIPAA compliant written**
32 **authorizations sufficient to allow the liability insurer to obtain records from the health care**
33 **providers listed; and**

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

39 **4. If a liability insurer with the right to settle on behalf of an insured receives a**
40 **time-limited demand, such insurer may accept the time-limited demand by providing**
41 **written acceptance of the material terms outlined in subsection 2 of this section, delivered**
42 **or postmarked to the claimant or the claimant's representative within the time period set**
43 **in the time-limited demand.**

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

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

50 **7. In any lawsuit filed by a claimant as an assignee of the tortfeasor or by the**
51 **tortfeasor for the benefit of the claimant, a time-limited demand that does not strictly**
52 **comply with the terms of this section shall not be considered as a reasonable opportunity**

53 to settle for the insurer and shall not be admissible in any lawsuit alleging extra-
54 contractual damages against the tortfeasor's liability insurer.

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