



Sen. Kwame Raoul

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09800SB1912sam004

LRB098 08938 JLS 45213 a

1 AMENDMENT TO SENATE BILL 1912

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1912, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Code of Civil Procedure is amended by  
6 adding Part 23 to Article II as follows:

7 (735 ILCS 5/Art. II Pt. 23 heading new)

8 Part 23. Settlement

9 (735 ILCS 5/2-2301 new)

10 Sec. 2-2301. Settlement of claims; payment.

11 (a) In a personal injury, property damage, wrongful death,  
12 or tort action involving a claim for money damages, a release  
13 must be tendered to the plaintiff by the settling defendant  
14 within 14 days of written confirmation of the settlement.

15 (b) In a personal injury, property damage, wrongful death,

1 or tort action involving a claim for money damages in which the  
2 law requires court approval of a settlement, the plaintiff  
3 shall tender to the defendant a copy of the court order  
4 approving the settlement.

5 (c) In a personal injury, property damage, wrongful death,  
6 or tort action involving a claim for money damages in which  
7 there is a known third-party right of recovery or subrogation  
8 interest (including attorney's liens, healthcare provider  
9 liens, or rights of recovery claimed by Medicare, the Centers  
10 for Medicare and Medicaid Services, the Illinois Department of  
11 Healthcare and Family Services, or private health insurance  
12 companies), the plaintiff may protect the third-party's right  
13 of recovery or subrogation interest, where applicable, by  
14 tendering to the defendant:

15 (1) A signed release of the attorney's lien.

16 (2) Either:

17 (i) a signed release of a healthcare provider lien;

18 or

19 (ii) a letter from the plaintiff's attorney  
20 agreeing to hold the full amount of the claimed lien in  
21 the plaintiff's attorney's client fund account pending  
22 final resolution of the lien amount; or

23 (iii) an offer that the defendant hold the full  
24 amount of the claimed right to recovery pending final  
25 resolution of the amount of the right of recovery.

26 (3) Either:

1           (i) documentation of the agreement between the  
2           plaintiff and Medicare, the Centers for Medicare and  
3           Medicaid Services, the Illinois Department of  
4           Healthcare and Family Services, or the private health  
5           insurance company as to the amount of the settlement  
6           that will be accepted in satisfaction of right of  
7           recovery; or

8           (ii) a letter from the plaintiff's attorney  
9           agreeing to hold the full amount of the claimed right  
10           to recovery in the plaintiff's attorney's client fund  
11           account pending final resolution of the amount of the  
12           right to recovery; or

13           (iii) an offer that the defendant hold the full  
14           amount of the claimed right to recovery pending final  
15           resolution of the amount of the right of recovery.

16           (d) A settling defendant shall pay all sums due to the  
17           plaintiff within 21 days of tender by the plaintiff of all  
18           applicable documents in compliance with subsections (a), (b),  
19           and (c) of this Section.

20           (e) If, after a hearing, the court having jurisdiction over  
21           the parties finds that timely payment has not been made by a  
22           defendant pursuant to subsection (d) of this Section, judgment  
23           shall be entered against that defendant for the amount set  
24           forth in the executed release, plus costs incurred in obtaining  
25           the judgment and interest at the rate specified under Section  
26           2-1303 of this Code, calculated from the date of the tender by

1 the plaintiff under subsection (d) of this Section.

2 (f) As used in this Section, "tender" means personal  
3 delivery or delivery by a means providing a return receipt.

4 (g) This Section applies to all personal injury, property  
5 damage, wrongful death, and tort actions involving a claim for  
6 money damages, except as otherwise agreed by the parties and  
7 for those actions against this State, any State agency, or any  
8 State employee or foster parent or other entity or person that  
9 is being represented and provided indemnification in  
10 accordance with the provisions of the State Employee  
11 Indemnification Act. This Section does not apply to units of  
12 local government.

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law."