

## House Bill 233

By: Representatives Heard of the 89<sup>th</sup>, Harbin of the 113<sup>th</sup> and Hugley of the 133<sup>rd</sup>

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Chapter 22 of Title 33 of the Official Code of Georgia Annotated, relating to  
 2 insurance premium finance companies, so as to change certain provisions relating to  
 3 requirements for license for transaction of business, fees, change of address, and examination  
 4 of applicants; to change certain provisions relating to maintenance of records of transactions  
 5 by licensees and examination of records by the Commissioner of Insurance; to change certain  
 6 provisions relating to form, contents, execution, and delivery of premium finance  
 7 agreements; to change certain provisions relating to service charges; to change certain  
 8 provisions relating to notice to insured by premium finance company, copy of premium  
 9 finance agreement, and notice of existence of power of attorney; to change certain provisions  
 10 relating to procedure for cancellation of insurance contract upon default; to change certain  
 11 provisions relating to disposition of unearned premiums upon cancellation of insurance  
 12 policies; to provide for use of electronic records and signatures subject to certain provisions  
 13 of law; to change certain provisions relating to applicability of said chapter; to repeal  
 14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Chapter 22 of Title 33 of the Official Code of Georgia Annotated, relating to insurance  
 18 premium finance companies, is amended by striking subsection (c) of Code Section 33-22-3,  
 19 relating to requirements for license for transaction of business, fees, change of address, and  
 20 examination of applicants, and inserting in lieu thereof the following:

21 "(c) Before any licensee changes his or her address, he or she shall ~~return his license to the~~  
 22 ~~Commissioner who shall endorse the license indicating the change~~ inform the  
 23 Commissioner of the change in writing."



1 (b) The items set out in paragraph (3) of subsection (a) of this Code section need not be  
 2 stated in the sequence or order in which they appear in such clause, and additional items  
 3 may be included to explain the computations made in determining the amount to be paid  
 4 by the insured.

5 (c) The licensee or the insurance agent or insurance broker shall deliver to the insured or  
 6 send by electronic means or mail to the insured at his or her address shown in the  
 7 agreement a complete copy of the agreement.

8 (d) Whenever an insurance policy has been financed pursuant to this chapter, an additional  
 9 premium to such policy or a renewal or extension of such policy may be financed with the  
 10 same premium finance company without the execution of a new premium finance  
 11 agreement. The premium finance company or the insurance agent or insurance broker shall  
 12 mail or deliver to the insured deliver to the insured or send by electronic means or mail to  
 13 the insured at his or her address shown in the agreement an addendum to the existing  
 14 premium finance agreement ~~in the same manner as provided in subsection (c) of this Code~~  
 15 ~~section~~, and such addendum shall contain the information required under subsection (a) of  
 16 this Code section."

#### 17 SECTION 4.

18 Said chapter is further amended by striking Code Section 33-22-9, relating to service  
 19 charges, and inserting in lieu thereof the following:

20 "33-22-9.

21 (a) As used in this Code section, the term:

22 (1) 'Commercial insurance premium finance agreement' means any insurance premium  
 23 finance agreement other than a consumer premium finance agreement.

24 (2) 'Consumer insurance premium finance agreement' means an insurance premium  
 25 finance agreement, as defined in Code Section 33-22-2, wherein the insurance contracts  
 26 which are the subject of the premium finance agreement are for personal, family, or  
 27 household purposes ~~or where the premiums for those agreements are \$3,000.00 or less~~  
 28 rather than business or professional purposes.

29 (b) A premium finance company shall not charge, contract for, receive, or collect a service  
 30 charge other than as permitted by this chapter.

31 (c) The service charge shall be computed on the balance of the premiums due, after  
 32 subtracting the down payment made by the insured in accordance with the premium finance  
 33 agreement, from the effective date of the insurance coverage for which the premiums are  
 34 being advanced, to and including the date when the final payment of the premium finance  
 35 agreement is payable; provided, however, that service charges as specified in the premium  
 36 finance agreement may continue to be charged until such agreement is paid in full.

1 (d) The service charge per consumer insurance premium finance agreement shall be a  
 2 maximum of \$12.00 per \$100.00 per annum plus an additional charge which shall not  
 3 exceed \$20.00 per premium finance agreement, which additional charge need not be  
 4 refunded upon prepayment. Any insured may prepay his premium finance agreement in full  
 5 at any time before the due date of the final payment and in such event the unearned service  
 6 charge shall be refunded in accordance with the Rule of 78 and shall represent at least as  
 7 great a proportion of the service charge, if any, as the sum of the periodic balances after the  
 8 month in which prepayment is made bears to the sum of all periodic balances under the  
 9 schedule of payments in the agreement.

10 (e) The service charge for a commercial insurance premium finance agreement shall be  
 11 properly agreed upon by the parties to the contract. The claim or defense of usury by such  
 12 insureds who enter into such a commercial insurance premium finance agreement or their  
 13 successors or anyone in their behalf shall not be valid if such agreement is a valid contract  
 14 in all other respects."

#### 15 SECTION 5.

16 Said chapter is further amended by striking Code Section 33-22-12.1, relating to notice to  
 17 insured by premium finance company, copy of premium finance agreement, and notice of  
 18 existence of power of attorney, and inserting in lieu thereof the following:

19 "33-22-12.1.

20 Whenever a premium finance company executes a premium finance agreement relative to  
 21 a personal or family-type policy of insurance, it shall ~~mail or deliver to the insured~~ deliver  
 22 to the insured or send by electronic means or mail to the insured at his or her address  
 23 shown in the agreement a copy of the agreement ~~as provided in subsection (c) of Code~~  
 24 ~~Section 33-22-8~~ and a written notice which clearly discloses to the insured the existence  
 25 of the power of attorney contained in such agreement. The written notice shall substantially  
 26 comply with the following form:

#### 27 NOTICE

28 Your insurance policy premiums have been financed and are payable on a monthly  
 29 payment basis. If you do not pay each payment on or before the date due or within 15  
 30 days of the date due, we have the right to CANCEL your insurance policy or policies  
 31 which are financed under the premium finance agreement. To avoid cancellation of your  
 32 policy or policies, MAKE YOUR PAYMENTS ON TIME."

1 **SECTION 6.**

2 Said chapter is further amended by striking subsection (b) of Code Section 33-22-13,  
3 relating to procedure for cancellation of insurance contract upon default, and inserting in  
4 lieu thereof the following:

5 "(b) Not less than ten days' written notice shall be ~~mailed to the insured~~ delivered to the  
6 insured or sent by electronic means or mailed to the insured at his or her address shown  
7 in the agreement of the intent of the premium finance company to cancel the insurance  
8 contract unless the default is cured within such ten-day period. A copy of said notice  
9 shall also be sent to the insurance agent or insurance broker indicated on the premium  
10 finance agreement."

11 **SECTION 7.**

12 Said chapter is further amended by striking paragraph (1) of subsection (b) of Code  
13 Section 33-22-14, relating to disposition of unearned premiums upon cancellation of  
14 insurance policies, and inserting in lieu thereof the following:

15 "(b)(1) In the event that the crediting of return premiums to the account of the insured  
16 results in a surplus over the amount due from the insured, the premium finance  
17 company shall refund the excess within ten working days of receipt of the return  
18 premium or tender of return premium to the insured via the agent, agency, or broker  
19 placing the insurance and shall furnish such agent, agency, or broker, upon a written  
20 request, a report setting forth an itemization of the unearned finance charge and other  
21 charges under the premium finance agreement; provided, however, there shall be no  
22 refund required when the excess due the insured is less than ~~\$2.00~~ \$5.00."

23 **SECTION 8.**

24 Said chapter is further amended by adding a new Code Section 33-22-14.1 to read as  
25 follows:

26 "33-22-14.1.

27 Any use or transmission of electronic records or electronic signatures for purposes of  
28 this chapter shall be subject to the provisions of Chapter 12 of Title 10, the 'Georgia  
29 Electronic Records and Signatures Act.'"

