

Representative Lord of the 121st offered the following substitute to SB 177:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to  
2 change certain requirements with regard to the placement of insurance with foreign and alien  
3 insurers; to require that certain surplus lines policies must have attached to or made a part of  
4 such policies forms or brochures explaining surplus lines coverages; to authorize the  
5 promulgation of rules and regulations; to provide a time period in which hearings must be  
6 requested; to provide procedures for hearings; to provide for definitions; to provide that  
7 certain insurers, health care corporations including provider sponsored health care  
8 corporations, and health maintenance organizations shall furnish claims experience to group  
9 policyholders; to provide for an alternative form of group claims experience reporting to  
10 policyholders as approved by the Commissioner of Insurance; to authorize the Commissioner  
11 of Insurance to approve fees to be charged for the provision of such claims experience  
12 reports; to provide for related matters; to provide for an effective date; to repeal conflicting  
13 laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 SECTION 1.

16 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
17 striking subsection (b) of Code Section 33-5-25, relating to placement of insurance with  
18 foreign or alien insurers, in its entirety and inserting in lieu thereof a new subsection (b) to  
19 read as follows:

20 "(b)(1) The broker shall so insure only:

21 ~~(1)(A) With a foreign insurer having~~ an insurance company licensed and domiciled in  
22 a state or United States territory which at all times maintains capital and surplus  
23 amounting to at least \$3 million;

24 ~~(2)(B) With an alien insurer which has been established for at least ten years and which~~  
25 ~~has at least \$10 million in capital and surplus, unless the character, trustworthiness, and~~  
26 ~~financial integrity of an alien insurer is of such a nature that it would be in the best~~

1 ~~interests of the policyholders and the general public to use such insurer in accordance~~  
 2 ~~with standards prescribed by rules and regulations of the Commissioner~~ any group of  
 3 foreign individual underwriters licensed and domiciled in a state or United States  
 4 territory if such group maintains a trust or security fund of at least \$10 million as  
 5 security to the full amount thereof for all policyholders and creditors in the United  
 6 States of each member of the group. If the group includes incorporated and  
 7 unincorporated underwriters, the incorporated members shall not be engaged in any  
 8 business other than underwriting as a member of the group and shall be subject to the  
 9 level of solvency regulation and control by the group's domiciliary regulatory as are the  
 10 unincorporated members; or

11 ~~(3)(C) With any~~ alien insurer or group of foreign or alien individual underwriters,  
 12 including, but not limited to, any Lloyd's group, ~~or with a group including incorporated~~  
 13 ~~and individual unincorporated underwriters, the incorporated members of which shall~~  
 14 ~~not be engaged in any business other than underwriting as a member of the group and~~  
 15 ~~shall be subject to the level of solvency regulation and control by the group's~~  
 16 ~~domiciliary regulator as are the unincorporated members, if such group maintains a~~  
 17 ~~trust or security fund of at least ten million United States dollars as security to the full~~  
 18 ~~amount thereof for all policyholders and creditors in the United States of each member~~  
 19 ~~of the group; or~~ that is on an approved list maintained by the Commissioner.

20 ~~(4)(2) With an~~ An insurer or group of foreign individual underwriters described in  
 21 subparagraph (A) or (B) of paragraph (1) or (2) of this subsection which shall annually  
 22 furnishes furnish to the broker a copy of the insurer's its current annual financial  
 23 statement and, in the case of a group of foreign individual underwriters, evidence of  
 24 compliance with required trust or security fund deposits."

## 25 SECTION 2.

26 Said title is further amended by striking Code Section 33-5-26, relating to endorsement of  
 27 insurance contract by broker, in its entirety and inserting in lieu thereof a new Code Section  
 28 33-5-26 to read as follows:

29 "33-5-26.

30 (a) Every insurance contract procured and delivered as a surplus line coverage shall be  
 31 initialed by or bear the name of the surplus line broker who procured it and shall have  
 32 printed or stamped upon it the following: 'This contract is registered and delivered as a  
 33 surplus line coverage under the Surplus Line Insurance Law, O.C.G.A. Chapter 33-5 and  
 34 this (these) insurer(s) is (are) not authorized to do business in Georgia.'

1 (b) No surplus lines policy or certificate in which the policy premium is \$5,000.00 per  
 2 annum or less shall be delivered in this state unless a standard disclosure form or brochure  
 3 explaining surplus lines insurance is attached to or made a part of the policy or certificate.  
 4 The Commissioner shall prescribe by rule or regulation the format and contents of such  
 5 form or brochure.

6 (c) Pursuant to Code Section 33-2-9, the Commissioner may promulgate rules and  
 7 regulations which are necessary to implement the provisions of this article."

### 8 **SECTION 3.**

9 Said title is further amended by adding a new Code Section 33-9-21.2 to read as follows:

10 "33-9-21.2.

11 Any insurer aggrieved by the Commissioner's disapproval of any rate filing may petition  
 12 the Commissioner for a hearing within ten days of the notification of such disapproval,  
 13 unless otherwise specifically provided by law. A hearing conducted pursuant to this Code  
 14 section shall be conducted in accordance with the provisions of Chapter 2 of this title."

### 15 **SECTION 4.**

16 Said title is further amended by adding a new Code Section 33-30-13.1 to read as follows:

17 "33-30-13.1.

18 (a) As used in this Code section, the term 'insurer' means an accident and sickness insurer,  
 19 fraternal benefit society, nonprofit hospital service corporation, nonprofit medical service  
 20 corporation, health care corporation, provider sponsored health care corporation, health  
 21 maintenance organization, or any similar entity.

22 (b)(1) All insurers shall furnish, regardless of the rating methodology used, claims  
 23 experience to group policyholders within 30 days of any policyholder's request unless  
 24 such information has been furnished to the group policyholder within the preceding six  
 25 months. Such claims experience shall be furnished for all groups of 51 or more covered  
 26 employees, members, or enrollees, not including dependents, and shall include, but shall  
 27 not be limited to:

28 (A) Earned premiums separated by policy year for at least the last two policy years, if  
 29 applicable;

30 (B) Total paid claims and total incurred claims, inclusive of any high amount or pooled  
 31 claims, including both capitated and noncapitated expenses set forth in the same manner  
 32 as premiums; and

33 (C) Any amounts in excess of the individual pooling or stop-loss point applicable to  
 34 the group.

1 (2) Insurers that utilize provider contracting methods including financial devices such  
2 as global fee arrangements to cover all medical expenses may make application to the  
3 Commissioner for approval of the use of an alternative form of claims experience  
4 reporting. The insurer must still provide Georgia experience on a group-specific basis  
5 or on such other reasonable basis as the Commissioner may approve for such insurer, in  
6 advance, based upon a submission of an explanation and supporting documentation. Any  
7 insurer that received approval for an alternative form of group claims experience  
8 reporting to policyholders shall be required to seek the Commissioner's advance approval  
9 of a proposed response letter to group policyholders who request experience reporting.  
10 Such letter should describe the insurer's reasons for seeking an alternative reporting  
11 process and describe the alternative form of reporting approved by the Commissioner.  
12 (3) Insurers may charge a reasonable fee for providing this information to group  
13 policyholders. The schedule or amount of fees to be charged group policyholders for  
14 providing this information shall be filed by each insurer with the Commissioner.  
15 (4) In providing claims experience to group policyholders under this Code section,  
16 insurers shall adhere to all state and federal laws regarding disclosure of protected health  
17 or personal information."

#### 18 SECTION 5.

19 This Act shall become effective upon its approval by the Governor or upon its becoming law  
20 without such approval.

#### 21 SECTION 6.

22 All laws and parts of laws in conflict with this Act are repealed.