

Senate Bill 177

By: Senators Harbison of the 15th, Kemp of the 3rd and Dean of the 31st

AS PASSED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

(B) With any group of foreign individual underwriters licensed and domiciled in a state or United States territory if such group maintains a trust or security fund of at least \$10 million as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group. If the group includes incorporated and unincorporated underwriters, the incorporated members shall not be engaged in any

business other than underwriting as a member of the group and shall be subject to the level of solvency regulation and control by the group's domiciliary regulatory as are the unincorporated members; or

(C) With any alien insurer or group of alien underwriters, including, but not limited to, any Lloyd's group, that is on an approved list maintained by the Commissioner.

(2) An insurer or group of foreign individual underwriters described in subparagraph (A) or (B) of paragraph (1) of this subsection shall annually furnish to the broker a copy of its current annual financial statement and, in the case of a group of foreign individual underwriters, evidence of compliance with required trust or security fund deposits."

SECTION 2.

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

"33-5-26.

(a) Every insurance contract procured and delivered as a surplus line coverage shall be initialed by or bear the name of the surplus line broker who procured it and shall have printed or stamped upon it the following: 'This contract is registered and delivered as a surplus line coverage under the Surplus Line Insurance Law, O.C.G.A. Chapter 33-5.'

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

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

SECTION 3.

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

"33-9-21.2.

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

SECTION 4.

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

"33-30-13.1.

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

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

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

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

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

(2) Insurers that utilize provider contracting methods including financial devices such as global fee arrangements to cover all medical expenses may make application to the Commissioner for approval of the use of an alternative form of claims experience reporting. The insurer must still provide Georgia experience on a group-specific basis or on such other reasonable basis as the Commissioner may approve for such insurer, in advance, based upon a submission of an explanation and supporting documentation. Any insurer that received approval for an alternative form of group claims experience reporting to policyholders shall be required to seek the Commissioner's advance approval of a proposed response letter to group policyholders who request experience reporting. Such letter should describe the insurer's reasons for seeking an alternative reporting process and describe the alternative form of reporting approved by the Commissioner.

(3) Insurers may charge a reasonable fee for providing this information to group policyholders. The schedule or amount of fees to be charged group policyholders for providing this information shall be filed by each insurer with the Commissioner.

(4) In providing claims experience to group policyholders under this Code section, insurers shall adhere to all state and federal laws regarding disclosure of protected health or personal information."

SECTION 5.

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

SECTION 6.

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