

Senate Bill 197

By: Senator Brown of the 26th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 23 of Title 33 of the Official Code of Georgia, relating to licensing of
2 agents, agencies, subagents, counselors, and adjusters, so as to provide definitions; to provide
3 for licenses for resident and nonresident insurance agents, subagents, surplus lines brokers,
4 counselors, and adjusters; to specify the circumstances under which such persons may be
5 licensed; to provide procedures for licensure; to require annual reports from insurance
6 agencies; to provide exceptions to licensure requirements; to authorize the Commissioner of
7 Insurance to promulgate rules and regulations with regard to the licensing of insurance
8 agents, subagents, counselors, and adjusters; to provide for the reinstatement of licenses in
9 certain circumstances; to require bonds of certain licensees; to provide for the contents of
10 applications for licenses; to provide for the appointment of agents by insurers; to require
11 insurers to report the termination of appointments and the basis therefor in certain
12 circumstances; to provide for temporary licenses under certain circumstances; to provide for
13 the renewal of licenses, to allow for staggered deadlines, and to authorize sanctions for those
14 persons who fail to renew their licenses as required by law; to provide for inactive licenses
15 and the revocation of such licenses; to provide for the suspension of licenses and the effect
16 of such suspension on rights arising under contract prior to the suspension; to provide
17 grounds for refusal, suspension, and revocation of licenses; to require notification of change
18 of place of business to the Commissioner of Insurance by licensees; to provide for the filing
19 and renewal of certificates of authority and the termination thereof; to provide for service on
20 nonresident licensees; to require licensees to maintain current information as to name and
21 address with the Commissioner of Insurance; to provide for licensure of surplus lines brokers
22 and to require bonds of same under certain conditions; to provide for the application of said
23 provisions; to repeal Code Section 33-5-22 of the Official Code of Georgia Annotated,
24 relating to the licensing of surplus line brokers generally; to amend Chapter 11 of Title 33
25 of the Official Code of Georgia Annotated, relating to investments, so as to provide for
26 issuance, renewal, suspension, revocation, and refusal of licenses for individuals selling
27 variable annuities and variable life insurance; to provide for an effective date; to repeal
28 conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 SECTION 1.

3 Chapter 23 of Title 33 of the Official Code of Georgia, relating to licensing of agents,
4 agencies, subagents, counselors, and adjusters, is amended by striking Article 1, relating to
5 agents, subagents, counselors, and adjusters, in its entirety and inserting in lieu thereof a new
6 Article 1 to read as follows:

7 "ARTICLE 1

8 33-23-1.

9 (a) As used in this article, the term:

10 (1) 'Adjuster' means any ~~person~~ individual who for a fee, commission, salary, or other
11 compensation investigates, settles, or adjusts and reports to his or her employer or
12 principal with respect to claims arising under insurance contracts on behalf of the insurer
13 or the insured or a person who directly supervises or manages such ~~person~~ individual.

14 The term 'adjuster' does not include:

15 (A) Individuals ~~Persons~~ who adjust claims arising under contracts of life or marine
16 insurance or annuities; or

17 (B) An agent or a salaried employee of an agent or a salaried employee of an insurer
18 who adjusts or assists in adjusting losses under policies issued by such agent or insurer.

19 (2) 'Agency' means a ~~person who~~ business entity which represents one or more insurers
20 and is engaged in the business of selling, soliciting, or procuring negotiating insurance
21 ~~or applications for insurance or issuing or delivering contracts of insurance for one or~~
22 ~~more insurers.~~ Agency also means a business entity insurance producer.

23 (3) 'Agent' means an individual appointed or employed by an insurer who sells, solicits,
24 or negotiates insurance ~~or procures applications for insurance; who in any way, directly~~
25 ~~or indirectly, makes or causes to be made any contract of insurance for or on account of~~
26 ~~an insurer; or who as representative of an insurer receives money for transmission to the~~
27 ~~insurer for a contract of insurance, anything in the application or contract to the contrary~~
28 ~~notwithstanding, and who has on file with the Commissioner a certificate of authority~~
29 ~~from each insurer with whom the agent places insurance.~~ Agent also means an individual
30 insurance producer.

31 (4) 'Business entity' means a corporation, association, partnership, sole proprietorship,
32 limited liability company, limited liability partnership, or other legal entity.

33 (4)(5) 'Controlled business of a person' means property or casualty insurance for a person
34 or a person's spouse; for any relative by blood or marriage within the second degree of

1 kinship as defined by paragraph (5) of Code Section 53-4-2; for a person's employer or
 2 the firm of which a person is a member; for any officer, director, stockholder, or member
 3 of a person's employer or of any firm of which a person is a partner; for any spouse of
 4 the officer, director, employer, stockholder, or member of a person's firm; for a person's
 5 ward or employee; or for any person or in regard to any property under a person's control
 6 or supervision in any fiduciary capacity.

7 ~~(5)~~(6) 'Counselor' means any ~~person~~ individual who engages or advertises or holds
 8 himself or herself out as engaging in the business of counseling, advising, or rendering
 9 opinions as to the benefits promised under any contract of insurance issued or offered by
 10 any insurer or as to the terms, value, effect, advantages, or disadvantages under the
 11 contract of insurance, other than an actuary or consultant advising insurers. When
 12 receiving a fee, commission, or other compensation for this service, such ~~person~~
 13 individual shall not receive any compensation from any other source on or relating to the
 14 same transaction.

15 (7) 'Home state' means Canada, the District of Columbia, and any state or territory of the
 16 United States in which an insurance producer maintains his or her principal place of
 17 residence or principal place of business and is licensed to act as an insurance producer.

18 ~~(6)~~(8) 'Independent adjuster' means an adjuster representing the interest of the insurer
 19 who is not an employee of such insurer.

20 ~~(7)~~(9) 'Insurance,' except where the type of insurance is specifically stated, means all
 21 kinds of insurance other than bail bonding by individual sureties.

22 (10) 'Insurance producer' means a person required to be licensed under the laws of this
 23 state to sell, solicit, or negotiate insurance.

24 (11) 'Negotiate' means the act of conferring directly with or offering advice directly to
 25 a purchaser or prospective purchaser of a particular contract of insurance concerning any
 26 of the substantive benefits, terms, or conditions of the contract, provided that the person
 27 engaged in that act either sells insurance or obtains insurance from insurers for
 28 purchasers.

29 (12) 'Person' means an individual or business entity.

30 ~~(8)~~(13) 'Public adjuster' means any person who solicits, advertises for, or otherwise
 31 agrees to represent only a person who is insured under a policy covering fire, windstorm,
 32 water damage, and other physical damage to real and personal property other than
 33 vehicles licensed for the road, and any such representation shall be limited to the
 34 settlement of a claim or claims under the policy for damages to real and personal
 35 property, including related loss of income and living expense losses but excluding claims
 36 arising out of any motor vehicle accident.

1 (14) 'Sell' means to exchange a contract of insurance by any means, for money or its
 2 equivalent, on behalf of an insurance company.

3 (15) 'Solicit' means attempting to sell insurance or asking or urging a person to apply for
 4 a particular kind of insurance from a particular company.

5 ~~(9)~~(16) 'Subagent' means any licensed agent, except as provided in Code Section
 6 33-23-12 ~~of this article~~, who acts for or on behalf of another licensed agent in the selling
 7 of, solicitation of, negotiations or negotiation for, ~~or procurement or making of an~~
 8 insurance contract or annuity contract ~~whether or not the person is designated by the~~
 9 ~~agent as subagent, solicitor, or any other title~~ and who has on file with the Commissioner
 10 a certificate of authority from each agent with whom the subagent places insurance.
 11 Subagent also means subproducer. The term 'subagent' shall not include:

12 (A) An agent who places insurance with or through another agent involving 12 or
 13 fewer policies or certificates of insurance in any one calendar year; or

14 (B) An agent who places surplus lines insurance with or through a surplus lines broker
 15 only with respect to such surplus lines insurance.

16 ~~(10)~~(17) 'Surplus lines broker' means ~~a person as defined in Code Section 33-1-2~~ an
 17 individual licensed pursuant to Code Section 33-23-37.

18 (b) The definitions of agent, subagent, counselor, and adjuster in subsection (a) of this
 19 Code section shall not be deemed to include:

20 ~~(1) Any regular salaried officer or employee of an insurer or of an agent or subagent who~~
 21 ~~performs only clerical or administrative services in connection with any insurance~~
 22 ~~transaction so long as such person is not involved in soliciting insurance or signing~~
 23 ~~contracts;~~

24 ~~(2)~~(1) An attorney at law admitted to practice in this state, when handling the collections
 25 of premiums or advising clients as to insurance as a function incidental to the practice of
 26 law or who, from time to time, adjusts losses which are incidental to the practice of his
 27 or her profession;

28 ~~(3)~~(2) Any representative of ocean marine insurers;

29 ~~(4)~~(3) Any representative of farmers' mutual fire insurance companies as defined in
 30 Chapter 16 of this title;

31 ~~(5)~~(4) A salaried employee of a credit or character reporting firm or agency not engaged
 32 in the insurance business who may, however, report to an insurer;

33 ~~(6)~~(5) A person acting for or as a collection agency; ~~or~~

34 ~~(7)~~(6) A person who makes the salary deductions of premiums for employees or, under
 35 a group insurance plan, a person who serves the master policyholder of group insurance
 36 in administering the details of such insurance for the employees or debtors of the master
 37 policyholder or of a firm or corporation by which the person is employed and who does

1 not receive insurance commissions for such service; provided, further, that an
 2 administration fee not exceeding 5 percent of the premiums collected paid by the insurer
 3 to the administration office shall not be construed to be an insurance commission; or
 4 (7) Persons exempted from licensure as provided in subsection (h) of Code Section
 5 33-23-4.

6 33-23-1.1.

7 As used in paragraph ~~(5)~~ (6) of subsection (a) of Code Section 33-23-1, the definition of
 8 counselor, the term 'transaction' refers to coverage or services in the same line or subline
 9 of insurance; provided, however, that additional ancillary services for commercial risks in
 10 excess of acquisition services shall be considered a separate transaction when such
 11 additional ancillary services are disclosed in writing to the insured and approved in advance
 12 by the insured. Additional ancillary services shall include, but not be limited to, the
 13 following: risk identification; loss measurement; gathering and analysis of loss
 14 information; verification of workers' compensation experience modifiers; setting of risk
 15 retention levels; development of retention financing plans; development of insurance
 16 specifications; negotiation with insurers regarding coverages, costs, and payment options;
 17 implementation of retained and transferred risk programs; monitoring of annual program;
 18 and insurance audit services.

19 33-23-2.

20 ~~A license to act as an agent, subagent, counselor, or adjuster shall be issued only to an~~
 21 ~~individual except in the case of licenses issued pursuant to subsection (c) of Code Section~~
 22 ~~33-23-12~~ Reserved.

23 33-23-3.

24 (a) Each principal office and each branch office of an agency as defined in paragraph (2)
 25 of subsection (a) of Code Section 33-23-1 must obtain an agency license prior to
 26 commencement of operations and renew such license annually by filing application forms
 27 prescribed by the Commissioner. ~~Such filing shall include the following:~~

28 ~~(1) Name of the agency;~~

29 ~~(2) Mailing address of the agency;~~

30 ~~(3) Location of the agency;~~

31 ~~(4) Names of all owners or, if a corporation, all officers and directors of the agency and,~~
 32 ~~if any are licensees under this chapter, their license numbers;~~

33 ~~(5) Names of all other employees of the agency and, if licensed under this chapter, their~~
 34 ~~license numbers; and~~

1 ~~(6) List of insurance companies represented by the agency.~~

2 (b) An agency shall be subject to all penalties, fines, criminal sanctions, and other actions
3 authorized for agents under this chapter.

4 (c) No person shall be an owner of an agency or, if the agency is a corporation, no person
5 shall be an officer or director of such corporation or own 10 percent or more of the
6 corporation if such person has had his or her license under this chapter refused, revoked,
7 or suspended.

8 33-23-4.

9 ~~(a)(1) No person shall act as or hold himself or herself out to be an agent, subagent,
10 counselor, adjuster, or insurance agency in this state unless such person first procures a
11 license from the Commissioner. A person shall not sell, solicit, or negotiate insurance
12 in this state for any class or classes of insurance unless the person is licensed for that line
13 of authority in accordance with this chapter and applicable regulations.~~

14 ~~(2) Any individual who sells, solicits, or negotiates insurance in this state must be
15 licensed as an agent.~~

16 ~~(3) Any business entity that sells, solicits, or negotiates insurance in this state must be
17 licensed as an agency.~~

18 ~~(b) No agent or subagent shall solicit or take applications for, procure, or place for others
19 any kind of insurance for which such agent or subagent is not then licensed and for which
20 a certificate of authority is not currently on file with the Commissioner; provided, however,
21 no certificate of authority shall be required for:~~

22 ~~(1) An agent who places insurance with or through another agent involving 12 or fewer
23 policies or certificates of insurance in any one calendar year;~~

24 ~~(2) An agent who places surplus lines insurance with or through a surplus lines broker,
25 only with respect to such surplus lines insurance; or~~

26 ~~(3) An agent who, with agreement of an insurer, places a specific policy or risk with such
27 insurer provided the insurer within 15 days of the acceptance of the risk files with the
28 Commissioner an application for a specific certificate of authority in such form and
29 manner as may be prescribed by the Commissioner.~~

30 ~~(c)(b) No insurer or agent doing business in this state shall pay, directly or indirectly, any
31 commissions or any other valuable consideration to any person for services as an agent,
32 subagent, or adjuster within this state, unless such person is duly licensed in accordance
33 with this article.~~

34 ~~(d)(c) An insurer may pay a commission or other valuable consideration to a licensed
35 insurance agency in which all employees, stockholders, directors, or officers who sell,
36 solicit, or negotiate, or effectuate insurance contracts are qualified insurance agents,~~

1 subagents, or counselors holding currently valid licenses as required by the laws of this
 2 state; and an agent, subagent, or counselor may share any commission or other valuable
 3 consideration with such a licensed insurance agency.

4 ~~(e)(d)~~ No person, ~~partnership, or corporation~~ other than a duly licensed adjuster, agent,
 5 subagent, or counselor shall pay or accept any commission or other valuable consideration
 6 except as provided in subsections (b) and (c) ~~and (d)~~ of this Code section.

7 ~~(f)(e)~~ This Code section shall not prevent the payment or receipt of renewal or deferred
 8 commissions by any agency or a person on the grounds that the licensee has ceased to be
 9 an agent, subagent, or counselor nor prevent the receipt or payment of any commission by
 10 ~~a person~~ an individual who has been issued a temporary license pursuant to this chapter.

11 ~~(g)(f)~~ Any ~~person~~ individual who has been licensed as an agent for ten consecutive years
 12 or more and who does not perform any of the functions specified in paragraph (3) of
 13 subsection (a) of Code Section 33-23-1 other than receipt of renewal or deferred
 14 commissions shall be exempt from the requirement to maintain at least one certificate of
 15 authority; provided, however, that if such ~~person~~ individual wishes to again perform any
 16 of the other functions specified in said paragraph, such ~~person~~ individual must obtain
 17 approval from the Commissioner and comply with the requirements of this chapter and
 18 applicable rules and regulations, including without limitation the requirements for
 19 certificate of authority.

20 ~~(h)(g)~~ Any person who willfully violates this Code section shall be guilty of a
 21 misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in
 22 Code Section 17-10-3, relating to punishment for misdemeanors.

23 (h)(1) Nothing in this article shall be construed to require an insurer to obtain an
 24 insurance agent's license. As used in this Code section, the term 'insurer' does not
 25 include an insurer's officers, directors, employees, subsidiaries, or affiliates.

26 (2) A license as an insurance agent shall not be required of the following:

27 (A) An officer, director, or employee of an insurer or of an insurance agent or agency,
 28 provided that the officer, director, or employee does not receive any commission on
 29 policies written or sold to insure risks residing, located, or to be performed in this state
 30 and:

31 (i) The officer, director, or employee's activities are executive, administrative,
 32 managerial, clerical, or a combination of these, and are only indirectly related to the
 33 sale, solicitation, or negotiation of insurance;

34 (ii) The officer, director, or employee's function relates to underwriting, loss control,
 35 inspection, or the processing, adjusting, investigating, or settling of a claim on a
 36 contract of insurance; or

1 (iii) The officer, director, or employee is acting in the capacity of a special agent or
2 agency supervisor assisting insurance agents where the person's activities are limited
3 to providing technical advice and assistance to licensed insurance producers and do
4 not include the sale, solicitation, or negotiation of insurance;

5 (B) A person who meets the criteria set forth in paragraph (6) of subsection (b) of Code
6 Section 33-23-1;

7 (C) An employer or association or its officers, directors, or employees or the trustees
8 of an employee trust plan to the extent that the employers, officers, employees,
9 directors, or trustees are engaged in the administration or operation of a program of
10 employee benefits for the employer's or association's own employees or the employees
11 of its subsidiaries or affiliates, which program involves the use of insurance issued by
12 an insurer, so long as the employers, associations, officers, directors, employees, or
13 trustees are not in any manner compensated, directly or indirectly, by the company
14 issuing the contracts;

15 (D) Employees of insurers or organizations employed by insurers who are engaging
16 in the inspection, rating, or classification of risks or in the supervision of the training
17 of insurance agents and who are not individually engaged in the sale, solicitation, or
18 negotiation of insurance;

19 (E) A person whose activities in this state are limited to advertising without the intent
20 to solicit insurance in this state through communications in printed publications or other
21 forms of electronic mass media whose distribution is not limited to residents of the
22 state, provided that the person does not sell, solicit, or negotiate insurance that would
23 insure risks residing, located, or to be performed in this state;

24 (F) A person who is not a resident of this state who sells, solicits, or negotiates a
25 contract of insurance for commercial property and casualty risks to an insured with
26 risks located in more than one state insured under that contract, provided that the person
27 is otherwise licensed as an insurance agent to sell, solicit, or negotiate insurance in the
28 state where the insured maintains its principal place of business and the contract of
29 insurance insures risks located in that state;

30 (G) A salaried, full-time employee who counsels or advises his or her employer
31 relative to the insurance interests of the employer or of the subsidiaries or business
32 affiliates of the employer provided that the employee does not sell or solicit insurance
33 or receive a commission; or

34 (H) Employees of an insurer or of an insurance producer who respond to requests from
35 existing policyholders on existing policies, provided that such employees are not
36 directly compensated based on the volume of the premiums that may result from such
37 services.

1 33-23-5.

2 (a) For the protection of the people of this state, the Commissioner shall not issue,
 3 continue, or permit to exist any license, except in compliance with this chapter and except
 4 as provided in Code Sections 33-23-3, 33-23-4, 33-23-12, 33-23-13, 33-23-14, 33-23-16,
 5 33-23-17, and 33-23-29, 33-23-29.1, and 33-23-37. The Commissioner shall not issue a
 6 license to any individual applicant for a license ~~other than an agency license~~ who does not
 7 meet or conform to qualifications or requirements set forth in paragraphs (1) through (8)
 8 ~~(7)~~ of this subsection:

9 (1) The individual applicant must be a resident of this state who will reside and be
 10 present within this state for at least six months of every year or an individual whose
 11 principal place of business is within this state; provided, however, in cities, towns, or
 12 trade areas, either unincorporated or comprised of two or more incorporated cities or
 13 towns, located partly within and partly outside the state, requirements as to residence and
 14 principal place of business shall be deemed met if the residence or place of business is
 15 located in any part of the city, town, or trade area and if the other state in which the city,
 16 town, or trade area is located in part has established like requirements as to residence and
 17 place of business. The individual applying for an agent, adjuster, or counselor license
 18 must be at least 18 years of age;

19 (2) If applying for an agent's license for property and casualty insurance, the applicant
 20 must not use or intend to use the license for the purpose of obtaining a rebate or
 21 commission upon controlled business; and the applicant must not in any calendar year
 22 effect controlled business that will aggregate as much as 25 percent of the volume of
 23 insurance effected by such applicant during such year, as measured by the comparative
 24 amounts of premiums;

25 (3) If applying for an agent's license, the applicant must have been appointed an agent
 26 by an authorized insurer subject to issuance of the license;

27 ~~(4) If applying for a subagent's certificate of authority, the applicant must have been~~
 28 ~~appointed a subagent by a licensed agent subject to issuance of the certificate of~~
 29 ~~authority;~~

30 ~~(5)~~(4) The individual applicant must be of good character;

31 ~~(6)~~(5) The individual applicant must pass any written examination required for the
 32 license by this article; provided that:

33 (A) An individual who applies for an insurance agent's license in this state who was
 34 previously licensed for the same lines of authority in another state shall not be required
 35 to complete any prelicensing education or examination. This exemption is only
 36 available if the individual is currently licensed in that state or if the application is
 37 received within 90 days of the cancellation of the applicant's previous license and if the

1 prior state issues a certification that, at the time of cancellation, the applicant was in
 2 good standing in that state or the state's producer data base records maintained by the
 3 National Association of Insurance Commissioners, its affiliates, or subsidiaries indicate
 4 that the agent is or was licensed in good standing for the line of authority requested;

5 (B) An individual licensed as an insurance agent in another state who moves to this
 6 state shall make application within 90 days of establishing legal residence to become
 7 a resident licensee pursuant to Code Section 33-23-8. No prelicensing education or
 8 examination shall be required of that individual to obtain any line of authority
 9 previously held in the prior state except where the Commissioner determines otherwise
 10 by rule or regulation;

11 ~~(7)~~(6) If applying for a license as counselor, the applicant must show that he or she has
 12 had five years' experience acting as either an agent, subagent, or adjuster or in some other
 13 phase of the insurance business which in the opinion of the Commissioner has qualified
 14 the applicant to act as such counselor; and the applicant shall pass such examination as
 15 shall be required by the Commissioner; and

16 ~~(8)~~(7) If applying for an agent's license, subagent's license, ~~counselor's license,~~ or
 17 adjuster's license, ~~except as provided in subsection (c) of this Code section and in Code~~
 18 ~~Sections 33-23-12, 33-23-13, 33-23-14, 33-23-16, 33-23-17, and 33-23-29,~~ no applicant
 19 shall be qualified therefor or be so licensed unless he or she has:

20 ~~(A) Successfully~~ successfully completed classroom courses in insurance satisfactory
 21 to the Commissioner at a school which has been approved by the Commissioner; ~~or and~~

22 (8) The Commissioner shall by rule or regulation establish criteria and procedures for the
 23 scope of prelicensing requirements and exemptions, if any, to the prelicensing or
 24 examination requirements.

25 ~~(B) Completed a correspondence course in insurance approved by the Commissioner~~
 26 ~~and has had at least six months of responsible insurance duties as a substantially~~
 27 ~~full-time bona fide employee of an agent or insurer or the managers, general agents, or~~
 28 ~~representatives of the insurer in the kind or kinds of insurance for which such applicant~~
 29 ~~seeks to be licensed.~~

30 ~~(b) Where the applicant's qualifications as required in subparagraph (a)(7)(B) of this Code~~
 31 ~~section are based in part upon the periods of employment at responsible insurance duties,~~
 32 ~~the applicant shall submit with this application for license on a form prescribed by the~~
 33 ~~Commissioner an affidavit setting forth the period of such employment, stating that the~~
 34 ~~employment was substantially full time, and giving a brief abstract of the nature of the~~
 35 ~~duties performed by the applicant.~~

36 (b)(c) An individual who was qualified to sit for an agent's or adjuster's examination
 37 licensed as an agent, counselor, subagent, surplus line broker, or adjuster at the time such

1 individual was employed by the Commissioner and who while so employed was employed
 2 in responsible insurance duties as a full-time bona fide employee shall be permitted to ~~take~~
 3 ~~an examination if application for such examination is made~~ reinstate his or her license upon
 4 termination of employment if written request is made within 90 days after the date of
 5 termination of employment with the Commissioner.

6 ~~(d) This Code section shall not apply as to any temporary license provided for in Code~~
 7 ~~Section 33-23-13.~~

8 33-23-6.

9 ~~(a) In addition to the other applicable provisions of this chapter, the Commissioner shall~~
 10 ~~license as an adjuster only an individual who has furnished evidence satisfactory to the~~
 11 ~~Commissioner that such person has had special education or training, with reference to the~~
 12 ~~handling of loss claims under insurance contracts, of sufficient duration and extent to~~
 13 ~~qualify the person as reasonably competent to fulfill the responsibilities of an adjuster.~~

14 (b) In addition to other applicable provisions of this chapter, an applicant for a public
 15 adjuster's license must have previously filed a bond as required by rule or regulation of the
 16 Commissioner.

17 33-23-7.

18 In addition to other applicable provisions of this chapter, an applicant for a counselor's
 19 license must have previously filed a bond as required by rule or regulation by the
 20 Commissioner.

21 33-23-8.

22 (a) An individual applicant for any license required by this chapter shall file with the
 23 Commissioner a written application upon forms prescribed by the Commissioner. The
 24 application shall be signed and verified by the oath of the applicant. ~~As a part of or in~~
 25 ~~connection with such application other than one for an agency license, the applicant shall~~
 26 ~~state the kinds of insurance proposed to be transacted and furnish information concerning~~
 27 ~~the applicant's identity, personal history, experience, business history, purposes, and any~~
 28 ~~other pertinent facts which the Commissioner may by rule or regulation require.~~

29 (b) If the application is for an agent's or subagent's license, the application shall state the
 30 kinds of insurance proposed to be transacted and shall be accompanied by written
 31 appointment of the applicant as agent or subagent by an authorized insurer or sponsoring
 32 agent subject to issuance of the license.

33 ~~(c) If the application is for a subagent's certificate of authority, the application shall state~~
 34 ~~the kinds of insurance proposed to be transacted and shall be accompanied by a written~~

1 appointment of the applicant as subagent by an agent subject to issuance of the certificate
2 of authority.

3 ~~(d) The application shall also show whether the applicant was ever previously licensed to
4 transact any kind of insurance in this state or elsewhere; whether any license was ever
5 refused, surrendered, suspended, restricted, or revoked; whether any insurer, general agent,
6 agent, or other person claims the applicant is indebted to it and, if so, the details of the
7 indebtedness; whether the applicant ever had an agency contract canceled and the facts of
8 the cancellation; whether the applicant has had a certificate of authority terminated by an
9 insurer or agent and the facts of the termination; whether the applicant will devote all or
10 part of his or her efforts to acting as an insurance agent or subagent and, if part time only,
11 how much time the applicant expects to devote to such work and in what other business or
12 businesses he or she will be engaged; whether, if the applicant is a married person, the
13 husband or wife has ever applied for or held a license to solicit insurance in any state and
14 whether the license has been refused, surrendered, suspended, restricted, or revoked; and
15 such other information as the Commissioner in his or her discretion may require.~~

16 ~~(e)(c)~~ (c) As to any application for an agent's or subagent's license or certificate of authority,
17 the Commissioner shall require as part of the application a certificate of the insurer or
18 sponsoring agent proposed to be represented. The certification shall state, relative to the
19 applicant's character, including criminal background, identity, residence, experience, and
20 or instruction as to the kinds of insurance to be transacted; ~~and the certificate shall state~~
21 ~~the extent and nature of the investigation of the applicant's character and background~~
22 ~~conducted by the insurer or agent, the fact that the insurer or sponsoring agent is satisfied~~
23 that the applicant is trustworthy and qualified to act as its agent or subagent and to hold
24 himself or herself out in good faith to the general public as an agent or subagent, and the
25 fact that the insurer or sponsoring agent desires that the applicant be licensed as an agent
26 or subagent to represent it in this state.

27 ~~(e.1)~~ (d) Each applicant for an agency license shall file with the Commissioner the
28 information required under Code Section 33-23-3.

29 ~~(f)~~ (e) All such applications shall be accompanied by the appropriate fees in the respective
30 amounts as provided by law.

31 33-23-9.

32 The rules and regulations of the Commissioner shall designate textbooks, manuals, and
33 other materials to be studied by the applicant in preparation for examinations in each
34 classification designated by the Commissioner. The textbooks, manuals, or other materials
35 may consist of matter available to applicants by purchase from the publisher or may consist
36 of matter prepared at the direction of the Commissioner and distributed to applicants upon

1 request therefor and payment of reasonable costs. When textbooks, manuals, or other
 2 materials shall have been designated by or prepared at the direction of the Commissioner,
 3 all examination questions shall be prepared from the contents of those textbooks, manuals,
 4 or other materials.

5 33-23-10.

6 (a) Each individual applicant for a license as agent, subagent, counselor, ~~or~~ adjuster, or
 7 surplus line broker shall submit to a personal examination in writing as to his or her
 8 competence to act in such capacity. The examination shall be prepared and given by the
 9 Commissioner or a designee of the Commissioner and shall be given and graded in a fair
 10 and impartial manner and without unfair discrimination as between individuals examined.
 11 Any required examination may be supplemented by an oral examination at the discretion
 12 of the Commissioner. The Commissioner shall provide by rule or regulation for a
 13 reasonable waiting period before giving a reexamination to an applicant who failed to pass
 14 a previous similar examination.

15 (b) The Commissioner shall by rule or regulation establish criteria and procedures for:

16 (1) The scope of any examination; and

17 (2) Exemptions, if any, to examinations.

18 (c) An applicant for a license to act as an agent, subagent, surplus line broker, counselor,
 19 or adjuster who held a valid license to act as such which lapsed while the applicant was a
 20 member of any branch of the armed forces of the United States shall be granted a new
 21 license if application is made within a period of five years from the date of the expiration
 22 of the old license and proof satisfactory to the Commissioner is furnished that:

23 (1) The ~~person~~ individual was a member of the armed forces of the United States at the
 24 time the previous license lapsed; and

25 (2) The ~~person's~~ individual's service in the armed forces of the United States was not
 26 terminated more than one year prior to the date of application for a new license.

27 33-23-11.

28 (a) The Commissioner shall issue licenses applied for to persons qualified for the licenses
 29 in accordance with this chapter.

30 (b) The license shall state the name and address of the licensee, the date of issue, the
 31 general conditions relative to expiration or termination, the kind or kinds of insurance
 32 covered if not an insurance agency license, and the other conditions of licensing.

33 (c) Upon the request of a licensee under this chapter, the Commissioner shall provide a
 34 certificate of licensure which shall be suitable for display at the business premises of the

1 licensee. The Commissioner shall provide by rule or regulation the application procedures
2 for the certificate and the form and content of the certificate.

3 (d) The Commissioner shall have the authority to enter into agreements with persons for
4 the purposes of providing licensing testing, administrative, record-keeping, printing,
5 mounting, and other services related to the administration of the Commissioner's duties
6 under this chapter and to set appropriate charges by rule or regulation to cover the costs of
7 such services which shall be in addition to the fees otherwise provided for in this title and
8 shall be paid directly to the providers of such services. The Commissioner may require
9 applicants for licenses to pay such charges for licensing testing and for the cost of the
10 printing and mounting of a certificate of licensure which is suitable for display directly to
11 the provider of such services. The Commissioner may require insurers to pay such charges
12 for administrative, record-keeping, and other services provided for in this subsection
13 directly to the provider of such services in proportion to the number of their authorized
14 agents.

15 33-23-12.

16 (a) Except as provided in subsection (b) of this Code section for credit insurance licenses,
17 and subsection (c) of this Code section for rental companies, the Commissioner may
18 provide by rule or regulation for licenses of ~~agents or subagents~~ which are limited in scope
19 to specific lines or sublines of insurance ~~as defined in this title, and such limited license~~
20 ~~may be issued without requiring the applicant to hold an agent's license.~~

21 (b)(1) Licenses shall be issued to ~~individual persons~~ individuals for the purpose of
22 writing credit insurance as provided in this subsection.

23 (2) Resident applicants Applicants must be sponsored by an insurer authorized to write
24 credit insurance in this state, and the applicant must certify that he or she has read and
25 understands the provisions of this title and regulations promulgated pursuant to this title
26 which are pertinent to credit insurance in this state.

27 (3) Nonresident applicants must follow the appointment process set forth in subsection
28 (g) of Code Section 33-23-16.

29 ~~(2)~~(4) No prelicensing education or prelicensing examination shall be required for
30 issuance of such license, and the insurer shall certify that the licensee has completed a
31 minimum of five hours of self-study in credit insurance subjects.

32 ~~(3)~~(5) The lines or sublines of insurance included in the scope of authority of credit
33 insurance licenses issued under this Code section, ~~whether issued as an agent or subagent~~
34 ~~license~~, shall include, but not be limited to, the following:

35 (A) Credit life and credit accident and sickness insurance;

36 (B) Credit casualty insurance;

- 1 (C) Credit property insurance;
 2 (D) Credit unemployment insurance;
 3 (E) Accidental death and dismemberment insurance;
 4 (F) Nonfiling or nonrecording insurance;
 5 (G) Vendors' single interest insurance; and
 6 (H) Any other lines or sublines of insurance which may become accepted as credit
 7 insurance by the insurance and lending industries unless otherwise disapproved by the
 8 Commissioner.

9 (c)(1) As used in this subsection, the term:

10 (A) 'Limited licensee' means a person or entity authorized to sell certain coverages
 11 relating to the rental of vehicles pursuant to the provisions of this subsection;

12 (B) 'Rental agreement' means any written agreement setting forth the terms and
 13 conditions governing the use of a vehicle provided by the rental company for rental or
 14 lease;

15 (C) 'Rental company' means any person or entity in the business of providing primarily
 16 private passenger vehicles to the public under a rental agreement for a period not to
 17 exceed 90 days;

18 (D) 'Rental period' means the term of the rental agreement.

19 (E) 'Renter' means any person obtaining the use of a vehicle from a rental company
 20 under the terms of a rental agreement for a period not to exceed 90 days;

21 (F) 'Vehicle' or 'rental vehicle' means a motor vehicle of the private passenger type
 22 including passenger vans, minivans, and sport utility vehicles, and of the cargo type,
 23 including cargo vans, pick-up trucks, and trucks with a gross vehicle weight of less than
 24 26,000 pounds and which do not require the operator to possess a commercial driver's
 25 license; ~~and~~

26 (2) The Commissioner may issue to a rental company that has complied with the
 27 requirements of this subsection a limited license authorizing the limited licensee to offer
 28 or sell insurance through a licensed insurer in connection with the rental of vehicles.

29 (3) As a prerequisite for issuance of a limited license under this subsection, there shall
 30 be filed with the Commissioner a written application for a limited license, signed by an
 31 officer of the applicant, in such form or forms, and supplements thereto, and containing
 32 such information, as the Commissioner may prescribe.

33 (4) In the event that any provision of this subsection is violated by a limited licensee, the
 34 Commissioner may:

35 (A) After notice and a hearing, revoke or suspend a limited license issued under this
 36 subsection in accordance with the provisions of Code Sections 33-23-21 and 33-23-22;

37 or

1 (B) After notice and a hearing, impose such other penalties, including suspending the
2 transaction of insurance at specific rental locations where violations of this subsection
3 have occurred, as the Commissioner deems to be necessary or convenient to carry out
4 the purposes of this subsection.

5 (5) The rental company licensed pursuant to paragraph (2) of this subsection may offer
6 or sell insurance through licensed insurers only in connection with and incidental to the
7 rental of vehicles, whether at the rental office or by preselection of coverage in an
8 individual, master, corporate, or group rental agreement, in any of the following general
9 categories:

10 (A) Personal accident insurance covering the risks of travel, including but not limited
11 to accident and health insurance that provides coverage, as applicable, to renters and
12 other rental vehicle occupants for accidental death or dismemberment and
13 reimbursement for medical expenses resulting from an accident that occurs during the
14 rental period;

15 (B) Liability insurance, which, at the exclusive option of the rental company, may
16 include uninsured and underinsured motorist coverage whether offered separately or in
17 combination with other liability insurance, that provides coverage, as applicable, to
18 renters and other authorized drivers of rental vehicles for liability arising from the
19 operation of the rental vehicle;

20 (C) Personal effects insurance that provides coverage, as applicable, to renters and
21 other rental vehicle occupants for the loss of, or damage to, personal effects that occurs
22 during the rental period;

23 (D) Roadside assistance and emergency sickness protection programs; and

24 (E) Any other travel or vehicle related coverage that a rental company offers in
25 connection with and incidental to the rental of vehicles.

26 (6) No insurance may be offered by a limited licensee pursuant to this subsection unless:

27 (A) The rental period of the rental agreement does not exceed 90 consecutive days;

28 (B) At every rental location where rental agreements are executed, brochures or other
29 written materials are readily available to the prospective renter that:

30 (i) Summarize clearly and correctly the material terms of coverage offered to renters,
31 including the identity of the insurer;

32 (ii) Disclose that such policies offered by the rental company may provide a
33 duplication of coverage already provided by a renter's personal automobile insurance
34 policy, homeowner's insurance policy, personal liability insurance policy, or other
35 source of coverage;

36 (iii) State that the purchase by the renter of the kinds of coverage specified in this
37 subsection is not required in order to rent a vehicle; and

1 (iv) Describe the process for filing a claim in the event the renter elects to purchase
2 coverage and in the event of a claim;

3 (C) Evidence of coverage on the face of the rental agreement is disclosed to every renter
4 who elects to purchase such coverage.

5 (7) Any limited license issued under this subsection shall also authorize any employee
6 of the limited licensee to act individually on behalf, and under the supervision, of the
7 limited licensee with respect to the kinds of coverage specified in this subsection.

8 (8) Each rental company licensed pursuant to this subsection shall provide a training
9 program in which employees being trained by a licensed instructor receive basic
10 insurance instruction about the kinds of coverage specified in this subsection and offered
11 for purchase by prospective renters of rental vehicles. Additionally, each rental company
12 shall provide for such employees two hours of continuing education courses annually to
13 be taught by a licensed instructor. A rental company shall certify that, prior to offering
14 such coverages, each employee has received such instruction.

15 (9) Notwithstanding any other provision of this subsection or any rule adopted by the
16 Commissioner, a limited licensee pursuant to this subsection shall not be required to treat
17 moneys collected from renters purchasing such insurance when renting vehicles as funds
18 received in a fiduciary capacity, provided that the charges for coverage shall be itemized
19 and be ancillary to a rental transaction. The sale of insurance not in conjunction with a
20 rental transaction shall not be permitted.

21 (10) No limited licensee under this subsection shall advertise, represent, or otherwise
22 hold itself or any of its employees out as licensed insurers, insurance agents, or insurance
23 brokers.

24 33-23-13.

25 (a) In the event of the death of an agent or subagent, including a temporary agent or
26 subagent, or the inability to act as an agent or subagent by reason of service in the armed
27 services of the United States, illness or other disability, or termination of appointment by
28 the insurer, if there is no other individual connected with the agency who is licensed as an
29 agent or subagent in regard to insurance of the classification transacted by the agent or
30 subagent deceased or unable to act, the Commissioner may issue a temporary license as
31 agent or subagent in regard to insurance of such classification to an employee of the
32 agency, to a member of the family of said former agent or subagent, or to some associate
33 or to a guardian, receiver, executor, or administrator for the purpose of continuing or
34 winding up the business affairs of the agent, subagent, or agency. A temporary license
35 shall be issued only to an applicant who has filed a sworn application upon forms
36 prescribed by the Commissioner. The applicant shall not be required to meet the

1 requirements as to examination, residence, and education required for licensing of agents
2 or subagents other than temporary agents. If the Commissioner deems the applicant to be
3 qualified for a temporary license, the Commissioner shall issue the license.

4 (b) A temporary license may be issued to a ~~person~~ an individual at the request of an insurer
5 for the purposes of training such ~~person~~ individual to act as an agent; provided, however,
6 such ~~person~~ individual must perform his or her duties under the supervision of a ~~person~~ an
7 individual licensed under this article. The Commissioner may prescribe by rule or
8 regulations such further restrictions on such temporary licenses as may be necessary for the
9 protection of the public.

10 (c) A license issued pursuant to this Code section shall be effective for six months,
11 renewable from time to time for renewal periods of three months in the discretion of the
12 Commissioner; but in no event shall such renewal or any other temporary license of
13 renewal with reference to the same matter extend to a time more than 15 months after the
14 date of the first issuance of a temporary license in such matter.

15 (d) A temporary license issued pursuant to subsection (a) of this Code section shall
16 authorize the negotiation of renewal policies, the receipt and collection of premiums, and
17 such other acts as are necessary to the continuance of the particular insurance business of
18 the agent or subagent. The license shall not authorize the holder thereof to sell, solicit, or
19 negotiate, ~~or procure~~ new insurance accounts.

20 33-23-14.

21 (a) The Commissioner shall have the authority to issue a probationary license to any
22 applicant under this chapter.

23 (b) A probationary license may be issued for a period of not less than three months and not
24 longer than 12 months and shall be subject to immediate revocation for cause at any time
25 without a hearing.

26 (c) The Commissioner, at his or her discretion, shall prescribe the terms of probation, may
27 extend the probationary period, or refuse to grant a license at the end of any probationary
28 period.

29 33-23-15.

30 The Commissioner may issue two or more licenses to one individual provided the
31 individual meets all qualifications and conditions for each such license.

1 33-23-16.

2 ~~An individual residing in another state and licensed in that state as an agent, broker,~~
 3 ~~counselor, or adjuster may be licensed by the Commissioner as a nonresident agent, broker,~~
 4 ~~counselor, or adjuster under the following circumstances and in the following manner:~~

5 ~~(1) Upon written application certifying that the applicant will not negotiate or effect a~~
 6 ~~contract of insurance on property or a risk having situs in this state with any insurer not~~
 7 ~~qualified to do business in this state and upon payment of the required license fee and~~
 8 ~~without requiring a written examination, the Commissioner shall issue a license to an~~
 9 ~~individual to act as nonresident agent, broker, counselor, or adjuster, if, by the laws of the~~
 10 ~~state of the applicant's residence, residents of this state may be licensed in the same~~
 11 ~~manner as nonresident agents, subagents, counselors, or adjusters of such state. The~~
 12 ~~license by the Commissioner shall be of a classification provided in this Code section and~~
 13 ~~for which the applicant has been licensed in the other state;~~

14 ~~(2) The required license fee for such license shall be as provided by law, and~~

15 ~~(3) No license, however, shall be issued to a nonresident who maintains an office as an~~
 16 ~~insurance agent, subagent, counselor, or adjuster in this state or who is a member or an~~
 17 ~~employee of a firm or association or is an officer, director, stockholder, or employee of~~
 18 ~~a corporation which maintains an office as an insurance agency or adjusting firm in this~~
 19 ~~state. No license shall be issued to any individual who does not hold an agent's, broker's,~~
 20 ~~counselor's, or adjuster's license issued by the state of his or her residence.~~

21 (a) Unless denied licensure pursuant to Code Section 33-23-21, a nonresident person shall
 22 receive a nonresident agent's license if:

23 (1) The person is currently licensed as a resident and in good standing in such person's
 24 home state;

25 (2) The person has submitted the proper request for licensure and has paid the fees
 26 required by Code Section 33-8-1;

27 (3) The person has submitted or transmitted to the Commissioner the application for
 28 licensure that the person submitted to such person's home state or, in lieu of the same, a
 29 completed uniform application or a form prescribed by the Commissioner by rule or
 30 regulation for licensure of nonresident agents; and

31 (4) The person's home state awards nonresident agent licenses to residents of this state
 32 on the same basis.

33 (b) The Commissioner may verify the agent's licensing status through the producer data
 34 base maintained by the National Association of Insurance Commissioners, its affiliates, or
 35 subsidiaries.

36 (c) A nonresident agent who moves from one state to another state or a resident agent who
 37 moves from this state to another state shall file a change of address and provide

1 certification from the new resident state within 30 days of the change in legal residence.

2 No fee or application is required.

3 (d) Notwithstanding any other provision of this title, a person licensed as a surplus lines
4 broker in such person's home state shall receive a nonresident surplus lines broker license
5 pursuant to subsection (a) of this Code section. Except as to subsection (a) of this Code
6 section, nothing in this Code section otherwise amends or supercedes any portion of this
7 title.

8 (e) Notwithstanding any other provision of this title, a person licensed as a limited line
9 credit insurance or other type of limited lines agent in such person's home state shall
10 receive a nonresident limited lines agent license pursuant to subsection (a) of this Code
11 section granting the same scope of authority as granted under the license issued by the
12 agent's home state. For the purposes of this subsection, limited line insurance is any
13 authority granted by the home state which restricts the authority of the license to less than
14 the total authority prescribed in the associated major lines pursuant to applicable Georgia
15 regulations.

16 (f) The Commissioner may by rule or regulation implement a renewal process and set
17 expiration dates.

18 (g) A nonresident individual agent shall not act as an agent of an insurer unless the agent
19 becomes an appointed agent of that insurer. An agent who is not acting as an agent of an
20 insurer is not required to become appointed.

21 (1) To appoint an individual as its agent, the appointing insurer shall file, pursuant to
22 Code Section 33-23-26, a notice of appointment within 15 days from the date of licensure
23 or before the first insurance application is submitted. An insurer may also elect to
24 appoint an agent to all or some insurers within the insurer's holding company system or
25 group by the filing of a single appointment request.

26 (2) Upon receipt of the notice of appointment, the Commissioner shall verify within a
27 reasonable time, not to exceed 30 days, that the insurance agent is eligible for
28 appointment. If the insurance agent is determined to be ineligible for appointment, the
29 Commissioner shall notify the insurer within five days of such determination.

30 (3) An insurer shall pay an appointment fee, in the amount and method of payment set
31 forth in Code Section 33-8-1, for each insurance agent appointed by the insurer.

32 (4) An insurer shall remit, in a manner prescribed by the Commissioner, a renewal
33 appointment fee in the amount as provided for initial appointments set forth in Code
34 Section 33-8-1.

35 (h) Applicants whose home state does not require a license to transact business may be
36 licensed in this state, provided that the applicant takes the examination issued by the
37 Commissioner where required pursuant to this chapter and the applicant submits written

1 documentation from his or her resident state demonstrating the lack of licensing
 2 requirement and the state's reciprocity with residents from this state.

3 33-23-17.

4 An individual who is ~~A natural person~~ not a resident of this state may be registered to
 5 represent an authorized life insurer domiciled in this state, provided such ~~person~~ individual
 6 only represents the insurer exclusively at a United States military installation located in a
 7 foreign country. The Commissioner may, upon request of the insurer on application forms
 8 prescribed by the department and upon payment of an annual registration fee of \$25.00,
 9 issue a certificate of registration to the ~~person~~ individual. An official of the insurer shall
 10 certify to the Commissioner that the applicant has the necessary training to hold himself
 11 or herself out as a foreign life or accident and sickness insurance representative; and the
 12 official of the insurer shall further certify on behalf of his or her insurer that it is willing to
 13 be bound by the acts of such applicant within the scope of his or her employment. Such
 14 certificate shall expire as of December 31 succeeding the date of its issuance unless it is
 15 terminated at an earlier time in accordance with this chapter and Chapter 2 of this title.

16 33-23-18.

17 (a) All resident agent, subagent, adjuster, and counselor licenses, with the exception of
 18 ~~except~~ temporary or probationary licenses, shall be issued on a continuous basis.

19 (b) Such resident agent, subagent, adjuster, and counselor licenses ~~A license~~ may be
 20 continued upon receipt by the Commissioner of evidence of such continuing education as
 21 the Commissioner may establish by rule or regulation and payment of such fees as are
 22 provided by law.

23 (c) Filings for continuation of the license on forms prescribed by rule or regulation must
 24 be made prior to the first December 31 following the initial issuance of the license and
 25 every December 31 thereafter.

26 (d) Continuing education requirements imposed by the Commissioner pursuant to this
 27 Code section shall not exceed 15 classroom hours for each licensed ~~person~~ individual who
 28 has held a license for less than 20 years during the calendar year. For those ~~persons~~
 29 individuals who have held a license for 20 years or more the requirement shall be no more
 30 than ten classroom hours during the calendar year.

31 (e) Any ~~person~~ individual who has been licensed as an agent for ten consecutive years or
 32 more and who does not perform any of the functions specified in paragraph (3) of
 33 subsection (a) of Code Section 33-23-1 other than receipt of renewal or deferred
 34 commissions shall be exempt from continuing education requirements; provided, however,
 35 that if such ~~person~~ individual wishes to again perform any of the other functions specified

1 in said paragraph, such ~~person~~ individual must obtain approval from the Commissioner and
 2 comply with the requirements of this chapter, including without limitation the requirements
 3 for continuing education. The Commissioner may provide, by rule or regulation, for any
 4 other exemption to or reduction in continuing education required under this Code section.

5 (f) Every ~~person~~ individual required to participate in a continuing education program
 6 pursuant to this Code section shall furnish or such ~~person's~~ individual's insurer shall
 7 furnish the Commissioner such information as the Commissioner deems necessary to verify
 8 compliance with the continuing education requirements.

9 (g) The Commissioner by rule or regulation may establish the following:

10 (1) Staggered ~~staggered~~ deadlines for the filing of ~~continuing license applications~~
 11 ~~together with appropriate~~ forms for continuation of licenses and the corresponding
 12 required fees; and

13 (2) Penalties and procedures for licensees who fail to comply with subsection (c) of this
 14 Code section.

15 33-23-19.

16 (a) An agent's license shall be placed on inactive status when the agent no longer has on
 17 file with the Commissioner a certificate of authority to represent at least one insurer
 18 licensed to do business in this state.

19 ~~(b) A subagent's license shall be placed on inactive status when the subagent no longer has~~
 20 ~~on file with the Commissioner a certificate of authority to represent at least one agent~~
 21 ~~licensed to do business in this state.~~

22 ~~(c)~~(b) When a license placed on inactive status under this Code section has been in such
 23 status for two consecutive years without a certificate of authority having been filed with
 24 and accepted by the Commissioner, such license ~~shall~~ may be revoked without further
 25 notice or hearing.

26 ~~(d)~~(c) During the time a license is in inactive status under the provisions of this Code
 27 section, the licensee still shall be required to provide evidence of compliance with the
 28 continuing education requirements of Code Section 33-23-18.

29 33-23-20.

30 (a) The suspension of the license of an agent or subagent or the placing of such license in
 31 inactive status shall not deprive such ~~person~~ individual or the executors or administrators
 32 of such ~~person's~~ individual's estate of any right that may have been acquired by a contract
 33 made before such suspension or placement in inactive status to receive all or a portion of
 34 commissions upon contracts of insurance written before such suspension or placement in

1 inactive status with reference to the periods of time during which such contracts are in
2 effect, including renewal option periods provided in the contracts.

3 (b) In case of a sale of an agency upon a work-out basis, the vendor without maintaining
4 his or her license or the executors and administrators of the vendor's estate may participate
5 in the proceeds of premiums on insurance written by the purchaser of the agency when and
6 as authorized to do so by the contract of sale of the agency; and this participation may be
7 without limitation of time after the vendor ceased to hold a license. An agent whose license
8 has been suspended or placed in inactive status may, when the countersignature of a
9 resident licensed agent is required pursuant to Code Section 33-3-26 and if authorized by
10 the insurer, countersign certificates and endorsements necessary to continue coverage to
11 the expiration date, including renewal option periods.

12 (c) Nothing in this article shall be construed to permit an agent or subagent whose license
13 has been suspended or placed in inactive status to sell, solicit, or negotiate insurance;
14 ~~procure applications for insurance, or directly or indirectly make or cause to be made any~~
15 ~~contract for insurance~~ other than as expressly permitted in subsections (a) and (b) of this
16 Code section.

17 33-23-21.

18 A license, other than a probationary license, may be refused or a license duly issued may
19 be suspended or revoked by the Commissioner if the Commissioner finds that the applicant
20 for or holder of the license:

- 21 (1) Has violated any provision of this title or of any other law of this state relating to
22 insurance;
- 23 (2) Has ~~intentionally~~ misrepresented or concealed any material fact in any application
24 for a license or on any form filed with the Commissioner;
- 25 (3) Has obtained or attempted to obtain the license by misrepresentation, concealment,
26 or other fraud;
- 27 (4) Has misappropriated, converted to his or her own use, or illegally withheld money
28 belonging to an insurer, insured, agent, agency, applicant, or a beneficiary;
- 29 (5) Has committed fraudulent or dishonest practices;
- 30 (6) Has materially misrepresented the terms and conditions of an insurance policy or
31 contract;
- 32 (7) Has failed to pass an examination pursuant to this article, or cheated on any
33 examination required for a license;
- 34 (8) Has failed to comply with or has violated any proper order, rule, or regulation, issued
35 by the Commissioner, including any order issued by the Commissioner or the

1 Commissioner's designated representative during the course of any administrative
2 hearing proceeding;

3 (9) Is not in good faith carrying on business as an agent or subagent, but, on the contrary,
4 is holding such license for the purpose of securing rebates or commissions or controlled
5 business;

6 (10) Is not in good faith carrying on business as a licensee under this chapter;

7 (11) Has shown lack of trustworthiness or lack of competence to act as an licensee under
8 this chapter;

9 (12) Has knowingly participated in the writing or issuance of substantial overinsurance
10 of any property insurance risk;

11 (13) Has failed or refused, upon written demand, to pay over to any insurer, agent,
12 agency, applicant, beneficiary, or insured any moneys which belong to such insurer,
13 agent, agency, applicant, beneficiary, or insured;

14 (14) Has failed to comply with Code Section 33-2-12 or 33-2-13 or has refused to appear
15 or to produce records in response to a written demand by the Commissioner sent by
16 registered or certified mail or statutory overnight delivery to the last known address of
17 the licensee as shown in the records of the Commissioner;

18 (15) Has been convicted of any felony or of any crime involving moral turpitude in the
19 courts of this state or any other state, territory, or country or in the courts of the United
20 States; as used in this paragraph and paragraph (16) of this subsection, the term 'felony'
21 shall include any offense which, if committed in this state, would be deemed a felony,
22 without regard to its designation elsewhere; and, as used in this paragraph, the term
23 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of
24 whether an appeal of the conviction has been sought;

25 (16) Has been arrested, charged, and sentenced for the commission of any felony, or any
26 crime involving moral turpitude, where:

27 (A) First offender treatment without adjudication of guilt pursuant to the charge was
28 granted; or

29 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
30 charge, ~~except with respect to a plea of nolo contendere.~~

31 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
32 to probation of first offenders, or other first offender treatment shall be conclusive
33 evidence of arrest and sentencing for such crime;

34 (17) Has failed to report to the Commissioner any criminal prosecution of the applicant
35 or licensee taken in any jurisdiction. The report shall include a copy of the initial
36 complaint filed, the order resulting from any hearing that has taken place, and any other

1 relevant legal documents. Such report must be filed with the application or within 30
 2 days of the date of arrest;

3 ~~(17)~~(18) Has had a license to practice a business or profession licensed under the laws
 4 of this state or any other state, territory, country, or the United States revoked, suspended,
 5 or annulled by any lawful licensing authority ~~other than the Commissioner~~; had other
 6 disciplinary action taken against him or her by any such lawful licensing authority ~~other~~
 7 ~~than the Commissioner~~; was denied or refused a license by any such lawful licensing
 8 authority ~~other than the Commissioner~~ pursuant to disciplinary proceedings; or was
 9 refused the renewal of a license by any such lawful licensing authority ~~other than the~~
 10 ~~Commissioner~~ pursuant to disciplinary proceedings;

11 ~~(18)~~(19) Has failed to notify the Commissioner within 60 days of any event referred to
 12 in paragraph (15), (16), or ~~(17)~~ (18) of this Code section;

13 ~~(19)~~(20) Is not in compliance with an order for child support as defined by Code Section
 14 19-6-28.1 or 19-11-9.3; for violations of this paragraph only, any hearing and appeal
 15 procedures conducted pursuant to such Code sections shall be the only such procedures
 16 required to suspend, deny, or revoke any license under this title; or

17 ~~(20)~~(21) Is a borrower in default who is not in satisfactory repayment status as defined
 18 by Code Section 20-3-295; for violations of this paragraph only, any hearing and appeal
 19 procedures conducted pursuant to Code Section 20-3-295 shall be the only such
 20 procedures required to suspend, deny, or revoke any license under this title.

21 33-23-22.

22 (a) Any license, other than a probationary license or inactive license as described in
 23 subsection (b) of Code Section 33-23-19, may be suspended or revoked as provided by
 24 Code Section 33-23-21 and subsection (b) of Code Section 33-23-19, and the
 25 Commissioner shall give notice of such action to the applicant for or holder of the license
 26 and any insurer or agent whom the applicant or licensee represents or who desires that the
 27 applicant or licensee be licensed. The procedure for conduct of hearings set forth in
 28 Chapter 2 of this title shall be followed in all cases except those cases pursuant to
 29 paragraph ~~(19)~~ or 20 or (21) of Code Section 33-23-21 which shall only require the
 30 hearings provided for in either paragraph.

31 (b) Appeal from any order or decision of the Commissioner made pursuant to this chapter
 32 shall be taken as provided in Chapter 2 of this title.

33 33-23-23.

34 (a) No licensee or applicant whose license or application has been refused or revoked as
 35 provided by Code Sections 33-23-21 and 33-23-22 shall be entitled to file another

1 application for a license as an agent, agency, subagent, surplus lines broker, counselor, or
 2 adjuster within five years from the effective date of the refusal, revocation, or, if judicial
 3 review of such refusal or revocation is sought, within five years from the date of the final
 4 court order or decree affirming such refusal or revocation.

5 (b) The application when filed may be refused by the Commissioner unless the applicant
 6 shows good cause why the refusal or revocation of the license shall not be deemed a bar
 7 to the issuance of a new license.

8 (c) By law, any surrender of a license under written consent order shall have the same
 9 effect as a revocation under subsections (a) and (b) of this Code section.

10 33-23-24.

11 The permits of service representatives and licenses of licensees under this article shall not
 12 be transferable.

13 33-23-25.

14 Every licensed agent, subagent, counselor, and adjuster shall have and maintain in this state
 15 or, if a nonresident ~~agent or broker~~ licensee, in the state of domicile, a place of business
 16 accessible to the public. The place of business shall be that wherein the licensee
 17 principally conducts transactions pursuant to the license. The address of the place of
 18 business shall appear on all licenses of the resident licensee ~~and the licensee~~. All resident
 19 and nonresident licensees shall promptly notify the Commissioner in writing within 30
 20 days of any change in the business address.

21 33-23-26.

22 (a) Each insurer authorized to transact insurance in this state shall obtain an agent's
 23 certificate of authority for each agent representing such insurer in the ~~solicitation of,~~
 24 ~~negotiation for, procurement of, or making~~ selling, soliciting, or negotiating
 25 of insurance in this state. For the purposes of this subsection, the insurer will be deemed
 26 to have obtained a certificate of authority for its designated agent ~~seven working days after~~
 27 ~~the date of mailing of the request for such certificate~~ immediately upon submission of the
 28 appointment request to the Commissioner ~~by at least first-class mail~~; provided, however,
 29 that the initial certificate of authority for an applicant for licensure shall not become
 30 effective until the date such applicant is finally granted a license by the Commissioner.

31 (b) All agent's certificates of authority shall be renewed by the insurer ~~on or before~~
 32 January 1 of each year in such form and manner as the Commissioner may prescribe by
 33 rule or regulation.

1 (c) The fee for each agent's certificate of authority or renewal ~~or duplicate~~ thereof shall
2 be as provided in Code Section 33-8-1.

3 ~~(d)(1) On or before January 1 of each year every insurer shall file with the Commissioner~~
4 ~~in such form and manner as the Commissioner may prescribe a certified listing of all of~~
5 ~~its agents whose certificates of authority are to be renewed for the coming year and shall~~
6 ~~remit payment to the Commissioner for the appropriate fees.~~

7 ~~(2) Each insurer shall also be required to maintain and update periodically its listing of~~
8 ~~authorized agents filed with the Commissioner in such form and manner as may be~~
9 ~~prescribed by the Commissioner. An insurer or authorized representative of the insurer~~
10 ~~that terminates the appointment, employment, contract, or other insurance business~~
11 ~~relationship with an agent shall notify the Commissioner within 30 days following the~~
12 ~~effective date of the termination, using a format prescribed by the Commissioner, if the~~
13 ~~reason for the termination is one of the reasons set forth in Code Section 33-23-21 or the~~
14 ~~insurer has knowledge that the agent was found to have engaged in any of the activities~~
15 ~~in Code Section 33-23-21 by a court, governmental body, or self-regulatory organization~~
16 ~~authorized by law. Upon the written request of the Commissioner, the insurer shall~~
17 ~~provide additional information, documents, records, or other data pertaining to the~~
18 ~~termination or activity of the agent.~~

19 (e) If an agent's certificate of authority is terminated, the insurer promptly shall give
20 ~~written~~ notice of said termination and the effective date of the termination to the
21 Commissioner and to the agent where reasonably possible. The Commissioner may also
22 require the insurer to demonstrate to the satisfaction of the Commissioner that the insurer
23 has made a reasonable effort to give notice to the agent.

24 ~~(f) All notices of termination shall be filed with the Commissioner in such form and~~
25 ~~manner as the Commissioner shall prescribe by rule or regulation. An insurer or authorized~~
26 ~~representative of the insurer that terminates the appointment, employment, or contract with~~
27 ~~an agent for any reason not set forth in Code Section 33-23-21 shall notify the~~
28 ~~Commissioner within 30 days following the effective date of the termination, using a~~
29 ~~format prescribed by the Commissioner. Upon written request of the Commissioner, the~~
30 ~~insurer shall provide additional information, documents, records, and other data pertaining~~
31 ~~to such termination.~~

32 ~~(g) The insurer or the authorized representative of the insurer shall promptly notify the~~
33 ~~Commissioner in a format acceptable to the Commissioner if, upon further review or~~
34 ~~investigation, the insurer discovers additional information that would have been reportable~~
35 ~~to the Commissioner in accordance with subsection (d) of this Code section had the insurer~~
36 ~~known of its existence.~~

1 (h) No certificate of authority shall be required for an agent who places surplus lines
 2 insurance with or through a surplus lines broker only with respect to such surplus lines
 3 insurance.

4 33-23-27.

5 (a) Each agent licensed in this state shall obtain a certificate of authority for each subagent
 6 representing such agent in this state.

7 (b) Each subagent's certificate of authority shall be renewed by the agent not more than
 8 once every three years in such form and manner as specified by the Commissioner by rule
 9 or regulation.

10 (c) Each agent shall also be required to inform the Commissioner of any termination of or
 11 change to any certificate of authority for each subagent in such form and manner as may
 12 be prescribed by the Commissioner by rule or regulation.

13 (d) The fee for each subagent's certificate of authority or renewal or duplicate thereof shall
 14 be as provided by law.

15 (e) The subagent's certificate shall be held by the agent and shall be returned to the
 16 Commissioner upon termination of the subagent's authority along with an explanation of
 17 the reason for such termination in such form and manner as the Commissioner may specify
 18 by rule or regulation.

19 33-23-28.

20 (a) A subagent's certificate of authority shall not cover any kind of insurance for which
 21 the sponsoring agent and subagent are is not ~~then~~ licensed.

22 (b) A subagent shall not have power to bind an insurer.

23 (c) All business transacted by a subagent under such subagent's license shall be in the
 24 name of the agent by whom the subagent is employed; and the agent shall be responsible
 25 for all the acts or omissions of the subagent within the scope of his or her employment.

26 (d) A record of each transaction ~~on a form prescribed by the Commissioner~~ shall be
 27 maintained by both the agent and the subagent.

28 33-23-29.

29 (a) On behalf of and as authorized by an insurer for which he or she is licensed as agent,
 30 an agent may from time to time act as an adjuster and investigate and report upon claims
 31 without being required to be licensed as an adjuster.

32 (b) No license by this state shall be required:

- 33 (1) Of a nonresident independent adjuster for the adjustment in this state of a single loss
 34 or of losses arising out of a catastrophe common to all such losses; or

1 (2) Of a nonresident adjuster who regularly adjusts in another state and who is licensed
 2 in such other state, if such state requires a license, to act as adjuster in this state for
 3 emergency insurance adjustment work for a period not exceeding 60 days and performed
 4 for an employer who is an insurance adjuster licensed by this state or who is a regular
 5 employer of one or more insurance adjusters licensed by this state, provided that the
 6 employer shall furnish to the Commissioner a notice in writing immediately upon the
 7 beginning of the emergency insurance adjustment work.

8 (c) An individual residing in another state ~~and licensed in that state as an adjuster~~ may be
 9 licensed by the Commissioner as a nonresident adjuster under the following circumstances
 10 and in the following manner:

11 (1) Upon written application and payment of the required license fee and without
 12 requiring a written examination, the Commissioner shall issue a license to an individual
 13 to act as a nonresident adjuster if, ~~by the laws of the state of the individual's residence,~~
 14 ~~residents of this state may be licensed in such manner as nonresident adjusters of such~~
 15 ~~state~~ the individual is licensed in his or her home state as an adjuster; and

16 (2) The required fee for the license shall be the fee provided by law or the sum which is
 17 charged as a license fee for nonresident adjusters by the state of the applicant's residence,
 18 whichever is greater; and

19 (3) Applicants whose home state does not require a license to transact business may be
 20 licensed in this state, provided that the applicant takes the examination issued by the
 21 Commissioner where required pursuant to this chapter and the applicant submits written
 22 documentation from such applicant's resident state demonstrating the lack of licensing
 23 requirements in such state and such state's reciprocity with residents of this state.

24 (d) The Commissioner shall issue a license to an individual to act as a nonresident adjuster
 25 if, by the laws of the state of the applicant's residence, residents of this state may be
 26 licensed as nonresident adjusters in the same manner.

27 ~~(d)~~(e) The Commissioner is authorized to enter into reciprocal agreements with the
 28 appropriate official of any other jurisdiction for the purpose of implementing this Code
 29 section.

30 33-23-29.1.

31 (a) An individual residing in another state may be licensed by the Commissioner as a
 32 nonresident counselor under the following circumstances and in the following manner:

33 (1) Upon written application and payment of the required license fee and without
 34 requiring a written examination, the Commissioner shall issue a license to an individual
 35 to act as a nonresident counselor if the individual is licensed in his or her home state as
 36 a counselor;

1 (2) Applicants whose home state does not require a license to transact business as a
 2 counselor may be licensed in this state provided that the applicant takes the examination
 3 issued by the Commissioner where required pursuant to this chapter and the applicant
 4 submits written documentation from the applicant's resident state demonstrating the lack
 5 of a licensing requirement and such state's reciprocity with residents of this state; and

6 (3) The required fee for the license shall be the fee provided by law or the sum which is
 7 charged as a license fee for nonresident counselors by the state of the applicant's
 8 residence, whichever is greater.

9 (b) The Commissioner shall issue a license to an individual to act as a nonresident
 10 counselor if, by the laws of the state of the applicant's residence, residents of this state may
 11 be licensed as nonresident counselors in the same manner.

12 (c) The Commissioner is authorized to enter into reciprocal agreements with the
 13 appropriate official of any other jurisdiction for the purpose of implementing this Code
 14 section.

15 33-23-30.

16 An agent shall not sign in blank any policy to be issued outside of such agent's office. An
 17 agent shall not give power of attorney to or otherwise authorize anyone to sign the agent's
 18 name to policies unless the person so authorized is directly employed by the agent and no
 19 other person, and the person has no office files, equipment, or address in regard to the
 20 insurance business other than those in the office of the agent. Nothing in this Code section
 21 shall prohibit an agent from authorizing an insurer represented by such agent to reproduce
 22 mechanically or electronically such agent's signature on policies, certificates,
 23 endorsements, riders, or other insurance contract documents.

24 33-23-31.

25 (a) A risk shall be deemed to have a situs in this state if the insurance is upon or in regard
 26 to property having a permanent situs in this state or movable property which is actually in
 27 this state or is principally used or kept in this state or on persons resident in this state.

28 (b) Each nonresident agent by obtaining a license in this state or by doing business in this
 29 state shall be deemed to have consented that any notice provided in this chapter and any
 30 summons, notice, or process in connection with any action or proceeding in any state or
 31 federal court in this state, which notice, summons, or process grows out of or is based upon
 32 any business or acts done or omitted to be done in this state, may be sufficiently served
 33 upon such nonresident agent by serving the same upon the Commissioner. Service shall be
 34 made by leaving a copy of the notice, summons, or process with a fee in the hands of the
 35 Commissioner. The fee for such service shall be as provided by law. Such service shall be

1 sufficient service upon the nonresident ~~agent~~, provided that notice of the service and a copy
 2 of the notice, summons, or process shall be immediately sent by registered or certified mail
 3 or statutory overnight delivery by the plaintiff or by the Commissioner to the residence of
 4 the nonresident ~~agent~~ addressed to the ~~agent~~ nonresident. The ~~nonresident agent's~~
 5 nonresident's return receipt and the affidavit of compliance with the notice, summons, or
 6 process made by the plaintiff or the plaintiff's attorney or by the Commissioner shall be
 7 appended to the notice, summons, or process and filed with the case in the court where it
 8 is pending or filed with the Commissioner if in regard to a proceeding provided under this
 9 chapter. Venue of such an action shall be in the county of the residence of a plaintiff in the
 10 action, if the plaintiff resides in this state; otherwise venue shall be in Fulton County. The
 11 place of residence of a licensed nonresident ~~agent~~ placed on file by him or her with the
 12 Commissioner shall be deemed to be his or her place of residence until the ~~agent~~
 13 nonresident places on file with the Commissioner a written notice stating another place of
 14 residence. As used in this subsection, the term 'process' shall include a petition attached
 15 thereto.

16 33-23-32.

17 Except when required in retaliation pursuant to Code Section 33-3-26, insurance contracts
 18 on risks or property located or having a situs in this state need not be countersigned by an
 19 agent duly licensed in accordance with Code Section 33-23-5; but, if a licensed nonresident
 20 agent participates in the effectuation of such contract and a countersignature is so required,
 21 the countersigning agent licensed in accordance with Code Section 33-23-5 shall be
 22 entitled to the same commission as allowed by the state of residence of the licensed
 23 nonresident but, in any event, to not more than 50 percent of the commission. Nothing
 24 contained in this Code section shall be construed to require a company to make additional
 25 compensation in the way of commissions or otherwise to a person who is paid on a salary
 26 basis.

27 33-23-33.

28 (a)(1) Every licensee under this chapter ~~other than an insurance agency~~ shall keep the
 29 Commissioner advised of: the office address of the licensee; the residence address of the
 30 licensee; the name and address of each insurer that the licensee represents directly or
 31 indirectly; the name and address of each agency of which the licensee is proprietor,
 32 partner, officer, director, or employee or which the licensee represents; every trade name
 33 of such agency; and the names of all partners and members of any firm or association and
 34 the corporate name of any corporation owning or operating the agency as such

1 information changes. ~~The information shall be transmitted in writing by the licensee to~~
2 ~~the Commissioner.~~

3 ~~(2) Every insurance agency licensee under this chapter shall keep the Commissioner~~
4 ~~advised of the information required under Code Section 33-23-3.~~

5 (b) Any change in the information required by subsection (a) of this Code section shall be
6 transmitted ~~in writing~~ to the Commissioner within 30 days of such change on forms
7 prescribed by the Commissioner.

8 (c) The Commissioner shall prescribe by rule or regulation the form and manner by which
9 such information will be transmitted.

10 33-23-34.

11 (a) Every agent, subagent, counselor, and adjuster under this chapter shall keep at the
12 address as shown on his or her license or at the insurer's regional or home office situated
13 in this state a record of all transactions consummated under such license. The record shall
14 be in organized form and shall include:

15 (1) In the case of an agent or subagent, a record of each insurance contract procured or
16 issued together with the names of the insurers and insureds, the amount of premium paid
17 or to be paid, and a statement of the subject of the insurance; and the names of any other
18 licensees from whom business is accepted and of persons to whom commissions or
19 allowances of any kind are promised or paid;

20 (2) In the case of an adjuster, a record of each investigation or adjustment undertaken or
21 consummated and a statement of any fee, commission, or other compensation received
22 or to be received by the adjuster on account of the investigation or adjustment; and

23 (3) Such other and additional information as may be customary or as may be reasonably
24 required by the Commissioner.

25 (b) All records as to any particular transaction shall be kept for a term of five years
26 beginning immediately after the completion of the transaction or the term of the contract,
27 whichever is greater, provided that records of losses adjusted by an independent adjuster
28 may be kept at the office of the insurer for whom the adjuster acted.

29 (c) In the case of agents or subagents, the maintaining of the records required by this Code
30 section at the insurance agency licensed under this chapter for which agency the transaction
31 was undertaken shall be deemed to comply with the requirements of subsection (a) of this
32 Code section.

1 33-23-35.

2 (a) An agent, subagent, or any other representative of an insurer or of any other person in
3 the effectuation of an insurance contract shall report to the insurer or its agent the premium
4 for the contract and the amount shall be shown in the contract. Each willful violation of
5 this subsection shall constitute a misdemeanor.

6 (b) All funds representing premiums received or return premiums due the insured by any
7 agent or subagent shall be accounted for in the licensee's fiduciary capacity, shall not be
8 commingled with the licensee's personal funds, and shall be promptly accounted for and
9 paid to the insurer, insured, or agent as entitled to such funds. Nothing contained in this
10 Code section shall be deemed to require any agent or subagent to maintain a separate bank
11 deposit for the funds of each principal, if the funds so held for each principal are reasonably
12 ascertainable from the books of accounts and records of the agent or subagent.

13 (c) Any violation of this Code section shall constitute grounds or cause for action by the
14 Commissioner, including, but not limited to, probation, suspension, or revocation of the
15 license. Each and every act by a licensee shall also constitute grounds for fines and
16 penalties, which amounts shall be set by rule or regulation of the Commissioner. Any
17 willful violation of this Code section shall constitute a misdemeanor unless such amounts
18 involved exceed \$500.00, whereby such violation shall constitute a felony.

19 33-23-36.

20 The Commissioner may upon his or her own motion and shall upon a written complaint
21 signed by a citizen of this state and filed with the Commissioner inquire into any alleged
22 illegal or improper conduct of any licensee or inquire into the question of whether a
23 licensee is untrustworthy or not competent or not qualified to act as a licensee under this
24 chapter. No finding or decision adverse to any person in regard to whom the inquiry is
25 conducted shall be made by the Commissioner until after notice and hearing as provided
26 in Chapter 2 of this title.

27 33-23-37.

28 (a) Nothing in this chapter shall prevent the placing of surplus lines of insurance when
29 authorized and permitted under this title.

30 (b) Any person, while licensed as a resident agent as to property, casualty, and surety
31 insurance and who is deemed by the Commissioner to be competent and trustworthy, may
32 be licensed as a surplus lines broker as follows:

33 (1) Application to the Commissioner for the license shall be on forms furnished by the
34 Commissioner;

35 (2) The license fee shall be in an amount as provided in Code Section 33-8-1;

1 (3) Each license shall be issued for a term expiring on December 31 next following the
 2 date of issuance and may be renewed annually by filing an application and paying the
 3 prescribed fee in accordance with this Code section;

4 (4) Prior to the issuance of the license or any renewal of the license, the applicant shall
 5 file a bond with the Commissioner or his or her successor in office, for the benefit of any
 6 person injured by the violation of the conditions provided in this paragraph. The bond
 7 shall be executed by the applicant as principal and by a corporate surety authorized to do
 8 business in this state and shall be in the penal sum of \$50,000.00, conditioned that the
 9 applicant will comply with the following;

10 (A) Place insurance only in compliance with Code Section 33-5-25;

11 (B) Remit promptly the taxes provided in Code Section 33-5-31;

12 (C) Account to any person requesting him or her to obtain insurance for funds or
 13 premiums collected in connection with such insurance; and

14 (D) Otherwise conduct business in accordance with this title.

15 The bond shall not be terminated unless prior to such termination 30 days' written notice
 16 is filed with the Commissioner; and

17 (5) Each applicant for a license to act as a surplus lines broker shall submit to a personal
 18 written examination to determine his or her competence, unless the applicant is licensed
 19 as a surplus lines broker in his or her home state.

20 33-23-38.

21 (a) No agent or subagent shall place any insurance or receive any remuneration in regard
 22 to any insurance of a classification outside the scope of such agent's or subagent's license,
 23 nor shall the agent or subagent share a commission except with an agent licensed pursuant
 24 to this article; with an agency that has as its proprietor or as a partner in the agency or as
 25 an officer or employee of the agency one or more agents licensed in regard to insurance
 26 that is within the scope of his or her agency; or with an agent or agency having a residence
 27 or situs in another state and a license from such other state for the transaction of insurance
 28 in that state.

29 (b) Except as otherwise provided in this title, no person shall solicit or be instrumental in
 30 placing insurance upon any risk having a situs in this state except with an insurer admitted
 31 to do insurance business in this state.

32 (c) A violation of this Code section shall authorize, among other penalties, the revocation
 33 of the violator's license as an agent or subagent.

1 33-23-39.

2 No insurer shall issue, make, write, place, or cause to be made, written, placed, or issued
3 any contract of insurance, indemnity, or suretyship covering risks or property located or
4 having a situs in this state or covering any liability created by or arising under the laws of
5 this state, except through an agent or agents licensed pursuant to this article, except that bid
6 bonds issued by any surety insurer in connection with any public or private building or
7 construction project may be issued without regard to this Code section or as provided for
8 in subparagraph (h)(2)(F) of Code Section 33-23-4.

9 33-23-40.

10 Any contract of insurance issued by a person prohibited by this chapter from so issuing it
11 shall not be rendered unenforceable by reason of the violation of this chapter; but all
12 persons knowingly participating in the violation shall be guilty of a misdemeanor.

13 33-23-41.

14 ~~(a)~~ Any person who in this state acts, purports to act, or holds himself or herself out as an
15 agent, subagent, counselor, or adjuster or as an employee of an agent, subagent, counselor,
16 or adjuster of or for an insurer that has not obtained from the Commissioner a certificate
17 of authority then in effect to do business in this state as required by this title or who has not
18 obtained a certificate of authority as required by this article and any person who in this
19 state collects or forwards any premium or portion of the premium for or to the insurer shall
20 pay a sum equal to the state, county, and municipal taxes and license fees required to be
21 paid by the insurance companies legally doing business in this state. It is the
22 Commissioner's duty to report violators of this Code section to the district attorney for the
23 county in which the violations occurred. Violators of this Code section shall also be
24 personally liable to the same extent as the insurer upon every contract of insurance made
25 by the insurer with reference to a risk having a situs in this state, if the violator participated
26 in the solicitation, negotiation, or making of the contract or in any endorsement to the
27 contract, in any modification of the contract, or in the collection or forwarding of any
28 premium or portion of the premium relating to such contract. This Code section shall have
29 no application to a contract of insurance entered into in accordance with Chapter 5 of this
30 title.

31 ~~(b) An applicant for a license locating to this state who currently holds a valid license in~~
32 ~~another state or territory of the United States may transact business in this state for the class~~
33 ~~or classes of insurance authorized by the current license provided that evidence verifying~~
34 ~~the validity of the license and good standing of the applicant certified by the insurance~~
35 ~~supervisory official of such state or territory is submitted with the application. The~~

1 ~~permission granted pursuant to this subsection shall be valid in this state for a period not~~
2 ~~to exceed 90 days.~~

3 33-23-42.

4 Any person who performs any of the acts or things specified in this chapter for any
5 insurance company or agent of said company without such company's having first received
6 a certificate of authority from the Commissioner as required by law shall be punished as
7 for a misdemeanor and shall also pay a sum equal to the state, county, and municipal taxes
8 and license fees required to be paid by insurance companies legally doing business in this
9 state. It shall be the duty of the Commissioner to report any violation of this Code section
10 to the district attorney or prosecuting attorney of the circuit or county which has
11 jurisdiction.

12 33-23-43.

13 (a) An adjuster licensed as both an independent and a public adjuster shall not represent
14 both the insurer and the insured in the same transaction.

15 (b) An adjuster shall have authority under his or her license only to investigate, settle, or
16 adjust and report to his or her principal upon claims arising under insurance contracts on
17 behalf of insurers only if licensed as an independent adjuster or on behalf of insureds only
18 if licensed as a public adjuster.

19 (c) No public adjuster, at any time, shall knowingly:

20 (1) Suggest or advise the employment of or name for employment a specific attorney or
21 attorneys to represent a person in any matter relating to a person's potential claims,
22 including any motor vehicle accident claims for personal injury, loss of consortium,
23 property damages, or other special damages;

24 (2) Accept or agree to accept any money or other compensation from an attorney or any
25 person acting on behalf of an attorney which the adjuster knows or should reasonably
26 know is payment for the suggestion or advice by the adjuster to seek the services of the
27 attorney or for the referral of any portion of a person's claim to the attorney; or

28 (3) Hire or procure another to do any act prohibited by this subsection.

29 (d) For purposes of subsection (c) of this Code section, the term 'public adjuster' shall
30 include licensed public adjusters as defined by Code Section 33-23-1 and persons
31 representing themselves to be public adjusters who are not properly licensed by the
32 Commissioner.

33 (e) Any person who violates any provision of subsection (c) of this Code section shall be
34 guilty of a misdemeanor and such violation shall be grounds for suspension or revocation
35 of licenses under this chapter.

1 33-23-44.

2 (a) The Commissioner may establish rules and regulations with respect to:

3 (1) The classification of applicants according to the kinds of insurance to be effected by
4 them if licensed;

5 (2) The scope, type, and conduct of written examinations to be given pursuant to this
6 chapter and the times and places within this state for holding the examinations;

7 (3) Classification and scope of authority of any license authorized under this chapter; and

8 (4) Any other purpose required or necessary for the implementation or enforcement of
9 this chapter.

10 (b) The Commissioner shall establish by rule or regulation a license for persons exempted
11 under Code Section 33-23-18 that is distinct from other agent licenses.

12 33-23-45.

13 This article shall apply only with respect to acts occurring on or after July 1, ~~1997~~ 2002;
14 provided, however, that nothing in this Code section shall prevent the Commissioner from
15 implementing sanctions which were authorized by law with respect to acts occurring prior
16 to July 1, ~~1997~~ 2002."

17 **SECTION 2.**

18 Code Section 33-5-22 of the Official Code of Georgia Annotated, relating to licensing of
19 surplus line brokers generally, is amended by striking said Code section in its entirety and
20 inserting in lieu thereof a new Code Section 33-5-22 to read as follows:

21 "33-5-22.

22 ~~Any person, while licensed as a resident agent or broker as to property, casualty, and surety~~
23 ~~insurances, and who is deemed by the Commissioner to be competent and trustworthy, may~~
24 ~~be licensed as a surplus line broker as follows:~~

25 ~~(1) Application to the Commissioner for the license shall be on forms furnished by the~~
26 ~~Commissioner;~~

27 ~~(2) The license fee shall be in an amount as provided in Code Section 33-8-1;~~

28 ~~(3) Each license shall be issued for a term expiring on December 31 next following the~~
29 ~~date of issuance and may be renewed annually by filing an application and paying the~~
30 ~~prescribed fee in accordance with this Code section;~~

31 ~~(4) Prior to the issuance of the license or any renewal of such license the applicant shall~~
32 ~~file with the Commissioner a bond, to be approved by the Commissioner and made~~
33 ~~payable to the Commissioner or his successor in office, for the benefit of any person~~
34 ~~injured by the violation of the conditions provided in this paragraph. The bond shall be~~
35 ~~executed by the applicant as principal and by a corporate surety authorized to do business~~

1 in this state and shall be in the penal sum of \$50,000.00, conditioned that the applicant
2 will comply with the following:

3 (A) ~~Place insurance only in compliance with Code Section 33-5-25;~~

4 (B) ~~Remit promptly the taxes provided in Code Section 33-5-31;~~

5 (C) ~~Account to any person requesting him to obtain insurance for funds or premiums
6 collected in connection with such insurance; and~~

7 (D) ~~Otherwise conduct business in accordance with this title.~~

8 The bond shall not be terminated unless prior to such termination 30 days' written notice
9 is filed with the Commissioner; and

10 (5) ~~Each applicant for a license to act as a surplus line broker shall submit to a personal
11 written examination to determine his or her competence~~ A surplus lines broker shall be
12 licensed in accordance with Code Section 33-23-37."

14 SECTION 3.

15 Chapter 11 of Title 33 of the Official Code of Georgia Annotated, relating to investments,
16 is amended by striking subsection (p) of Code Section 33-11-66, relating to variable annuity
17 contracts, and inserting in lieu thereof a new subsection (p) to read as follows:

18 "(p) Notwithstanding any other laws of this state, no ~~person~~ individual shall, within this
19 state, sell or offer for sale variable annuity contracts as defined in this Code section unless
20 the ~~person~~ individual shall have both a valid and current life insurance license and variable
21 annuity contract license issued by the Commissioner. No license shall be issued unless and
22 until the Commissioner is satisfied, after examination, except as provided for in Code
23 Section 33-23-16, that the person is by training, knowledge, ability, and character qualified
24 to act as such a variable annuity agent. The Commissioner may reject any application or
25 suspend or revoke or refuse to renew any variable annuity contract agent's license upon
26 any ground that would bar the applicant or the agent from being licensed to sell life
27 insurance contracts in this state or for the violation of any federal or state securities laws
28 or regulations. The rules governing any proceedings relating to the suspension or
29 revocation of a life insurance agent's license shall also govern any proceedings for the
30 suspension or revocation of a variable annuity contract agent's license. Renewal of a
31 variable annuity contract agent's license shall follow the same procedure established for
32 renewal of an agent's license to sell life insurance contracts in this state."

1 **SECTION 7.**

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