

The House Committee on Insurance offered the following substitute to SB 177:

A BILL TO BE ENTITLED
AN ACT

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

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14 Title 33 of the Official Code of Georgia Annotated, related to insurance, is amended by
15 striking subsection (b) of Code Section 33-5-25 in its entirety and inserting in lieu thereof
16 a new subsection (b) to read as follows:
17

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

19 (1) With a foreign insurer having capital and surplus amounting to at least \$3 million;

20 or

21 (2) With an alien insurer or alien individual underwriter, including, but not limited to,
22 any Lloyd's group, or with a group including incorporated and individual unincorporated
23 underwriters, which has been established for at least ten years and which has at least \$10
24 million in capital and surplus, unless for which the Commissioner has determined that the
25 character, trustworthiness, and financial integrity ~~of an alien insurer~~ is of such a nature
26 that it would be in the best interests of the policyholders and the general public to use

1 such insurer ~~in accordance with standards prescribed by rules and regulations of or~~
 2 underwriter, a list of which shall be maintained by the Commissioner; or

3 (3) With any group of foreign ~~or alien~~ individual underwriters, including, but not limited
 4 to, any Lloyd's group, or with a group including incorporated and individual
 5 unincorporated underwriters, the incorporated members of which shall not be engaged
 6 in any business other than underwriting as a member of the group and shall be subject to
 7 the level of solvency regulation and control by the group's domiciliary regulator as are
 8 the unincorporated members, if such group maintains a trust or security fund of at least
 9 ten million United States dollars as security to the full amount thereof for all
 10 policyholders and creditors in the United States of each member of the group; ~~or~~ and

11 (4) ~~With an An~~ insurer described in paragraph (1) or (2) of this subsection ~~which shall~~
 12 annually ~~furnishes~~ furnish to the broker a copy of the insurer's current annual statement."

13 SECTION 2.

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

17 "33-5-26.

18 (a) Every insurance contract procured and delivered as a surplus line coverage shall be
 19 initialed by or bear the name of the surplus line broker who procured it and shall have
 20 printed or stamped upon it the following: "This contract is registered and delivered as a
 21 surplus line coverage under the Surplus Line Insurance Law and this (these) insurer(s) is
 22 (are) not authorized to do business in Georgia."

23 (b) No surplus lines policy or certificate in which the policy premium is \$5,000.00 per
 24 annum or less shall be delivered in this state unless a standard disclosure form or brochure
 25 explaining surplus lines insurance is delivered to the applicant at the time application is
 26 made. The Commissioner may prescribe by rule or regulation a standard form and the
 27 contents of the brochure to be provided by the insurer to any prospective insured eligible
 28 for surplus lines insurance.

29 (c) The Commissioner may promulgate additional rules and regulations which are
 30 necessary to implement the provisions of this article and to ensure the safe and proper
 31 operation of surplus lines brokers of this state."

32 SECTION 3.

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

1 "33-9-21.2.

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

6 **SECTION 4.**

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

8 "33-30-13.1.

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

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

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

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

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

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

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

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

7 **SECTION 5.**

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