

Senate Bill 504

By: Senators Seabaugh of the 28th, Moody of the 27th and Dean of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-2-5 of the Official Code of Georgia Annotated, relating to
2 appointment of personnel of the Department of Insurance, so as to provide for certain
3 immunities from liability for the Commissioner of Insurance and his or her authorized
4 representatives and examiners; to provide for an award of attorney's fees and costs to such
5 persons in certain civil actions if such civil actions were not substantially justified; to provide
6 for related matters; to provide an effective date; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Code Section 33-2-5 of the Official Code of Georgia Annotated, relating to appointment of
11 personnel of the Department of Insurance, is amended by adding a new subsection (d) to read
12 as follows:

13 "(d)(1) No cause of action shall arise nor shall any liability be imposed against the
14 Commissioner, the Commissioner's authorized representatives, or an examiner appointed
15 by the Commissioner for any statements made or conduct performed in good faith while
16 carrying out the provisions of this title.

17 (2) No cause of action shall arise nor shall any liability be imposed against any person
18 for the act of communicating or delivering information or data to the Commissioner, the
19 Commissioner's authorized representative, or an examiner pursuant to an examination
20 made under this title if the act of communication or delivery was performed in good faith
21 and without fraudulent intent or the intent to deceive.

22 (3) This subsection shall not abrogate or modify in any way any common law,
23 constitutional, or statutory privilege or immunity heretofore enjoyed by any person
24 identified in paragraph (1) of this subsection.

25 (4) A person identified in paragraph (1) of this subsection shall be entitled to an award
26 of attorney's fees and costs if he or she is the prevailing party in a civil cause of action
27 for libel, slander, or other relevant tort arising out of activities in carrying out the

1 provisions of this title and the party bringing the action was not substantially justified in
2 doing so. For the purposes of this paragraph, a proceeding is substantially justified if it
3 had a reasonable basis in law or fact at the time it was initiated.”

4 **SECTION 2.**

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

7 **SECTION 3.**

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