

House Bill 1623

By: Representatives Martin of the 37th, Williams of the 128th, Smith of the 129th, Post 2,
Snow of the 1st, Powell of the 23rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 41 of Title 33 of the Official Code of Georgia Annotated, relating to captive insurance companies, so as to require association and industrial insured captive insurance companies issuing workers' compensation insurance contracts to file certain matters with the Commissioner of Insurance; to provide that such companies obtain the approval of the Commissioner for certain rates and forms; to authorize and require the participation in the Georgia Insurers Insolvency Pool for association and industrial insured captive insurance companies issuing workers' compensation insurance contracts for workers' compensation only; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 41 of Title 33 of the Official Code of Georgia Annotated, relating to captive insurance companies, is amended by striking Code Section 33-41-19, relating to rates, underwriting rules, and policy forms, and inserting in lieu thereof a new Code Section 33-41-19 to read as follows:

"33-41-19.

(a)(1) ~~No captive insurance company shall be required to join or use the rates, rating systems, underwriting rules, or policy or bond forms of a rating or advisory organization as defined in Code Section 33-9-2 other than an association or industrial insured captive insurance company issuing workers' compensation insurance contracts shall be required to file its premium rates or policy forms with, or seek approval of such rates or forms from, the Commissioner or any other authority of this state. Every association or industrial insured captive insurance company issuing workers' compensation insurance contracts shall file its rates, rating plans, rating rules, underwriting rules, and policy forms to be used by the company for workers' compensation insurance contracts with the Commissioner. No such rates, rating plans, rating rules, underwriting rules, and policy~~

1 forms shall become effective unless and until the filing has been received by the
2 Commissioner in his or her office.

3 (2) When a workers' compensation insurance rate filing of an association or industrial
4 insured captive insurance company issuing workers' compensation insurance contract
5 results in any overall rate increase of 10 percent or more within any 12 month period, the
6 Commissioner shall approve such rate filing prior to such rate filing becoming effective.
7 The Commissioner shall approve or disapprove such workers' compensation insurance
8 rate filing within 30 days of the date such rate is filed; provided, however, that, if the
9 Commissioner has questions concerning such filing or has insufficient information to
10 review such workers' compensation insurance rate filing, he or she may request such
11 information from the insurer as the Commissioner needs to review such filing and the
12 time period for approving or disapproving such filing shall be extended until 30 days after
13 the insurer provides the information requested by the Commissioner or advises the
14 Commissioner that no further information will be provided. The Commissioner may
15 extend the time period only once by requesting more information. At the conclusion of
16 the 30 day time period allowed for the Commissioner to approve or disapprove a
17 workers' compensation insurance rate filing or at the conclusion of the 30 day period
18 following the one-time extension by the Commissioner to obtain further information,
19 whichever is later in time, if the Commissioner has not entered an order approving or
20 disapproving such workers' compensation insurance rate filing, the rate filing shall be
21 deemed to be approved by the Commissioner and such rates shall become effective.

22 (3) If a workers' compensation insurance rate filing is disapproved, the Commissioner
23 shall specify in such disapproval order in what respects such filing fails to meet the
24 requirements of this title.

25 (4) In connection with the approval or disapproval of workers' compensation insurance
26 rates, the burden of persuasion shall fall upon the affected insurer or insurers to establish
27 that the challenged rates are adequate, not excessive, and not unfairly discriminatory.

28 (5) If the Commissioner disapproves the workers' compensation insurance rate filing,
29 the insurer shall have the right of review of such decision by filing a petition in the
30 Superior Court of Fulton County in accordance with Code Section 33-2-27. Such
31 decision shall be reviewed by the Superior Court of Fulton County in accordance with
32 Code Section 33-2-28.

33 ~~(b) No captive insurance company shall be required to file its premium rates or policy~~
34 ~~forms with, or seek approval of such rates or forms from, the Commissioner or any other~~
35 ~~authority of this state~~ Every association or industrial insured captive insurance company
36 having workers' compensation insurance contracts in force as of July 1, 2004, shall make
37 the filings required by subsection (a) of this Code section by August 31, 2004.

(c) Each captive insurance company shall provide the following notice in ten-point type on the front page and declaration page on all policies and on the front page of all applications for policies, unless such policy is a workers' compensation policy issued by an association or industrial insured captive insurance company:

"This captive insurance company is not subject to all of the insurance laws and regulations of the State of Georgia. State insurers insolvency guaranty funds are not available to the policyholders of this captive insurance company."

SECTION 2.

Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section 33-41-20, relating to exclusion from insolvency funds, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(a)(1) No captive insurance company other than an association or industrial insured captive insurance company issuing workers' compensation insurance contracts shall be permitted to join or contribute financially to the Georgia Insurers Insolvency Pool under Chapter 36 of this title or any other plan, pool, or association guaranty or insolvency fund in this state nor shall any captive insurance company, or its insureds or claimants against its insureds, nor its parent or any affiliated company receive any benefit from the Georgia Insurers Insolvency Pool or any other plan, pool, or association guaranty or insolvency fund for claims arising out of the operations of such captive insurance company."

SECTION 3.

Said chapter is further amended by adding a new Code Section 33-41-20.1 to read as follows:

"33-41-20.1.

(a) On and after January 1, 2005, every association and industrial insured captive insurance company issuing workers' compensation insurance contracts shall become a member of the Georgia Insurers Insolvency Pool under Chapter 36 of this title as to workers' compensation only. Such captive insurance companies shall be liable for assessments pursuant to Code Section 33-36-7 and for all other obligations imposed pursuant to Chapter 36 of this title as to workers' compensation only.

(b) The Georgia Insurers Insolvency Pool shall not be liable for any claims incurred by any captive insurance company before January 1, 2005."

SECTION 4.

This Act shall become effective on July 1, 2004.

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- SECTION 5.
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- All laws and parts of laws in conflict with this Act are repealed.