

The House Committee on Insurance offers the following substitute to SB 350:

A BILL TO BE ENTITLED
AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for the issuance of group accident and sickness insurance under a franchise group plan; to provide for definitions; to provide for conversion, portability, and continuation; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by striking subparagraphs (K) and (L) of paragraph (1) of subsection (a) of Code Section 33-24-21.1, relating to group accident and sickness contracts, and inserting in lieu thereof new subparagraphs (K), (L), and (M) to read as follows:

"(K) A public health plan; ~~or~~

(L) A Peace Corps Act health benefit plan; or

(M) A franchise group plan, policy, or certificate of coverage issued on an individual basis to a member of a franchise association pursuant to the provisions of subsection (c) of Code Section 33-30-1."

SECTION 2.

Said title is further amended by adding a new subsection (g) to Code Section 33-24-9, relating to approval and disapproval of forms, to read as follows:

"(g) This Code section shall not apply to any form issued by a franchise association from outside this state for delivery in this state, except that form filings must be filed for informational purposes only and rate filings must be filed for informational purposes only upon request by the Commissioner."

SECTION 3.

Said title is further amended by adding a new subsection (c) to Code Section 33-30-1, relating to the definition of "group accident and sickness insurance," to read as follows:

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

(A) 'Franchise association' means an association that is made up of individual members and that:

(i) Has been actively in existence for at least three years;

(ii) Has been formed and maintained in good faith for purposes other than obtaining insurance;

(iii) Does not condition membership in the association on any health status related factor relating to an individual member;

(iv) Allows any member of the association to apply for insurance offered through the association with the understanding that the insurer makes the determination as to acceptability for coverage based upon the insurer's underwriting criteria; and

(v) Does not make health insurance coverage offered through the association available other than in connection with membership in the association.

(B) 'Franchise group plan' means a form of group accident and sickness insurance that provides individually underwritten insurance coverage to a franchise association for the benefit of individual members of such association.

(C) 'Individual member' means only an individual person and his or her dependents and shall in no way be construed to include an employer and its employees or retired employees.

(2) The insurer issuing a franchise group plan may, but shall not be required to, individually underwrite each individual applicant who is a member of the franchise association and who applies for coverage under the plan.

(3) The premium for such coverage shall be paid by the individual and shall not be paid, directly or indirectly, by the employer of an individual member; provided, however, that, if an individual member is a self-employed individual, the premium for such coverage shall be paid by the individual and may be paid by the self-employed individual through his or her business account or through his or her personal account.

(4) Coverage under the group franchise plan shall be deemed creditable coverage for the purposes of the federal Health Insurance Portability and Accountability Act of 1996 and for purposes relating to conversions under Code Section 33-24-21.1 and relating to portability and continuation under Code Section 33-30-15.

(5) The insurer may issue individual certificates of coverage to covered members of the franchise association evidencing insurance coverage under the franchise group plan.

(6) Coverage under the franchise group plan must be sold by an agent licensed in this state."

SECTION 4.

Said title is further amended by adding a new Code Section 33-30-1.2 to read as follows:

"33-30-1.2.

Any franchise group plan issued on an individual basis to a member of a franchise association pursuant to the provisions of subsection (c) of Code Section 33-30-1 shall comply with the following written disclosures that must be made to individuals at the time of solicitation for the sale of insurance and upon application for such insurance:

(1) The individual must already be or become a member of the franchise association to be eligible for coverage under the group policy;

(2) All costs related to franchise association membership including, but not limited to, initial franchise association membership fees and the amount of annual franchise association dues must be paid by the individual;

(3) Franchise association membership fees and dues are in addition to the policy premium;

(4) The franchise association holds the master policy;

(5) The premium charged and the terms and conditions of coverage are determined between the franchise association and the insurer;

(6) The premium, terms, and conditions of coverage may be changed by agreement of the franchise association policyholder and the insurer without the consent of the individual certificate holder;

(7) Membership in the franchise association will allow such individual to apply for insurance but that the insurer will make the determination as to acceptability for coverage based upon the insurer's underwriting criteria;

(8) Insurance may not be offered to a franchise association member if such member does not satisfy the insurer's underwriting criteria or insurance may be offered at a higher rate; and

(9) Rates for franchise group plans are not regulated in Georgia and, therefore, are not subject to approval by the Georgia Department of Insurance."

SECTION 5.

Said title is further amended by adding a new Code Section 33-30-1.3 to read as follows:

1 "33-30-1.3.

2 An insurer may not provide group accident and sickness insurance to a franchise
3 association or other eligible group in which the insurer has an affiliation. Affiliation
4 includes, but is not limited to, the following:

5 (1) Common board members, officers, executives, or employees;

6 (2) Common ownership or control of the insurer, franchise association, or other eligible
7 group; and

8 (3) Common use of the same office space utilized by the insurer to transact insurance."

9 **SECTION 6.**

10 Said title is further amended by adding a new Code Section 33-30-1.4 to read as follows:

11 "33-30-1.4.

12 Any insurer that has been actively writing group accident and sickness insurance under a
13 franchise group plan in Georgia for a period of at least three years prior to the effective date
14 of this Code section shall be approved to continue to write such insurance."

15 **SECTION 7.**

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

18 **SECTION 8.**

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