

House Bill 375

By: Representatives Parsons of the 42nd, Ehrhart of the 36th, Harbin of the 118th, Burkhalter of the 50th, and Coleman of the 144th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 35 of Title 33 of the Official Code of Georgia Annotated, relating to
2 prepaid legal services plans, so as to provide for legislative findings and intent; to provide
3 definitions; to provide for registration and bonding; to provide for the appointment of
4 salespersons as company representatives; to provide for certain filings and annual
5 registration; to provide for prior approval of contracts; to require certain forms to be
6 provided; to provide for the handling of complaints; to provide for sanctions; to authorize the
7 promulgation of rules and regulations; to provide for applicability; to provide for exceptions;
8 to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 35 of Title 33 of the Official Code of Georgia Annotated, relating to prepaid legal
12 services plans, is amended by striking the chapter in its entirety and inserting in lieu thereof
13 a new Chapter 35 to read as follows:

14 style="text-align:center">"Chapter 35

15 33-35-1.

16 The General Assembly finds that the previous law concerning prepaid legal services plans
17 has served neither to promote access to quality legal services at the lowest possible price
18 nor to regulate the development and operation of legal services contract plans in that
19 virtually no new legal services plans have been created in the State of Georgia since the
20 enactment of the previous law. The General Assembly further finds that new
21 encouragement is needed to promote competition and innovation among providers of these
22 types of plans to facilitate the delivery of affordable quality legal services to the citizens
23 of Georgia. Because of the interest of the state in developing the foregoing, use of the
24 state's powers is necessary to foster these developments.

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1 33-35-2.

2 As used in this chapter, the term:

3 (1) 'Commissioner' means the Commissioner of Insurance.

4 (2) 'Legal services contract company' means a person or entity offering legal services
5 contracts to the general public or a segment of the general public.

6 (3) 'Legal services contract' means a contract provided by companies licensed under the
7 provisions of this chapter that provides for legal services or reimbursement for legal
8 services provided by an individual licensed or admitted to practice law in the jurisdiction
9 in which the services are to be rendered and which are provided for a predetermined,
10 specific, periodic fee. However, legal services contracts shall not be considered
11 insurance as defined in paragraph (2) of Code Section 33-1-2 nor shall legal services
12 contract companies be deemed to be insurers as defined in paragraph (4) of Code Section
13 33-1-2.

14 33-35-3.

15 Before commencing business in this state, regardless of the means of doing business, any
16 legal services contract company must register with the Commissioner on a form prescribed
17 by the Commissioner. The form must be accompanied by a bond or letter of credit
18 acceptable to the Commissioner in the amount of \$50,000.00, which must remain in force
19 so long as the legal services contract company does business in Georgia. The amount of
20 the bond or letter of credit may be increased only by statute.

21 33-35-4.

22 Before any sales or solicitation activity commences, a person seeking to be involved with
23 any direct selling or direct in-person or electronic solicitation of the general public or
24 segments of the general public on behalf of a legal services contract company must be
25 appointed as a representative of such legal services contract company by filing with the
26 Commissioner on a form prescribed by the Commissioner the appointee's name, address,
27 and telephone number. Such appointment must be renewed each year no later than
28 October 1. The Commissioner may collect a fee of \$20.00 with each initial or renewal
29 filing to offset the costs of administering and enforcing this chapter. Appointment may be
30 refused or revoked upon a finding that a representative or a prospective representative has
31 been convicted of a crime of deceit or dishonesty within the previous ten years.

32 33-35-5.

33 (a) No later than March 1 of each year, commencing immediately after registration as
34 required by Code Section 33-35-3, a legal services contract company registered with the

1 Commissioner must file on a form prescribed by the Commissioner an updated registration
2 statement to include a sworn affirmation as to the continuation of the bond or letter of
3 credit required by Code Section 33-35-3.

4 (b) In connection with its annual registration, the legal services contract company must pay
5 a registration fee of \$500.00 for the purposes of administering this chapter.

6 33-35-6.

7 Contracts offering legal services must be filed with the Commissioner for approval prior
8 to being offered to the general public or a segment of the general public. However,
9 approval must not be withheld unless the contract is false, misleading, unfair, deceptive,
10 or is in violation of this chapter or other applicable law. Contracts filed are deemed
11 approved if the Commissioner does not notify the legal services contract company of its
12 disapproval within 45 days of receipt of the contract by the Commissioner.

13 33-35-7.

14 This chapter shall not apply to the benefits available under automobile club membership
15 contracts and automobile liability insurance policies that supply limited legal services or
16 reimbursement for legal services in automobile related matters under certificates of
17 authority issued by the Commissioner, to any legal aid or other legal services program for
18 the indigent, or to any employer-employee legal services plan that is excluded from this
19 chapter by the federal Employee Retirement Income Security Act of 1974.

20 33-35-8.

21 (a) Nothing contained in this chapter shall be deemed to prohibit an insurer authorized to
22 transact casualty, life, or accident and sickness insurance in this state from selling or
23 offering for sale in this state individually underwritten and individually issued policies of
24 legal services contracts on policy forms that have been approved by the Commissioner
25 pursuant to Chapter 6 of this title.

26 (b) This chapter shall not apply to any legal services contracts negotiated and issued in
27 accordance with Section 302C of the Labor Management Relations Act of 1947 (87 Stat.
28 314, 29 U.S.C. Section 186(c)(8)).

29 33-35-9.

30 All forms and applications contemplated or required by this chapter must be available to
31 the general public within 30 days after the effective date of this chapter.

1 33-35-10.

2 A consumer aggrieved by a legal services contract company may file a complaint with the
3 Commissioner, who shall review the complaint, investigate it as the Commissioner
4 considers appropriate, and initiate action as authorized by law.

5 33-35-11.

6 A legal services contract company that violates this chapter shall be subject to either or
7 both of the following:

8 (1) An administrative order to cease and desist violations of this chapter; or

9 (2) Revocation or denial of registration.

10 33-35-12.

11 The Commissioner is authorized to promulgate rules and regulations as necessary to
12 implement the provisions of this chapter."

13 **SECTION 2.**

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