

House Bill 683

By: Representatives Oliver of the 83rd, Knox of the 24th, Willard of the 49th, Ehrhart of the 36th, Forster of the 3rd, and others

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 provide a short title; to comprehensively revise the rate regulatory system for property and
3 casualty insurance in this state; to provide legislative findings; to provide definitions; to
4 provide for the determination of competitive and noncompetitive markets; to provide for
5 factors to consider in making such determinations; to provide for rating standards and
6 methods; to provide for rate regulation in noncompetitive markets; to provide for the filing
7 of certain rates and information; to provide for the method of disapproving certain rates; to
8 provide for certain regulation for policies for large commercial policyholders; to provide for
9 the operation and control of advisory organizations; to provide for permitted and prohibited
10 activities of advisory organizations; to authorize the exchange of certain information; to
11 provide for the keeping of certain records and the making of certain reports; to provide for
12 joint underwriting, pool, and residual market activities; to provide for assigned risks; to
13 provide for certain examinations; to provide for certain exemptions; to provide for penalties;
14 to provide for notice and hearing and judicial review; to correct certain citations; to provide
15 for related matters; to amend Title 34 of the Official Code of Georgia Annotated, relating to
16 labor and industrial relations, so as to correct a reference; to repeal conflicting laws; and for
17 other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 This Act shall be known and may be cited as the "Property/Casualty Insurance
21 Modernization Act."

22 **SECTION 2.**

23 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
24 striking Chapter 9, relating to regulation of rates, underwriting rules, and related
25 organizations, and inserting in lieu thereof a new Chapter 9 to read as follows:

"CHAPTER 9

ARTICLE 1

33-9-1.

~~(a) The purpose of this chapter is to promote the public welfare by regulating insurance rates as provided in this chapter to the end that they shall not be excessive, inadequate, or unfairly discriminatory; to authorize the existence and operation of qualified rating organizations and advisory organizations and require that specified rating services of such rating organizations be generally available to all admitted insurers; and to authorize cooperation between insurers in rate making and other related matters.~~

~~(b) It is the express intent of this chapter to permit and encourage competition between insurers on a sound financial basis to the fullest extent possible. However, nothing in this chapter is intended or should be construed to restrict the Commissioner in any way, on his own motion or otherwise, to take any affirmative action by rule, regulation, or administrative determination in a particular case, cases, or class of cases which he may deem necessary to protect the public's interest in maintaining the standards prescribed in Code Section 33-9-4; and Code Sections 33-9-26 through 33-9-29 in particular shall in no way be viewed as exhaustive or restrictive of the powers or procedures available to the Commissioner for this purpose~~ The General Assembly finds and declares that a modernized and competitive procedure be employed:

(1) To promote price competition among insurers;

(2) To protect policyholders and the public against adverse effects of excessive, inadequate, or unfairly discriminatory rates;

(3) To prohibit unlawful price fixing agreements by or among insurers;

(4) To authorize essential cooperative activities among insurers in the rate-making process and to regulate such activities to prohibit practices that tend to substantially lessen competition or create monopolies; and

(5) To provide necessary regulatory authority in the absence of a competitive marketplace.

33-9-2.

As used in this chapter, the term:

(1) 'Advisory organization' means ~~every~~ any ~~person other than an admitted insurer,~~ whether located within or outside this state, who prepares policy forms or makes underwriting rules incident to but not including the making of rates, rating plans, or rating systems, or who collects and furnishes to admitted insurers or rating organizations loss or expense statistics or other statistical information and data and acts in an advisory, as

1 distinguished from a rate-making, capacity. No duly authorized attorney at law acting
 2 in the usual course of his profession shall be deemed to be an advisory organization
 3 which has five unrelated members and which assists insurers as authorized by Code
 4 Section 33-9-10. It does not include joint underwriting organizations, actuarial or legal
 5 consultants, a single insurer, any employees of an insurer, or insurers under common
 6 control or management of their employees or managers.

7 (2) ~~'Member' means an insurer who participates in or is entitled to participate in the~~
 8 ~~management of a rating, advisory, or other organization~~ 'Classification system' or
 9 'classification' means the process of grouping risks with similar risk characteristics so that
 10 differences in costs may be recognized.

11 (3) ~~'Rating organization' means every person other than an admitted insurer, whether~~
 12 ~~located within or outside this state, who has as his object or purpose the making of rates,~~
 13 ~~rating plans, or rating systems. Two or more admitted insurers who act in concert for the~~
 14 ~~purpose of making rates, rating plans, or rating systems and who do not operate within~~
 15 ~~the specific authorizations contained in Code Sections 33-9-6, 33-9-7, 33-9-11, 33-9-20,~~
 16 ~~and 33-9-22 shall be deemed to be a rating organization. No single insurer shall be~~
 17 ~~deemed to be a rating organization~~ 'Commercial risk' means any kind of risk which is not
 18 a personal risk.

19 (4) ~~'Subscriber' means an insurer which is furnished at its request with rates and rating~~
 20 ~~manuals by a rating organization of which it is not a member, or with advisory services~~
 21 ~~by an advisory organization of which it is not a member~~ 'Commissioner' means the
 22 Commissioner of Insurance.

23 (5) 'Competitive market' means any market except those which have been found to be
 24 noncompetitive pursuant to Code Section 33-9-4.

25 (6) 'Developed losses' means losses, including loss adjustment expenses, adjusted, using
 26 standard actuarial techniques, to eliminate the effect of differences between current
 27 payment or reserve estimates and those which are anticipated to provide actual ultimate
 28 loss, including loss adjustment expense, payments.

29 (7) 'Excessive' means a rate that is likely to produce a long-term profit that is
 30 unreasonably high for the insurance provided. No rate in a competitive market shall be
 31 considered excessive.

32 (8) 'Expenses' means that portion of a rate attributable to acquisition, field supervision,
 33 collection expenses, general expenses, taxes, licenses, and fees.

34 (9) 'Experience rating' means a rating procedure utilizing past insurance experience of
 35 the individual policyholder to forecast future losses by measuring the policyholders' loss
 36 experience against the loss experience of policyholders in the same classification to
 37 produce a prospective premium credit, debit, or unity modification.

1 (10) 'Inadequate' means a rate which is unreasonably low for the insurance provided and
2 the continued use of which endangers the solvency of the insurers using it or will have
3 the effect of substantially lessening competition or creating a monopoly in any market.

4 (11) 'Joint underwriting' means an arrangement established to provide insurance
5 coverage for a risk pursuant to which two or more insurers contract with the insured for
6 a price and policy terms agreed upon between or among the insurers.

7 (12) 'Large commercial policyholder' means a commercial policyholder with the size,
8 sophistication, and insurance-buying expertise to negotiate with insurers in a largely
9 unregulated environment as determined by rule and regulation of the Commissioner
10 based upon two or more of the following factors: aggregate premium on commercial
11 policies held by the insured, including workers' compensation; number of employees;
12 annual net revenues or sales; net worth; annual budgeted expenditures for not for profit
13 organizations or a public body or agencies; or population for municipalities.

14 (13) 'Loss adjustment expense' means the expenses incurred by the insurer in the course
15 of settling claims.

16 (14) 'Market' means the interaction between buyers and sellers consisting of a product
17 market component and a geographic component. A product market component consists
18 of identical or readily substitutable products including, but not limited to, consideration
19 of coverage, policy terms, rate classifications, and underwriting. A geographic market
20 component is a geographical area in which buyers have a reasonable degree of access to
21 insurance sales outlets. Determination of a geographic market component shall consider
22 existing market patterns.

23 (15) 'Noncompetitive market' means a market which is subject to a ruling pursuant to
24 Code Section 33-9-4 that a reasonable degree of competition does not exist. For the
25 purposes of this chapter, residual markets and pools are noncompetitive markets.

26 (16) 'Personal risk' means homeowners, tenants, nonfleet private passenger automobiles,
27 mobile homes, and other property and casualty insurance for personal, family, or
28 household needs. This includes any property and casualty insurance that is otherwise
29 intended for noncommercial coverage.

30 (17) 'Pool' means an arrangement pursuant to which two or more insurers participate in
31 the sharing of risks on a predetermined basis. A pool may operate as an association,
32 syndicate, or in any other generally recognized manner.

33 (18) 'Prospective loss cost' means that portion of a rate that does not include provisions
34 for expenses, other than loss adjustment expenses, or profit and is based on historical
35 aggregate losses and loss adjustment expenses adjusted through development to their
36 ultimate value and projected through trending to a future point in time.

1 (19) 'Rate' means that cost of insurance per exposure unit whether expressed as a single
 2 number or as a prospective loss cost with an adjustment to account for the treatment of
 3 expenses, profit, and individual insurer variation in loss experience, prior to any
 4 application of individual risk variations based on loss or expense considerations, and does
 5 not include minimum premiums.

6 (20) 'Residual market mechanism' means an arrangement, either voluntary or mandated
 7 by law, involving participation by insurers in the equitable apportionment of risks among
 8 insurers for insurance which may be afforded applicants who are unable to obtain
 9 insurance through ordinary methods.

10 (21) 'Special assessments' means guaranty fund assessments, special indemnity fund
 11 assessments, vocational rehabilitation fund assessments, and other similar assessments.
 12 Special assessments shall not be considered as either expenses or losses.

13 (22) 'Supplementary rate information' means any manual or plan of rates, classification,
 14 rating schedule, minimum premium, policy fee, rating rule, and any other similar
 15 information needed to determine an applicable rate in effect or to be in effect.

16 (23) 'Supporting information' means the experience and judgment of the filer and the
 17 experience or data of other insurers or organizations relied upon by the filer, the
 18 interpretation of any statistical data relied upon by the filer, a description of methods used
 19 in making the rates, and other similar information relied upon by the filer.

20 (24) 'Trending' means any procedure for projecting losses to the average date of loss, or
 21 premiums or exposures to the average date of writing, for the period during which the
 22 policies are to be effective.

23 (25) 'Unfairly discriminatory' means rates that cannot be actuarially justified. It does not
 24 refer to rates that produce differences in premiums for policyholders with like loss
 25 exposures but different expenses, or like expenses but different loss exposures, so long
 26 as the rate reflects such differences with reasonable accuracy. A rate is not unfairly
 27 discriminatory if it averages broadly among persons insured under a group, franchise, or
 28 blanket policy, or a mass marketing plan. No rate in a competitive market shall be
 29 considered unfairly discriminatory unless it violates the provisions of subsection (b) of
 30 Code Section 33-9-5 in that they classify, or are based, in whole or in part on the basis
 31 of race, color, creed, or national origin.

32 33-9-3.

33 (a) This chapter shall apply to all kinds of insurance written on risks or on operations by
 34 any insurer authorized to do business in this state, except:

35 (1) Reinsurance other than joint reinsurance to the extent stated in Code Section 33-9-19;

36 (2) Life insurance;

1 (3) ~~Disability income, specified disease, or hospital indemnity policies~~ Accident and
 2 sickness insurance;

3 (4) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection
 4 and indemnity, or other risks commonly insured under marine, as distinguished from
 5 transportation, insurance policies. Inland marine insurance shall be deemed to include
 6 insurance defined by statute, or by interpretation thereof or, if not so defined or
 7 interpreted, by ruling of the Commissioner or as established by general custom of the
 8 business, as inland marine insurance;

9 (5) Insurance against loss of or damage to aircraft, insurance of hulls of aircraft,
 10 including their accessories and equipment, or insurance against liability arising out of the
 11 ownership, maintenance, or use of aircraft;

12 (6) Title insurance; or

13 (7) Annuities.

14 ~~(a.1) The Commissioner may by rule or regulation establish criteria by which defined~~
 15 ~~commercial risks may be exempted from the filing requirements of this chapter.~~

16 ~~(b)(1) This chapter shall apply to all insurers, including stock and mutual companies,~~
 17 ~~Lloyd's associations, and reciprocal and interinsurance exchanges, which under any laws~~
 18 ~~of this state write any of the kinds of insurance to which this chapter applies.~~

19 ~~(2) The provisions of this chapter regarding rates shall apply to any insurer, fraternal~~
 20 ~~benefit society, health care plan, nonprofit medical service corporation, nonprofit hospital~~
 21 ~~service corporation, health maintenance organization, or preferred provider organization~~
 22 ~~providing any accident or sickness insurance or health benefit plan issued, delivered,~~
 23 ~~issued for delivery, or renewed in this state to the extent required by subsection (c) of this~~
 24 ~~Code section.~~

25 ~~(c) Provisions of this chapter regarding rates shall apply only to a proposed rate for any~~
 26 ~~insurance or health benefit plan:~~

27 ~~(1) Which alone or in combination with any previous rate change for such insurance or~~
 28 ~~plan would result in a rate increase of:~~

29 ~~(A) Any amount, but no decrease shall be subject to such provisions; provided,~~
 30 ~~however,~~

31 ~~(B) The provisions of this chapter shall not apply to accident and sickness insurance;~~
 32 ~~or~~

33 ~~(2) Made within 36 months after any rate change described by paragraph (1) of this~~
 34 ~~subsection.~~

1 33-9-4.

2 ~~(a) The following standards shall apply to the making and use of rates pertaining to all~~
3 ~~classes of insurance to which this chapter is applicable:~~

4 ~~(1) Rates shall not be excessive or inadequate, as defined in this Code section, nor shall~~
5 ~~they be unfairly discriminatory;~~

6 ~~(2) No rate shall be held to be excessive unless such rate is unreasonably high for the~~
7 ~~insurance provided and a reasonable degree of competition does not exist in the area with~~
8 ~~respect to the classification to which such rate is applicable; provided, however, with~~
9 ~~respect to rate filings involving an increase in rates, no rate for personal private passenger~~
10 ~~motor vehicle insurance shall be held to be excessive unless such rate is unreasonably~~
11 ~~high for the insurance provided;~~

12 ~~(3) No rate shall be held inadequate unless it is unreasonably low for the insurance~~
13 ~~provided and continued use of it would endanger solvency of the insurer, or unless the~~
14 ~~use of such rate by the insurer using such rate has, or will, if continued, tend to destroy~~
15 ~~competition or create a monopoly;~~

16 ~~(4) Consideration shall be given to the extent applicable to past and prospective loss~~
17 ~~experience within and outside this state, to conflagration and catastrophe hazards, to a~~
18 ~~reasonable margin for underwriting profit and contingencies, to past and prospective~~
19 ~~expenses both country wide and those specially applicable to this state, to the insurer's~~
20 ~~average yield from investment income, and to all other factors, including judgment~~
21 ~~factors, deemed relevant within and outside this state; and, in the case of fire insurance~~
22 ~~rates, consideration may be given to the experience of the fire insurance business during~~
23 ~~the most recent five-year period;~~

24 ~~(5) Consideration may also be given, in the making and use of rates, to dividends,~~
25 ~~savings, or unabsorbed premium deposits allowed or returned by insurers to their~~
26 ~~policyholders, members, or subscribers;~~

27 ~~(6) The systems of expense provisions included in the rates for use by any insurer or~~
28 ~~group of insurers may differ from those of other insurers or groups of insurers to reflect~~
29 ~~the operating methods of any such insurer or group with respect to any kind of insurance~~
30 ~~or with respect to any subdivision or combination thereof;~~

31 ~~(7) Risks may be grouped by classifications for the establishment of rates and minimum~~
32 ~~premiums. Classification rates may be modified to produce rates for individual risks in~~
33 ~~accordance with rating plans which establish standards for measuring variations in~~
34 ~~hazards or expense provisions, or both. Such standards may measure any difference~~
35 ~~among risks that have a probable effect upon losses or expenses. Classifications or~~
36 ~~modifications of classifications of risks may be established based upon size, expense,~~
37 ~~management, individual experience, location or dispersion of hazard, or any other~~

1 reasonable considerations. Such classifications and modifications shall apply to all risks
 2 under the same or substantially the same circumstances or conditions; provided, however,
 3 the Commissioner shall establish the maximum amount of any such modification;

4 (8) Nothing contained in this Code section or elsewhere in this chapter shall be construed
 5 to repeal or modify Chapter 6 of this title, relating to unfair trade practices, and any rate,
 6 rating classification, rating plan or schedule, or variation thereof established in violation
 7 of Chapter 6 of this title shall, in addition to the consequences stated in Chapter 6 of this
 8 title or elsewhere, be deemed violative of this Code section;

9 (9) No insurer shall base any standard or rating plan on vehicle insurance, in whole or
 10 in part, directly or indirectly, upon race, creed, or ethnic extraction; and

11 (10) No insurer shall base any standard or rating plan on vehicle insurance, in whole or
 12 in part, directly or indirectly, upon any physical disability of an insured unless the
 13 disability directly impairs the ability of the insured to drive a motor vehicle A competitive
 14 market is presumed to exist unless the Commissioner, after notice and hearing,
 15 determines that a reasonable degree of competition does not exist within a market and
 16 issues a ruling to that effect. Such ruling shall expire one year after issue unless
 17 rescinded earlier by the Commissioner or unless the Commissioner renews the ruling
 18 after a hearing and a finding as to the continued lack of a reasonable degree of
 19 competition. The Commissioner shall consider all relevant structural factors in
 20 determining the competitiveness of the market including the number of insurers actively
 21 engaged in providing coverage, market shares, changes in market shares, and ease of
 22 entry.

23 (b) The following factors shall be considered by the Commissioner for purposes of
 24 determining if a reasonable degree of competition does not exist in a particular line of
 25 insurance:

26 (1) The number of insurers or groups of affiliated insurers actively engaged in providing
 27 coverage;

28 (2) Measures of market concentration and changes of market concentration over time;

29 (3) Ease of entry and the existence of financial or economic barriers that could prevent
 30 new firms from entering the market;

31 (4) The extent to which any insurer or group of affiliated insurers controls all or a portion
 32 of the market;

33 (5) Whether the total number of companies writing the line of insurance in this state is
 34 sufficient to provide multiple options;

35 (6) The disparity among insurance rates and classifications to the extent that such
 36 classifications result in rate differentials;

37 (7) The availability of insurance coverage to consumers;

1 (8) The opportunities available to consumers in the market to acquire pricing and other
 2 consumer information; and

3 (9) Other relevant factors

4 (c) The Commissioner shall monitor the degree and continued existence of competition
 5 in this state on an ongoing basis. In doing so, the Commissioner may utilize existing
 6 relevant information, analytical systems, and other sources or rely on some combination
 7 thereof. Such activities may be conducted internally within the Insurance Department, in
 8 cooperation with other state insurance departments, through outside contractors, in any
 9 combination thereof, or in any other appropriate manner.

10 33-9-5.

11 ~~(a) Subject to and in compliance with this chapter authorizing insurers to be members or~~
 12 ~~subscribers of rating or advisory organizations or to engage in joint underwriting or joint~~
 13 ~~reinsurance, two or more insurers may act in concert with each other and with others with~~
 14 ~~respect to any matters pertaining to the making of rates or rating systems, the preparation~~
 15 ~~or making of insurance policy or bond forms, underwriting rules, surveys, inspections and~~
 16 ~~investigations, the furnishing of loss or expense statistics or other information and data, or~~
 17 ~~carrying on of research~~ Rates shall not be excessive, inadequate, or unfairly discriminatory.

18 (b) Risks may be classified in any way except that no risk may be classified in whole or
 19 in part on the basis of race, color, creed, or national origin.

20 (c) In determining whether rates in a noncompetitive market are excessive, inadequate, or
 21 unfairly discriminatory, consideration may be given to the following elements:

22 (1) BASIC RATE FACTORS. Due consideration shall be given to past and prospective loss
 23 and expense experience within and outside of this state, to catastrophe hazards and
 24 contingencies, to events or trends within and outside of this state, to dividends or savings
 25 to policyholders, members, or subscribers, and to all other factors and judgments deemed
 26 relevant by the insurer;

27 (2) CLASSIFICATION. Risks may be grouped by classifications for the establishment of
 28 rates and minimum premiums. Classification rates may be modified for individual risks
 29 in accordance with rating plans or schedules which establish standards for measuring
 30 probable variations in hazards or expenses, or both;

31 (3) EXPENSES. The expense provisions shall reflect the operating methods of the insurer
 32 and its own past expense experience and anticipated future expenses;

33 (4) CONTINGENCIES AND PROFITS. The rates may contain a provision for contingencies
 34 and a provision for a reasonable underwriting profit and may reflect investment income
 35 directly attributable to unearned premium and loss reserves; and

36 (5) OTHER RELEVANT FACTORS. Any other factors available at the time of hearing.

1 33-9-6.

2 ~~(a) With respect to any matters pertaining to the making of rates or rating systems, the~~
 3 ~~preparation or making of insurance policy or bond forms, underwriting rules, surveys,~~
 4 ~~inspections and investigations, the furnishing of loss or expense statistics or other~~
 5 ~~information and data, or carrying on of research, two or more admitted insurers having a~~
 6 ~~common ownership or operating in this state under common management or control are~~
 7 ~~authorized to act in concert between or among themselves the same as if they constituted~~
 8 ~~a single insurer; and to the extent that the matters relate to cosurety bonds, two or more~~
 9 ~~admitted insurers executing the bonds are authorized to act in concert between or among~~
 10 ~~themselves the same as if they constituted a single insurer~~ If the Commissioner determines
 11 that competition does not exist in a market and issues a ruling to that effect pursuant to
 12 Code Section 33-9-4, the rates applicable to insurance sold in that market shall be regulated
 13 in accordance with the provisions of Code Sections 33-9-5 through 33-9-8 applicable to
 14 noncompetitive markets.

15 (b) Any rate filing in effect at the time the Commissioner determines that competition does
 16 not exist pursuant to Code Section 33-9-4 shall be deemed to be in compliance with the
 17 laws of this state unless disapproved pursuant to the procedures and rating standards
 18 contained in Code Sections 33-9-5 through 33-9-8 applicable to noncompetitive markets.

19 (c) Any insurer having a rate filing in effect at the time the Commissioner determines that
 20 competition does not exist pursuant to Code Section 33-9-4 may be required to furnish
 21 supporting information within 30 days of a written request by the Commissioner.

22 33-9-7.

23 ~~(a) Agreements may be made among admitted insurers with respect to the equitable~~
 24 ~~apportionment among them of property and casualty insurance which may be afforded~~
 25 ~~applicants who are in good faith entitled to but who are unable to procure such insurance~~
 26 ~~through ordinary methods, and with respect to the use of reasonable rate modifications for~~
 27 ~~such insurance, such agreements to be subject to the approval of the Commissioner~~ Filings
 28 in competitive markets. For personal lines, every insurer shall file with the Commissioner
 29 all rates and supplementary rate information to be used in this state no later than 30 days
 30 after the effective date; provided, however, that such rates and supplementary rate
 31 information need not be filed for inland marine risks which by general custom are not
 32 written according to manual rules or rating plans.

33 ~~(b) All such agreements shall be submitted in writing to the Commissioner for his~~
 34 ~~consideration and approval together with such information as he may reasonably require.~~
 35 ~~The Commissioner shall approve only such agreements as are found by him to~~
 36 ~~contemplate the use of rates which meet the standards prescribed by this chapter and~~

1 activities and practices that are not unfair, unreasonable, or otherwise inconsistent with
2 this chapter Filings in noncompetitive markets.

3 (1) Every insurer shall file with the Commissioner all rates, supplementary rate
4 information, and supporting information for noncompetitive markets at least 30 days
5 before the proposed effective date. The Commissioner may give written notice, within
6 30 days of the receipt of the filing, that the Commissioner needs additional time, not to
7 exceed 30 days from the date of such notice, to consider the filing. Upon written
8 application of the insurer, the Commissioner may authorize rates to be effective before
9 the expiration of the waiting period or an extension thereof. A filing shall be deemed to
10 meet the requirements of this chapter and to become effective unless disapproved
11 pursuant to Code Section 33-9-8 by the Commissioner before the expiration of the
12 waiting period or an extension thereof. Residual market mechanisms or advisory
13 organizations may file residual market rates.

14 (2) The filing shall be deemed in compliance with the filing provisions of this Code
15 section unless the Commissioner informs the insurer within 10 days after receipt of the
16 filing as to what supplementary rate information or supporting information is required to
17 complete the filing.

18 ~~(c) At any time after such agreements are in effect, the Commissioner may review the~~
19 ~~practices and activities of the adherents to such agreements and, if after a hearing upon not~~
20 ~~less than ten days' notice to such adherents he finds that any such practice or activity is~~
21 ~~unfair or unreasonable or is otherwise inconsistent with this chapter, he may issue a written~~
22 ~~order to the parties to any such agreement specifying in what respect such act or practice~~
23 ~~is unfair or unreasonable or otherwise inconsistent with this chapter and requiring the~~
24 ~~discontinuance of such activity or practice. For good cause, and after hearing upon not less~~
25 ~~than ten days' notice to the adherents to such agreement, the Commissioner may revoke~~
26 ~~approval of any such agreement~~ Reference Filings. An insurer may file its rates by either
27 filing its final rates or by filing a multiplier and, if applicable, an expense constant
28 adjustment to be applied to prospective loss costs that have been filed by an advisory
29 organization on behalf of the insurer as permitted by Code Section 33-9-10.

30 (d) Filings open to inspection. All rates, supplementary rate information, and any
31 supporting information filed under this chapter shall be open to public inspection once they
32 have been filed. Copies may be obtained from the Commissioner upon request and upon
33 payment of a reasonable fee.

34 (e) Consent to rate. Notwithstanding any other provisions of this Code section, upon
35 written application of the insured, stating the reason therefor, a rate in excess of or below
36 that otherwise applicable may be used on any specific risk.

1 33-9-8.

2 ~~(a) Agreements shall be made among admitted property and casualty insurers with respect~~
 3 ~~to the equitable apportionment among them of property and casualty insurance which may~~
 4 ~~be afforded applicants who are in good faith entitled to but who are unable to procure such~~
 5 ~~insurance through ordinary methods upon the determination by the Commissioner in~~
 6 ~~writing that an agreement relative to a given kind or kinds of property and casualty~~
 7 ~~insurance is necessary to protect the health, property, and welfare of the citizens of~~
 8 ~~Georgia. All of the agreements shall be subject to the approval of the Commissioner and~~
 9 ~~upon his approval shall have the effect of rules and regulations promulgated by the~~
 10 ~~Commissioner Bases for disapproval.~~

11 (1) The Commissioner shall disapprove a rate in a competitive market only if the
 12 Commissioner finds pursuant to subsection (b) of this Code section that the rate is
 13 inadequate or unfairly discriminatory.

14 (2) The Commissioner may disapprove a rate for use in a noncompetitive market only
 15 if the Commissioner finds pursuant to subsection (b) of this Code section that the rate is
 16 excessive, inadequate, or unfairly discriminatory.

17 ~~(b) All of the agreements shall be submitted in writing to the Commissioner for his~~
 18 ~~consideration and approval within the period of time specified by the Commissioner in his~~
 19 ~~determination, as provided for in this Code section, together with such information as he~~
 20 ~~may reasonably require. The approval of the agreements shall comply with the~~
 21 ~~requirements of the rule-making process as set forth in Code Section 33-2-9, as now or~~
 22 ~~hereafter amended. The Commissioner shall approve only such agreements as are found~~
 23 ~~by him to contemplate the use of rates which meet the standards prescribed by this chapter~~
 24 ~~and activities and practices that are not unfair, unreasonable, or otherwise inconsistent with~~
 25 ~~this chapter Procedures for disapproval.~~

26 (1) Prior to the expiration of the waiting period or an extension thereof of a filing made
 27 pursuant to subsection (b) of Code Section 33-9-7, the Commissioner may disapprove by
 28 written order rates filed pursuant to subsection (b) of Code Section 33-9-7 without a
 29 hearing. The order shall specify in what respects such filing fails to meet the
 30 requirements of this chapter. Any insurer whose rates are disapproved under this Code
 31 section shall be given a hearing upon written request made within 30 days of disapproval.

32 (2) If, at any time, the Commissioner finds that a rate applicable to insurance sold in a
 33 noncompetitive market does not comply with the standards set forth in Code Section
 34 33-9-5, the Commissioner may, after a hearing held upon not less than 20 days' written
 35 notice, issue an order pursuant to subsection (c) of this Code section disapproving such
 36 rate. The hearing notice shall be sent to every insurer and advisory organization which
 37 adopted the rate and shall specify the matters to be considered at the hearing. The

1 disapproval order shall not affect any contract or policy made or issued prior to the
 2 expiration of the period set forth in such order. However, a policyholder shall have the
 3 privilege to cancel the policy containing the disapproved rates without penalty, including
 4 obtaining return premium calculated according to company pro rata schedules or waiver
 5 of minimum premium earned stipulations.

6 (3) If, at any time, the Commissioner finds that a rate applicable to insurance sold in a
 7 competitive market is inadequate, or unfairly discriminatory, the Commissioner may issue
 8 an order pursuant to subsection (c) of this Code section disapproving the rate. Such order
 9 shall not affect any contract or policy made or issued prior to the expiration period set
 10 forth in such order. However, a policyholder shall have the privilege to cancel the policy
 11 containing the disapproval rates without penalty, including obtaining return premium
 12 calculated according to company pro rata schedules or waiver of minimum premium
 13 earned stipulations.

14 ~~(c) If, as provided in this Code section, the Commissioner determines that it is necessary~~
 15 ~~to protect the health, property, and welfare of the citizens of this state, in addition to all~~
 16 ~~other authority granted in this title, the Commissioner shall also have and may exercise the~~
 17 ~~following authority:~~

18 ~~(1) The Commissioner may require that any rates contemplated to be used under this~~
 19 ~~Code section shall be approved by him prior to their use;~~

20 ~~(2) The Commissioner may declare that any policies, contracts, or rates used pursuant~~
 21 ~~to any agreement or plan established under this Code section shall be the exclusive~~
 22 ~~policies, contracts, or rates authorized to be used in Georgia for the kind or kinds of~~
 23 ~~insurance; and he may prohibit the use by any person of policies, contracts, or rates in this~~
 24 ~~state which are different from those established in accordance with this Code section; and~~

25 ~~(3) The Commissioner may amend or modify in whole or in part and may adopt any~~
 26 ~~agreement submitted to him in accordance with this Code section. If no agreement is~~
 27 ~~submitted within the time prescribed by the Commissioner or if after a hearing the~~
 28 ~~agreement submitted is unacceptable to the Commissioner, the Commissioner may on his~~
 29 ~~own motion promulgate and adopt a reasonable plan to implement this Code section~~
 30 ~~which plan shall become effective on a date not sooner than ten days as specified by the~~
 31 ~~Commissioner in his order Order of disapproval. If the Commissioner disapproves a rate~~
 32 ~~pursuant to subsection (b) of this Code section, the Commissioner shall issue an order~~
 33 ~~within 30 days of the close of the hearing specifying in what respects such rate fails to~~
 34 ~~meet the requirements of this chapter. The order shall state an effective date no sooner~~
 35 ~~than 30 business days after the date of the order when the use of such rate shall be~~
 36 ~~discontinued. This order shall not affect any policy made before the effective date of the~~
 37 ~~order. However, a policyholder shall have the privilege to cancel the policy containing~~

1 the disapproval rates without penalty, including obtaining return premium calculated
 2 according to company pro rata schedules or waiver of minimum premium earned
 3 stipulations.

4 ~~(d) At any time after the agreements are in effect the Commissioner may review the~~
 5 ~~practices and activities of the adherents to such agreements and, if after a hearing upon not~~
 6 ~~less than ten days' notice to such adherents, he finds that any such practice or activity is~~
 7 ~~unfair or unreasonable, or is otherwise inconsistent with this chapter, he may issue a~~
 8 ~~written order to the parties of the agreement specifying in what respect the act or practice~~
 9 ~~is unfair or unreasonable or otherwise inconsistent with this chapter and requiring the~~
 10 ~~discontinuance of the activity or practice. For good cause, and after hearing upon not less~~
 11 ~~than ten days' notice to the adherents thereto, the Commissioner may revoke approval of~~
 12 ~~the agreement Appeal of orders; establishment of reserves. If an order of disapproval is~~
 13 ~~appealed pursuant to Code Section 33-9-20, the insurer may implement the disapproved~~
 14 ~~rate upon notification to the court, in which case any excess of the disapproved rate over~~
 15 ~~a rate previously in effect shall be placed in a reserve established by the insurer. The court~~
 16 ~~shall have control over the disbursement of funds from such reserve. Such funds shall be~~
 17 ~~distributed as determined by the court in its final order except that de minimus refunds to~~
 18 ~~policyholders shall not be required.~~

19 ~~(e) Whenever the Commissioner determines that a lack of competition or a lack of~~
 20 ~~availability exists in this state in either property or casualty insurance, the Commissioner~~
 21 ~~is authorized to protect the health, property, and welfare of the citizens of this state by~~
 22 ~~exercising the following authority:~~

23 ~~(1) The Commissioner shall approve all rates contemplated to be used under this Code~~
 24 ~~section prior to their use;~~

25 ~~(2) The Commissioner shall approve any policies or contracts used pursuant to any~~
 26 ~~agreement or plan established under this Code section and such policies or contracts shall~~
 27 ~~be used exclusively in this state for those kinds of insurance. The use by any person of~~
 28 ~~any policies or contracts which are different from those established in accordance with~~
 29 ~~this Code section shall be prohibited; and~~

30 ~~(3) The Commissioner may by order implement a plan or program to provide the~~
 31 ~~necessary insurance coverages to the citizens of this state by equitable apportionment~~
 32 ~~among all property and casualty insurers licensed to transact those kinds of insurance in~~
 33 ~~this state.~~

34 ~~(f) The powers contained in this Code section are cumulative and shall be in addition to~~
 35 ~~all other powers of the Commissioner contained elsewhere in this title or under the laws~~
 36 ~~of this state.~~

1 33-9-9.

2 ~~Members and subscribers of rating or advisory organizations may use the rating systems,~~
 3 ~~underwriting rules, or policy or bond form of the organizations and the rates filed by such~~
 4 ~~organizations for all lines of insurance covered by the provisions of this chapter, either~~
 5 ~~consistently or intermittently, but, except as provided in Code Sections 33-9-3, 33-9-7,~~
 6 ~~33-9-19, and 33-9-20, shall not agree with each other or rating organizations or others to~~
 7 ~~adhere to such rates, rating systems, underwriting rules, or policy or bond form. The fact~~
 8 ~~that two or more admitted insurers, whether or not members or subscribers of a rating or~~
 9 ~~advisory organization, use, either consistently or intermittently, the rates or rating systems~~
 10 ~~made or adopted by a rating organization, or the underwriting rules or policy or bond forms~~
 11 ~~prepared by a rating or advisory organization shall not be sufficient in itself to support a~~
 12 ~~finding that an agreement so to adhere exists and may be used only for the purpose of~~
 13 ~~supplementing or explaining any competent evidence of the existence of the agreement (a)~~

14 A policy of insurance sold to a large commercial policyholder shall not be subject to the
 15 requirements of this chapter, including, but not limited to, Code Sections 33-9-4 through
 16 33-9-8. The forms and endorsements for any policy sold to a large commercial
 17 policyholder shall not be subject to filing and approval requirements.

18 (b) All policies issued pursuant to the provisions of this Code section shall contain a
 19 conspicuous disclaimer printed in at least ten-point, boldface type that states that the policy
 20 applied for, including the rates, rating plans, resulting premiums, and the policy forms, is
 21 not subject to the rate and form requirements of this state and other provisions of the
 22 insurance law that apply to other commercial products and may contain significant
 23 differences from a policy that is subject to all provisions of the insurance law. Such notice
 24 shall set forth possible differences in policy conditions, forms, and endorsements, as
 25 compared to a policy that is subject to all of the provisions of the insurance law. The
 26 format and provisions of such notice shall be prescribed by the Commissioner. The
 27 disclosure notice will also include a policyholder's acknowledgment statement, to be
 28 signed and dated prior to the effective date of the coverage, and shall remain on file with
 29 the insurer.

30 (c) In procuring insurance, a large commercial policyholder shall certify on a form
 31 approved by the department that it meets the eligibility requirements set out in subsection
 32 (a) of this Code section and specify the requirements that the policyholder has met. This
 33 certification is to be completed annually and remain on file with the insurer.

34 33-9-10.

35 ~~(a) Upon compliance with this chapter as applicable thereto, any rating organization,~~
 36 ~~advisory organization, and any group, association, or other organization of admitted~~

1 insurers which engages in joint underwriting or joint reinsurance through such organization
 2 or by standing agreement among the members thereof may conduct operations in this state.
 3 ~~With respect to insurance risks or operations in this state, no insurer shall be a member or~~
 4 ~~subscriber of any such organization, group, or association that has not complied with this~~
 5 ~~chapter. License required. No advisory organization shall provide any service relating to~~
 6 ~~the rates of any insurance subject to this chapter, and no insurer shall utilize the services~~
 7 ~~of such organization for such purposes, unless the organization obtained a license under~~
 8 ~~this Code section.~~

9 (b) Availability of services. No advisory organization shall refuse to supply any services
 10 for which it is licensed in this state to any insurer authorized to do business in this state and
 11 offering to pay the fair and usual compensation for the services.

12 (c) Licensing.

13 (1) APPLICATION. An advisory organization applying for a license shall include with its
 14 application:

15 (A) A copy of its constitution, charter, articles of association or incorporation, bylaws,
 16 and any other rules or regulations governing the conduct of its business;

17 (B) A list of its members and subscribers;

18 (C) The name and address of one or more residents of this state upon whom notices,
 19 process affecting it, or orders of the Commissioner may be served;

20 (D) A statement showing its technical qualifications for acting in the capacity for
 21 which it seeks a license;

22 (E) A biography of the ownership and management of the organization; and

23 (F) Any other relevant information and documents that the Commissioner may require.

24 (2) CHANGE IN CIRCUMSTANCES. Every advisory organization which has applied for a
 25 license shall promptly notify the Commissioner of every material change in the facts or
 26 in the documents on which its application was based.

27 (3) GRANTING OF LICENSE. If the Commissioner finds that the applicant and the natural
 28 persons through which it acts are competent, trustworthy, and technically qualified to
 29 provide the services proposed and that all requirements of law are met, the Commissioner
 30 shall issue a license specifying the authorized activity of the applicant.

31 (4) DURATION. Licenses issued pursuant to this Code section shall remain in effect until
 32 the licensee withdraws from the state or until the license is suspended or revoked. The
 33 Commissioner may at any time, after a hearing, revoke or suspend the license of an
 34 advisory organization that does not comply with the requirements and standards of this
 35 chapter.

1 33-9-11.

2 ~~Cooperation among rating organizations or among rating organizations and insurers in rate~~
3 ~~making or in other matters within the scope of this chapter is authorized. The~~
4 ~~Commissioner may review the cooperative activities and practices and, if after a hearing~~
5 ~~he finds that the activity or practice is unfair or unreasonable or otherwise inconsistent with~~
6 ~~this chapter, he may issue a written order specifying in what respects the activity or~~
7 ~~practice is unfair or unreasonable or otherwise inconsistent with this chapter and requiring~~
8 ~~the discontinuance of the activity or practice: Any advisory organization, in addition to~~
9 ~~other activities not prohibited, is authorized on behalf of its members and subscribers to:~~

10 (1) Develop statistical plans including, but not limited to, territorial and class definitions;

11 (2) Collect statistical data from members, subscribers, or any other sources;

12 (3) Prepare and distribute prospective loss costs which may include provisions for
13 special assessments and taxes;

14 (4) Prepare and distribute factors, calculations, or formulas pertaining to classification,
15 territory, increased limits, and other variables;

16 (5) Prepare and distribute manuals of rating rules and rating schedules that do not include
17 final rates, expense provisions, profit provisions, or minimum premiums;

18 (6) Distribute information that is required or directed to be filed with the Commissioner;

19 (7) Conduct research and on-site inspections in order to prepare classifications of public
20 fire defenses and other exposures;

21 (8) Consult with public officials regarding public fire protection as it would affect
22 members, subscribers, and others;

23 (9) Conduct research and collect statistics in order to discover, identify, and classify
24 information relating to causes or prevention of losses;

25 (10) Conduct research and collect information relating to the impact of statutory changes
26 upon prospective loss costs and special assessments;

27 (11) Prepare, file, and distribute policy forms and endorsements and consult with
28 members, subscribers, and others relative to their use and application;

29 (12) Conduct research and on-site inspections for the purpose of providing risk
30 information relating to individual risks;

31 (13) Conduct on-site inspections to determine rating classifications for individual
32 insureds;

33 (14) Collect, compile, and distribute past and current prices of individual insurers and
34 publish such information, provided such information, is also made available to the
35 general public for a reasonable price;

36 (15) Collect and compile exposure and loss experience for the purpose of individual risk
37 experience ratings;

1 (16) File final rates, at the direction of the Commissioner, for residual market
 2 mechanisms; and

3 (17) Furnish any other services, as approved or directed by the Commissioner, related
 4 to those enumerated in this Code section.

5 33-9-12.

6 ~~(a) No rating organization shall conduct its operations in this state without first filing with~~
 7 ~~the Commissioner a written application for and securing a license to act as a rating~~
 8 ~~organization. Any rating organization may make application for and obtain a license as a~~
 9 ~~rating organization if it shall meet the requirements for a license set forth in this chapter.~~

10 ~~Every rating organization shall file with its application:~~

11 ~~(1) A copy of its constitution, its articles of incorporation, agreement or association, and~~
 12 ~~of its bylaws, rules, and regulations governing the conduct of its business, all duly~~
 13 ~~certified by the custodian of the originals of the constitution, articles of incorporation,~~
 14 ~~agreement or association, bylaws, rules, and regulations;~~

15 ~~(2) A list of its members and subscribers;~~

16 ~~(3) The name and address of a resident of this state upon whom notices or orders of the~~
 17 ~~Commissioner or process affecting the rating organization may be served; and~~

18 ~~(4) A statement of its qualifications as a rating organization~~ Except as specifically
 19 permitted under this chapter, no advisory organization shall compile or distribute
 20 recommendations relating to rates that include expenses, other than loss adjustment
 21 expenses, or profit.

22 ~~(b) The fee for filing an application for license as a rating organization shall be an amount~~
 23 ~~as provided in Code Section 33-8-1, payable in advance to the Commissioner~~ No insurer
 24 or advisory organization shall attempt to monopolize or combine or conspire with any other
 25 person to monopolize an insurance market in this state. No insurers or advisory
 26 organization shall engage in a boycott, on a concerted basis, of an insurance market.

27 (c) Except as otherwise provided in this chapter, no insurer shall agree with any other
 28 insurer or with an advisory organization to adhere to or use any rate, supplementary rate
 29 information, policy, surveys, inspections, or similar material except as needed to develop
 30 statistical plans or facilitate the reporting of statistics pursuant to this chapter.

31 (d) The fact that two or more insurers, whether or not members or subscribers of any
 32 advisory organization, use consistently or intermittently the same rates, supplementary rate
 33 information policy, or bond forms, surveys, inspections, or similar materials is not
 34 sufficient in itself to support a finding that an illegal agreement exists and may be used
 35 only for the purpose of supplementing or explaining other direct evidence of the existence
 36 of any such agreement.

1 (e) Two or more insurers having a common ownership or operating in this state under
 2 common management or control may act in concert between or among themselves with
 3 respect to any matters pertaining to activities authorized in this chapter as if they
 4 constituted a single insurer.

5 33-9-13.

6 (a) To obtain and retain a license, a rating organization shall provide satisfactory evidence
 7 to the Commissioner that it will:

8 ~~(1) Permit any admitted insurer to become a member of or a subscriber to such rating~~
 9 ~~organization at a reasonable cost and without discrimination, or withdraw therefrom;~~

10 ~~(2) Neither have nor adopt any rule or exact any agreement the effect of which would be~~
 11 ~~to require any member or subscriber, as a condition to membership or subscribership, to~~
 12 ~~adhere to its rates, rating plans, rating systems, underwriting rules, or policy or bond~~
 13 ~~forms;~~

14 ~~(3) Neither adopt any rule nor exact any agreement the effect of which would be to~~
 15 ~~prohibit or regulate the payment of dividends, savings, or unabsorbed premium deposits~~
 16 ~~allowed or returned by insurers to their policyholders, members, or subscribers;~~

17 ~~(4) Neither practice nor sanction any plan or act of boycott, coercion, or intimidation;~~

18 ~~(5) Neither enter into nor sanction any contract or act by which any person is restrained~~
 19 ~~from lawfully engaging in the insurance business;~~

20 ~~(6) Notify the Commissioner promptly of every change in its constitution, its articles of~~
 21 ~~incorporation, agreement or association, and of its bylaws, rules, and regulations~~
 22 ~~governing the conduct of its business; its list of members and subscribers; and the name~~
 23 ~~and address of the resident of this state designated by it upon whom notices or orders of~~
 24 ~~the Commissioner or process affecting such organization may be served; and~~

25 ~~(7) Comply with Code Section 33-9-20~~ Insurers and advisory organizations shall file
 26 with the Commissioner, and the Commissioner shall review, reasonable rules and plans
 27 for recording and reporting of loss and expense experience. The Commissioner may
 28 designate one or more advisory organizations to assist in gathering such experience and
 29 making compilations thereof. Except as provided in subsection (c) of this Code section,
 30 no insurer shall be required to record or report its experience in a manner inconsistent
 31 with its own rating system.

32 (b) The Commissioner and every insurer and advisory organization may exchange
 33 information and experience data with insurance regulatory officials, insurers, and advisory
 34 organizations, in this and other states and may consult with them with respect to the
 35 collection of statistical data and the application of rating systems.

1 (c) Each workers' compensation insurer shall adhere to the uniform classification system
 2 and uniform experience rating plan as submitted to the Commissioner by the advisory
 3 organization. An insurer may develop subclassifications of the uniform classification
 4 system, upon which a rate may be made; provided, however, that such subclassifications
 5 must be filed on an informational basis only with the Commissioner 30 days prior to their
 6 use. The Commissioner shall disapprove subclassifications only if the insurer fails to
 7 demonstrate that the data thereby produced can be reported consistent with the uniform
 8 statistical plan and classification system. Each workers' compensation insurer shall report
 9 its experience in accordance with the statistical plans and other reporting requirements in
 10 use by the advisory organization designated by the Commissioner. The advisory
 11 organization shall develop and file rules reasonably related to the recording and reporting
 12 of data pursuant to the uniform statistical plan, uniform experience rating plan, and the
 13 uniform classification system.

14 33-9-14.

15 ~~(a) The Commissioner shall examine each application for license to act as a rating~~
 16 ~~organization and the documents filed therewith and may make such further investigation~~
 17 ~~of the applicant, its affairs, and its proposed plan of business as he deems desirable *Acting*~~
 18 ~~*in concert*. Notwithstanding the provisions of Code Section 33-9-11, insurers participating~~
 19 ~~*in joint underwriting, pools, or residual market mechanisms may act in cooperation with*~~
 20 ~~*each other in the making of rates, rating systems, supplementary rate information, policy*~~
 21 ~~*or bond forms, underwriting rules, surveys, inspections, and investigations, the furnishing*~~
 22 ~~*of loss and expense statistics or other information, and conducting research. Joint*~~
 23 ~~*underwriting, pools, and residual market mechanisms shall not be deemed advisory*~~
 24 ~~*organizations.*~~

25 ~~(b) The Commissioner shall issue the license applied for within 60 days of its filing with~~
 26 ~~him, if from such examination and investigation he is satisfied that: *Regulation.*~~

27 ~~(1) The business reputation of the applicant and its officers is good; If, after notice and~~
 28 ~~hearing, the Commissioner finds that any activity or practice of an insurer participating~~
 29 ~~in a joint underwriting or pooling mechanism is unfair or unreasonable, will tend to~~
 30 ~~substantially lessen competition in any market, or is otherwise inconsistent with the~~
 31 ~~provisions or purposes of this chapter and all other applicable statutes, the Commissioner~~
 32 ~~may issue a written order specifying in what respects such activity or practice is unfair,~~
 33 ~~unreasonable, anticompetitive, or otherwise inconsistent with the provisions of this~~
 34 ~~chapter and all other applicable statutes and require the discontinuance of such activity~~
 35 ~~or practice.~~

1 ~~(2) The facilities of the applicant are adequate to enable it to furnish the services it~~
 2 ~~proposes to furnish; and Every pool shall file with the Commissioner a copy of its~~
 3 ~~constitution, articles of incorporation, agreement, or association, bylaws, rules and~~
 4 ~~regulations governing its activities, its members, the name and address of a resident of~~
 5 ~~this state upon whom notices, process, and orders of the Commissioner may be served,~~
 6 ~~and any changes or modifications thereof.~~

7 ~~(3) The applicant and its proposed plan of operation conform to the requirements of this~~
 8 ~~chapter. Any residual market mechanism, plan, or agreement to implement such a~~
 9 ~~mechanism, and any changes or amendments thereto, shall be submitted in writing to the~~
 10 ~~Commissioner for approval, together with such information as may be reasonably~~
 11 ~~required. The Commissioner shall approve such agreements if they foster:~~

12 ~~(A) The use of rates which meet the standards prescribed by this chapter and all other~~
 13 ~~applicable statutes; and~~

14 ~~(B) Activities and practices not inconsistent with the provisions of this chapter and all~~
 15 ~~other applicable statutes.~~

16 ~~(4) The Commissioner may review the operations of all residual market mechanisms to~~
 17 ~~determine compliance with the provisions of this chapter and all other applicable statutes.~~
 18 ~~If, after notice and hearing, the Commissioner finds that such mechanisms are violating~~
 19 ~~the provisions of this chapter or any other applicable statutes, the Commissioner may~~
 20 ~~issue a written order to the parties involved specifying in what respects such operations~~
 21 ~~violate the provisions of this chapter or any other applicable statutes. The Commissioner~~
 22 ~~may further order the discontinuance or elimination of any such operation.~~

23 ~~(c) Otherwise, but only after hearing upon notice, the Commissioner shall in writing deny~~
 24 ~~the application and notify the applicant of his decision and his reasons therefor.~~

25 ~~(d) The Commissioner may grant an application in part only and issue a license to act as~~
 26 ~~a rating organization for one or more of the classes of insurance or subdivisions thereof or~~
 27 ~~class of risk or a part or combination thereof as are specified in the application if the~~
 28 ~~applicant qualifies for only a portion of the classes applied for.~~

29 ~~(e) Licenses issued pursuant to this Code section shall remain in effect until revoked as~~
 30 ~~provided in this chapter.~~

31 33-9-15.

32 ~~(a) Notwithstanding Code Section 33-9-14, each rating organization possessing a license~~
 33 ~~of indefinite term pursuant to such Code section shall owe and pay to the Commissioner~~
 34 ~~an annual fee as provided in Code Section 33-8-1 in advance on account of such license~~
 35 ~~until its final termination. Such fee shall be for periods commencing on July 1 of each year~~
 36 ~~and ending on June 30 and shall be due and payable on March 1 of each year and shall be~~

1 ~~delinquent on April 1 of each year~~ Agreements shall be made among admitted property and
2 casualty insurers with respect to the equitable apportionment among them of property and
3 casualty insurance which may be afforded applicants who are in good faith entitled to but
4 who are unable to procure such insurance through ordinary methods upon the
5 determination by the Commissioner in writing that an agreement relative to a given kind
6 or kinds of property and casualty insurance is necessary to protect the health, property, and
7 welfare of the citizens of Georgia. All of the agreements shall be subject to the approval
8 of the Commissioner and upon his or her approval shall have the effect of rules and
9 regulations promulgated by the Commissioner.

10 (b) All of the agreements shall be submitted in writing to the Commissioner for his or her
11 consideration and approval within the period of time specified by the Commissioner in his
12 or her determination, as provided for in this Code section, together with such information
13 as he or she may reasonably require. The approval of the agreements shall comply with
14 the requirements of the rule-making process as set forth in Code Section 33-2-9, as now or
15 hereafter amended. The Commissioner shall approve only such agreements as are found
16 by him or her to contemplate the use of rates which meet the standards prescribed by this
17 chapter and activities and practices that are not unfair, unreasonable, or otherwise
18 inconsistent with this chapter.

19 (c) If, as provided in this Code section, the Commissioner determines that it is necessary
20 to protect the health, property, and welfare of the citizens of this state, in addition to all
21 other authority granted in this title, the Commissioner shall also have and may exercise the
22 following authority:

23 (1) The Commissioner may require that any rates contemplated to be used under this
24 Code section shall be approved by him or her prior to their use;

25 (2) The Commissioner may declare that any policies, contracts, or rates used pursuant
26 to any agreement or plan established under this Code section shall be the exclusive
27 policies, contracts, or rates authorized to be used in Georgia for the kind or kinds of
28 property and casualty insurance; and he or she may prohibit the use by any person of
29 policies, contracts, or rates in this state which are different from those established in
30 accordance with this Code section; and

31 (3) The Commissioner may amend or modify in whole or in part and may adopt any
32 agreement submitted to him or her in accordance with this Code section. If no
33 agreement is submitted within the time prescribed by the Commissioner or if after a
34 hearing the agreement submitted is unacceptable to the Commissioner, the Commissioner
35 may on his or her own motion promulgate and adopt a reasonable plan to implement this
36 Code section which plan shall become effective on a date not sooner than ten days after
37 such motion as specified by the Commissioner in his or her order.

1 (d) At any time after the agreements are in effect, the Commissioner may review the
2 practices and activities of the adherents to such agreements and, if after a hearing upon not
3 less than ten days' notice to such adherents, he or she finds that any such practice or
4 activity is unfair or unreasonable, or is otherwise inconsistent with this chapter, he or she
5 may issue a written order to the parties of the agreement specifying in what respect the
6 practice or act is unfair or unreasonable or otherwise inconsistent with this chapter and
7 requiring the discontinuance of the practice or activity. For good cause, and after hearing
8 upon not less than ten days' notice to the adherents thereto, the Commissioner may revoke
9 approval of the agreement.

10 (e) Whenever the Commissioner determines that a lack of competition or a lack of
11 availability exists in this state in either property or casualty insurance, the Commissioner
12 is authorized to protect the health, property, and welfare of the citizens of this state by
13 exercising the following authority:

14 (1) The Commissioner shall approve all rates contemplated to be used under this Code
15 section prior to their use;

16 (2) The Commissioner shall approve any policies or contracts used pursuant to any
17 agreement or plan established under this Code section, and such policies or contracts shall
18 be used exclusively in this state for those kinds of insurance. The use by any person of
19 any policies or contracts which are different from those established in accordance with
20 this Code section shall be prohibited; and

21 (3) The Commissioner may by order implement a plan or program to provide the
22 necessary insurance coverages to the citizens of this state by equitable apportionment
23 among all property and casualty insurers licensed to transact those kinds of insurance in
24 this state.

25 (f) The powers contained in this Code section are cumulative and shall be in addition to
26 all other powers of the Commissioner contained elsewhere in this title or under the laws
27 of this state.

28 33-9-16.

29 (a) Subject to the approval of the Commissioner, licensed rating organizations may make
30 reasonable rules governing eligibility for membership. The Commissioner may examine any
31 insurer, pool, advisory organization, or residual market mechanism to ascertain compliance
32 with this chapter.

33 (b) Every insurer, pool, advisory organization, and residual market mechanism shall
34 maintain adequate records from which Commissioner may determine compliance with the
35 provisions of this chapter. Such records shall contain the experience, data, statistics, and

1 other information collected or used and shall be available to the Commissioner for
 2 examination or inspection upon reasonable notice.

3 (c) The reasonable cost of an examination made pursuant to this Code section shall be paid
 4 by the examined party upon presentation to it of a detailed account of such costs.

5 (d) The Commissioner may accept the report of an examination made by the insurance
 6 supervisory official of another state in lieu of an examination under this Code section.

7 33-9-17.

8 ~~If two or more insurers having a common ownership or operating in this state under~~
 9 ~~common management are admitted for the classes or types of insurance for which a rating~~
 10 ~~organization is licensed to make rates, the rating organization may require as a condition~~
 11 ~~to membership or subscribership of one or more that all the insurers shall become members~~
 12 ~~or subscribers~~ The Commissioner may, after public notice and hearing, exempt any line of
 13 insurance from any or all of the provisions of this chapter for the purpose of relieving such
 14 line of insurance from filing or any otherwise applicable provisions of this chapter.

15 33-9-18.

16 ~~(a) No advisory organization shall conduct its operations in this state unless and until it has~~
 17 ~~filed with the Commissioner a copy of its constitution, articles of incorporation, agreement,~~
 18 ~~or association, and of its bylaws or rules and regulations governing its activities, all duly~~
 19 ~~certified by the custodian of the originals of the constitution, articles of incorporation,~~
 20 ~~agreement or association, and bylaws or rules and regulations; a list of its members and~~
 21 ~~subscribers; and the name and address of a resident of this state upon whom notices or~~
 22 ~~orders of the Commissioner or process may be served~~ Nothing in this chapter shall be
 23 construed to prohibit or regulate the payment of dividends, savings, or unabsorbed
 24 premium deposits allowed or returned by insurers to their policyholders, members, or
 25 subscribers. A plan for the payment of dividends, savings, or unabsorbed premium
 26 deposits allowed or returned by insurers to their policyholders, members, or subscribers
 27 shall not be deemed a rating plan or system.

28 ~~(b) Each advisory organization shall notify the Commissioner promptly of every change~~
 29 ~~in its constitution, its articles of incorporation, agreement, or association, and of its bylaws~~
 30 ~~or rules and regulations governing the conduct of its business; its list of members and~~
 31 ~~subscribers; and the name and address of the resident of this state designated by it upon~~
 32 ~~whom notices or orders of the Commissioner or process affecting the organization may be~~
 33 ~~served.~~

34 ~~(c) No advisory organization shall engage in any unfair or unreasonable practice with~~
 35 ~~respect to its activities.~~

1 ~~(d) Each advisory organization shall pay an annual fee as provided in Code Section 33-8-1.~~
 2 ~~33-9-19.~~

3 ~~(a) Every group, association, or other organization of insurers which engages in joint~~
 4 ~~underwriting or joint reinsurance through the group, association, or organization or by~~
 5 ~~standing agreement among the members of the group, association, or organization shall file~~
 6 ~~with the Commissioner a copy of its constitution, its articles of incorporation, agreement,~~
 7 ~~or association, and of its bylaws or rules and regulations governing its activities, all duly~~
 8 ~~certified by the custodian of the originals of such constitution, articles of incorporation,~~
 9 ~~agreement or association, bylaws or rules and regulations, a list of its members, and the~~
 10 ~~name and address of a resident of this state upon whom notices or orders of the~~
 11 ~~Commissioner or process may be served The Commissioner may impose, after notice and~~
 12 ~~hearing, a penalty determined in accordance with Code Section 33-2-24.~~

13 ~~(b) Each group, association, or other organization shall notify the Commissioner promptly~~
 14 ~~of every change in its constitution, its articles of incorporation, agreement, or association,~~
 15 ~~and its bylaws, rules, and regulations governing the conduct of its business; its list of~~
 16 ~~members; and the name and address of the resident of this state designated by it upon~~
 17 ~~whom notices or orders of the Commissioner or process affecting the group, association,~~
 18 ~~or organization may be served Technical violations arising from systems or computer~~
 19 ~~errors of the same type shall be treated as a single violation. In the event of an overcharge,~~
 20 ~~if the insurer makes restitution including payment of interest, no penalty shall be imposed.~~

21 ~~(c) No group, association, or organization shall engage in any unfair or unreasonable~~
 22 ~~practice with respect to its activities The Commissioner may suspend or revoke the license~~
 23 ~~of any insurer, advisory organization, or statistical agent which fails to comply with an~~
 24 ~~order of the Commissioner within the time prescribed by such order or any extension~~
 25 ~~thereof which the Commissioner may grant.~~

26 ~~(d) Each joint underwriting and joint reinsurance organization shall pay an annual fee as~~
 27 ~~provided in Code Section 33-8-1 The Commissioner may determine when a suspension of~~
 28 ~~license shall become effective and the period of such suspension, which the Commissioner~~
 29 ~~may modify or rescind in any reasonable manner.~~

30 ~~(e) No penalty shall be imposed and no license shall be suspended or revoked except upon~~
 31 ~~a written order of the Commissioner, stating his or her findings, made after notice and~~
 32 ~~hearing.~~

33 ~~33-9-20.~~

34 ~~(a) Every insurer, rating organization, or advisory organization and every group,~~
 35 ~~association, or other organization of insurers which engages in joint underwriting or joint~~

1 ~~reinsurance shall maintain reasonable records of the type and kind reasonably adapted to~~
 2 ~~its method of operation, of its experience or the experience of its members, and of the data,~~
 3 ~~statistics, or information collected or used by it in connection with the rates, rating plans,~~
 4 ~~rating systems, underwriting rules, policy or bond forms, surveys, or inspections made or~~
 5 ~~used by it so that the records will be available at all reasonable times to enable the~~
 6 ~~Commissioner to determine whether the organization, insurer, group, or association and,~~
 7 ~~in the case of an insurer or rating organization, every rate, rating plan, and rating system~~
 8 ~~made or used by it complies with this chapter as applicable to it. The maintenance of the~~
 9 ~~records in the office of a licensed rating organization of which an insurer is a member or~~
 10 ~~subscriber will be sufficient compliance with this Code section for any insurer maintaining~~
 11 ~~membership or subscribership in the organization to the extent that the insurer uses the~~
 12 ~~rates, rating plans, rating systems, or underwriting rules of the organization. Such records~~
 13 ~~shall be maintained in an office within this state and shall be made available for~~
 14 ~~examination or inspection by the Commissioner at any time.~~

15 (b) ~~Each insurer shall maintain statistics under statistical plans compatible with the rating~~
 16 ~~plans used. An insurer shall report its statistics through a recognized statistical agency or~~
 17 ~~advisory organization. No insurer shall be required to report its statistics through such~~
 18 ~~agencies or organizations with respect to any unique or unusual risks or with respect to any~~
 19 ~~risks rated in accordance with Code Section 33-9-32 or any lines or sublines of insurance~~
 20 ~~for which such agencies or organizations do not promulgate rates or rating systems.~~
 21 ~~Moreover, the Commissioner shall withhold from public inspection any proprietary~~
 22 ~~information of any insurer, agency, or organization Any order, ruling, finding, decision, or~~
 23 ~~other act of the Commissioner made pursuant to this chapter shall be subject to judicial~~
 24 ~~review in accordance with Chapter 2 of this title.~~

25 33-9-21.

26 (a) ~~Every insurer shall maintain with the Commissioner copies of the rates, rating plans,~~
 27 ~~rating systems, underwriting rules, and policy or bond forms used by it. The maintenance~~
 28 ~~of rates, rating plans, rating systems, underwriting rules, and policy or bond forms with the~~
 29 ~~Commissioner by a licensed rating organization of which an insurer is a member or~~
 30 ~~subscriber will be sufficient compliance with this Code section for any insurer maintaining~~
 31 ~~membership or subscriberships in such organization, to the extent that the insurer uses the~~
 32 ~~rates, rating plans, rating systems, underwriting rules, and policy or bond forms of such~~
 33 ~~organization; provided, however, the Commissioner, when he or she deems it necessary,~~
 34 ~~without compliance with the rule-making procedures of this title or Chapter 13 of Title 50,~~
 35 ~~the 'Georgia Administrative Procedure Act'.~~

1 ~~(1) May require any domestic, foreign, and alien insurer to file the required rates, rating~~
 2 ~~plans, rating systems, underwriting rules, and policy or bond forms used independent of~~
 3 ~~any filing made on its behalf or as a member of a licensed rating organization, as the~~
 4 ~~Commissioner shall deem to be necessary to ensure compliance with the standards of this~~
 5 ~~chapter and Code Section 34-9-130 and for the best interests of the citizens of this state;~~

6 ~~(2) Shall require, not later than July 30, 1990, each domestic, foreign, and alien insurer,~~
 7 ~~writing or authorized to write workers' compensation insurance in this state, to file such~~
 8 ~~insurer's own individual rate filing for premium rates to be charged for workers'~~
 9 ~~compensation insurance coverage written in this state. Such premium rates shall be~~
 10 ~~developed and established based upon each individual insurer's experience in the State~~
 11 ~~of Georgia to the extent actuarially credible. The experience filed shall include the loss~~
 12 ~~ratios, reserves, reserve development information, expenses including commissions paid~~
 13 ~~and dividends paid, investment income, pure premium data adjusted for loss development~~
 14 ~~and loss trending, profits, and all other data and information used by that insurer in~~
 15 ~~formulating its workers' compensation premium rates which are used in this state and any~~
 16 ~~other information or data required by the Commissioner. In establishing and maintaining~~
 17 ~~loss reserves, no workers' compensation insurer shall be allowed to maintain any excess~~
 18 ~~loss reserve for any claim or potential claim for more than 90 days after the amount of~~
 19 ~~liability for such claim or potential claim has been established, whether by final~~
 20 ~~judgment, by settlement agreement, or otherwise. This limitation on the maintenance of~~
 21 ~~loss reserves shall be enforced through this Code section, as well as through Code Section~~
 22 ~~33-9-23, relating to examination of insurers, Code Section 34-9-135, relating to required~~
 23 ~~disclosure of costs by workers' compensation insurers, and any other appropriate~~
 24 ~~enforcement procedures. The Commissioner is authorized to accept such rate~~
 25 ~~classifications as are reasonable and necessary for compliance with this chapter. A rate~~
 26 ~~filing required by this paragraph shall be updated by the insurer at least once every two~~
 27 ~~years, the initial two-year period to be calculated from July 30, 1990; and~~

28 ~~(3) As used in paragraph (2) of this subsection, the term 'excess loss reserve' means any~~
 29 ~~reserve amount in excess of the reserve required by law Notice requirements. All notices~~
 30 ~~rendered pursuant to the provisions of this chapter shall be in writing and shall state~~
 31 ~~clearly the nature and purpose of the hearing. All relevant facts, statutes, and rules shall~~
 32 ~~be specified so that respondent is fully informed of the scope of the hearing including~~
 33 ~~specific allegations, if any. If a hearing is required, all notices shall designate a hearing~~
 34 ~~date at least 14 days from the date of the notice unless such minimum notice period is~~
 35 ~~waived by the respondent.~~

36 (b) Any domestic, foreign, or alien insurer that is authorized to write insurance in this state
 37 must file with the Commissioner any rate, rating plan, rating system, or underwriting rule

1 for all personal private passenger motor vehicle insurance. No such rate, rating plan, rating
2 system, or underwriting rule will become effective, nor may any premium be collected by
3 any insurer thereunder, unless the filing has been received by the Commissioner in his or
4 her office and such filing has been approved by the Commissioner or a period of 45 days
5 has elapsed from the date such filing was received by the Commissioner during which time
6 such filing has not been disapproved by the Commissioner. The Commissioner shall be
7 authorized to extend such 45 day period by no more than 55 days at his or her discretion.
8 If a filing is disapproved, notice of such disapproval order shall be given within 100 days
9 of receipt of filing by the Commissioner, specifying in what respects such filing fails to
10 meet the requirements of this chapter. The filer shall be given a hearing upon written
11 request made within 30 days after the issuance of the disapproval order, and such hearing
12 shall commence within 30 days after such request unless postponed by mutual consent.
13 Such hearing, once commenced, may be postponed or recessed by the Commissioner only
14 for weekends, holidays, or after normal working hours or at any time by mutual consent
15 of all parties to the hearing. The Commissioner may also, at his or her discretion, recess
16 any hearing for not more than two recess periods of up to 15 consecutive days each. In
17 connection with any hearing or judicial review with respect to the approval or disapproval
18 of such rates, the burden of persuasion shall fall upon the affected insurer or insurers to
19 establish that the challenged rates are adequate, not excessive, and not unfairly
20 discriminatory. After such a hearing, the Commissioner must affirm, modify, or reverse
21 his or her previous action within the time period provided in subsection (a) of Code Section
22 33-2-23 relative to orders of the Commissioner. The requirement of approval or
23 disapproval of a rate filing by the Commissioner under this subsection shall not prohibit
24 actions by the Commissioner regarding compliance of such rate filing with the
25 requirements of Code Section 33-9-4 brought after such approval or disapproval Hearings.
26 All hearings pursuant to the provisions of this chapter shall be conducted in accordance
27 with Chapter 13 of Title 50, the Georgia Administrative Procedures Act, to the extent such
28 provisions are consistent with the procedural requirements contained in this chapter.

29 (c) When a rate filing of an insurer required under subsection (b) of this Code section is
30 not accompanied by the information upon which the insurer supports the filing and the
31 Commissioner does not have sufficient information to determine whether the filing meets
32 the requirements of this chapter, then the Commissioner must request in writing, within 20
33 days of the date he or she receives the filing, the specifics of such additional information
34 as he or she requires and the insurer shall be required to furnish such information and in
35 such event the 45 day period provided for in subsection (b) of this Code section shall
36 commence as of the date such information is furnished.

1 ~~(d) Any domestic, foreign, or alien insurer that is authorized to write insurance in this state~~
2 ~~must file with the Commissioner any rate, rating plan, rating system, or underwriting rule~~
3 ~~at least 45 days prior to any indicated effective date for all insurance other than personal~~
4 ~~private passenger motor vehicle insurance. No rate, rating plan, rating system, or~~
5 ~~underwriting rule required to be filed under this subsection will become effective, nor may~~
6 ~~any premium be collected by any insurer thereunder, unless the filing has been received by~~
7 ~~the Commissioner in his office not less than 45 days prior to its effective date.~~

8 ~~(e) When a rate filing of an insurer required under subsection (d) of this Code section~~
9 ~~results in any overall rate increase of 10 percent or more within any 12 month period, the~~
10 ~~Commissioner shall order an examination of that insurer to determine the accuracy of the~~
11 ~~claim reserves, the applicability of the claim reserve practices for the loss data used in~~
12 ~~support of such filing, and any other component of the rate filing; provided, however, that~~
13 ~~in the event the overall increase is less than 25 percent within any 12 month period and the~~
14 ~~Commissioner affirmatively determines that he or she has sufficient information to evaluate~~
15 ~~such rate increase and that the cost thereof would not be justified, he or she may waive all~~
16 ~~or part of such examination. In all other rate filings required under subsection (d) of this~~
17 ~~Code section, the Commissioner may order an examination of that insurer as provided in~~
18 ~~this subsection. Such examination shall be conducted in accordance with the provisions~~
19 ~~of Chapter 2 of this title. Upon notification by the Commissioner of his or her intent to~~
20 ~~conduct such examination, the insurer shall be prohibited from placing the rates so filed in~~
21 ~~effect until such examination has been reviewed and certified by the Commissioner as~~
22 ~~being complete. Such examination, if conducted by the Commissioner, shall be reviewed~~
23 ~~and certified within 90 days of the date such rate, rating plan, rating system, or~~
24 ~~underwriting rule is filed; provided, however, if the Commissioner makes an affirmative~~
25 ~~finding that the examination may not be completed within the 90 day period, he or she may~~
26 ~~extend such time for one additional 60 day period. Any examination required under this~~
27 ~~Code section shall be conducted in accordance with Chapter 2 of this title.~~

28 ~~(f) Notwithstanding the provisions of subsection (d) of this Code section, in the event the~~
29 ~~filing of any rate, rating plan, rating system, or underwriting rule under subsection (d) of~~
30 ~~this Code section is not necessary, in the judgment of the Commissioner, to accomplish the~~
31 ~~purposes of this chapter as set forth in Code Section 33-9-1, then the Commissioner may~~
32 ~~exempt all domestic, foreign, and alien insurers from being required to file such rate, rating~~
33 ~~plan, rating system, or underwriting rule.~~

34 ~~(g) Filings required pursuant to this Code section shall be accompanied by a fee or fees as~~
35 ~~provided in Code Section 33-8-1.~~

1 ~~33-9-21.1.~~

2 ~~In order to facilitate the handling of form and rate filings of certain types of miscellaneous~~
3 ~~casualty insurance which prior to July 1, 1995, has been filed generally under paragraph~~
4 ~~(10) of Code Section 33-7-3, the following types of casualty insurance shall be filed~~
5 ~~separately and data relative to such types of insurance shall be maintained separately:~~

6 ~~(1) Nonrecording insurance or nonfiling insurance; and~~

7 ~~(2) Vendors' single interest insurance.~~

8 ~~33-9-21.2.~~

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

13 ~~33-9-22.~~

14 ~~(a) The Commissioner shall, at least once every five years, and may, as often as may be~~
15 ~~reasonable and necessary, make or cause to be made an examination of each licensed rating~~
16 ~~organization; and he may, as often as may be reasonable and necessary, make or cause to~~
17 ~~be made an examination of any advisory organization or group, association, or other~~
18 ~~organization of insurers which engages in joint underwriting or joint reinsurance.~~

19 ~~(b) In lieu of the examination required in subsection (a) of this Code section, the~~
20 ~~Commissioner may accept the report of an examination made by the insurance supervisory~~
21 ~~official of another state.~~

22 ~~(c) In examining any organization, group, or association pursuant to this Code section, the~~
23 ~~Commissioner shall ascertain whether the organization, group, or association and, in the~~
24 ~~case of a rating organization, any rate or rating system made or used by it complies with~~
25 ~~the applicable requirements and standards of this chapter.~~

26 ~~33-9-23.~~

27 ~~(a) The Commissioner may, at any reasonable time, make or cause to be made an~~
28 ~~examination of every admitted insurer transacting any class of insurance to which this~~
29 ~~chapter is applicable to ascertain whether the insurer and every rate and rating system used~~
30 ~~by it for each class of insurance complies with the requirements and standards of this~~
31 ~~chapter applicable thereto. The examination shall not be a part of a periodic general~~
32 ~~examination participated in by representatives of more than one state.~~

33 ~~(b) In addition to and apart from the examination required by subsection (a) of this Code~~
34 ~~section, the Commissioner may, at any reasonable time, examine or cause to be examined~~

1 by some examiner duly authorized by him all insurers transacting workers' compensation
2 insurance in this state. This examination will include a review of the loss ratios, reserves,
3 reserve development information, expenses including commissions paid and dividends
4 paid, investment income, pure premium data adjusted for loss development and loss
5 trending, profits, and all other data and information used by that insurer in formulating its
6 workers' compensation premium rates which are used in this state and any other
7 information or data required by the Commissioner. Upon completion of this examination,
8 a report in such form as the Commissioner shall prescribe shall be filed in his office.

9 33-9-24.

10 The officers, managers, agents, and employees of any such organization, group,
11 association, or insurer may be examined at any time under oath and shall exhibit all books,
12 records, accounts, documents, or agreements governing its method of operation, together
13 with all data, statistics, and information of every kind and character collected or considered
14 by such organization, group, association, or insurer in the conduct of the operations to
15 which the examination relates.

16 33-9-25.

17 The reasonable cost of any examination authorized by this chapter shall be paid by the
18 organization, group, association, or insurer to be examined.

19 33-9-26.

20 Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule
21 followed or adopted by an insurer or rating organization may request the insurer or rating
22 organization to review the manner in which the rate, plan, system, or rule has been applied
23 with respect to insurance afforded him. The request may be made by his authorized
24 representative and shall be written. If the request is not granted within 30 days after it is
25 made, the requestor may treat it as rejected. Any person aggrieved by the action of an
26 insurer or rating organization in refusing the review requested or in failing or refusing to
27 grant all or part of the relief requested may file a written complaint and request for hearing
28 with the Commissioner, specifying the grounds relied upon. If the Commissioner has
29 information concerning a similar complaint, he may deny the hearing. If he believes that
30 probable cause for the complaint does not exist or that the complaint is not made in good
31 faith, he shall deny the hearing. Otherwise, and if he finds that the complaint charges a
32 violation of this chapter and that the complainant would be aggrieved if the violation is
33 proven, he shall proceed as provided in Code Section 33-9-27.

1 ~~33-9-27.~~

2 ~~If after examination of an insurer, rating organization, advisory organization, or group,~~
3 ~~association, or other organization of insurers which engages in joint underwriting or joint~~
4 ~~reinsurance, or upon the basis of other information, or upon sufficient complaint as~~
5 ~~provided in Code Section 33-9-26 the Commissioner has good cause to believe that the~~
6 ~~insurer, organization, group, or association, or any rate, rating plan, or rating system made~~
7 ~~or used by any insurer or rating organization does not comply with the requirements and~~
8 ~~standards of this chapter applicable to it, he shall, unless he has good cause to believe such~~
9 ~~noncompliance is willful, give notice in writing to such insurer, organization, group, or~~
10 ~~association stating in the notice to the extent practicable in what manner such~~
11 ~~noncompliance is alleged to exist and specifying in the notice a reasonable time, not less~~
12 ~~than ten days after notice, in which the noncompliance may be corrected.~~

13 ~~33-9-28.~~

14 ~~If the Commissioner has good cause to believe the noncompliance to be willful, or if within~~
15 ~~the period prescribed by the Commissioner in the notice required by Code Section 33-9-27~~
16 ~~the insurer, organization, group, or association does not make the changes necessary to~~
17 ~~correct the noncompliance specified by the Commissioner or establish to the satisfaction~~
18 ~~of the Commissioner that the specified noncompliance does not exist, then the~~
19 ~~Commissioner may hold a public hearing in connection with the noncompliance, provided~~
20 ~~that within a reasonable period of time, which shall be not less than ten days before the date~~
21 ~~of the hearing, he shall mail written notice specifying the matters to be considered at the~~
22 ~~hearing to the insurer, organization, group, or association. If no notice has been given as~~
23 ~~provided in Code Section 33-9-27, the notice provided for in this Code section shall state~~
24 ~~to the extent practicable in what manner such noncompliance is alleged to exist. The~~
25 ~~hearing shall not include any additional subjects not specified in the notices required by~~
26 ~~Code Section 33-9-27 or this Code section.~~

27 ~~33-9-28.1.~~

28 ~~The costs incurred by the Commissioner in conducting any hearing under this chapter may~~
29 ~~be assessed against the parties to the hearing in such proportion as the Commissioner may~~
30 ~~determine upon consideration of all relevant circumstances including, but not limited to,~~
31 ~~the nature of the hearing; whether the hearing was instigated by or for the benefit of a~~
32 ~~particular party or parties; whether there is a successful party on the merits of the~~
33 ~~proceeding; and the relative levels of participation by the parties. For purposes of this~~
34 ~~Code section, costs incurred shall include payments made by the Commissioner to obtain~~
35 ~~the services of independent contractors or outside experts and travel expenses of such~~

1 ~~contractors or experts. The Commissioner shall make the assessment of costs incurred as~~
2 ~~part of the final order or decision arising out of the proceeding; provided, however, that any~~
3 ~~order or decision shall include findings and conclusions of the Commissioner or his~~
4 ~~designee to support the assessment of costs.~~

5 ~~33-9-29:~~

6 ~~If after a hearing pursuant to Code Section 33-9-28 the Commissioner finds:~~

7 ~~(1) That any rate, rating plan, or rating system violates the applicable provisions of this~~
8 ~~chapter, he may issue an order to the insurer or rating organization which has been the~~
9 ~~subject of the hearing specifying in what respects the violation exists and stating when,~~
10 ~~within a reasonable period of time, the further use of the rate or rating system by the~~
11 ~~insurer or rating organization in contracts of insurance made thereafter shall be prohibited~~
12 ~~and may further order that the portion of premiums received from current policyholders~~
13 ~~as a result of the most recent rate increase at the time the notice of such hearing is issued~~
14 ~~shall be refunded to the policyholders;~~

15 ~~(2) That an insurer, rating organization, advisory organization, or a group, association,~~
16 ~~or other organization of insurers which engages in joint underwriting or joint reinsurance~~
17 ~~is in violation of the provisions of this chapter applicable to it other than the provisions~~
18 ~~dealing with rates, rating plans, or rating system, he may issue an order to the insurer,~~
19 ~~organization, group, or association which has been the subject of the hearing specifying~~
20 ~~in what respects the violation exists and requiring compliance within a reasonable time~~
21 ~~thereafter;~~

22 ~~(3) That the violation of this chapter applicable to it by any insurer or rating organization~~
23 ~~which has been the subject of the hearing was willful, he may suspend or revoke, in~~
24 ~~whole or in part, the certificate of authority of each insurer or the license of each rating~~
25 ~~organization with respect to the class of insurance which has been the subject matter of~~
26 ~~the hearing;~~

27 ~~(4) That any rating organization has willfully engaged in any fraudulent or dishonest act~~
28 ~~or practices, he may suspend or revoke, in whole or in part, the license of the organization~~
29 ~~in addition to any other penalty provided in this chapter.~~

30 ~~33-9-30:~~

31 ~~In addition to other penalties provided in this title, the Commissioner may suspend or~~
32 ~~revoke, in whole or in part, the license of any rating organization or the certificate of~~
33 ~~authority of any insurer with respect to the class or classes of insurance specified in such~~
34 ~~order which fails to comply within the time limited by such order or any extension thereof~~

1 ~~which the Commissioner may grant with an order of the Commissioner lawfully made by~~
2 ~~him pursuant to Code Section 33-9-29.~~

3 ~~33-9-31.~~

4 ~~Except as otherwise provided in this chapter, all proceedings in connection with the denial,~~
5 ~~suspension, or revocation of a license or certificate of authority under this chapter shall be~~
6 ~~conducted in accordance with Chapter 2 of this title; and the Commissioner shall have all~~
7 ~~the powers granted to him in Chapter 2 of this title.~~

8 ~~33-9-32.~~

9 ~~Nothing contained in this chapter shall be deemed to prohibit an insurer and its insured~~
10 ~~from contracting to use a rate on a specific risk or risks which is in excess of or lower than~~
11 ~~that otherwise applicable, provided that the contract and rate deviation by consenting~~
12 ~~parties have been filed with the Commissioner prior to the use of the rate in accordance~~
13 ~~with the procedures, conditions, and limitations as may be established by the~~
14 ~~Commissioner; and provided, further, that, if the resulting premium exceeds \$1,000.00, a~~
15 ~~binder of coverage may be issued and the contract and rate deviation shall be filed within~~
16 ~~20 days after the issuance of the binder. Such contract and rate deviation shall be subject~~
17 ~~to challenge by the Commissioner for a period of ten days after filing. If such challenge~~
18 ~~is upheld, the insurer shall be required to use its regular filed rates for the first 30 days of~~
19 ~~coverage in accordance with the requirements of applicable law. If there is no challenge~~
20 ~~or if a challenge is not upheld, the contract and rate deviation agreed upon may be used~~
21 ~~from and after the effective date of the binder.~~

22 ~~33-9-33.~~

23 ~~Nothing in this chapter shall be construed to prohibit or regulate the payment of dividends,~~
24 ~~savings, or unabsorbed premium deposits allowed or returned by insurers to their~~
25 ~~policyholders, members, or subscribers. A plan for the payment of dividends, savings, or~~
26 ~~unabsorbed premium deposits allowed or returned by insurers to their policyholders,~~
27 ~~members, or subscribers shall not be deemed a rating plan or system.~~

28 ~~33-9-34.~~

29 ~~No act done, action taken, or agreement made pursuant to the authority conferred by this~~
30 ~~chapter shall constitute a violation of or grounds for prosecution or civil proceedings under~~
31 ~~any other law of this state which does not specifically refer to insurance.~~

ARTICLE 2

33-9-35.

No person, insurer, or organization shall willfully withhold information from, or knowingly give false or misleading information to, the Commissioner or to any rating organization, advisory organization, insurer, or group, association, or other organization of insurers which will affect the rates, rating systems, or premiums for the classes of insurance to which this chapter is applicable.

33-9-36.

(a) No broker or agent shall knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with this chapter.

(b) No insurer or employee of such insurer and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue on such policy of insurance, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance nor any employee of the insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit, or reduction of premium, or any special favor or advantage or valuable consideration or inducement.

(c) Nothing in this Code section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents and brokers, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members, or subscribers dividends, savings, or unabsorbed premium deposits.

(d) As used in this Code section the word 'insurance' includes suretyship and the word 'policy' includes bond.

33-9-37.

In the event any insurer shall in collusion with any other insurer conspire to fix, set, or adhere to insurance rates, except as expressly sanctioned by this chapter, the insurer shall be liable to any person damaged thereby for an amount equal to three times the amount of the damage together with the damaged party's attorney's fees.

1 33-9-38.

2 (a) Any person, insurer, organization, group, or association who fails to comply with a
3 final order of the Commissioner under this chapter shall be liable to the state in an amount
4 not exceeding \$50.00; but, if such failure is willful, the person, insurer, organization,
5 group, or association shall be liable to the state in an amount not exceeding \$5,000.00. The
6 Commissioner shall collect the amount so payable and may bring an action in the name of
7 the people of the State of Georgia to enforce collection. Such penalties may be in addition
8 to any other penalties provided by law.

9 (b) Any person who willfully violates this chapter shall be guilty of a misdemeanor.

10 33-9-39.

11 No insurer shall surcharge the premium or rate charged on a policy of motor vehicle
12 insurance that provides coverage for the personal motor vehicles of any law enforcement
13 officer, firefighter, or emergency medical technician in this state for any accident:

14 (1) That occurred while the law enforcement officer, firefighter, or emergency medical
15 technician was lawfully engaged in the performance of official duties; and

16 (2) For which the law enforcement officer, firefighter, or emergency medical technician
17 furnishes proof, in the form of copies of the accident report, 911 emergency dispatch log,
18 or the employing agency's documents, to the insurer of the condition provided in
19 paragraph (1) of this Code section.

20 33-9-40.

21 No insurer shall surcharge the premium or rate charged on a policy of motor vehicle
22 insurance or cancel such policy as a result of the insured person's involvement in a
23 multivehicle accident when such person was not at fault in such accident.

24 33-9-40.1.

25 (a) An insurer shall not assign an adverse experience modification factor which is
26 applicable to the rate of a workers' compensation insurance policy issued to a particular
27 business entity to the rate of a workers' compensation policy issued to another business
28 entity maintaining a separate payroll for federal and state tax purposes and engaging in a
29 distinctly different business enterprise for the sole reason that the majority interest in both
30 business entities is held by the same person.

31 (b) For experience rating purposes no workers' compensation insurer shall maintain any
32 case reserve for any claim in excess of the amount established by final judgment, by
33 settlement, or otherwise. All reductions in case reserves shall be made and reported to the
34 appropriate rating organization within 90 days. Any further adjustments upward in the case

1 reserve may only be made due to additional paid claims or a case reserve established on a
2 claim which was previously closed but reopened due to a claimant's request for additional
3 benefits. This limitation on the maintenance of reserves shall be enforced through this
4 ~~Code section, as well as through Code Section 33-9-21, relating to rate filings, Code~~
5 ~~Section 33-9-23, relating to examination of insurers,~~ Code Section 34-9-135, relating to
6 required disclosure of costs by workers' compensation insurers, and any other appropriate
7 enforcement procedures.

8 (c)(1) The Commissioner shall cause an investigation to be made of each complaint filed
9 by a licensee under this title or under Article 5 of Chapter 9 of Title 34 or a person acting
10 for or on behalf of such licensee against an insurer or workers' compensation group
11 self-insurance fund alleging that such insurer or fund is:

12 (A) Using an improper rate;

13 (B) Using an improper classification; or

14 (C) Using an improper experience modification in issuing a contract of workers'
15 compensation insurance.

16 (2) If the Commissioner finds the complaint to be justified, in addition to all other
17 appropriate action under this title, the Commissioner may assess the cost of such
18 investigation against the insurer or workers' compensation group self-insurance fund and
19 retain the proceeds therefrom for reimbursement of the cost of conducting such
20 investigation.

21 (3) If the person making the complaint is a licensee under this title or under Article 5 of
22 Chapter 9 of Title 34 or a person acting for or on behalf of such licensee and the
23 Commissioner finds the complaint not to be justified, the Commissioner may, in addition
24 to all other appropriate action under this title:

25 (A) Assess the reasonable verified cost of such investigation against such person and
26 retain the proceeds therefrom for reimbursement of the cost of conducting such
27 investigation; and

28 (B) If such person files six or more complaints the Commissioner finds not to be
29 justified in any 12 month period, assess an administrative penalty not to exceed
30 \$2,000.00 for the sixth and each subsequent complaint found to be not justified.

31 33-9-40.2.

32 (a) For each policy of workers' compensation insurance issued or renewed in the state on
33 and after July 1, 1993, there shall be granted by the insurer not less than a 7 1/2 percent
34 reduction in the premium for such policy if the insured has been certified by the State
35 Board of Workers' Compensation as having a drug-free workplace program which

1 complies with the requirements of Article 11 of Chapter 9 of Title 34 and has notified its
2 insurer in writing of such certification.

3 (b)(1) The premium discount provided by this Code section shall be applied to an
4 insured's policy of workers' compensation insurance pro rata as of the date the insured
5 receives certification by the State Board of Workers' Compensation and shall continue
6 for a period not to exceed eight years; provided, however, an insurer shall not be required
7 to credit the actual amount of the premium discount to the account of the insured until the
8 final premium audit under such policy. Certification by an insured shall be required for
9 each of the eight years in which such premium discount is granted. Thereafter, any
10 premium discount pursuant to this article shall be determined from the insured's
11 experience rating plan or in the case of an insured not rated upon experience, as provided
12 in paragraph (2) of this subsection.

13 (2) With respect to an insured which is not rated upon experience, any premium discount
14 given an insured pursuant to this article after the initial eight-year period provided in
15 paragraph (1) of this subsection shall be determined by the Commissioner based upon
16 data received from the rating and statistical organization designated by the Commissioner
17 pursuant to this chapter.

18 (c) The workers' compensation insurance policy of an insured shall be subject to an
19 additional premium for the purposes of reimbursement of a previously granted premium
20 discount and to cancellation in accordance with the provisions of the policy if it is
21 determined by the State Board of Workers' Compensation that such insured misrepresented
22 the compliance of its drug-free workplace program with the provisions of Article 11 of
23 Chapter 9 of Title 34.

24 (d) Each insurer shall make an annual report to the rating and statistical organization
25 designated by the Commissioner pursuant to this chapter illustrating the total dollar amount
26 of drug-free workplace premium credit. Standard earned premium figures reported pursuant
27 to this subsection on the aggregate calls for experience must reflect the effects of such
28 credits. The net standard premium will then be the basis of any premium adjustment. The
29 drug-free workplace credits must be reported under a unique classification code or unit
30 statistical reports submitted to the rating and statistical organization designated by the
31 Commissioner pursuant to this chapter.

32 (e) The Commissioner shall conduct a study to determine the impact of this chapter on
33 reducing workers' compensation losses and on the impact of the premium credit provided
34 pursuant to this Code section in encouraging employers to implement and maintain the
35 program for which the credit is provided.

36 (f) The Commissioner shall be authorized to promulgate rules and regulations necessary
37 for the implementation and enforcement of this Code section.

1 33-9-41.

2 Reserved.

3 33-9-42.

4 (a) For each personal or family-type policy of private passenger motor vehicle insurance
5 issued or issued for delivery in this state, there shall be offered by the insurer a reduction
6 of not less than 10 percent in premiums for motor vehicle liability, first-party medical, and
7 collision coverages to the policyholder if all named drivers, as listed or who should be
8 listed on the policy application or provided in information subsequent to such application,
9 of each motor vehicle covered by such policy satisfy the requirements of subsection (b) or
10 subsection (c), as applicable, of this Code section.

11 (b) Reductions in premiums shall be available if all named drivers who are 25 years of age
12 or older:

13 (1) Have committed no traffic offenses for the prior three years or since the date of
14 licensure, whichever is shorter;

15 (2) Have had no claims based on fault against an insurer for the prior three years; and

16 (3) Complete one of the following types of driving courses:

17 (A) A course in defensive driving of not less than six hours from a driver improvement
18 clinic or commercial or noncommercial driving school approved by and under the
19 jurisdiction of the Department of Motor Vehicle Safety;

20 (B) An emergency vehicles operations course at the Georgia Public Safety Training
21 Center;

22 (C) A course in defensive driving of not less than six hours from a driver improvement
23 program which is administered by a nonprofit organization such as the American
24 Association of Retired People, the American Automobile Association, the National
25 Safety Council, or a comparable organization and which meets the standards
26 promulgated by the Department of Motor Vehicle Safety pursuant to subsection (f) of
27 this Code section; or

28 (D) A course in defensive driving of not less than six hours offered by an employer to
29 its employees and their immediate families, which course has been approved by the
30 Department of Motor Vehicle Safety.

31 (c) Reductions in premiums shall be available if all named drivers who are under 25 years
32 of age:

33 (1) Have committed no traffic offenses for the prior three years or since the date of
34 licensure, whichever is shorter;

35 (2) Have had no claims based on fault against an insurer for the prior three years; and

- 1 (3) Complete a preparatory course offered to new drivers of not less than 30 hours of
2 classroom training and not less than six hours of practical training by a driver's training
3 school approved by and under the jurisdiction of the Department of Motor Vehicle Safety
4 or by an accredited secondary school, junior college, or college.
- 5 (d) Upon completion of one of the driving courses specified in paragraph (3) of subsection
6 (b) or paragraph (3) of subsection (c), as applicable, of this Code section by each named
7 driver, eligibility for reductions in premiums for such policy shall continue for a period of
8 three years, provided any named driver under such policy does not commit a traffic offense
9 or have a claim against the policy based on any such driver's fault.
- 10 (e) The Department of Motor Vehicle Safety shall assure through the supervision of driver
11 improvement clinics, emergency vehicles operations courses, driver improvement
12 programs administered by nonprofit organizations, and commercial or noncommercial
13 driving schools approved by the Department of Motor Vehicle Safety that defensive
14 driving courses shall be available and accessible wherever practicable as determined by the
15 department to licensed drivers throughout the state.
- 16 (f) Each insurer providing premium discounts under this Code section shall provide, upon
17 the request of the Commissioner, information regarding the amount of such discounts in
18 a form acceptable to the Commissioner.
- 19 (g) The power of supervision granted to the Department of Motor Vehicle Safety over
20 driver improvement programs administered by nonprofit organizations under this Code
21 section shall be limited to the establishment of minimum standards and requirements
22 relative to the content of specific courses offered by such programs and relative to
23 investigation and resolution of any complaints directed towards the content or operation
24 of any course by a person enrolled in such course. The Department of Motor Vehicle
25 Safety may adopt rules and regulations necessary to carry out the provisions of this
26 subsection. The Department of Motor Vehicle Safety shall not require a nonprofit
27 organization to obtain a license or permit or to pay a fee in order to administer a driver
28 improvement program in the state. The Department of Motor Vehicle Safety shall not
29 require a commercial driving school licensed by such department to obtain an additional
30 license to teach a defensive driving course, as described in subparagraph (b)(3)(A) or
31 paragraph (3) of subsection (c) of this Code section, at any location in this state.
- 32 (h) Nothing in this Code section shall prevent an insurer from offering the reduction in
33 premium specified in subsection (a) of this Code section to a driver who does not meet all
34 of the requirements of subsection (b) or subsection (c), as applicable, of this Code section.

1 33-9-43.

2 (a) For each personal or family-type policy of private passenger motor vehicle insurance
3 issued, delivered, issued for delivery, or renewed on or after October 1, 1991, there shall
4 be offered by the insurer a reduction in the premium for motor vehicle liability, first-party
5 medical, and collision coverage for each named driver under 25 years of age, as listed on
6 the policy application or provided in information subsequent to such application, of each
7 motor vehicle covered by such policy, if that driver:

8 (1) Is unmarried;

9 (2) Is enrolled as a full-time student in:

10 (A) High school;

11 (B) Academic courses in a college or university; or

12 (C) Vocational-technical school;

13 (3) Is an honor student because the scholastic records for the immediately preceding
14 quarter, semester, or comparable segment show that such person:

15 (A) Ranks scholastically in the upper 20 percent of the class;

16 (B) Has a 'B' average or better;

17 (C) Has a 3.0 average or better; or

18 (D) Is on the 'Dean's List' or 'Honor Roll'; and

19 (4) Is a driver whose use of the automobile is considered by the insurer in determining
20 the applicable classification.

21 (b) Proof of meeting the requirements for the discount provided by this Code section shall
22 be provided annually to the insurer by the insured student or policyholder upon such forms
23 as the Commissioner shall prescribe. The premium reduction required by this Code section
24 shall be approved by the Commissioner and reflected in the insurer's automobile rating
25 plan.

26 (c) An insurer shall not be required to offer the premium reduction provided in
27 subsection (a) of this Code section to a driver who, at any time within a period of three
28 years prior to the beginning of the policy year during which that reduction is otherwise
29 required, has:

30 (1) Been involved in any motor vehicle accident in which that person has been
31 determined to have been at fault;

32 (2) Been finally convicted of, pleaded nolo contendere to, or been found to have
33 committed a delinquent act constituting any of the following offenses:

34 (A) Any serious traffic offense described in Article 15 of Chapter 6 of Title 40;

35 (B) Any traffic offense for which three or more points may be assessed pursuant to
36 Code Section 40-5-57; or

1 (C) Any felony or any offense prohibited pursuant to Chapter 13 of Title 16, relating
2 to dangerous drugs, marijuana, and controlled substances; or

3 (3) Had that person's driver's license suspended for refusal to submit to chemical tests
4 pursuant to Code Section 40-5-67.1 and that suspension has not been reversed, if
5 appealed from.

6 33-9-44.

7 It is specifically intended that the discounts provided in Code Sections 33-9-42 and 33-9-43
8 shall be provided by the insurer to any person who qualifies for such discounts. It is further
9 intended that any similar discounts granted to qualified persons under Chapter 34 of this
10 title as such chapter existed on September 30, 1991, shall not be discontinued nor
11 duplicated by the enactment of Code Sections 33-9-42 and 33-9-43 for policies in effect
12 on September 30, 1991."

13 SECTION 3.

14 Said title is further amended by striking subparagraph (C) of paragraph (12) of Code Section
15 33-6-5, relating to other unfair methods of competition and unfair or deceptive acts or
16 practices, and inserting in lieu thereof a new subparagraph (C) to read as follows:

17 "(C) An insurer's rates, rules, and forms filed pursuant to ~~Code Sections 33-9-21~~
18 Chapter 9 of this title and Code Section 33-24-9 shall be considered no longer on file
19 for use with any new business in the market affected by the insurer's withdrawal plan
20 on and after the withdrawal plan goes into effect;"

21 SECTION 4.

22 Said title is further amended by striking paragraph (24) of Code Section 33-39-3, relating to
23 definitions, and inserting in lieu thereof a new paragraph (24) to read as follows:

24 "(24) 'Residual market mechanism' means an association, organization, or other entity
25 defined or described in Code Sections ~~33-9-7, 33-9-8, 33-9-12, 33-9-14~~ and ~~33-9-10~~
26 33-9-15."

27 SECTION 5.

28 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
29 is amended by striking subsection (g) of Code Section 34-9-133, relating to apportionment
30 and assignment of rejected risks, and inserting in lieu thereof a new subsection (g) to read
31 as follows:

32 "(g) Notwithstanding ~~Code Sections 33-9-8 and 33-9-21~~ any provision of Chapter 9 of
33 Title 33 to the contrary, the Commissioner of Insurance shall cause the implementation of

1 rates for policies issued pursuant to the Plan which are sufficient to conform with the
2 requirements of paragraphs (1) and (2) of subsection (c) of this Code section."

3 **SECTION 6.**

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