

The House Committee on Insurance offers the following substitute to HB 683:

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 that all contested hearings before the Commissioner of Insurance be heard by the
3 Office of State Administrative Hearings; to provide that certain rates with regard to certain
4 property and casualty insurance may go into effect without the necessity of approval by the
5 Commissioner of Insurance; to provide for procedures for such filings; to provide for notice
6 and hearing in the case of filings that are not in compliance; to provide for other filings; to
7 provide for the contents of filings; to provide for related matters; to provide an effective date
8 and for automatic repeal; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
12 striking subsection (a) of Code Section 33-2-17, relating to the conduct of hearings by the
13 Commissioner generally, and inserting in lieu thereof a new subsection (a) to read as follows:
14 "(a) The Commissioner may hold hearings for any purpose within the scope of this title as
15 he or she may deem necessary; provided, however, that all contested hearings, as defined
16 in paragraph (2) of Code Section 50-13-2, shall be conducted by the Office of State
17 Administrative Hearings."

18 **SECTION 2.**

19 Said title is further amended by striking subsection (a) of Code Section 33-2-21, relating to
20 the presiding officer at a hearing, and inserting in lieu thereof a new subsection (a) to read
21 as follows:

22 "(a) The hearing shall be presided over by the Commissioner or his or her designated
23 representative; provided, however, that all contested hearings, as defined in paragraph (2)
24 of Code Section 50-13-2, shall be conducted and presided over by the Office of State
25 Administrative Hearings."

SECTION 3.

Said title is further amended by adding a new subsection (h) to Code Section 33-9-21, relating to maintenance and filing rates, rating plans, rating systems, or underwriting rules, to read as follows:

"(h)(1) This subsection shall apply to all personal lines of property and casualty insurance, including homeowner's insurance, in this state. This subsection shall not apply to worker's compensation insurance or medical or professional malpractice insurance. This subsection shall not apply to advisory organizations or to any impaired or insolvent insurer operating under a rehabilitation plan, an order of supervision, or an impaired financial condition as determined by the Commissioner.

(2) Notwithstanding the requirements of subsections (b) and (d) of this Code section, a rate, rating plan, rating system, or underwriting rule submission by an insurer may become effective upon filing, unless a future effective date is specified, if the rate, rating plan, rating system, or underwriting rule filing individually or in combination with any other rate, rating plan, rating system, or underwriting rule filing effective within the last 12 months submitted by, or on behalf of, the insurer provides for an overall state-wide average rate level increase or decrease of not greater than 6 percent. The rate level change for any individual insured may not be increased or decreased by more than 9.99 percent.

(3) A filing submitted pursuant to paragraph (2) of this subsection shall be considered to comply with state law. However, if, within 45 days following receipt of the filing, the Commissioner determines that it does not meet the requirements of this title in that such filing is unfairly discriminatory, is not actuarially supported, is based upon fictitious groupings, is inadequate, or is excessive, the Commissioner shall notify each insurer that made the filing of the specific reason or reasons that the Commissioner has determined that such filing does not meet the requirements of this title. Such insurers may, not more than ten days after receipt of such notice from the Commissioner, petition the Commissioner for a hearing on such determination. Such hearing shall be held under the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and shall be conducted by the Office of State Administrative Hearings. Such hearing shall be held within 30 days after such petition is received by the department unless such time period is extended by agreement of all parties. The Commissioner shall give adequate notice of the time and place of such hearing. At such hearing, the burden shall be on the Commissioner to demonstrate why such filing does not meet the requirements of this title. If, upon the conclusion of such hearing, the determination by the Commissioner is upheld, the order shall state a reasonable future date on which the filing is to be considered no longer effective. An order by the Commissioner pursuant to this paragraph

1 shall be prospective and shall not affect any contract issued or made before the effective
2 date of the order, except that, in any final disposition made within 45 days following the
3 receipt of the filing, the Commissioner may enter an order specifying the rate filing to be
4 used by the insurer and the manner in which refunds are to be made, if appropriate. The
5 aggrieved party to the hearing shall have a right of appeal to the Superior Court of Fulton
6 County in accordance with Chapter 13 of Title 50.

7 (4) An insurer's rate level increase or decrease filing falling outside of the limitation
8 provided in paragraph (2) of this subsection shall be subject to review as provided in this
9 Code section.

10 (5) Any insurer that files a change in rates shall provide each of its insureds with at least
11 60 days' notice of such new rates in the manner provided in Chapter 24 of this title prior
12 to the termination of the insured's policy period then in effect.

13 (6) This subsection shall stand repealed by operation of law on June 30, 2009."

14 **SECTION 4.**

15 This Act shall become effective on July 1, 2005.

16 **SECTION 5.**

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