

Senate Bill 109

By: Senators Hudgens of the 47th, Shafer of the 48th, Brown of the 26th, Hawkins of the 49th, Thomas of the 54th 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 certain definitions; to include plan administrators in prompt pay requirements; to
3 provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

6 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
7 revising Code Section 33-23-100, relating to the definition of administrator, as follows:

8 "33-23-100.

9 (a) As used in this article, the term:

10 (1) 'Administrator' means any business entity that, directly or indirectly, collects charges,
11 fees, or premiums; adjusts or settles claims, including investigating or examining claims
12 or receiving, disbursing, handling, or otherwise being responsible for claim funds; ~~and~~
13 or provides underwriting or precertification and preauthorization of hospitalizations or
14 medical treatments for residents of this state for or on behalf of any insurer, including
15 business entities that act on behalf of ~~multiple~~ an employer self-insurance health ~~plans~~
16 plan, and self-insured municipalities or other political subdivisions. Licensure is also
17 required for administrators who act on behalf of self-insured plans providing workers'
18 compensation benefits pursuant to Chapter 9 of Title 34. For purposes of this article,
19 each activity undertaken by the administrator on behalf of an insurer or the client of the
20 administrator is considered a transaction and is subject to the provisions of this title.

21 (2) 'Business entity' means a corporation, association, partnership, sole proprietorship,
22 limited liability company, limited liability partnership, or other legal entity.

23 (b) Notwithstanding the provisions of subsection (a) of this Code section, the following
24 are exempt from licensure as long as such entities are acting directly through their officers
25 and employees:

- 1 (1) An employer on behalf of its employees or the employees of one or more subsidiary
 2 or affiliated corporations of such employer;
- 3 (2) A union on behalf of its members;
- 4 (3) An insurance company licensed in this state or its affiliate unless the affiliate
 5 administrator is ~~placing business~~ administering services with a nonaffiliate insurer not
 6 licensed in this state;
- 7 (4) An insurer which is not authorized to transact insurance in this state if such insurer
 8 is administering a policy lawfully issued by it in and pursuant to the laws of a state in
 9 which it is authorized to transact insurance;
- 10 (5) A life or accident and sickness insurance agent or broker licensed in this state whose
 11 activities are limited exclusively to the sale of insurance;
- 12 (6) A creditor on behalf of its debtors with respect to insurance covering a debt between
 13 the creditor and its debtors;
- 14 (7) A trust established in conformity with 29 U.S.C. Section 186 and its trustees, agents,
 15 and employees acting thereunder;
- 16 (8) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code and
 17 its trustees and employees acting thereunder or a custodian and its agents and employees
 18 acting pursuant to a custodian account which meets the requirements of Section 401(f)
 19 of the Internal Revenue Code;
- 20 (9) A bank, credit union, or other financial institution which is subject to supervision or
 21 examination by federal or state banking authorities;
- 22 (10) A credit card issuing company which advances for and collects premiums or charges
 23 from its credit card holders who have authorized it to do so, provided that such company
 24 does not adjust or settle claims;
- 25 (11) A person who adjusts or settles claims in the normal course of his or her practice or
 26 employment as an attorney and who does not collect charges or premiums in connection
 27 with life or accident and sickness insurance coverage or annuities; or
- 28 ~~(12) A business entity that acts solely as an administrator of one or more bona fide~~
 29 ~~employee benefit plans established by an employer or an employee organization, or both,~~
 30 ~~for whom the insurance laws of this state are preempted pursuant to the federal Employee~~
 31 ~~Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq.; or~~
- 32 ~~(13) An association that administers workers' compensation claims solely on behalf of~~
 33 ~~its members.~~
- 34 (c) A business entity claiming an exemption shall submit an exemption notice on a form
 35 provided by the Commissioner. This form must be signed by an officer of the company
 36 and submitted to the department by December 31 of the year prior to the year for which an

1 exemption is to be claimed. Such exemption notice shall be updated in writing within 30
2 days if the basis for such exemption changes.

3 (d) Obtaining a license as an administrator does not exempt the applicant from other
4 licensing requirements under this title.

5 (e) Obtaining a license as an administrator subjects the applicant to the provisions of Code
6 Sections 33-24-59.5 and 33-24-59.13."

7 SECTION 2.

8 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
9 33-24-59.5, relating to timely payment of health benefits, as follows:

10 "(3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, nonprofit
11 hospital service corporation, nonprofit medical service corporation, health care
12 corporation, health maintenance organization, provider sponsored health care corporation,
13 or any similar entity and any self-insured health benefit plan or the plan administrator of
14 any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45 or any
15 other administrator as defined in paragraph (1) of subsection (a) of Code Section
16 33-23-100 not subject to the exclusive jurisdiction of the federal Employee Retirement
17 Income Security Act of 1974, 29 U.S.C. Section 1001, et seq., which entity provides for
18 the financing or delivery of health care services through a health benefit plan, or the plan
19 administrator of any health benefit plan established pursuant to Article 1 of Chapter 18
20 of Title 45 or for administering a health benefit plan."

21 SECTION 3.

22 Said title is further amended by adding a new Code Section 33-24-59.13 to the end of
23 Article 1 of Chapter 24, relating to general provisions concerning insurance, to read as
24 follows:

25 "33-24-59.13.

26 (a) As used in this Code section, the term:

27 (1) 'Benefits' shall have the same meaning as provided in Code Section 33-24-59.5.

28 (2) 'Facility' shall have the same meaning as provided in Code Section 33-20A-3.

29 (3) 'Health benefit plan' shall have the same meaning as provided in Code Section
30 33-24-59.5.

31 (4) 'Health care provider' shall have the same meaning as provided in Code Section
32 33-20A-3.

33 (5) 'Insurer' means an accident and sickness insurer, fraternal benefit society, nonprofit
34 hospital service corporation, nonprofit medical service corporation, health care
35 corporation, health maintenance organization, provider sponsored health care corporation,

1 or any similar entity and any self-insured health benefit plan or the plan administrator of
2 any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45 or any
3 other administrator as defined in paragraph (1) of subsection (a) of Code Section
4 33-23-100, which entity provides for the financing or delivery of health care services
5 through a health benefit plan or for administering a health benefit plan.

6 (b)(1) All benefits under a health benefit plan will be payable by the insurer which is
7 obligated to finance or deliver health care services under that plan upon such insurer's
8 receipt of written proof of loss or claim for payment for health care goods or services
9 provided. The insurer shall within 15 working days after such receipt mail to the facility
10 or health care provider claiming payments under the plan payment for such benefits or
11 a letter or notice which states the reasons the insurer may have for failing to pay the
12 claim, either in whole or in part, and which also gives the person so notified a written
13 itemization of any documents or other information needed to process the claim or any
14 portions thereof which are not being paid. Where the insurer disputes a portion of the
15 claim, any undisputed portion of the claim shall be paid by the insurer in accordance with
16 this chapter. When all of the listed documents or other information needed to process the
17 claim has been received by the insurer, the insurer shall then have 15 working days within
18 which to process and either mail payment for the claim or a letter or notice denying it, in
19 whole or in part, giving the facility or health care provider claiming payments under the
20 plan the insurer's reasons for such denial.

21 (2) Receipt of any proof, claim, or documentation by an entity which administers or
22 processes claims on behalf of an insurer shall be deemed receipt of the same by the
23 insurer for purposes of this Code section.

24 (c) Each insurer shall pay to the facility or health care provider claiming payments under
25 the health benefit plan interest equal to 18 percent per annum on the proceeds or benefits
26 due under the terms of such plan for failure to comply with subsection (b) of this Code
27 section."

28 **SECTION 4.**

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