

Senate Bill 380

By: Senators Thomas of the 54th, Williams of the 19th, Johnson of the 1st, Hawkins of the 49th, Cowsert of the 46th 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 for filing requirements for health insurance rates; to change the minimum
3 definitional limits of small groups; to add requirements for kinds of insurance which insurers
4 may transact; to expand requirements under accident and sickness policies to require
5 companies active in the group health insurance market to offer plans of individual health
6 insurance coverage; to change additional requirements of insurers to participate and accept
7 potential reassignees in the assignment systems; to provide for statutory construction; to
8 provide for rule making and enforcement by the Commissioner of Insurance; to provide for
9 related matters; to provide for an effective date; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
14 revising Code Section 33-3-4, relating to kinds of insurance in which insurers may transact,
15 as follows:

16 "33-3-4.

17 (a) An insurer which otherwise qualifies to transact insurance in Georgia may be
18 authorized to transact any one kind or combination of kinds of insurance as defined in
19 Chapter 7 of this title except:

20 (1) A reciprocal insurer shall not transact life insurance;

21 (2) A Lloyd's insurer shall not transact life insurance; and

22 (3) A title insurer shall be a stock insurer and shall not be authorized to transact any other
23 class of insurance, except that, if immediately prior to January 1, 1961, any title insurer
24 lawfully held a subsisting certificate of authority granting it the right to transact in
25 Georgia additional classes of insurance other than title insurance, so long as the insurer
26 is otherwise in compliance with this title, the Commissioner shall continue to authorize

such insurer to transact the same classes of insurance as those specified in such prior certificate of authority.

(b) Any insurer that offers, renews, or continues offering comprehensive accident and sickness insurance products in the group insurance market in Georgia as defined in subsection (a) of Code Section 33-7-2 must offer Georgia individual health insurance consumers a choice from a set of at least two approved comprehensive accident and sickness insurance individual products.

(c) Insurers subject to subsection (b) of this Code section shall be required to offer at least one plan that is a high-deductible consumer driven individual health insurance plan. Insurers subject to subsection (b) of this Code section shall also be required to offer at least one plan that is an individual comprehensive accident and sickness insurance coverage plan. The Commissioner may promulgate regulations to specify product design, benefits, and limitations for such individual high-deductible consumer driven health insurance plans and individual comprehensive accident and sickness insurance coverage plans.

(d) An insurer may file a written appeal to the Commissioner to be exempted from the provisions of subsections (b) and (c) of this Code section if the insurer believes that such requirement would place the insurer in a hazardous financial condition or would place an undue hardship or burden on the insurer or if the insurer does not have surplus, administrative, or market capacity to meet these requirements. The Commissioner may consider insurer appeals and require such other information from an insurer as he or she deems necessary to evaluate a request for exemption or relief from one or more of the requirements of this Code section."

SECTION 2.

Said title is further amended by revising Code Section 33-7-2, relating to accident and sickness insurance, as follows:

"33-7-2.

(a) Accident and sickness insurance is insurance against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness and every insurance appertaining thereto.

(b) Comprehensive accident and sickness insurance is major medical accident and sickness insurance taking the form of indemnity or managed care health maintenance organization, preferred provider organization, provider sponsored health care corporation, or other form of accident and sickness coverage with a lifetime benefit level of at least \$1 million and at least 70 percent coinsurance for preferred provider organization preferred benefits or 75 percent coverage of reasonable and customary charges for medical care, including hospitalization, in the case of nonmanaged care or indemnity coverages."

SECTION 3.

Said title is further amended in Article 1 of Chapter 24, relating to general provisions regarding insurance, by adding a new Code section to read as follows:

"33-24-9.1.

(a) In addition to any other specific requirements applicable to insurers for specific health insurance products under this title, an insurer shall not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the Commissioner a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the Commissioner applicable premium rates and any change in applicable premium rates.

(b) Rates shall not be excessive, inadequate, or unfairly discriminatory. The Commissioner may establish by rule, for each type of health insurance form, procedures to be used in ascertaining the reasonableness of benefits in relation to premium rates and may, by rule, exempt from any requirement of subsection (a) of this Code section any health insurance policy form or type thereof as specified in such rule to which form or type such requirements may not be practically applied or to which form or type the application of such requirements is not desirable or necessary for the protection of the public. With respect to any health insurance policy form or type thereof which is exempted by rule from any requirement of subsection (a) of this Code section, premium rates filed pursuant to those rules shall be for informational purposes.

(c) Every filing must be made not less than 90 days in advance of any such use or delivery. At the expiration of such 90 days, the rate filing will be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. The approval of any such rate filing by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 90 days the period within which he or she may so affirmatively approve or disapprove any such rate filing by giving notice of such extension before expiration of the initial 90 day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such rate filing shall be deemed approved.

(d) The Commissioner may order an examination of any filing required by this Code section to determine the accuracy or reasonableness of the claims data, assumptions, trend, development, expense, or other factor used to derive rates. Such examination shall be conducted in accordance with the provisions of Chapter 2 of this title. Upon notification by the Commissioner of his or her intent to conduct such examination, the insurer shall be prohibited from placing the rates so filed in effect until such examination has been

1 reviewed and certified by the Commissioner as being complete. Such examination, if
2 conducted by the Commissioner, shall be reviewed and certified within 90 days of the date
3 such rate, rating plan, or rating system is filed; provided, however, if the Commissioner
4 makes an affirmative finding that the examination may not be completed within the 90 day
5 period, he or she may extend such time for one or more additional 90 day periods as
6 deemed necessary to complete the examination.

7 (e) The Commissioner may promulgate specific rules to encourage insurers and consumers
8 to implement programs encouraging healthy lifestyles for group and individual health
9 insurance products. Insurers may be allowed to give premium discounts for successful
10 completion of approved or accredited programs which have documented success in
11 improving the health of populations and lowering overall health costs. Any such applicable
12 premium discounts shall not be considered as illegal inducements, rebates, or unfairly
13 discriminatory programs based on financial, physical, or mental limitations of any
14 participating individual when such programs are approved by the Commissioner and are
15 conducted in accordance with rules promulgated pursuant to this Code section."

16 SECTION 4.

17 Said title is further amended by revising subsection (f) of Code Section 33-24-21.1, relating
18 to group accident and sickness contracts conversion privilege and continuation right
19 provisions, as follows:

20 "(f) Every group contract or group plan, other than a group accident and sickness insurance
21 policy, contract, or plan issued in connection with an extension of credit, which provides
22 hospital, surgical, or major medical expense insurance, or any combination of these
23 coverages, on an expense incurred or service basis, excluding policies which provide
24 benefits for specific diseases or for accidental injuries only, shall contain a conversion
25 privilege provision. Insurers active in the comprehensive group accident and health market
26 as described in subsection (b) of Code Section 33-7-2 shall, in addition to being required
27 to offer the coverage described in subsection (c) of Code Section 33-3-4 and conversion
28 policies to group members or qualifying eligible individuals under this Code section, also
29 be required to offer comprehensive individual accident and sickness coverage in the
30 general individual market in Georgia as a condition of continued licensure and ability to
31 operate in the comprehensive group accident and sickness market in Georgia."

32 SECTION 5.

33 Said title is further amended by revising Code Section 33-29A-3, relating to condition to
34 licensure individual health insurance coverage, as follows:

1 "33-29A-3.

2 Each health insurer and managed care corporation which is licensed to and does offer
3 health insurance coverage in the individual market in this state shall as a condition of such
4 licensure agree to participation in its respective assignment system provided by this
5 chapter. Participation under this chapter shall include the potential for an insurer to be
6 required to accept the timely reassignment of individuals whose Georgia assignment
7 system coverage has terminated because the insurer covering them under assignment
8 withdraws from the Georgia individual health market, either voluntarily or involuntarily,
9 as the result of the insurer's liquidation, suspension, or rehabilitation. This Code section
10 shall not apply to an entity which offers only excepted benefits as specified in Section
11 2791(c) of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-91(c)."

12 SECTION 6.

13 Said title is further amended by revising Code Section 33-30-2, relating to the effect of the
14 chapter upon other provisions, as follows:

15 "33-30-2.

16 (a) Nothing in this chapter validates any charge or practice illegal under any rule of law
17 or regulation governing usury, small loans, retail installment sales, or the like or extends
18 the application of any statute, rule, or regulation to any transaction not otherwise subject
19 thereto.

20 (b) Insurers operating in the comprehensive accident and sickness group market in Georgia
21 on and after July 1, 2008, are required to comply with Code Section 33-3-4 with respect
22 to requirements to offer comprehensive individual accident and sickness coverages under
23 subsection (a) of Code Section 33-7-2, paragraphs (1) and (2) of subsection (f) of Code
24 Section 33-24-21.1, and such rules and regulations as the Commissioner may promulgate."

25 SECTION 7.

26 Said title is further amended by revising subsection (a) of Code Section 33-30-12, relating
27 to standards and requirements for rating of small groups under accident and sickness
28 insurance, as follows:

29 "(a)(1) As used in this Code section, the term 'small group' means a group or subgroup
30 of ~~at least two~~ one employee, member, or enrollee and no more than ~~50~~ 99 employees,
31 members, or enrollees.

32 (2) In the case of a small group of a sole proprietor, the insurer may request
33 documentation from a sole proprietor that verifies that the sole proprietor in fact is
34 established as a valid business through state or federal tax records.

1 (3) An insurer may impose up to 18 months' preexisting condition limitations upon any
2 sole proprietor small group if such sole proprietor cannot furnish evidence of prior
3 creditable coverage from prior group or individual health insurance coverage or prior
4 employer group self-funded coverage.

5 (4) For purposes of this Code section, notwithstanding the gap in coverage limiting
6 provisions of paragraph (2) of subsection (a) of Code Section 33-30-15 under the
7 definition of 'creditable coverage,' sole proprietors making application for small group
8 health insurance coverage in Georgia may satisfy portability requirements if their prior
9 creditable coverage has no greater than a 120 day gap in coverage between any of the
10 applicable coverage types found in subparagraphs (a)(2)(A) through (a)(2)(L) of Code
11 Section 33-30-15."

12 **SECTION 8.**

13 This Act shall become effective on July 1, 2008.

14 **SECTION 9.**

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