

Senate Bill 470

By: Senator Hudgens of the 47th

AS PASSED SENATE

**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 provide for the submission of an annual statement of actuarial opinion
3 by an appointed actuary by each property and casualty insurance company licensed to do
4 business in this state; to provide for exceptions; to provide for the submission of supporting
5 documentation; to provide for the confidentiality of certain documents, materials, and other
6 information; to authorize disclosure under certain conditions; to provide for certain
7 immunities; to provide for related matters; to provide an effective date; to repeal conflicting
8 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 adding a new chapter to read as follows:

13 **"CHAPTER 62**

14 33-62-1.

15 This chapter shall be known and may be cited as the 'Property and Casualty Actuarial
16 Opinion Law.'

17 33-62-2.

18 (a) Every property and casualty insurance company doing business in this state, unless
19 otherwise exempted by the domiciliary commissioner, shall annually submit the opinion
20 of an appointed actuary entitled 'Statement of Actuarial Opinion.' This opinion shall be
21 filed in accordance with the appropriate National Association of Insurance Commissioners
22 property and casualty annual statement instructions.

1 (b)(1) Every property and casualty insurance company domiciled in this state that is
2 required to submit a statement of actuarial opinion shall annually submit an actuarial
3 opinion summary written by the company's appointed actuary. This actuarial opinion
4 summary shall be filed in accordance with the appropriate National Association of
5 Insurance Commissioners property and casualty annual statement instructions and shall
6 be considered as a document supporting the actuarial opinion required in subsection (a)
7 of this Code section.

8 (2) A company licensed but not domiciled in this state shall provide the actuarial opinion
9 summary upon request.

10 (c)(1) An actuarial report and underlying work papers as required by the appropriate
11 National Association of Insurance Commissioners property and casualty annual statement
12 instructions shall be prepared to support each actuarial opinion.

13 (2) If the insurance company fails to provide a supporting actuarial report or work papers
14 at the request of the Commissioner or the Commissioner determines that the supporting
15 actuarial report or work papers provided by the insurance company are otherwise
16 unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at
17 the expense of the insurance company to review the opinion and the basis for the opinion
18 and prepare the supporting actuarial report or work papers.

19 (d) The appointed actuary shall not be liable for damages to any person other than the
20 insurance company and the Commissioner for any act, error, omission, decision, or conduct
21 with respect to the actuary's opinion except in cases of fraud or willful misconduct on the
22 part of the appointed actuary.

23 33-62-3.

24 (a) The statement of actuarial opinion shall be provided with the annual statement in
25 accordance with the appropriate National Association of Insurance Commissioners
26 property and casualty annual statement instructions and shall be treated as a public
27 document.

28 (b)(1) Documents, materials, or other information in the possession or control of the
29 department that are considered an actuarial report, work papers, or actuarial opinion
30 summary provided in support of the opinion and any other material provided by the
31 insurance company to the Commissioner in connection with the actuarial report, work
32 papers, or the actuarial opinion summary shall be confidential by law and privileged,
33 shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50, shall not be
34 subject to subpoena, and shall not be subject to discovery or admissible in evidence in
35 any private civil action.

1 (2) The provisions of this subsection shall not be construed to limit the Commissioner's
2 authority to release the documents to the Actuarial Board for Counseling and Discipline
3 so long as the material is required for the purpose of professional disciplinary
4 proceedings and that the Actuarial Board for Counseling and Discipline establishes
5 procedures satisfactory to the Commissioner for preserving the confidentiality of the
6 documents. In addition, the provisions of this subsection shall not be construed to limit
7 the Commissioner's authority to use the documents, materials, or other information in
8 furtherance of any regulatory or legal action brought as a part of the Commissioner's
9 official duties.

10 (c) Neither the Commissioner nor any person who received documents, materials, or other
11 information while acting under the authority of the Commissioner shall be permitted or
12 required to testify in any private civil action concerning such confidential documents,
13 materials, or other information subject to subsection (b) of this Code section.

14 (d) In order to assist the Commissioner in the performance of his or her duties, the
15 Commissioner may:

16 (1) Share documents, materials, and other information, including confidential and
17 privileged documents, materials, and information subject to subsection (b) of this Code
18 section with other state, federal, and international regulatory agencies, with the National
19 Association of Insurance Commissioners and its affiliates and subsidiaries, and with state,
20 federal, and international law enforcement authorities, provided that the recipient agrees
21 to maintain the confidentiality and privileged status of the document, material, or other
22 information and has the legal authority to maintain confidentiality;

23 (2) Receive documents, materials, and other information, including otherwise
24 confidential and privileged documents, materials, or information, from the National
25 Association of Insurance Commissioners and its affiliates and subsidiaries and from
26 regulatory and law enforcement officials of other foreign or domestic jurisdictions. The
27 Commissioner shall maintain as confidential and privileged any document, material, or
28 information received with notice and the understanding that it is confidential or
29 privileged under the laws of the jurisdiction that is the source of the document, material,
30 or information; and

31 (3) Enter into agreements concerning sharing and use of information consistent with this
32 subsection and subsections (b) and (c) of this Code section.

33 (e) No waiver of any applicable privilege or claim of confidentiality in the documents,
34 materials, or information shall occur as a result of disclosure to the Commissioner under
35 this Code section or as a result of sharing as authorized by subsection (d) of this Code
36 section."

1 **SECTION 2.**

2 This Act shall become effective on January 1, 2010.

3 **SECTION 3.**

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