

The House Committee on Insurance offers the following substitute to SB 471:

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 regulator financial examinations of domestic insurers every five years; to provide  
3 for the confidentiality of examination work papers; to provide for the immunity from liability  
4 for a contracted examiner to be the same as that of an employee of the state conducting the  
5 same state functions; to provide a short title; to provide for the submission of an annual  
6 statement of actuarial opinion by an appointed actuary by each property and casualty  
7 insurance company licensed to do business in this state; to provide for exceptions; to provide  
8 for the submission of supporting documentation; to provide for the confidentiality of certain  
9 documents, materials, and other information; to authorize disclosure under certain conditions;  
10 to provide for certain immunities; to provide for related matters; to provide effective dates;  
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
15 revising subsection (a) of Code Section 33-2-11, relating to examination of insurers and  
16 organizations, as follows:

17 "(a) Whenever the Commissioner shall deem it expedient, ~~he~~ the Commissioner shall  
18 examine, either in person or by some examiner duly authorized by ~~him~~ the  
19 Commissioner, the affairs, transactions, accounts, records, documents, and assets of each  
20 insurer authorized to do business in this state and any other facts relative to its business  
21 methods, management, and dealings with policyholders. At least once every ~~three~~ five  
22 years, ~~he~~ the Commissioner shall so examine each domestic insurer. Examination of an  
23 alien insurer shall be limited to its insurance transactions in the United States."



**SECTION 4.**

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Said title is further amended by adding a new chapter to read as follows:

**"CHAPTER 62**

33-62-1.

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

33-62-2.

(a) Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an appointed actuary entitled 'Statement of Actuarial Opinion.' This opinion shall be filed in accordance with rules and regulations promulgated by the Commissioner regarding property and casualty annual statement instructions.

(b)(1) Every property and casualty insurance company domiciled in this state that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with rules and regulations promulgated by the Commissioner regarding property and casualty annual statement instructions and shall be considered as a document supporting the actuarial opinion required in subsection (a) of this Code section.

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

(c)(1) An actuarial report and underlying work papers as required by rules and regulations promulgated by the Commissioner regarding property and casualty annual statement instructions shall be prepared to support each actuarial opinion.

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

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

1 33-62-3.

2 (a) The statement of actuarial opinion shall be provided with the annual statement in  
3 accordance with rules and regulations promulgated by the Commissioner regarding  
4 property and casualty annual statement instructions and shall be treated as a public  
5 document.

6 (b)(1) Documents, materials, or other information in the possession or control of the  
7 department that are considered an actuarial report, work papers, or actuarial opinion  
8 summary provided in support of the opinion and any other material provided by the  
9 insurance company to the Commissioner in connection with the actuarial report, work  
10 papers, or the actuarial opinion summary shall be confidential by law and privileged,  
11 shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50, shall not be  
12 subject to subpoena, and shall not be subject to discovery or admissible in evidence in  
13 any private civil action.

14 (2) The provisions of this subsection shall not be construed to limit the Commissioner's  
15 authority to release the documents to the Actuarial Board for Counseling and Discipline  
16 so long as the material is required for the purpose of professional disciplinary  
17 proceedings and that the Actuarial Board for Counseling and Discipline establishes  
18 procedures satisfactory to the Commissioner for preserving the confidentiality of the  
19 documents. In addition, the provisions of this subsection shall not be construed to limit  
20 the Commissioner's authority to use the documents, materials, or other information in  
21 furtherance of any regulatory or legal action brought as a part of the Commissioner's  
22 official duties.

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

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

29 (1) Share documents, materials, and other information, including confidential and  
30 privileged documents, materials, and information subject to subsection (b) of this Code  
31 section with other state, federal, and international regulatory agencies, with the National  
32 Association of Insurance Commissioners and its affiliates and subsidiaries, and with state,  
33 federal, and international law enforcement authorities, provided that the recipient agrees  
34 to maintain the confidentiality and privileged status of the document, material, or other  
35 information and has the legal authority to maintain confidentiality;

36 (2) Receive documents, materials, and other information, including otherwise  
37 confidential and privileged documents, materials, or information, from the National

1 Association of Insurance Commissioners and its affiliates and subsidiaries and from  
2 regulatory and law enforcement officials of other foreign or domestic jurisdictions. The  
3 Commissioner shall maintain as confidential and privileged any document, material, or  
4 information received with notice and the understanding that it is confidential or  
5 privileged under the laws of the jurisdiction that is the source of the document, material,  
6 or information; and

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

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

13 **SECTION 5.**

14 Section 4 of this Act shall become effective on January 1, 2010. All other sections of this  
15 Act shall become effective on July 1, 2008.

16 **SECTION 6.**

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