

Senate Bill 471

By: Senator Hudgens of the 47th

AS PASSED

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."

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.