

Senate Bill 553

By: Senators Hudgens of the 47th and Chapman of the 3rd

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 definitions; to provide for a catastrophic savings account, restrictions, tax credits,
3 distributions, and restrictions; to provide for certain emergency regulations by the
4 Commissioner; to provide for certain policy notifications; to create the Georgia Wind and
5 Hail Underwriting Association; to provide for plan of operations requirements for the
6 association; to provide for the association's membership and other requirements; to create an
7 advisory committee to study issues associated with reducing loss of life and mitigating
8 property losses due to hurricane, rising flood waters, or catastrophic windstorm or other
9 natural disaster; to provide for policy renewal notifications by insurers; to provide for public
10 hearings; to provide for rating plans factors in the coastal area; to provide for appointment
11 of an advisory committee; to provide for establishment of a loss mitigation grant program;
12 to provide for certain policies that may be nonrenewed; to provide for certain policy
13 cancellation requirements; to provide for Georgia coastal captive insurance companies
14 license requirements; to provide an effective date; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
19 adding a new chapter to read as follows:

20 "CHAPTER 64

21 33-64-1.

22 As used in this chapter, the term:

23 (1) 'Coastal area' or 'coastal zone' means all tidally influenced waters and submerged land
24 seaward to the state's jurisdictional limits and all lands, submerged lands, waters, and

25 other resources within the Counties of Brantley, Bryan, Camden, Charlton, Chatham,
 26 Effingham, Glynn, Long, Liberty, McIntosh, and Wayne.

27 (2) 'Legal residence' means the taxpayer's legal residence.

28 (3) 'Qualified catastrophe expenses' means expenses paid or incurred by reason of a
 29 major disaster that has been declared by the Governor to be an emergency by executive
 30 order.

31 (4) 'Qualified deductible' means the deductible for the individual's homeowner's policy
 32 for a taxpayer's legal residence.

33 33-64-2.

34 (a)(1) An individual taxpayer is allowed a deduction from the tax imposed pursuant to
 35 Chapter 7 of Title 48 for amounts contributed to a catastrophe savings account in
 36 accordance with paragraph (3) of subsection (b) of this Code section.

37 (2) All interest income earned by the catastrophe savings account is exempt from the tax
 38 imposed pursuant to Chapter 7 of Title 48 as provided in this chapter.

39 (b)(1) As used in this chapter, 'catastrophe savings account' means a regular savings
 40 account or money market account established by an insurance policyholder for residential
 41 property in this state to cover an insurance deductible under an insurance policy for the
 42 taxpayer's legal residence property that covers hurricane, rising flood waters, or
 43 catastrophic windstorm event damage or by an individual to cover self-insured losses for
 44 the taxpayer's legal residence from a hurricane, rising flood waters, or catastrophic
 45 windstorm event. The account must be labeled as a catastrophe savings account in order
 46 to qualify as a catastrophe savings account as defined in this chapter. A taxpayer shall
 47 establish only one catastrophe savings account and shall specify that the purpose of the
 48 account is to cover the amount of insurance deductibles and other uninsured portions of
 49 risks of loss from hurricane, rising flood waters, or catastrophic windstorm event.

50 (2) A catastrophe savings account is not subject to attachment, levy, garnishment, or
 51 legal process in this state.

52 (3) The total amount that may be contributed to a catastrophe savings account shall not
 53 exceed:

54 (A) In the case of an individual whose qualified deductible is less than or equal to
 55 \$1,000.00, \$2,000.00;

56 (B) In the case of an individual whose qualified deductible is greater than \$1,000.00,
 57 the amount equal to the lesser of \$15,000.00 or twice the amount of the taxpayer's
 58 qualified deductible; or

59 (C) In the case of a self-insured individual who chooses not to obtain insurance on his
60 or her legal residence, up to \$250,000.00, but this amount shall not exceed the fair
61 market value of the individual taxpayer's legal residence.

62 (4) If a taxpayer contributes in excess of the limits provided in paragraph (3) of this
63 subsection, the taxpayer shall withdraw the amount of the excess contributions and
64 include that amount in Georgia income for purposes of Chapter 7 of Title 48 in the year
65 of withdrawal.

66 33-64-3.

67 (a) A distribution from a catastrophe savings account shall be included in the income of
68 the taxpayer unless the amount of the distribution is used to cover qualified catastrophe
69 expenses.

70 (b) No amount is included in income, pursuant to subsection (a) of this Code section, if the
71 qualified catastrophe expenses of the taxpayer during the taxable year are equal to or
72 greater than the aggregate distributions during the taxable year.

73 (c) If aggregate distributions exceed the qualified catastrophe expenses during the taxable
74 year, the amount otherwise included in income shall be reduced by the amount of the
75 distributions for qualified catastrophe expenses.

76 (d)(1) The tax paid pursuant to Chapter 7 of Title 48 attributable to a taxable distribution
77 shall be increased by 2.5 percent of the amount which is includable in income.

78 (2) This additional tax does not apply if the:

79 (A) A taxpayer no longer owns a legal residence; or

80 (B) Distribution is from an account conforming with Code Section 33-64-2 and is
81 made on or after the date on which the taxpayer attains the age of 70.

82 (e)(1) No amount is includable in taxable income, pursuant to subsection (a) of this Code
83 section, if the distribution is from an account conforming with Code Section 33-64-2 and
84 is made on or after the date on which the taxpayer attains the age of 70.

85 (2) If a taxpayer receives a nontaxable distribution under this subsection, the taxpayer
86 shall not make further contributions to any catastrophe savings account.

87 (f) If a taxpayer who owns a catastrophe savings account dies, his or her account is
88 included in the income of the person who receives the account, unless that person is the
89 surviving spouse of the taxpayer. Upon the death of the surviving spouse, the account is
90 included in the income of the person who receives the account. The additional tax in
91 subsection (d) of this Code section does not apply to distribution on death of the taxpayer
92 or the surviving spouse.

93 33-64-4.

94 (a) An individual taxpayer is allowed a credit against the tax imposed pursuant to Chapter
95 7 of Title 48 for costs incurred to retrofit, as specified in subsection (b) of this Code
96 section, a structure qualifying as the taxpayer's legal residence pursuant to Chapter 7 of
97 Title 48 to make it more resistant to loss due to hurricane, rising flood waters, or
98 catastrophic windstorm event.

99 (b) In order to qualify for the state income tax credit allowed pursuant to this Code section,
100 costs to retrofit shall not include ordinary repair or replacement of existing items and shall
101 be associated with those fortification measures defined in subsection (c) of this Code
102 section and shall increase the residence's resistance to hurricane, rising flood waters, or
103 catastrophic windstorm event damage, as defined by the Commissioner by regulation.

104 (c) The fortification measures qualifying for the state income tax credit allowed pursuant
105 to this Code section shall be promulgated by the department by regulation.

106 (d) The tax credit allowed pursuant to this Code section for any taxable year shall not
107 exceed the lesser of:

108 (1) Twenty-five percent of the cost incurred; or

109 (2) One thousand dollars.

110 (e) The cost of items that otherwise qualify for the credit that are purchased with grant
111 funds awarded pursuant to Code Section 33-64-34 are not eligible for this credit if the
112 grants are not included in the income of the taxpayer.

113 33-64-5.

114 (a) An individual taxpayer is allowed a credit from the income tax imposed pursuant to
115 Chapter 7 of Title 48 for Georgia state sales or use taxes paid on purchases of tangible
116 personal property used to retrofit the individual's legal residence pursuant to Code Section
117 33-64-4. The credit amount is calculated by multiplying by 6 percent the purchase price
118 of tangible personal property for which the individual may claim the income tax credit in
119 this Code section. The maximum credit allowed under this Code section is \$1,500.00.

120 (b) The cost of items that otherwise qualify for the credit that are purchased with grant
121 funds awarded pursuant to Code Section 33-64-34 are not eligible for this credit if the
122 grants are not included in the income of the taxpayer.

123 33-64-6.

124 (a) An individual taxpayer may claim a credit against the income tax imposed pursuant to
125 Chapter 7 of Title 48 for excess premium paid during the applicable tax year for property
126 and casualty insurance, provided the coverage is on the taxpayer's legal residence.

127 (b) For the purposes of computing the credit allowed by this Code section, excess premium
128 paid is the amount by which the premium paid exceeds 5 percent of the taxpayer's adjusted
129 gross income.

130 (c)(1) The credit allowed pursuant to this Code section for any taxable year may not
131 exceed \$1,250.00.

132 (2) If the credit allowed under this Code section exceeds the state income tax liability for
133 the taxable year, any unused credit may be carried forward for five succeeding taxable
134 years.

135 33-64-7.

136 (a) If the Governor declares a state of emergency, the Commissioner may issue one or
137 more emergency regulations applicable to all insurance companies, entities, and persons
138 that are subject to this title.

139 (b) An emergency regulation promulgated under this Code section becomes effective upon
140 issuance and continues for 120 days unless terminated sooner by the Commissioner. The
141 Commissioner may extend an emergency regulation for additional periods of 120 days,
142 whether or not the General Assembly is in session, for as long as he or she determines that
143 the conditions that gave rise to the emergency regulation still exist. By concurrent
144 resolution, the General Assembly may terminate an emergency regulation issued under this
145 Code section.

146 33-64-8.

147 (a) By an emergency regulation, the Commissioner may adopt any procedure that
148 facilitates recovery from the emergency and is fair under the circumstances if the:

149 (1) Procedure provides at least the procedural protection given by other statutes, the
150 Constitution of this state, or the United States Constitution;

151 (2) Department takes only that action necessary to protect the public interest under the
152 emergency procedure; and

153 (3) Department publishes in writing, at the time of or before its action, the specific facts
154 and reasons for finding an immediate danger to the public health, safety, or welfare and
155 its reasons for concluding that the procedure used is fair under the circumstances.

156 (b) Subject to applicable constitutional and statutory provisions, an emergency regulation
157 becomes effective immediately on filing.

158 33-64-9.

159 (a) The department may promulgate by emergency regulation standardized requirements
160 that may be applied to insurers as a consequence of a hurricane, rising flood waters, or
161 catastrophic windstorm. The emergency regulations must address the following areas:

162 (1) Claims reporting requirements;

163 (2) Grace periods for payment of premiums and performance of other duties by insureds;

164 (3) Temporary postponement of cancellations and nonrenewals; and

165 (4) Any other rule the Commissioner considers necessary.

166 (b) The emergency regulations adopted under this Code section shall require the
167 department to issue an order within ten days after the occurrence of a hurricane, rising
168 flood waters, or catastrophic windstorm specifying, by line of insurance, which of the
169 standardized requirements apply, the geographic areas in which they apply, the time at
170 which applicability commences, and the time at which applicability terminates.

171 33-64-10.

172 The department may promulgate the rules and regulations necessary to implement the
173 provisions of this chapter.

174 33-64-11.

175 (a) A licensed insurer providing full property and casualty coverage, to specifically include
176 wind and hail coverage, to property owners within the area to be defined by regulation,
177 including any portion of the area as it may be expanded from time to time, may claim as
178 a nonrefundable credit against the premium tax imposed by Georgia law in an amount
179 equal to 25 percent of the tax that otherwise is due on the premium written for the property
180 owners for the taxable year.

181 (b) The credit allowed by this Code section is available only to an insurer licensed or
182 authorized to do business in this state with respect to a property and casualty insurance
183 policy providing full coverage as defined in subsection (a) of this Code section.

184 (c) A licensed insurer who claims the credit allowed by this Code section shall provide
185 information required by the department to demonstrate that the taxpayer is eligible for the
186 credit and that the amount paid for premiums for which the credit is claimed was not
187 excluded from the licensed insurer's gross income for the taxable year.

188 (d) The tax credit allowed under this Code section for a taxable year may be claimed only
189 once for any one structure, regardless of the number of policies written on the structure.

190 (e) The department shall take the action necessary to monitor and examine the use of the
191 credits claims under this Code section.

192 (f) This Code section applies to all new policies issued with an effective date after
193 December 31, 2010.

194 33-64-12.

195 (a) All insurers, at the issuance of a new policy and at each renewal, clearly shall notify
196 the applicant or policyholder of a personal lines residential property insurance policy of the
197 availability and the range of each premium discount, credit, other rate differential, or
198 reduction in deductibles for properties on which fixtures or construction techniques
199 demonstrated to reduce the amount of loss in a hurricane, rising flood waters, or
200 catastrophic windstorm have been installed or implemented. The notice must describe
201 generally what measures the policyholders may take to reduce their hurricane, rising flood
202 waters, or catastrophic windstorm premium.

203 (b) All insurers, at the issuance of a new policy and at each renewal of a commercial
204 property insurance policy, shall include a notice that advises the policyholder that a
205 reduction in premium may be available if the policyholder has taken steps to prevent or
206 reduce damage from a hurricane, rising flood waters, or catastrophic windstorm and that
207 the policyholder may contact its agent, broker, or insurer for additional information.

208 (c) This Code section applies to policies issued or renewed after December 31, 2010.

209 33-64-13.

210 The Commissioner must hold a public hearing at least annually at a location within the
211 seacoast area to provide the public with information and an opportunity to discuss and offer
212 input concerning the rates, territory, and other pertinent issues regarding the availability of
213 property insurance. The Commissioner must provide notice of the public hearing in
214 newspapers of general circulation within the seacoast area at least 30 days before the date
215 of the public hearing. The Commissioner must submit a report to the President of the
216 Senate and the Speaker of the House of Representatives by no later than January 31 of each
217 year regarding the status of coastal property insurance, including any recommended
218 modifications to statutory or regulatory law regarding the operation of the Georgia Wind
219 and Hail Underwriting Association and its territory.

220 33-64-14.

221 Nothing in this chapter prevents the Commissioner from considering the impact on
222 individual territories or individual insureds when determining whether the rate is excessive,
223 inadequate, or unfairly discriminatory. Rate level increases or decreases falling within the
224 limitation specified in this chapter must comply with the requirements of this title
225 prohibiting rate increases from being excessive, inadequate, or unfairly discriminatory.

226 This chapter does not apply to private passenger automobile insurance nor to insurance
227 against liability arising out of the ownership, maintenance, or the use of an individual
228 private passenger automobile.

229 33-64-15.

230 Rating plans for essential property insurance in the coastal area shall include discounts and
231 credits or surcharges and debits calculated upon the following rating factors:

232 (1) Use of storm shutters;

233 (2) Use of roof tie downs;

234 (3) Construction standards;

235 (4) Building codes;

236 (5) Distance from water;

237 (6) Elevation;

238 (7) Flood insurance;

239 (8) Policy deductibles; and

240 (9) Other applicable factors requested by the insurer or rating organization or selected
241 by order of the Commissioner involving the risk or hazard.

242 The department may by regulation define how the implementation of these factors qualify
243 for credits or discounts. The regulation must specify what evidence or proof the
244 policyholder or applicant shall present to obtain the credit or discount. This Code section
245 applies to policies issued or renewed after December 31, 2010.

246 33-64-16.

247 (a) There is created the Georgia Wind and Hail Underwriting Association, an
248 unincorporated association whose responsibilities, liability, and regulations are governed
249 and defined by this chapter. The association shall function as a residual market mechanism
250 to provide wind and hail insurance for residential and commercial property to applicants
251 who are unable to procure this insurance in the coastal area.

252 (b) The association consists of all private insurers authorized to write and engage in
253 writing property insurance within this state on a direct and state-wide basis, but excluding
254 insurers whose writings are limited to property wholly owned by parent, subsidiary, or
255 allied organizations or insurers whose writings are limited to property wholly owned by
256 religious organizations. However, as a condition of exemption from membership, these
257 insurers providing property insurance for insurable property in the coastal area as defined
258 by this chapter also shall provide essential property insurance for these risks. Each insurer
259 must be a member of the association and shall remain a member of the association so long

260 as the association is in existence as a condition of its authority to continue to transact the
261 business of insurance in this state.

262 33-64-17.

263 (a) The association shall operate pursuant to a plan of operation which provides for the
264 following:

265 (1) The number, qualifications, terms of office, and manner of election of the members
266 of the board of directors, provided that four members of the board of directors must be
267 consumers who are representative of business policyholders, residential single-family
268 dwelling policyholders, and apartment, condominium, or multiple-family dwelling
269 policyholders, and who are selected from recommendations from the members of the
270 legislative delegations from the coastal area;

271 (2) The efficient, economical, fair, and nondiscriminatory administration of the
272 association;

273 (3) The prompt and efficient provision of essential property insurance in the coastal areas
274 of the state;

275 (4) The manner of election of officers;

276 (5) The establishment of necessary facilities;

277 (6) The management of the association;

278 (7) The assessment of members to defray losses and expenses;

279 (8) Reasonable underwriting standards, rating subdivisions, and rates including, but not
280 limited to, developing multiple tiered rates within the coastal area territory that reflect the
281 relative risks of the properties located within a particular tier;

282 (9) Commissions to be paid to agents or brokers;

283 (10) Procedures for an open, competitive process for the acceptance and cession of
284 reinsurance and for determining the amounts of insurance to be provided to specific risks;

285 (11) Time limits and procedures for processing applications for insurance; and

286 (12) Other provisions considered necessary by the Commissioner or his or her designee
287 to carry out the purposes of this chapter.

288 (b) Insurance effected pursuant to this chapter must have limits of liability provided in the
289 plan of operation. The Commissioner shall approve the limits. Excess insurance is not
290 permitted until the maximum available under the plan has been purchased. After that,
291 excess insurance may be purchased and must be included for the purpose of meeting any
292 coinsurance requirement.

293 (c) The board of the association, subject to the approval of the Commissioner, may amend
294 the plan of operation at any time. The Commissioner shall review the plan of operation
295 annually. The Commissioner shall review the rate structure and loss experience

296 semiannually. After review of the plan, the Commissioner may amend the plan and the
 297 amendment takes effect immediately upon ratification by the board.

298 33-64-18.

299 (a) A person having an insurable interest in insurable property is entitled to apply to the
 300 association for coverage and for an inspection of the property. The application must be
 301 made on behalf of the applicant by a licensed broker or agent authorized by him or her. An
 302 application must be submitted on a form prescribed by the association and approved by the
 303 Commissioner. The application must contain a statement as to whether or not there are any
 304 unpaid premiums due from the applicant for fire insurance on the property. The term
 305 'insurable interest' as used in this Code section includes any lawful and substantial
 306 economic interest in the safety or preservation of property from loss, destruction, or
 307 pecuniary damage.

308 (b) If the association determines that the property is insurable and that there is no unpaid
 309 premium due from the applicant for prior insurance on the property, the association upon
 310 receipt of the premium, or a portion of it as is prescribed in the plan of operation, shall
 311 cause to be issued a policy of essential property insurance for a term of at least one year.

312 (c) If the association, for any reason, denies an application and refuses to cause to be
 313 issued an insurance policy on insurable property to an applicant or takes no action on an
 314 application within the time prescribed in the plan of operation, the applicant may appeal
 315 to the Commissioner and the Commissioner or a member of his or her staff designated by
 316 him or her, after reviewing the facts, may direct the association to issue or cause to be
 317 issued an insurance policy to the applicant. In carrying out his or her duties pursuant to this
 318 section, the Commissioner may request, and the association shall provide, any information
 319 the Commissioner considers necessary to a determination concerning the reasons for the
 320 denial or delay of the application.

321 33-64-19.

322 (a) The association, pursuant to the provisions of this chapter and the plan of operation,
 323 and with respect to essential property insurance on insurable property, has the power on
 324 behalf of its members to:

325 (1) Cause to be issued policies of insurance to applicants;

326 (2) Assume reinsurance from its members;

327 (3) Cede reinsurance to its members and to purchase reinsurance on risks insured by the
 328 association in amounts that are in accordance with procedures adopted by the board;

329 (4) Receive, hold, and transfer personal and real property in the name of the association;

330 (5) Contract for goods and services that may not be reasonably performed by its
 331 employees;

332 (6) Solicit and accept goods, loans, and grants in the name of the association;

333 (7) Borrow funds; and

334 (8) Issue bonds, surplus notes, or other debentures.

335 (b) The association, pursuant to the provisions of this chapter and the plan of operation,
 336 and with respect to essential property insurance on insurable property, shall perform other
 337 acts necessary or proper to effectuate the purpose of this Code section.

338 33-64-20.

339 (a) All members of the association shall participate in its writings, expenses, profits, and
 340 losses in the proportion that the net direct premium of the member written in this state
 341 during the calendar year two years before the current year bears to the aggregate net direct
 342 premiums written in this state by all members of the association, as certified to the
 343 association by the department after review of annual statements, other reports, and other
 344 statistics which the department considers necessary to provide the information required and
 345 which the department is authorized to obtain from a member of the association. After
 346 certification by the department, the association may rely on the member company's annual
 347 statement in determining the company's participation in profits and losses for each year.

348 (b) Each member's participation in the association must be determined annually in the
 349 same manner as the initial determination. An insurer authorized to write and engage in
 350 writing insurance, the writing of which requires the insurer to be a member of the
 351 association, becomes a member of the association on January first immediately following
 352 the authorization. The determination of the insurer's participation in the association must
 353 be made as of the date of the membership in the same manner as for all other members of
 354 the association. Member insurers shall receive credit annually for essential property
 355 insurance voluntarily written in the coastal area and their participation in the writings of
 356 the association must be reduced accordingly. The board of directors shall authorize the
 357 method of determining the credit. In order to receive credit for essential property
 358 voluntarily written in the coastal area, each member company shall submit its requests by
 359 March 31 of the year preceding the year for which credit is sought.

360 (c) The assessment of a member insurer after hearing may be ordered deferred in whole
 361 or in part upon application by the insurer if, in the opinion of the Commissioner, payment
 362 of the assessment would render the insurer insolvent or in danger of insolvency or would
 363 otherwise leave the insurer in a condition so that further transaction of the insurer's
 364 business would be hazardous to its policyholders, creditors, members, subscribers,
 365 stockholders, or the public. If payment of an assessment against a member insurer is

366 deferred by order of the Commissioner in whole or in part, the amount by which the
367 assessment is deferred must be assessed against other member insurers in the same manner
368 as provided in this Code section. In his or her order of deferral, or in necessary subsequent
369 orders, the Commissioner shall prescribe a plan by which the assessment so deferred must
370 be repaid to the association by the impaired insurer with interest at the six-month treasury
371 bill rate adjusted semiannually. Profits, dividends, or other funds of the association to
372 which the insurer is otherwise entitled must not be distributed to the impaired insurer but
373 must be applied toward repayment of an assessment until the obligation has been satisfied.
374 The association shall distribute the repayments, including interest, to the other member
375 insurers on the basis at which assessments were made.

376 33-64-21.

377 (a) If a member company perceives an assessment or interest levied by the association to
378 be unjust or illegal, the company shall pay the assessment or interest under protest in
379 writing within 30 days of the assessment or interest charge. Upon receiving this payment,
380 the association shall pay the money collected into the association account and designate the
381 money as having been paid under protest.

382 (b) A member company paying an assessment or interest under protest shall appeal to the
383 association within 30 days after making the payment. If it is determined in that appeal that
384 the assessment or interest was collected unjustly or illegally, the association shall refund
385 the assessment or interest to the payor.

386 (c) If a member company fails to pay an assessment or interest within 30 days of the
387 assessment or interest charge by the association, the company is subject to disciplinary
388 rules and procedures to be promulgated by the Commissioner.

389 33-64-22.

390 There may be no liability on the part of and no cause of action of any nature may arise
391 against the department or any of its staff or the association or its agents, employees, or any
392 participating insurer for any inspections made under this chapter or any statements made
393 in good faith by them in any reports or communications concerning risk submitted to the
394 association or at any administrative hearings conducted in connection with it under the
395 provisions of this chapter.

396 33-64-23.

397 There is no liability on the part of, and no cause of action of any nature may arise against,
398 any member insurer, the association's agents or employees, the board of directors, or the
399 Commissioner, his or her designees, or his or her representatives for any act or omission

400 in the performance of their powers and duties under this chapter. This Code section does
 401 not relieve the association of any of its liability.

402 33-64-24.

403 No liability on the part of, and no cause of action of any nature may arise against, the
 404 Commissioner, the department or its staff, the association, any member insurer, the
 405 association's agents or employees, its board of directors, or the legal representatives of any
 406 of the above persons, for any act or omission made in good faith or for any statement made
 407 to, or for information provided to, any insurer regarding rates; premiums; classifications;
 408 cancellations, determinations, or nonrenewals of coverage; underwriting; inspections; or
 409 claims experience history made to facilitate the underwriting of essential property
 410 insurance for risks in the coastal area by private insurers or to facilitate competition for the
 411 underwriting of essential property insurance for risks in the coastal area among private
 412 insurers.

413 33-64-25.

414 A member of the association who is designated to receive and write essential property
 415 insurance from or through the association shall cede 100 percent to the association the
 416 essential property insurance.

417 33-64-26.

418 (a) The rates, rating plans, and rating rules applicable to the insurance written by the
 419 association are those approved for use of the association by the Commissioner. Surcharges
 420 may be used as approved by the Commissioner. Rates may include rules for classification
 421 of risks insured under the provisions of this chapter and rate modifications of it.

422 (b) As a residual market mechanism, the association is not intended to offer rates
 423 competitive with the admitted market. Rates for policies issued by the association must be
 424 adequate and established at a level that permits the association to operate as a
 425 self-sustaining mechanism. The association shall maintain the necessary rate-making data
 426 in order to permit the actuarial determination of rates and rating plans appropriate for the
 427 business insured by the association. The association shall monitor rate adequacy and shall
 428 notify the Commissioner semiannually to enable the Commissioner to take corrective
 429 action by an order.

430 33-64-27.

431 (a) A person insured pursuant to this chapter or his or her representative or a member
 432 company who is aggrieved by an act, ruling, or decision of the association:

433 (1) Regarding rates, classification of risks, assessments, voluntary credits, cancellation
434 or termination of policies, or underwriting shall appeal to the Commissioner within 60
435 days after the act, ruling, or decision; and

436 (2) Other than those specified in paragraph (1) of this subsection, may appeal to the
437 Commissioner within 30 days after the act, ruling, or decision.

438 (b) A hearing held by the Commissioner pursuant to this Code section must be in
439 accordance with the procedures set forth in Code Section 33-2-17.

440 33-64-28.

441 All reports of inspection performed by or on behalf of the association must be made
442 available to the members of the association, applicants, agents, brokers, and the
443 department.

444 33-64-29.

445 The association shall file with the department by December 31 of each year a statement
446 which summarizes the transactions, conditions, operations, and affairs of the association
447 during the preceding fiscal year ending July 31. The statement must contain any matters
448 and information prescribed by the department and must be in the form required by it. The
449 department may at any time require the association to furnish to it any additional
450 information with respect to its transactions or any other matter which it considers material
451 to assist it in evaluating the operation and experience of the association.

452 33-64-30.

453 The department may make an examination into the affairs of the association and in
454 undertaking the examination may hold a public hearing. The expense of the examination
455 must be borne and paid by the association.

456 33-64-31.

457 The department has authority to make reasonable regulations, not inconsistent with law,
458 to enforce, carry out, and make effective the provisions of this chapter.

459 33-64-32.

460 (a) In order to maintain stability in the property insurance market and to assure the
461 continued, consistent availability of essential property insurance coverage in the coastal
462 area, the Commissioner may expand the coastal area in which the association shall provide
463 essential property insurance for periods up to 24 months. The order is subject to renewal

464 by the Commissioner but no renewal shall exceed 24 months. In determining whether
 465 expansion of the coastal area is warranted, the Commissioner shall consider:

466 (1) Changes in the number of insurers writing essential property insurance in the coastal
 467 area and the capacity of those insurers including, but not limited to, the number of
 468 policies those insurers have canceled or nonrenewed, during the previous 12 months;

469 (2) Changes in the extent to which nonadmitted or surplus lines insurers are providing
 470 essential property insurance in the coastal area;

471 (3) Changes in reinsurance activity impacting insurers writing essential property
 472 insurance in the coastal area;

473 (4) Changes in the demand for property insurance in the coastal area; and

474 (5) Any other information considered relevant to effectuate the purpose of this chapter
 475 including, but not limited to, the availability of essential property insurance coverage for
 476 insurable property that is within the coastal area.

477 (b) The Commissioner shall find and declare the existence of conditions that threaten to
 478 destabilize the property insurance market and jeopardize the continued, consistent
 479 availability of essential property insurance in the coastal area. The Commissioner shall
 480 utilize market surveys, data calls, catastrophe models, reinsurance information, and other
 481 objective sources to support the order of expansion.

482 (c)(1) The Commissioner may expand the coastal area in which the association shall
 483 provide essential property insurance. The expansion may encompass a portion of the
 484 coastal area or the entire coastal area but may not extend further than the coastal area.
 485 The area must not be expanded more than reasonably necessary to ensure a stable
 486 property insurance market.

487 (2) In expanding the coastal area, the Commissioner may provide for the coastal area
 488 territory to be divided into multiple tiers to allow the association to develop multiple
 489 tiered rates that reflect the relative risks of the properties located within a particular tier.

490 (3) An expansion of the coastal area is subject to the plan of operation as amended and
 491 approved by the Commissioner.

492 (4) The Commissioner shall report any expansion of the coastal area to the General
 493 Assembly within 30 days of the order of expansion or upon commencement of the next
 494 term of the General Assembly, if expansion occurs when the General Assembly is not in
 495 session.

496 33-64-33.

497 (a) The Commissioner shall appoint an advisory committee to study issues associated with
 498 the development of strategies for reducing loss of life and mitigating property losses due
 499 to hurricane, earthquake, and fire. The advisory committee also shall consider the costs

500 associated with these strategies to individual property owners. The advisory committee
 501 shall be composed of:

502 (1) The Commissioner;

503 (2) The chairperson of the Building Codes Council or his or her designee;

504 (3) A representative from Georgia Institute of Technology involved with wind
 505 engineering;

506 (4) A representative from an academic institution involved with the study of earthquakes;

507 (5) A representative from an insurer writing property insurance in Georgia;

508 (6) A representative from the Georgia Municipal Association;

509 (7) A representative from the Association County Commissioners of Georgia;

510 (8) A representative from the Homebuilders Association of Georgia;

511 (9) A representative from the Georgia Manufactured Housing Association;

512 (10) A representative from the Georgia Emergency Management Agency;

513 (11) A representative from the Georgia Association of Floodplain Management;

514 (12) Two at-large members appointed by the Commissioner;

515 (13) Two at-large members appointed by the Governor;

516 (14) A general contractor;

517 (15) A representative from the Georgia Association of Realtors; and

518 (16) A structural engineer.

519 (b) Members shall serve for terms of two years and shall receive no per diem, mileage, or
 520 subsistence. Vacancies must be filled in the same manner as the original appointment.

521 (c) Within 30 days after its appointment, the advisory committee shall meet at the call of
 522 the Commissioner. The advisory committee shall elect from its members a chairperson and
 523 a secretary and shall adopt rules not inconsistent with this chapter. Meetings may be called
 524 by the chairperson on his or her own initiative and must be called at the request of three or
 525 more members of the advisory committee. All members must be notified by the
 526 chairperson of the time and place of the meeting at least seven days in advance of the
 527 meeting. All meetings must be open to the public. At least a two-thirds' vote of those
 528 members in attendance at the meeting shall constitute an official decision of the advisory
 529 committee. Implementation of this program and continued existence of this program is
 530 subject to the availability of funding through legislative appropriations or alternative
 531 funding sources.

532 33-64-34.

533 (a) There is established within the department a loss mitigation grant program. Funds may
 534 be appropriated to the grant program, and any funds appropriated shall be used for the
 535 purpose of making grants to local governments or for the study and development of

536 strategies for reducing loss of life and mitigating property losses due to hurricane, flood,
 537 earthquake, and fire. Grants to local governments must be for the following purposes:

538 (1) Implementation of building code enforcement programs including preliminary and
 539 ongoing training of inspectors;

540 (2) Conducting assessments to determine need for and desirability of making agreements
 541 to provide enforcement services; and

542 (3) Providing technical assistance to and acting as an information resource for local
 543 governments in the development of proactive hazard mitigation strategies as they relate
 544 to reducing the loss of life and mitigating property losses due to natural hazards to
 545 include hurricane, flood, earthquake, and fire.

546 (b) Funds may be appropriated for a particular grant only after a majority affirmative vote
 547 on each grant by the advisory committee.

548 (c) The department may make application and enter into contracts for and accept grants
 549 in aid from federal and state government and private sources for the purposes of:

550 (1) Implementation of building code enforcement programs including preliminary and
 551 ongoing training of inspectors;

552 (2) Conducting assessments to determine need for and desirability of making agreements
 553 to provide enforcement services;

554 (3) Study and development of strategies for reducing loss of life and mitigating property
 555 losses due to hurricane, flood, earthquake, and fire; and

556 (4) Any other purposes consistent with this chapter.

557 33-64-35.

558 (a) There is established within the department the Georgia Hurricane Damage Mitigation
 559 Program. The advisory council shall provide advice and assistance to the program
 560 administrator with regard to his or her administration of the program.

561 (b) This Code section does not create an entitlement for property owners or obligate the
 562 state in any way to fund the inspection or retrofitting of residential property in this state.
 563 Implementation of this program is subject to annual legislative appropriations.

564 (c) The program shall develop and implement a comprehensive and coordinated approach
 565 for hurricane damage mitigation that includes the following:

566 (1) The program administrator shall apply for financial grants to be used to assist
 567 single-family, site-built or manufactured or modular, owner occupied, residential property
 568 owners to retrofit their properties to make them less vulnerable to hurricane damage;

569 (2)(A) To be eligible for a grant, a residential property must:

570 (i) Have been granted a homestead exemption;

571 (ii) Be a dwelling with an insured value of \$300,000.00 or less; and

572 (iii) Have undergone an acceptable wind certification and hurricane mitigation
573 inspection.

574 (B) All grants must be matched on a dollar-for-dollar basis for a total of \$10,000.00 for
575 the mitigation project with the state's contribution not to exceed \$5,000.00.

576 (C) The program must create a process in which mitigation contractors agree to
577 participate and seek reimbursement from the state and homeowners selected from a list
578 of participating contractors. All mitigation must be based upon the securing of all
579 required local permits and inspections. Mitigation projects are subject to random
580 reinspection of up to at least ten percent of all projects.

581 (D) Matching fund grants also must be made available to local governments and
582 nonprofit entities for projects that reduce hurricane damage to single-family, site-built
583 or manufactured or modular owner occupied, residential property.

584 (E) Grants may be used for the following improvements:

585 (i) Roof deck attachment;
586 (ii) Secondary water barrier;
587 (iii) Roof covering;
588 (iv) Brace gable ends;
589 (v) Reinforce roof-to-wall connections;
590 (vi) Opening protection;
591 (vii) Exterior doors, including garage doors;
592 (viii) Tie downs;
593 (ix) Problems associated with weakened trusses, studs, and other structural
594 components;
595 (x) Inspection and repair or replacement of manufactured home piers, anchors, and
596 tiedown straps; and
597 (xi) Any other mitigation techniques approved by the advisory committee.

598 (F)(i) Low-income homeowners, who otherwise meet the requirements of
599 subparagraphs (A) and (C) of this paragraph are eligible for a grant of up to \$5,000.00
600 and are not required to provide a matching amount to receive the grant. These grants
601 must be used to retrofit single-family, site-built or manufactured or modular, owner
602 occupied, residential properties, valued at \$150,000.00 or less, in order to make them
603 less vulnerable to hurricane damage.

604 (ii) For purposes of this subparagraph, 'low-income persons' means one or more
605 natural persons or a family, the total annual adjusted gross household income of
606 which does not exceed 80 percent of the median annual adjusted gross income for
607 households within the county in which the person or family resides, whichever is
608 greater;

- 609 (3) The department shall define by regulation the details of the mitigation measures
610 necessary to qualify for the grants or public assistance described in this Code section;
611 (4) Multimedia public education, awareness, and advertising efforts designed to
612 specifically address mitigation techniques must be employed, as well as a component to
613 support ongoing consumer resources and referral services;
614 (5) The department shall use its best efforts to obtain grants or funds from the federal
615 government to supplement the financial resources of the program. In addition to state
616 appropriations, if any, this program must be implemented by the department through the
617 use of the premium taxes due to this state by the Georgia Wind and Hail Underwriting
618 Association, and 1 percent of the premium taxes collected annually and remitted to the
619 department; and
620 (6) The Commissioner may promulgate regulations necessary to implement the
621 provisions of this Code section.

622 33-64-36.

- 623 (a) The department, in consultation with the Governor's Office of Consumer Affairs, the
624 Federal Alliance for Safe Homes, the Georgia Manufactured Housing Association, the
625 Building Officials Association of Georgia, the Home Builders Association of Georgia, the
626 Civil Engineering Department of the Georgia Institute of Technology, and the Institute for
627 Business and Homes Safety shall study and prepare a proposal to develop an objective
628 rating system that will allow homeowners to evaluate the relative ability of Georgia's
629 coastal properties to withstand the wind load from a hurricane.
630 (b) The rating system must be designed in a manner the property owner may easily
631 understand, based on proven readily verifiable mitigation techniques and devices, and able
632 to be implemented through a visual inspection program. The rating system must be
633 designed to facilitate a home inspection process to determine a home's existing as well as
634 projected wind resistance capabilities.
635 (c) The rating system must contemplate the use of certified wind resistance and loss
636 mitigation inspectors.
637 (d) The department must provide a report to the Governor, the President of the Senate, and
638 the Speaker of the House of Representatives by March 5, 2011, detailing the nature and
639 construction of the rating scale, its projected effectiveness based on implementation in a
640 pilot program, an operational plan for state-wide implementation of the rating scale, and
641 any recommendations for additional legislation.

642 33-64-37.

643 The modeling organization shall submit a supplemental report to the Commissioner
644 following any substantially material revision of the model if the revision is used by insurers
645 in determining rates for this state. The supplemental report must specify the changes made
646 to the catastrophe model, specify a list of variables that are subject to insurer input, and
647 contain one or more statements by experts attesting to the continuing validity of the model
648 for use in predicting losses associated with natural hazard catastrophes in this state.

649 33-64-38.

650 (a) To recover the costs associated with the review and evaluation of catastrophe models,
651 the Commissioner may impose a filing fee on:

652 (1) All insurers who use catastrophe or other computer simulated models; and

653 (2) Modelers or modeling organizations that submit a model to the department for its
654 review, evaluation, or approval. This fee shall be retained by the department to defray
655 the costs of retaining actuaries and other experts to evaluate such models.

656 (b) The fees collected pursuant to this Code section shall be used only to offset expenses
657 associated with the review of catastrophe models.

658 33-64-39.

659 (a) No insurance policy or renewal thereof may be canceled by the insurer prior to the
660 expiration of the term stated in the policy, except for one of the following reasons:

661 (1) Nonpayment of premium;

662 (2) Material misrepresentation of fact which, if known to the company, would have
663 caused the company not to issue the policy;

664 (3) Substantial change in the risk assumed, except to the extent that the insurer should
665 reasonably have foreseen the change or contemplated the risk in writing the policy;

666 (4) Substantial breaches of contractual duties, conditions, or warranties; or

667 (5) Loss of the insurer's reinsurance covering all or a significant portion of the particular
668 policy insured or where continuation of the policy would imperil the insurer's solvency
669 or place that insurer in violation of the insurance laws of this state. Prior to cancellation
670 for reasons permitted in this paragraph, the insurer shall notify the Commissioner, in
671 writing, at least 60 days prior to such cancellation and the Commissioner shall, within 30
672 days of such notification, approve or disapprove such action.

673 (b) Cancellation under paragraph (1) of subsection (a) of this Code section is not effective
674 unless written notice of cancellation has been delivered or mailed to the insured and the
675 agent of record, if any, not less than ten days prior to the proposed effective date of
676 cancellation. Cancellation under paragraphs (2) through (5) of subsection (a) of this Code

677 section is not effective unless written notice of cancellation has been delivered or mailed
678 to the insured and the agent of record, if any, not less than 30 days prior to the proposed
679 effective date of cancellation. The notice must be given or mailed to the insured and the
680 agent at their addresses shown in the policy or, if not reflected therein, at their last known
681 addresses. Any notice of cancellation shall state the precise reason for cancellation. Proof
682 of mailing is sufficient proof of notice.

683 (c) Subsections (a) and (b) of this Code section do not apply to any insurance policy which
684 has been in effect for less than 120 days and is not a renewal of a previously existing
685 policy. The policy may be canceled for any reason by furnishing to the insured at least 30
686 days' written notice of cancellation, except where the reason for cancellation is nonpayment
687 of premium, in which case not less than ten days' written notice must be furnished.

688 (d) For purposes of paragraph (3) of subsection (a) of this Code section, substantial change
689 in the risk assumed, if based upon changes in climatic conditions, must be based on
690 statistical data relative to Georgia that has been approved by the Commissioner as a basis
691 for substantial change in the risk assumed.

692 33-64-40.

693 (a) No insurance policy may be nonrenewed by an insurer except in accordance with the
694 provisions of this Code section, and any nonrenewal attempted which is not in compliance
695 with this Code section is ineffective.

696 (b) A policy written for a term of one year or less may be nonrenewed by the insurer at its
697 expiration date by giving or mailing written notice of nonrenewal to the insured and the
698 agent of record, if any, not less than 60 days prior to the expiration date of the policy for
699 any nonrenewal that would be effective between November 1 and May 31 and not less than
700 90 days for any nonrenewal that would be effective between June 1 and October 31.

701 (c) A policy written for a term of more than one year or for an indefinite term may be
702 nonrenewed by the insurer at its anniversary date by giving or mailing written notice of
703 nonrenewal to the insured and the agent of record, if any, not less than 60 days prior to the
704 anniversary date of the policy for any nonrenewal that is effective between November 1
705 and May 31 and not less than 90 days prior to the anniversary date of the policy for any
706 nonrenewal that is effective between June 1 and October 31.

707 (d) The notice required by this Code section must be given or mailed to the insured and
708 the agent at their addresses shown in the policy or, if not reflected therein, at their last
709 known addresses. Proof of mailing is sufficient proof of notice.

710 (e) Any notice of nonrenewal shall state the precise reason for nonrenewal.

711 33-64-41.

712 (a)(1) A cancellation or refusal to renew by an insurer of a policy of insurance covered
 713 in this chapter is not effective unless the insurer delivers or mails to the named insured
 714 at the address shown in the policy a written notice of the cancellation or refusal to renew.

715 This notice must:

716 (A) Be approved as to form by the Commissioner before use;

717 (B) State the date not less than 60 days for any cancellation or refusal to renew that is
 718 effective between November 1 and May 31 and not less than 90 days for any
 719 cancellation or refusal to renew that is effective between June 1 and October 31 after
 720 the date of the mailing or delivering on which the cancellation or refusal to renew
 721 becomes effective;

722 (C) State the specific reason of the insurer for cancellation or refusal to renew and
 723 provide for the required notification;

724 (D) Inform the insured of his or her right to request in writing within 30 days of the
 725 receipt of notice that the Commissioner review the action of the insurer. The notice of
 726 cancellation or refusal to renew must contain the following statement in boldface print
 727 to inform the insured of this right:

728 IMPORTANT NOTICE: Within 30 days of receiving this notice, you or your
 729 attorney may request in writing that the Commissioner review this action to
 730 determine whether the insurer has complied with Georgia laws in canceling or
 731 nonrenewing your policy. If this insurer has failed to comply with the
 732 cancellation or nonrenewal laws, the Commissioner may require that your policy
 733 be reinstated. However, the Commissioner is prohibited from making
 734 underwriting judgments. If this insurer has complied with the cancellation or
 735 nonrenewal laws, the Commissioner does not have the authority to overturn this
 736 action.';

737 (E) Inform the insured of the possible availability of other insurance which may be
 738 obtained through his or her agent or through another insurer; and

739 (F) State that the department has available a buyer's guide regarding property insurance
 740 shopping and availability and provide applicable mailing addresses and telephone
 741 numbers, including a toll-free number, if available, for contacting the department.

742 (2) Nothing in this subsection prohibits any insurer or agent from including in the notice
 743 of cancellation or refusal to renew any additional disclosure statements required by state
 744 or federal laws or any additional information relating to the availability of other
 745 insurance.

746 (b) Subsection (a) of this Code section does not apply if the:

747 (1) Insurer has manifested to the insured its willingness to renew by actually issuing or
 748 offering to the insured to issue a renewal policy, certificate, or other evidence of renewal,
 749 or has manifested this intention to the insured by another means;

750 (2) Named insured has demonstrated by some overt action to the insurer or its agent that
 751 he or she expressly intends that the policy be canceled or that it not be renewed; or

752 (3) Notice of cancellation or refusal to renew by an insurer regarding private passenger
 753 automobile insurance or to insurance against liability arising out of ownership,
 754 maintenance, or use of an individual private passenger automobile.

755 33-64-42.

756 (a) For purposes of this Code section, the term:

757 (1) 'Georgia coastal captive insurance company' means a captive insurance company, as
 758 it is defined by Code Section 33-41-2, that is specifically formed to provide wind and
 759 storm surge property insurance coverage in this state.

760 (2) 'Peril' means the cause of an insured loss.

761 (3) 'Storm surge' means a temporary rise in sea level accompanying a hurricane or other
 762 intense storm that is associated with the hurricane's or storm's low barometric pressure
 763 and winds and that is usually measured as the difference between the observed sea level
 764 height and the normal sea level height, such as the level that would have occurred in the
 765 absence of the storm taking into account the predicted tide.

766 (4) 'Wind' means windstorms, cyclones, hurricanes, tornadoes, high winds, and hail, and
 767 similar perils not normally among those covered under most property insurance policies
 768 but obtainable through the purchase of wind, wind and hail, storm or windstorm
 769 coverage, or both.

770 (b) A Georgia coastal captive insurance company, if permitted by its articles of
 771 incorporation or organization, operating agreement, or charter, may apply to the
 772 Commissioner for a license to write primary and excess wind and storm surge insurance
 773 covering property within the State of Georgia and may not write insurance covering any
 774 other perils nor may it write insurance coverage in any other state.

775 (c) A Georgia coastal captive insurance company that qualified as an association captive
 776 is exempt from the requirement that the association be in existence for one year so long as
 777 the association is in good standing as an entity upon becoming an owner of a Georgia
 778 coastal captive insurance company.

779 (d) A Georgia coastal captive insurance company is exempt from the provisions of Chapter
 780 41 of this title that prohibit a captive insurance company from providing personal
 781 homeowners insurance coverage so long as the coverage is limited to the perils of storm
 782 surge or wind.

783 (e) A Georgia coastal captive insurance company may issue directly its own policies to
784 insureds.

785 (f) Any Georgia coastal captive insurance company that otherwise qualifies for the limited
786 exemption from the provisions of Chapter 41 of this title and any Georgia coastal captive
787 insurance company, regardless of form, that issues policies directly to the public shall
788 comply with the following:

789 (1) It shall not expose itself to a loss on one risk in an amount exceeding 10 percent of
790 its surplus to policyholders and any risk or portion of it which has been reinsured must
791 be deducted in determining this limitation of risk;

792 (2) It shall not have loss reserves in excess of five times its surplus to policyholders;

793 (3) It shall not have net premiums written in excess of three times its surplus to
794 policyholders and any risk or portion of it which has been reinsured must be deducted in
795 determining this limitation of risk; and

796 (4) It shall file quarterly and annual statements with the department in accordance with
797 statutory accounting principles on forms and in the manner prescribed by the
798 Commissioner.

799 (g) To conduct business in this state, a Georgia coastal captive insurance company shall:

800 (1) Obtain from the Commissioner a license authorizing it to conduct business as a
801 Georgia coastal captive insurance company in this state;

802 (2) Hold at least one meeting of its governing body each year in this state;

803 (3) Maintain its principal place of business in this state;

804 (4) Appoint a registered agent to accept service of process and act otherwise on its behalf
805 in this state; and

806 (5) Name the Commissioner as the agent for the Georgia coastal captive insurance
807 company upon whom process, notice, or demand may be served if a registered agent,
808 with reasonable diligence, is not located and served.

809 (h) Before receiving a license, a Georgia coastal captive insurance company shall file with
810 the Commissioner:

811 (1) A certified copy of its organizational documents;

812 (2) A statement under oath of its president and secretary or other persons considered
813 appropriate by the Commissioner showing its financial condition; and

814 (3) Other documents required by the Commissioner.

815 (i) In addition to the information required by subsection (h) of this Code section, the
816 applicant Georgia coastal captive insurance company shall file with the Commissioner
817 evidence of:

818 (1) The amount and liquidity of its assets relative to the risks to be assumed;

- 819 (2) The adequacy of the expertise, experience, and character of the person who manages
 820 it;
- 821 (3) The overall soundness of its plan of operation;
- 822 (4) The adequacy of loss prevention programs;
- 823 (5) Other overall factors considered relevant by the Commissioner in ascertaining if the
 824 proposed Georgia coastal captive insurance company is able to meet its policy
 825 obligations; and
- 826 (6) Any other information required by the Commissioner to form a Georgia coastal
 827 captive insurance company and fees prescribed by the Commissioner.
- 828 (j) Information submitted pursuant to this Code section is confidential, except that
 829 information is discoverable by a party in a civil action or contested case to which the
 830 Georgia coastal captive insurance company that submitted the information is a party, upon
 831 a finding by the court that:
- 832 (1) The captive insurance company is a necessary party to the action and not joined only
 833 for the purposes of evading the confidentiality provisions of this chapter;
- 834 (2) The information sought is relevant, material to, and necessary for the prosecution or
 835 defense of the claim asserted in litigation; and
- 836 (3) The information sought is not available through another source.
- 837 33-64-43.
- 838 (a)(1) The Commissioner may not issue a license to a Georgia coastal captive insurance
 839 company unless the company possesses and maintains unimpaired paid-in capital of not
 840 less than \$1 million; however, in the case of a Georgia coastal captive insurance company
 841 formed as a sponsored captive insurance company that does not assume any risk, where
 842 the risks insured by the protected cells are homogeneous, the Commissioner may reduce
 843 this amount to an amount not less than \$500,000.00.
- 844 (2)(A) Except for a Georgia coastal captive insurance company formed as a sponsored
 845 captive insurance company that does not assume any risk, the capital must be in the
 846 form of cash, cash equivalent, or an irrevocable letter of credit issued by a bank
 847 chartered by this state or a member bank of the Federal Reserve System with a branch
 848 office in this state or as approved by the Commissioner.
- 849 (B) For a Georgia coastal captive insurance company formed as a sponsored captive
 850 insurance company that does not assume any risk, the capital also may be in the form
 851 of other high quality securities as approved by the Commissioner.
- 852 (b) For purposes of subsection (a) of this Code section, the Commissioner may issue a
 853 license expressly conditioned upon the Georgia coastal captive insurance company
 854 providing to the Commissioner satisfactory evidence of possession of the minimum

855 required unimpaired paid-in capital. Until this evidence is provided, the captive insurance
856 company may not issue a policy, assume any liability, or otherwise provide coverage. The
857 Commissioner summarily may revoke the conditional license without legal recourse by the
858 company if satisfactory evidence of the required capital is not provided within a maximum
859 period of time, not to exceed one year, to be established by the Commissioner at the time
860 the conditional license is issued.

861 (c) The Commissioner may prescribe additional capital or net assets based upon the type,
862 volume, and nature of insurance business transacted. Contributions in connection with
863 these prescribed additional net assets or capital must be in the form of:

864 (1) Cash;

865 (2) Cash equivalent;

866 (3) An irrevocable letter of credit issued by a bank chartered by this state or a member
867 bank of the Federal Reserve System with a branch office in this state or as approved by
868 the director.

869 (d)(1) A Georgia coastal captive insurance company may not pay a dividend out of, or
870 other distribution with respect to, capital or surplus, in excess of the limitations set forth
871 in this Code section without the prior approval of the Commissioner. Approval of an
872 ongoing plan for the payment of dividends or other distributions must be conditioned
873 upon the retention, at the time of each payment, of capital or surplus in excess of amounts
874 specified by or determined in accordance with formulas approved by the Commissioner.

875 (2) A captive insurance company incorporated as a nonprofit corporation may not make
876 any distributions without the prior approval of the Commissioner.

877 (f) An irrevocable letter of credit, which is issued by a financial institution other than a
878 bank chartered by this state or a member bank of the Federal Reserve System, shall meet
879 the same standards as an irrevocable letter of credit which has been issued by either entity.

880 33-64-44.

881 (a)(1) The Commissioner may not issue a license to a Georgia coastal captive insurance
882 company unless the company possesses and maintains free surplus of not less than \$1
883 million; however, in the case of a Georgia coastal captive insurance company formed as
884 a sponsored captive insurance company that does not assume any risk, where the risks
885 insured by the protected cells are homogeneous, the director may reduce this amount to
886 an amount not less than \$500,000.00.

887 (2)(A) Except for a Georgia coastal captive insurance company formed as a sponsored
888 captive insurance company that does not assume any risk, the surplus must be in the
889 form of cash, cash equivalent, or an irrevocable letter of credit issued by a bank

890 chartered by this state or a member bank of the Federal Reserve System with a branch
 891 office in this state and approved by the Commissioner.

892 (B) For a Georgia coastal captive insurance company formed as a sponsored captive
 893 insurance company that does not assume any risk, the surplus also may be in the form
 894 of other high quality securities as approved by the Commissioner.

895 (b) For purposes of subsection (a) of this Code section, the Commissioner may issue a
 896 license expressly conditioned upon the captive insurance company providing to the
 897 Commissioner satisfactory evidence of possession of the minimum required free surplus.
 898 Until this evidence is provided, the captive insurance company may not issue a policy,
 899 assume any liability, or otherwise provide coverage. The Commissioner summarily may
 900 revoke the conditional license without legal recourse by the company if satisfactory
 901 evidence of the required capital is not provided within a maximum period of time, not to
 902 exceed one year, to be established by the Commissioner at the time the conditional license
 903 is issued.

904 (c) The Commissioner may prescribe additional surplus based upon the type, volume, and
 905 nature of insurance business transacted. This additional surplus must be in the form of:

906 (1) Cash;

907 (2) Cash equivalent;

908 (3) An irrevocable letter of credit issued by a bank chartered by this state or a member
 909 bank of the Federal Reserve System with a branch in this state or as approved by the
 910 Commissioner.

911 (d)(1) A captive insurance company may not pay a dividend out of, or other distribution
 912 with respect to, capital or surplus in excess of the limitations provided in this chapter,
 913 without the prior approval of the Commissioner. Approval of an ongoing plan for the
 914 payment of dividends or other distribution must be conditioned upon the retention, at the
 915 time of each payment, of capital or surplus in excess of amounts specified by or
 916 determined in accordance with formulas approved by the Commissioner.

917 (2) A captive insurance company incorporated as a nonprofit corporation may not make
 918 any distributions without the prior approval of the Commissioner.

919 (e) An irrevocable letter of credit, which is issued by a financial institution other than a
 920 bank chartered by this state or a member bank of the Federal Reserve System, shall meet
 921 the same standards as an irrevocable letter of credit which has been issued by either entity.

922 33-64-45.

923 The Commissioner has the discretion to restrict the form of a Georgia coastal captive
 924 insurance company to one or more of the types of defined captives listed in Chapter 41 of
 925 this title and has the discretion to accept or deny an application based on a finding that one

926 or more of the incorporation or organization options available under Chapter 41 of this title
 927 are not feasible for a Georgia coastal captive insurance company.

928 33-64-46.

929 The Commissioner, by rule, regulation, or order, may exempt a Georgia coastal captive
 930 insurance company, on a case-by-case basis, from provisions of this chapter that are
 931 determined to be inappropriate given the nature of the risks to be insured and the intent of
 932 this chapter.

933 33-64-47.

934 Confidentiality does not extend to final reports of its financial condition produced by the
 935 Commissioner in inspecting or examining a Georgia coastal captive insurance company
 936 and does not extend to reports submitted by a Georgia coastal captive insurance company.
 937 All work papers, recorded information, documents, and their copies produced by, obtained
 938 by, or disclosed to the Commissioner or other persons made under this chapter must be
 939 given confidential treatment.

940 33-64-48.

941 (a) A Georgia coastal captive insurance company shall include the following notice on
 942 each application form for insurance, as well as the declaration page of each policy, in no
 943 less than 14 point boldface type:

944 NOTICE

945 This policy is issued by a Georgia coastal captive insurance company, which is not
 946 subject to all of the insurance laws and regulations of the State of Georgia. State
 947 insurance insolvency guaranty funds are not available for a Georgia coastal captive
 948 insurance company.'

949 (b) A Georgia coastal captive insurance company shall include the following
 950 acknowledgment on each application form for insurance, as well as in each policy, in no
 951 less than 14 point boldface type and directly above the applicant's or insured's signature:
 952 'I have read the Notice contained in this application (or policy) and understand that State
 953 of Georgia insurance insolvency guaranty funds are not available for a Georgia coastal
 954 captive insurance company.'

955 33-64-49.

956 The Commissioner may not issue a license to a Georgia coastal captive insurance company
 957 unless the Commissioner finds that the:

958 (1) Coastal captive insurance company is capitalized adequately or properly reinsured,
959 or both, after giving due consideration to the business plan, feasibility study, and pro
960 formas, including the level of risk to be retained by the coastal captive insurance
961 company;

962 (2) Proposed business plan of the coastal captive insurance company provides for a
963 reasonable and expected successful operation and is not hazardous to any policyholder;

964 (3) Proposed business plan, including any contracts or agreements to which the coastal
965 captive insurance company is a party, and the intended operation of the coastal captive
966 insurance company comply with this chapter and with any other applicable provisions of
967 this title; and

968 (4) Proposed business plan and intended operation of the coastal captive insurance
969 company satisfy the purpose of this chapter."

970 **SECTION 2.**

971 This Act shall become effective upon its approval by the Governor or upon its becoming law
972 without such approval.

973 **SECTION 3.**

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