

**ADOPTED**

Senators Bethel of the 54th and Shafer of the 48th offered the following amendment:

1 *Amend HB 413 (LC 37 1223S) by inserting after "provisions;" on line 12 the following:*

2 to amend Code Section 33-23-10 of the Official Code of Georgia Annotated, relating to the  
3 examination of applicants, so as to provide that the Commissioner shall not exempt himself  
4 or herself from any written examinations set forth in the Code section; to amend Part 1 of  
5 Article 2 of Chapter 10 of Title 45 of the Official Code of Georgia Annotated, relating to  
6 general provisions for conflicts of interest, so as to prohibit public officials from granting  
7 themselves licenses by waiving certain requirements; to provide for penalties; to provide for  
8 renewal of such licenses; to amend Chapter 56 of Title 33 of the Official Code of Georgia  
9 Annotated, relating to risk-based capital levels, so as to require a trend test for property and  
10 casualty companies; to revise the definition of a company action level event; to change the  
11 definition of negative trend;

12 *By adding after line 275 the following:*

13 Code Section 33-23-10 of the Official Code of Georgia Annotated, relating to the  
14 examination of applicants, is revised as follows:

15 "33-23-10.

16 (a) Each individual applicant for a license as agent, limited subagent, counselor, adjuster,  
17 or surplus line broker shall submit to a personal examination in writing as to his or her  
18 competence to act in such capacity. The examination shall be prepared and given by the  
19 Commissioner or a designee of the Commissioner and shall be given and graded in a fair  
20 and impartial manner and without unfair discrimination as between individuals examined.  
21 Any required examination may be supplemented by an oral examination at the discretion  
22 of the Commissioner. The Commissioner shall provide by rule or regulation for a  
23 reasonable waiting period before giving a reexamination to an applicant who failed to pass  
24 a previous similar examination.

25 (b) The Commissioner shall by rule or regulation establish criteria and procedures for:

26 (1) The scope of any examination; and

27 (2) Exemptions, if any, to examinations; provided that the Commissioner shall not,  
28 under any circumstances, exempt himself or herself from any written examination  
29 requirements set forth in this Code section.

30 (c) An applicant for a license to act as an agent, limited subagent, surplus line broker,  
31 counselor, or adjuster who held a valid license to act as such which lapsed while the  
32 applicant was a member of any branch of the armed forces of the United States shall be

33 granted a new license if application is made within a period of five years from the date of  
 34 the expiration of the old license and proof satisfactory to the Commissioner is furnished  
 35 that:

36 (1) The individual was a member of the armed forces of the United States at the time the  
 37 previous license lapsed; and

38 (2) The individual's service in the armed forces of the United States was not terminated  
 39 more than one year prior to the date of application for a new license."

#### 40 SECTION 10.

41 Part 1 of Article 2 of Chapter 10 of Title 45 of the Official Code of Georgia Annotated,  
 42 relating to general provisions for conflicts of interest, is amended by revising subsection (a)  
 43 of Code Section 45-10-28, relating to penalties for violation of the part, as follows:

44 "(a)(1) Any appointed public official or employee who violates Code Section 45-10-22,  
 45 45-10-23, 45-10-24, ~~or 45-10-26,~~ or 45-10-29 shall be subject to:

46 (A) Removal from office or employment;

47 (B) A civil fine not to exceed \$10,000.00; and

48 (C) Restitution to the state of any pecuniary benefit received as a result of such  
 49 violation.

50 (2) Any elected public official who violates Code Section 45-10-22, 45-10-23, 45-10-24,  
 51 ~~or 45-10-26,~~ or 45-10-29 shall be subject to:

52 (A) A civil fine not to exceed \$10,000.00; and

53 (B) Restitution to the state of any pecuniary benefit received as a result of such  
 54 violation.

55 (3) Any business which violates Code Section 45-10-22, 45-10-23, 45-10-24, ~~or~~  
 56 45-10-26, or 45-10-29 shall be subject to:

57 (A) A civil fine not to exceed \$10,000.00; and

58 (B) Restitution to the state of any pecuniary benefit received as a result of such  
 59 violation."

#### 60 SECTION 11.

61 Said part is further amended by adding a new Code section to read as follows:

62 "45-10-29.

63 (a) Notwithstanding any law, rule, or regulation to the contrary, a public official shall not  
 64 be authorized to waive any legal, educational, or testing requirement for himself or herself  
 65 relative to the issuance of any license to himself, herself, or to his or her business.

66 (b) Any license that has been issued by a public official by waiving any legal, educational,  
 67 or testing requirement for himself or herself relative to the issuance of any license to

68 himself, herself, or to his or her business shall not be renewed until and unless the license  
 69 holder has satisfied all of the requirements for securing a renewal license as well as any  
 70 requirement that had been waived for the issuance of the original license.

71 (c) Any person who knowingly violates subsection (a) or (b) of this Code section shall be  
 72 subject to the penalties provided for in Code Section 45-10-28."

73 **SECTION 12.**

74 Chapter 56 of Title 33 of the Official Code of Georgia Annotated, relating to risk-based  
 75 capital levels, is amended by revising paragraph (7) of Code Section 33-56-1, relating to  
 76 definitions, as follows:

77 "(7) 'Negative trend' means, with respect to a life and health insurer, a negative trend over  
 78 a period of time, as determined in accordance with the trend test calculation included in  
 79 the life RBC instructions."

80 **SECTION 13.**

81 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section  
 82 33-56-3, relating to the definition of a company action level event, as follows:

83 "(1) The filing of an RBC report by an insurer which indicates that:

84 (A) The insurer's total adjusted capital is greater than or equal to its regulatory action  
 85 level RBC but less than its company action level RBC; ~~or~~

86 (B) If a life and health insurer, the insurer has total adjusted capital which is greater  
 87 than or equal to its company action level RBC but less than the product of its authorized  
 88 control level RBC and 2.5 and has a negative trend; or

89 (C) If a property and casualty insurer, the insurer has total adjusted capital which is  
 90 greater than or equal to its company action level RBC but less than the product of its  
 91 authorized control level RBC and 3.0 and triggers the trend test determined in  
 92 accordance with the trend test calculation included in the property and casualty RBC  
 93 instructions."

94 **SECTION 14.**