

House Bill 931

By: Representatives Shaw of the 176<sup>th</sup>, Meadows of the 5<sup>th</sup>, Jasperse of the 12<sup>th</sup>, Smith of the 131<sup>st</sup>, Maxwell of the 17<sup>th</sup>, and others

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 update this state's domestic farmers' mutual fire insurance companies provisions; to provide  
3 that the companies are organized for the purpose of insuring property; to provide for  
4 minimum surplus requirements for the issuance of a certificate of authority; to provide that  
5 certain changes to a plan of operation require filing and approval by the Commissioner; to  
6 provide for bylaw amendment at least 30 days prior to adoption; to provide for minimum  
7 surplus requirements; to provide for limitations on amount that may be retained on any  
8 subject of insurance; to provide for related matters; to repeal conflicting laws; and for other  
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
13 revising Chapter 16 of Title 33, relating to farmers' mutual fire insurance companies, as  
14 follows:

15 "CHAPTER 16

16 33-16-1.

17 This chapter applies only to domestic farmers' mutual fire insurance companies.

18 33-16-2.

19 (a) 'Domestic farmers' mutual fire insurance companies' are companies organized for the  
20 purpose of ~~insurance on the assessment or cooperative plan~~ insuring property against loss  
21 or damage by fire, lightning, windstorm, extended coverage, and hail, and for all, or ~~either~~  
22 any, of such purposes.

23 (b) Domestic farmers' mutual fire insurance companies may write insurance against said  
24 hazards on such property risks as their charter and bylaws may provide.

25 33-16-3.

26 (a) Twenty or more persons a majority of whom are citizens of this state may become a  
27 body corporate for the purpose of transacting insurance upon the farmers' mutual fire  
28 insurance plan as defined in Code Section 33-16-2 by making an application for a charter  
29 signed by the persons applying for the charter or their counsel in triplicate specifying:

30 (1) The name of the proposed corporation. The name shall contain the words 'Farmers'  
31 Mutual' and shall not be so similar to any name already used by any other corporation  
32 authorized to transact business in this state as to be confusing or misleading;

33 (2) The purpose for which the corporation is formed;

34 (3) The name of the county in this state in which the corporation will have its principal  
35 office and the names of any other ~~contiguous~~ counties in which it proposes to operate;

36 (4) The name and address of each incorporator;

37 (5) The names and addresses of those composing the board of directors of the  
38 corporation in which the management shall be vested until the first meeting of the  
39 members; and

40 (6) Any other provisions not inconsistent with this chapter or other applicable laws as  
41 are deemed desirable by the incorporators or as may be required by the Commissioner.

42 (b) The corporate charter shall be granted by the Secretary of State as provided in Chapter  
43 14 of this title.

44 33-16-4.

45 (a) No person shall transact or attempt to transact business as a farmers' mutual fire  
46 insurance company unless so authorized by a currently effective certificate of authority  
47 issued by the Commissioner.

48 (b) The Commissioner shall not issue or permit to exist any certificate of authority as to  
49 any ~~corporation or~~ insurer not currently qualified for such certificate unless it is shown to  
50 the satisfaction of the Commissioner that:

51 ~~(1) It has received bona fide applications from not less than 25 citizens of this state for~~  
52 ~~not less than \$100,000.00 of insurance covering farm property located in the county or~~  
53 ~~counties in which it is organized to transact business, which shall not be more than four~~  
54 ~~contiguous counties and those counties which are contiguous to the county of the~~  
55 ~~corporation's or insurer's domicile and with not more than the maximum amount of~~  
56 ~~insurance permitted on a single risk under Code Section 33-16-14~~ The farmers' mutual

57 fire insurance company maintains the minimum surplus required by subsection (a) of  
 58 Code Section 33-16-13;

59 ~~(2) It has collected in cash the first payment or premium or assessment required to be~~  
 60 ~~paid in advance by each such applicant for its insurance according to the company's~~  
 61 ~~bylaws or has received from each such applicant such form of obligation, if any, as may~~  
 62 ~~be provided for in the bylaws to cover liability for payment of initial assessments and any~~  
 63 ~~future assessments as may be levied~~ The farmers' mutual fire insurance company  
 64 maintains a security deposit as required by subsection (c) of Code Section 33-16-13;

65 ~~(3) There is on deposit to its credit, in a bank located in the county of its domicile, funds~~  
 66 ~~representing a surplus of its assets over its liabilities in the amount of not less than~~  
 67 ~~\$10,000.00; provided, however, that if such company writes an amount of insurance~~  
 68 ~~coverage of \$7 million or more, the deposit of funds representing a surplus of its assets~~  
 69 ~~over its liabilities shall be an amount not less than \$30,000.00~~ The farmers' mutual fire  
 70 insurance company has submitted an acceptable business plan to the Commissioner that  
 71 includes, but is not limited to, two-year financial projections and supporting assumptions  
 72 reflecting expected premiums and losses, counties where the farmers' mutual fire  
 73 insurance company intends to insure property, and the contingent liability, if any, of its  
 74 members;

75 ~~(4) At the time of filing the petition for a charter as required under Code Section 33-16-3,~~  
 76 ~~the organizers of the proposed company have filed with the Commissioner a qualified~~  
 77 ~~bond in the sum of \$5,000.00 with good and sufficient security, subject to the~~  
 78 ~~Commissioner's approval. The bond shall be conditioned for the prompt return to~~  
 79 ~~members of all money collected from them in advance and for payment of all~~  
 80 ~~indebtedness of the company if the organization of the company is not completed within~~  
 81 ~~two years after the date of the granting of the charter; and~~

82 ~~(5)~~(4) It must otherwise be in compliance with the requirements of this chapter.

83 (c) Any proposed changes to a farmers' mutual fire insurance company's plan of operation  
 84 subsequent to licensure pursuant to this chapter, including but not limited to geographical  
 85 expansion, shall be filed and approved in advance by the Commissioner.

86 33-16-5.

87 Farmers' mutual fire insurance companies shall pay no annual fees or charges other than  
 88 an annual license fee as provided in Code Section 33-8-1.

89 33-16-6.

90 In companies organized under this chapter, the number of directors shall be not less than  
 91 three. A majority of the board of directors shall be a quorum for the transaction of business.

92 No person shall be or act as a director of the insurer who does not have currently effective  
93 insurance in force in the insurer.

94 33-16-7.

95 The board of directors of a farmers' mutual fire insurance company may, at any time,  
96 borrow such sum or sums of money as they may deem necessary to pay its losses, accrued  
97 or unaccrued, and may pledge the assets of the company including the contingent liability  
98 of policyholders for the losses as security for the loan.

99 33-16-8.

100 (a) The bylaws shall state the time and manner of the levy and payment of all premiums  
101 or assessments for all insurance written by the company.

102 (b) The bylaws shall also fix the liability of the policyholders for all losses accrued while  
103 the policies are in force, in addition to the regular premium or assessment of the  
104 policyholders, and the time and manner of payment of such liability.

105 (c) The bylaws may be amended and any such amendment shall be filed with the  
106 Commissioner ~~within~~ at least 30 days ~~after~~ prior to its adoption.

107 (d) The bylaws may contain provisions for the exclusion of any member of the company  
108 who refuses or neglects to pay his or her assessment or for any other reasons satisfactory  
109 to the directors to be excluded from the insurer.

110 33-16-9.

111 The portion of the bylaws which affects the insuring agreement shall be contained in the  
112 policy. Each policy issued by the insurer shall contain a statement of the contingent  
113 liability, if any, of its members.

114 33-16-10.

115 The companies may provide in the policy that officers and agents elected by them do not  
116 have the power to waive any provision of the bylaws.

117 33-16-11.

118 An annual meeting of such company shall be held at such a time as is fixed in the bylaws  
119 of the company. Special meetings may be held for such purposes and in such manner as  
120 may be specified in the insurer's bylaws, consistent with this chapter. All such meetings  
121 shall be held in the insurer's county of domicile or other location in this state that is  
122 convenient for its membership and specified in the insurer's bylaws. Notice of such meeting  
123 shall be mailed or otherwise given to each member not less than 20 days in advance of the

124 meeting, and notice of any special meeting called by the board of directors shall be given  
125 in writing not less than ten days in advance stating the purpose of the meeting so called.

126 33-16-12.

127 Each policyholder in a farmers' mutual fire insurance company shall be entitled to only one  
128 vote in all policyholders' meetings. No voting by proxy shall be permitted unless it is  
129 specially authorized in the bylaws and approved by the Commissioner.

130 33-16-13.

131 ~~A farmers' mutual fire insurance company shall not issue policies of insurance or otherwise~~  
132 ~~insure property located in any county in this state other than the county in which it has its~~  
133 ~~home office as specified in its original charter and in any other contiguous county (a) The~~  
134 amount of minimum surplus required for each farmers' mutual fire insurance company shall  
135 be determined on an individual basis; however, no farmers' mutual fire insurance company  
136 shall be issued a certificate of authority unless it shall possess and thereafter maintain a  
137 minimum of \$150,000.00 in surplus.

138 (b) Minimum surplus of up to \$150,000.00 shall be maintained in any of the following:

139 (1) Cash;

140 (2) Certificates of deposit or similar certificates or evidence of deposits in banks or trust  
141 companies but only to the extent that the certificates or deposits are insured by the  
142 Federal Deposit Insurance Corporation; or

143 (3) Savings accounts, certificates of deposit, or similar certificates or evidence of deposit  
144 in savings and loan associations and building and loan associations but only to the extent  
145 that the same are insured by the Federal Savings and Loan Insurance Corporation.

146 (c) A portion of the minimum surplus, in an amount determined by the Commissioner,  
147 must be deposited with this state prior to the issuance of the certificate of authority.  
148 Chapter 12 of this title shall apply to the deposit required by this subsection.

149 (d) Any additional surplus in excess of \$150,000.00 required by the Commissioner  
150 pursuant to subsection (a) of this Code section may be provided and maintained in any of  
151 the following:

152 (1) Any eligible investments of minimum capital or surplus authorized by Code Section  
153 33-11-5; or

154 (2) Any other investments approved by the Commissioner that do not impair the  
155 financial solvency of the farmers' mutual fire insurance company.

156 33-16-14.

157 (a) The maximum amount of insurance that a farmers' mutual fire insurance company may  
158 retain on any subject or subjects of insurance reasonably exposed to loss from the same fire  
159 shall not exceed ~~the amount prescribed in the following schedule:~~ 10 percent of its surplus.

<u>Amount of Insurance in Force</u>	<u>Maximum Risk</u>
161 <del>\$ 100,000 but less than \$ 250,000</del> . . . . .	<del>\$ 5,000</del>
162 <del>250,000 but less than 400,000</del> . . . . .	<del>5,000</del>
163 <del>400,000 but less than 600,000</del> . . . . .	<del>5,000</del>
164 <del>600,000 but less than 900,000</del> . . . . .	<del>5,000</del>
165 <del>900,000 but less than 1,200,000</del> . . . . .	<del>6,000</del>
166 <del>1,200,000 but less than 1,500,000</del> . . . . .	<del>7,500</del>
167 <del>1,500,000 but less than 2,000,000</del> . . . . .	<del>10,000</del>
168 <del>2,000,000 but less than 2,500,000</del> . . . . .	<del>12,500</del>
169 <del>2,500,000 but less than 3,000,000</del> . . . . .	<del>15,000</del>
170 <del>3,000,000 but less than 3,500,000</del> . . . . .	<del>17,500</del>
171 <del>3,500,000 but less than 7,000,000</del> . . . . .	<del>35,000</del>
172 <del>7,000,000 and over</del> . . . . .	<del>50,000</del>

173 (b) ~~The classification of all risks in the above schedule and the percentage given in each~~  
174 ~~shall be uniformly fixed and governed by the bylaws of the insurer.~~

175 (c) In determining the amount at risk and retained by the insurer, any valid and applicable  
176 reinsurance authorized shall be deducted from the gross amount of risk directly assumed  
177 by the insurer.

178 33-16-15.

179 A farmers' mutual fire insurance company shall not accept reinsurance of the risk of any  
180 other insurer.

181 33-16-16.

182 No member of such insurer shall be liable to assessment to pay losses and expenses  
183 accruing prior to the time his policy became effective nor for losses and expenses accruing  
184 after termination or expiration of the policy.

185 33-16-17.

186 Companies organized under this chapter may bring and defend actions in the name under  
187 which they are doing business.

188 33-16-18.

189 Every farmers' mutual fire insurance company shall, on or before March 1 of each year,  
190 make and file with the Commissioner an annual statement of its business as of December  
191 31 of the preceding year, on the form prescribed by the Commissioner.

192 33-16-19.

193 The Commissioner shall at least once in five years, or as often as he or she deems  
194 necessary, examine farmers' mutual fire insurance companies. The costs of the examination  
195 shall be paid by the company.

196 33-16-20.

197 Any company organized under this chapter shall be exempt from all taxes, costs, and fees,  
198 including those listed in Chapter 8 of this title, except as expressly provided in this chapter  
199 and except taxes payable upon real and personal property owned by the company.

200 33-16-21.

201 In addition to this chapter, farmers' mutual fire insurance companies shall be subject to the  
202 following chapters of this title to the extent so applicable: Chapters 1, 2, 5, 6, 12, and 37,  
203 and Article 1 of Chapter 11 of this title.

204 33-16-22.

205 Any company organized under this chapter may be converted into a mutual insurance  
206 company by complying with the applicable provisions of Chapter 14 of this title."

207 **SECTION 2.**

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