

Senate Bill 331

By: Senators Shafer of the 48th, Harbison of the 15th, McKoon of the 29th, Goggans of the 7th and Golden of the 8th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide for the issuance of closing protection letters; to provide for definitions; to provide
3 for premiums regarding such letters; to provide for certain reserves; to authorize the
4 Commissioner of Insurance to promulgate rules and regulations with regard to such matters;
5 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
6 for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
10 revising Code Section 33-3-4, relating to kinds of insurance in which insurers may transact,
11 as follows:

12 "33-3-4.

13 An insurer which otherwise qualifies to transact insurance in Georgia may be authorized
14 to transact any one kind or combination of kinds of insurance as defined in Chapter 7 of
15 this title except:

16 (1) A reciprocal insurer shall not transact life insurance;

17 (2) A Lloyd's insurer shall not transact life insurance; and

18 (3) A title insurer shall be a stock insurer and shall ~~not~~ be authorized to transact ~~any other~~
19 ~~class of insurance~~ only title insurance and closing protection letters, pursuant to Code
20 Section 33-7-8.1, except that, if immediately prior to January 1, 1961, any title insurer
21 lawfully held a subsisting certificate of authority granting it the right to transact in
22 Georgia additional classes of insurance other than title insurance, so long as the insurer
23 is otherwise in compliance with this title, the Commissioner shall continue to authorize
24 such insurer to transact the same classes of insurance as those specified in such prior
25 certificate of authority."

26 **SECTION 2.**

27 Said title is further amended by revising Chapter 7, relating to kinds of insurance, limits of
 28 risks, and reinsurance, by adding a new Code section to read as follows:

29 "33-7-8.1.

30 (a) As used in this Code section, the term:

31 (1) 'Closing protection letter' means insurance that indemnifies a buyer, lender, or seller
 32 in transactions where title to real estate is being conveyed solely against losses not to
 33 exceed the amount of the settlement funds only because of the following acts of the
 34 person responsible for the disbursement of settlement funds:

35 (A) Acts of fraud, theft, dishonesty, or negligence in handling settlement funds or
 36 documents in connection with a closing, but only to the extent that the acts affect status
 37 or priority of title in the real estate insured by the title insurance; and

38 (B) Failure to comply with written closing instructions by a proposed insured when
 39 agreed to by the title agency or title agent relating to title insurance coverage, but only
 40 to the extent that the acts affect status or priority of title in real estate insured by the title
 41 insurance.

42 (2) 'Settlement funds' means the total funds paid by the buyer, lender, or seller as
 43 consideration for the conveyance of real estate.

44 (b) A title insurer may issue closing protection letters only for real estate transactions
 45 where its title insurance policies are issued and where its issuing agent or agency is also
 46 responsible for the disbursement of settlement funds.

47 (c) The premium charged by the title insurer for closing protection letters shall be filed
 48 with and approved by the Commissioner in accordance with Chapter 9 of this title and shall
 49 not be subject to any agreement requiring a division of the premium collected on behalf of
 50 the title insurer.

51 (d) Companies issuing closing protection letters shall maintain adequate reserves for those
 52 closing protection letters pursuant to Chapter 10 of this title.

53 (e) The Commissioner shall be authorized to promulgate rules and regulations necessary
 54 to implement this Code section, which shall include, but shall not be limited to, prescribing
 55 standard closing protection letter policy forms."

56 **SECTION 3.**

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

59 **SECTION 4.**

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