

The House Committee on Insurance offers the following substitute to HB 645:

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 that Chapter 12 of Title 10, the "Uniform Electronic Transactions Act," shall be
3 applicable to such title; to provide that the Commissioner of Insurance shall not penalize an
4 insurer for complying with such Act; to define a certain term; to provide for the delivery of
5 policies of insurance electronically; to provide for requirements; to provide that any mailing
6 required by a provision of such title may be transmitted electronically if certain conditions
7 are met; to provide that certain notices may be transmitted pursuant to Chapter 12 of Title
8 10, the "Uniform Electronic Transactions Act"; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
13 Section 33-2-24, relating to enforcement of title and rules, regulations, and orders, issuance
14 of orders without hearings, civil actions, criminal violations, and penalties, by adding a new
15 subsection to read as follows:

16 "(h) The Commissioner may not institute any action or impose any penalty against an
17 insurer because an insurer engages in transactions consistent with the provisions of Chapter
18 12 of Title 10, the 'Uniform Electronic Transactions Act,' or Code Section 33-24-14."

19 style="text-align:center">**SECTION 2.**

20 Said title is further amended in Code Section 33-22-13, relating to mandatory notice of
21 cancellation, by revising subsection (c) as follows:

22 "(c)(1) After expiration of such ten-day period, the premium finance company may
23 thereafter in the name of the insured cancel such insurance contract or contracts by
24 mailing or delivering to the insurer a notice of cancellation; and the insurance contract
25 shall be canceled as if the notice of cancellation had been submitted by the insured, but

26 without requiring the return of the insurance contract or contracts. The premium finance
 27 company, when mailing or delivering notice to the insurance company to cancel the
 28 policy, shall mail notice to the insured notifying him or her of the action taken. Such
 29 notice to the insured shall contain the date and time the policy is to be canceled, which
 30 date shall be after the date of mailing of such notice, and shall inform the insured that any
 31 payment received after the mailing or delivery of notice to the insurance company to
 32 cancel the policy will not reinstate the policy. The notice may contain information to the
 33 effect that the premium finance company will make a request to the insurance company
 34 to reinstate the policy. Language sufficiently clear and specific so that a person of
 35 average intelligence can understand the action being taken by the premium finance
 36 company shall be used. The notice to the insured required by this subsection shall be
 37 delivered as provided in subsection (d) of Code Section 33-24-14 or mailed to the last
 38 address of record of the insured and shall be dispatched by at least first-class mail and
 39 receiving the receipt provided by the United States Postal Service or such other evidence
 40 of mailing as prescribed or accepted by the United States Postal Service."

41 **SECTION 3.**

42 Said title is further amended in Code Section 33-24-1, relating to definitions, by adding a
 43 new paragraph to read as follows:

44 "(3) 'Uniform Electronic Transactions Act' means Chapter 12 of Title 10."

45 **SECTION 4.**

46 Said title is further amended by revising Code Section 33-24-14, relating to delivery of
 47 policies, as follows:

48 "33-24-14.

49 (a)(1) Subject to the insurer's requirement as to payment of premiums, every policy shall
 50 be mailed or delivered to the insured or to the person entitled to the policy within a
 51 reasonable period of time after its issuance except where a condition required by the
 52 insurer has not been met by the insured.

53 (2) A policy required to be delivered under this subsection may be delivered by
 54 electronic transmittal in accordance with Chapter 12 of Title 10, the 'Uniform Electronic
 55 Transactions Act,' or by electronic posting if that policy is posted electronically, provided
 56 that:

57 (A) The insured has agreed to accept delivery by electronic posting;

58 (B) The insurer makes the policy accessible as long as the policy is in force;

59 (C) After the expiration of the policy, the insurer archives its expired policies for a
 60 period of five years and makes them available upon request;

61 (D) The insurer provides the following information in or simultaneously with each
62 declarations page provided at the time of issuance of the initial policy and any renewals
63 of that policy:

64 (i) A description of the exact policy and endorsement forms purchased by the
65 insured;

66 (ii) A method by which the insured may obtain, upon request and without charge, a
67 paper copy of such insured's policy; and

68 (iii) The Internet address where the insured's policy and endorsement are posted; and

69 (E) The insurer provides notice, in the manner in which the insurer customarily
70 communicates with the insured, of any changes to the forms or endorsements, the
71 insured's right to obtain, upon request and without charge, a paper copy of such forms
72 or endorsements, and the Internet address where such forms or endorsements are
73 posted.

74 (b) In the event the original policy is delivered or is required to be delivered to or for
75 deposit with any vendor, mortgagee, or pledgee of any motor vehicle or aircraft, in which
76 policy any interest of the vendee, mortgagor, or pledgor in or with reference to the vehicle
77 or aircraft is insured, a duplicate of the policy setting forth the name and address of the
78 insurer, the insurance classification of the vehicle or aircraft, the type of coverage, the
79 limits of liability, the premiums for the respective coverages, and the duration of the policy
80 or memorandum of the policy containing the same information shall be delivered by the
81 vendor, mortgagee, or pledgee to each vendee, mortgagor, or pledgor named in the policy
82 or coming within the group of persons designated in the policy to be so included. If the
83 policy does not provide coverage of legal liability for injury to persons or damage to the
84 property of third parties, a statement of such fact shall be printed, written, or stamped
85 conspicuously on the face of the duplicate policy or memorandum.

86 (c) The provisions of Chapter 12 of Title 10, the 'Uniform Electronic Transactions Act,'
87 applies to this title, and nothing in this Code section shall be construed to limit its
88 applicability.

89 (d) In addition to any mailing which may be legally accomplished pursuant to Chapter 12
90 of Title 10, the 'Uniform Electronic Transactions Act,' any other required mailing may be
91 performed electronically if the following conditions are met:

92 (1) The Code section which requires a mailing specifically notes that mailing may be
93 accomplished pursuant to this subsection;

94 (2) The insured agrees to receive mailings electronically by signing a statement which
95 reads:

96 I AGREE TO RECEIVE ALL MAILINGS AND COMMUNICATIONS
 97 ELECTRONICALLY. SUCH ELECTRONIC MAILING OR COMMUNICATIONS
 98 MAY EVEN INCLUDE CANCELLATION OR NONRENEWAL NOTICES';
 99 provided, however, that the Commissioner may approve the use of substantially similar
 100 language;
 101 (3) If the statement in paragraph (2) of this subsection is physically signed by the insured,
 102 then the statement must be in a separate document and written in all capital letters in at
 103 least 12 point font, or on a substantially similar form approved by the Commissioner. If
 104 the statement is signed electronically, then it must be signed according to a procedure
 105 which has been approved by the Commissioner; provided, however, that the
 106 Commissioner shall approve a procedure for obtaining a signature only if that procedure
 107 is designed to ensure that the statement is not presented in a misleading or confusing
 108 manner;
 109 (4) If the insurer becomes aware that the insured's electronic mail address at which such
 110 party has consented to receive notices or documents is no longer valid, the insurer shall
 111 send the notice or document as required by other applicable law;
 112 (5) The insurer must retain a record pursuant to Chapter 12 of Title 10, the 'Uniform
 113 Electronic Transactions Act,' of the mailing, including proof of the date of mailing and
 114 the address to which the mailing was sent. Such record must be retrievable for a period
 115 of five years after the date of such mailing and, if requested, must be transmitted to the
 116 Commissioner in a reasonable time;
 117 (6) The insured may withdraw his or her consent to receive mailings electronically;
 118 (7) All conditions have been met under Chapter 12 of Title 10, the 'Uniform Electronic
 119 Transactions Act,' so that the mailing could be accomplished electronically, unless the
 120 law requiring the mailing imposes a specific type of delivery method;
 121 (8) All conditions have been met under the federal Electronic Signatures in Global and
 122 National Commerce Act, 15 U.S.C. Section 7001, et seq. This Code section shall not
 123 modify, limit, or supersede Section 101(c) of such Act or authorize electronic delivery
 124 of any of the notices described in Section 103(b) of such Act; and
 125 (9) No insurance company shall cancel, refuse to issue, or refuse to renew any policy
 126 because the applicant or insured refuses to agree to receive mailings electronically
 127 pursuant to this subsection."

128 **SECTION 5.**

129 Said title is further amended in Code Section 33-24-44, relating to cancellation of policies
 130 generally, by revising subsection (b) as follows:

131 "(b) Written notice stating the time when the cancellation will be effective, which shall not
 132 be less than 30 days from the date of mailing or delivery in person of such notice of
 133 cancellation or such other specific longer period as may be provided in the contract or by
 134 statute, shall be delivered as provided in subsection (d) of Code Section 33-24-14 in person
 135 or by depositing the notice in the United States mails to be dispatched by at least first-class
 136 mail to the last address of record of the insured and of any lienholder, where applicable,
 137 and receiving the receipt provided by the United States Postal Service or such other
 138 evidence of mailing as prescribed or accepted by the United States Postal Service. For the
 139 purposes of this subsection, notice to the lienholder shall be considered delivered or mailed
 140 if, with the lienholder's consent, it is delivered by electronic transmittal or facsimile. Any
 141 irregularity in the notice to the lienholder shall not invalidate an otherwise valid
 142 cancellation as to the insured."

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SECTION 6.

145 Said title is further amended in Code Section 33-24-44.1, relating to procedure for
 146 cancellation by insured and notice, by revising subsection (b) as follows:

147 "(b) Notices required by this Code section shall be delivered as provided in subsection (d)
 148 of Code Section 33-24-14 in person or by depositing the notice in the United States mail
 149 to be dispatched by at least first-class mail to the last address of record of the named
 150 insured, governmental agency, mortgagee, or other third party, where applicable, and
 151 receiving the receipt provided by the United States Postal Service or such other evidence
 152 of mailing as prescribed or accepted by the United States Postal Service."

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SECTION 7.

154 Said title is further amended in Code Section 33-24-45, relating to cancellation or
 155 nonrenewal of automobile or motorcycle policies and procedure for review by
 156 Commissioner, by revising paragraph (1) of subsection (e) as follows:

157 "(e)(1) No insurer shall refuse to renew a policy to which this Code section applies unless
 158 a written notice of nonrenewal is mailed or delivered in person to the named insured.
 159 Such notice stating the time when nonrenewal will be effective, which shall not be less
 160 than 30 days from the date of mailing or delivery of such notice of nonrenewal or such
 161 longer period as may be provided in the contract or by statute, shall be delivered as
 162 provided in subsection (d) of Code Section 33-24-14 in person or by depositing the notice
 163 in the United States mails to be dispatched by at least first-class mail to the last address
 164 of record of the insured and of the lienholder, where applicable, and receiving the receipt
 165 provided by the United States Postal Service or such other evidence of mailing as
 166 prescribed or accepted by the United States Postal Service."

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SECTION 8.

168 Said title is further amended in such Code section by revising subsection (m) as follows:

169 "(m) Notice to the insured shall not be required by this Code section when a policy is
 170 canceled by an insurance premium finance company under a power of attorney contained
 171 in an insurance premium finance agreement if notification of the existence of the premium
 172 finance agreement has been given to the insurer in accordance with the provisions of
 173 Chapter 22 of this title. However, the insurer shall comply with the provisions of
 174 subsection (d) of Code Section 33-22-13 pertaining to notice to a governmental agency,
 175 mortgagee, or other third party. Such notice shall be delivered as provided in subsection
 176 (d) of Code Section 33-24-14 in person or by depositing the notice in the United States
 177 mails to be dispatched by at least first-class mail to the last address of record of such
 178 governmental agency, mortgagee, or other third party and receiving the receipt provided
 179 by the United States Postal Service or such other evidence of mailing as prescribed or
 180 accepted by the United States Postal Service."

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SECTION 9.

183 Said title is further amended in Code Section 33-24-46, relating to cancellation or
 184 nonrenewal of certain property insurance policies, by revising subsection (d) as follows:

185 "(d) No insurer shall refuse to renew a policy to which this Code section applies unless a
 186 written notice of nonrenewal is mailed or delivered in person to the named insured. Such
 187 notice stating the time when nonrenewal will be effective, which shall not be less than 30
 188 days from the date of mailing or delivery of such notice of nonrenewal or such longer
 189 period as may be provided in the contract or by statute, shall be delivered as provided in
 190 subsection (d) of Code Section 33-24-14 in person or by depositing the notice in the United
 191 States mails to be dispatched by at least first-class mail to the last address of record of the
 192 insured and of the lienholder, where applicable, and receiving the receipt provided by the
 193 United States Postal Service or such other evidence of mailing as prescribed or accepted
 194 by the United States Postal Service. The insurer shall provide the reason or reasons for
 195 nonrenewal as required by Chapter 39 of this title."

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SECTION 10.

197 Said title is further amended in such Code section by revising subsection (h) as follows:

198 "(h) Notice to the insured shall not be required by this Code section when a policy is
 199 canceled by an insurance premium finance company under a power of attorney contained
 200 in an insurance premium finance agreement if notification of the existence of the premium
 201 finance agreement has been given to the insurer in accordance with the provisions of
 202 Chapter 22 of this title. However, the insurer shall comply with the provisions of

203 subsection (d) of Code Section 33-22-13 pertaining to notice to a governmental agency,
 204 mortgagee, or other third party. Such notice shall be delivered as provided in subsection
 205 (d) of Code Section 33-24-14 in person or by depositing the notice in the United States
 206 mails to be dispatched by at least first-class mail to the last address of record of such
 207 governmental agency, mortgagee, or other third party and receiving the receipt provided
 208 by the United States Postal Service or such other evidence of mailing as prescribed or
 209 accepted by the United States Postal Service."

210 **SECTION 11.**

211 Said title is further amended in Code Section 33-24-47, relating to notice required of
 212 termination or nonrenewal, increase in premium rates, or change restricting coverage and
 213 failure to comply, by revising subsection (b) as follows:

214 "(b) A notice of termination, including a notice of cancellation or nonrenewal, by the
 215 insurer, a notice of an increase in premiums, other than an increase in premiums due to a
 216 change in risk or exposure, including a change in experience modification or resulting from
 217 an audit of auditable coverages, which exceeds 15 percent of the current policy's premium,
 218 or a notice of change in any policy provision which limits or restricts coverage shall be
 219 delivered to the insured as provided in subsection (d) of Code Section 33-24-14 in person
 220 or by depositing the notice in the United States mail, to be dispatched by at least first-class
 221 mail to the last address of record of the insured, at least 45 days prior to the termination
 222 date of such policy; provided, however, that a notice of cancellation or nonrenewal of a
 223 policy of workers' compensation insurance shall be controlled by the provisions of
 224 subsection (f) of this Code section. In those instances where an increase in premium
 225 exceeds 15 percent, the notice to the insured shall indicate the dollar amount of the
 226 increase. The insurer may obtain a receipt provided by the United States Postal Service as
 227 evidence of mailing such notice or such other evidence of mailing as prescribed or accepted
 228 by the United States Postal Service."

229 **SECTION 12.**

230 Said title is further amended in such Code section by revising subsection (f) as follows:

231 "(f) A notice of cancellation or nonrenewal of a policy of workers' compensation insurance
 232 shall be dispatched to the insured as provided in subsection (d) of Code Section 33-24-14
 233 by certified mail or statutory overnight delivery, return receipt requested, to the last address
 234 of record of the insured at least 75 days prior to the termination date of such policy. The
 235 workers' compensation insurer shall retain the receipt of mailing provided by the United
 236 States Postal Service as evidence of mailing unless such mailing was accomplished as
 237 provided in subsection (d) of Code Section 33-24-14."

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SECTION 13.

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