

Senate Bill 204

By: Senators Jones of the 25th, Martin of the 9th, Stone of the 23rd, Mullis of the 53rd and Jeffares of the 17th

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 a short title; to define certain terms; to provide for reorganization of mutual insurers
3 and formation of mutual insurance holding companies; to provide that capital stock of the
4 reorganized stock insurer shall be issued to the mutual insurance holding company or to an
5 intermediate stock holding company; to provide for the requirements of any reorganization
6 plan; to provide for mergers of mutual insurers or other entities with mutual insurance
7 holding companies; to provide that capital stock of the merged insurer shall be issued to the
8 mutual insurance holding company or to an intermediate stock holding company; to provide
9 for approval of the reorganization plan or merger plan by the Commissioner of Insurance;
10 to provide for domestication of foreign mutual insurers; to provide for applicability of certain
11 provisions and dissolution and liquidation; to provide for demutualization of mutual
12 insurance holding companies; to provide that certain membership interests shall not be
13 deemed securities; to provide restrictions on voting stock of reorganized stock insurers; to
14 provide for approval of any reorganization plan or merger plan by policyholders; to provide
15 for powers of mutual insurance holding companies and restrictions on voting stock; to
16 provide that the formation of a mutual insurance holding company shall not increase the
17 Georgia tax burden of the mutual insurance holding company system; to provide an effective
18 date; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

21 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
22 adding a new Chapter 13A to read as follows:

23 "CHAPTER 13A

24 33-13A-1.

25 This chapter shall be known and may be cited as the 'Mutual Insurance Holding Company
 26 Act.'

27 33-13A-2.

28 As used in this chapter, the term:

29 (1) 'Intermediate stock holding company' means one or more stock corporations that own
 30 all of the shares of voting stock of one or more reorganized stock insurers after a
 31 reorganization under Code Section 33-13A-3 or a merger under Code Section 33-13A-4.

32 (2) 'Majority of the voting stock of the reorganized stock insurer' means shares of the
 33 capital stock of the reorganized stock insurer that carry the right to cast a majority of the
 34 votes entitled to be cast by all of the outstanding shares of the capital stock of the
 35 reorganized stock insurer for the election of directors and on all other matters submitted
 36 to a vote of the shareholders of the reorganized stock insurer. The ownership of a
 37 majority of the voting stock of the reorganized stock insurer that is required pursuant to
 38 this chapter to be at all times owned by a mutual insurance holding company includes
 39 indirect ownership through one or more intermediate stock holding companies in a
 40 corporate structure approved by the Commissioner. However, indirect ownership through
 41 one or more intermediate stock holding companies shall not result in the mutual insurance
 42 holding company owning less than the equivalent of a majority of the voting stock of the
 43 reorganized stock insurer. The Commissioner shall have jurisdiction over an intermediate
 44 stock holding company as if it were a mutual insurance holding company.

45 (3) 'Member' means a person who obtains a membership interest in a mutual insurance
 46 holding company by virtue of being a policyholder of a mutual insurer that is the subject
 47 of a reorganization plan under Code Section 33-13A-3 or a merger plan under Code
 48 Section 33-13A-4.

49 (4) 'Merger plan' means a plan approved by a mutual insurer's board of directors under
 50 Code Section 33-13A-4 which proposes to merge a domestic or foreign mutual insurer
 51 into an existing mutual insurance holding company or into an intermediate stock holding
 52 company, thereby converting the domestic or foreign mutual insurer into a stock insurer.

53 (5) 'Mutual insurance holding company' means a domestic corporation incorporated
 54 pursuant to a reorganization plan under Code Section 33-13A-3 or a merger plan under
 55 Code Section 33-13A-4, which company is the ultimate parent of a reorganized stock
 56 insurer and which may be the parent company of one or more intermediate stock holding
 57 companies.

58 (6) 'Policyholder' means a person who is insured under one or more insurance policies
59 or annuity contracts by a mutual insurer at the time of a reorganization under Code
60 Section 33-13A-3 or a merger under Code Section 33-13A-4.

61 (7) 'Reorganization plan' means a reorganization plan adopted by a mutual insurer's
62 board of directors in accordance with Code Section 33-13A-3 or 33-13A-4 which
63 proposes to convert the domestic or foreign mutual insurer into a stock insurer.

64 (8) 'Reorganized stock insurer' means the domestic or foreign stock insurer resulting
65 from a domestic or foreign mutual insurer's reorganization under Code Section 33-13A-3
66 or merger under Code Section 33-13A-4.

67 (9) 'Voting stock' means securities of any class or any ownership interest having voting
68 power for the election of directors, trustees, or management of a corporation. Voting
69 stock shall also mean any security convertible into or evidencing a right to acquire a
70 voting security.

71 33-13A-3.

72 (a) A domestic mutual insurer, upon approval of the Commissioner, may reorganize by
73 forming an insurance holding company system, which shall be designated as a mutual
74 insurance holding company, based upon a reorganization plan and continuing the corporate
75 existence of the reorganizing insurer as a stock insurer. Such a reorganization plan must
76 be adopted by the affirmative vote of not less than two-thirds of the mutual insurer's board
77 of directors. The Commissioner, after a public hearing as provided in paragraph (2) of
78 subsection (d) of Code Section 33-13-3, if satisfied that the interests of the policyholders
79 are properly protected and that the reorganization plan is fair and equitable to the
80 policyholders, may approve the proposed reorganization plan and may require as a
81 condition of approval such modifications of the reorganization plan as the Commissioner
82 finds necessary for the protection of the policyholders' interests. A reorganization pursuant
83 to this Code section is subject to the requirements of Code Section 33-13-3. The
84 Commissioner shall retain jurisdiction over a mutual insurance holding company organized
85 pursuant to this Code section to ensure that policyholder interests are protected.

86 (b) All of the initial shares of the capital stock of the reorganized stock insurer shall be
87 issued to the mutual insurance holding company or to an intermediate stock holding
88 company. The membership interests of the policyholders of the reorganized stock insurer
89 shall become membership interests in the mutual insurance holding company.
90 Policyholders of the reorganized stock insurer shall be members of the mutual insurance
91 holding company in accordance with the articles of incorporation and bylaws of the mutual
92 insurance holding company. The mutual insurance holding company shall at all times own

93 a majority of the voting stock of the reorganized stock insurer or an intermediate stock
94 holding company.

95 (c) The reorganization plan shall provide that all of the initial shares of capital stock of the
96 reorganized stock insurer shall be issued to the mutual insurance holding company or to an
97 intermediate stock holding company. The reorganization plan shall provide that the mutual
98 insurance holding company shall at all times own a majority of the voting stock of the
99 reorganized stock insurer or, alternatively, that the mutual insurance holding company shall
100 at all times own the majority of voting stock in an intermediate stock holding company,
101 which intermediate stock holding company shall at all times own all of the voting stock of
102 the reorganized stock insurer. The shares of voting stock required to be owned by the
103 mutual insurance holding company or by an intermediate stock holding company shall not
104 be pledged, hypothecated, or in any way encumbered with regard to any obligation,
105 guaranty, or commitment undertaken by or on behalf of the mutual insurance holding
106 company or the intermediate stock holding company, if any. The reorganization plan shall
107 also provide that the board of directors of the mutual insurance holding company will be
108 elected by the members.

109 (d) The reorganization plan shall provide that membership interests of the policyholders
110 of the mutual insurer shall automatically convert to membership interests in the mutual
111 insurance holding company so long as the policy is in force as of the date the
112 reorganization plan was adopted by the board of directors of the mutual insurer and that,
113 concurrently upon the effective date of the reorganization, the policyholder's membership
114 interests in the mutual insurer shall be extinguished.

115 33-13A-4.

116 (a) A domestic mutual insurer, upon the approval of the Commissioner, may reorganize
117 by merging its policyholders' membership interests into a mutual insurance holding
118 company formed pursuant to Code Section 33-13A-3 and continuing the corporate
119 existence of the reorganizing insurer as a stock insurer subsidiary of the mutual insurance
120 holding company or an intermediate stock holding company. The Commissioner, after a
121 public hearing as provided in paragraph (2) of subsection (d) of Code Section 33-13-3, if
122 satisfied that the interests of the policyholders are properly protected and that the merger
123 plan is fair and equitable to the policyholders, may approve the merger plan and may
124 require as a condition of approval such modifications of the merger plan as the
125 Commissioner finds necessary for the protection of the policyholders' interests. The
126 Commissioner shall retain jurisdiction over the mutual insurance holding company
127 organized pursuant to this Code section to ensure that policyholder interests are protected.

128 (b) All of the initial shares of the capital stock of the reorganized stock insurer shall be
129 issued to the mutual insurance holding company or to an intermediate stock holding
130 company. The membership interests of the policyholders of the reorganized stock insurer
131 shall become membership interests in the mutual insurance holding company.
132 Policyholders of the reorganized stock insurer shall be members of the mutual insurance
133 holding company in accordance with the articles of incorporation and bylaws of the mutual
134 insurance holding company. The mutual insurance holding company shall at all times own
135 a majority of the voting stock of the reorganized stock insurer or an intermediate stock
136 holding company. A merger of policyholders' membership interests in a mutual insurer
137 into a mutual insurance holding company shall be deemed to be the acquisition of an
138 insurance control company pursuant to Code Section 33-13-3 and is subject to the
139 requirements of Code Section 33-13-3.

140 (c) A foreign mutual insurer which, if a domestic mutual insurer, would be organized
141 under Chapter 14 of this title may reorganize upon the approval of the Commissioner and
142 in compliance with the requirements of any law or rule applicable to the foreign mutual
143 insurer by merging its policyholders' membership interests into a mutual insurance holding
144 company formed pursuant to Code Section 33-13A-3 and continuing the corporate
145 existence of the reorganizing foreign mutual insurer as a foreign stock insurer subsidiary
146 of the mutual insurance holding company or one or more intermediate stock holding
147 companies. The Commissioner, after a public hearing as provided in paragraph (2) of
148 subsection (d) of Code Section 33-13-3, may approve the proposed merger. The
149 reorganizing foreign mutual insurer may remain a foreign company or foreign corporation
150 after the merger and may be admitted to do business in this state, upon approval by the
151 Commissioner. A foreign mutual insurer that is a party to the merger may at the same time
152 redomesticate in this state by complying with the applicable requirements of this state and
153 its state of domicile. The provisions of subsection (b) of this Code section shall apply to
154 a merger authorized under this subsection.

155 33-13A-5.

156 A mutual insurance holding company resulting from the reorganization of a domestic
157 mutual insurer and the reorganized stock insurer shall be incorporated and governed
158 pursuant to Chapter 14 of this title and subject to Chapter 13 of this title. This requirement
159 shall supersede any conflicting provisions of Chapter 2 of Title 14. The articles of
160 incorporation and any amendments to such articles of the mutual insurance holding
161 company shall be subject to approval of the Commissioner in the same manner as those of
162 an insurer. An intermediate stock holding company shall be incorporated and governed
163 pursuant to Chapter 2 of Title 14.

164 33-13A-6.

165 A mutual insurance holding company is deemed to be an insurer subject to this title and
166 shall automatically be a party to any proceeding under this title involving an insurer that,
167 as a result of a reorganization pursuant to Code Section 33-13A-3 or a merger pursuant to
168 Code Section 33-13A-4, is a subsidiary of the mutual insurance holding company or one
169 or more intermediate stock holding companies. In any proceeding involving the
170 reorganized stock insurer, the assets of the mutual insurance holding company are deemed
171 to be assets of the estate of the reorganized stock insurer for purposes of satisfying the
172 claims of the reorganized stock insurer's policyholders. A mutual insurance holding
173 company shall not be dissolved or liquidated without the prior approval of the
174 Commissioner.

175 33-13A-7.

176 (a) Code Section 33-14-76 is not applicable to a reorganization or merger pursuant to this
177 chapter.

178 (b) The demutualization of a mutual insurance holding company is subject to the
179 requirements of Code Section 33-14-76.

180 33-13A-8.

181 A membership interest in a mutual insurance holding company shall not constitute a
182 security as such term is defined in Code Section 11-8-102.

183 33-13A-9.

184 (a) The offerings of voting stock by a reorganized stock insurer or intermediate stock
185 holding company to any person other than the mutual insurance holding company or a
186 wholly owned subsidiary thereof, which offering is to occur in connection with the
187 reorganization or merger or is the first to occur after the effective date of the reorganization
188 or merger, shall be made only in accordance with such provisions as the reorganization
189 plan or merger plan may contain governing such an initial offering or with the prior
190 approval of the Commissioner after submission of an application by the proposed issuer.
191 The reorganization plan or merger plan shall describe the terms on which members,
192 officers, and directors of the mutual insurance holding company, as well as any other
193 persons, may participate in such offering. The Commissioner shall approve any such
194 application unless the Commissioner finds that the offering would be prejudicial to the
195 members of the mutual holding company.

196 (b) The Commissioner may retain any attorneys, actuaries, accountants, and other experts
197 not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist

198 the Commissioner in reviewing an application submitted pursuant to this Code section, the
199 cost of which shall be borne by the proposed issuer submitting such application.

200 33-13A-10.

201 (a) Within 45 days after the date of the Commissioner's approval of a reorganization plan
202 or merger plan pursuant to this chapter, unless extended by the Commissioner for good
203 cause, the mutual insurer shall hold a meeting of its policyholders to vote upon such plan.
204 The mutual insurer shall give notice at least 30 days before the time fixed for the meeting,
205 by first-class mail to the last known address of each policyholder, that the reorganization
206 plan or merger plan will be voted upon at a regular or special meeting of the policyholders.
207 The notice shall include a brief description of the reorganization plan or merger plan and
208 a statement that the Commissioner has approved such plan. The notice to each
209 policyholder shall also include a written proxy permitting the policyholder to vote for or
210 against the reorganization plan or merger plan. A reorganization plan or merger plan shall
211 be approved only if not less than two-thirds of the policyholders voting in person or by
212 proxy at the meeting vote in favor of such plan. Each policyholder shall be entitled to only
213 one vote regardless of the number of policies owned by the policyholder.

214 (b) If a mutual insurer complies substantially and in good faith with the notice
215 requirements of this Code section, the mutual insurer's failure to give any policyholder any
216 required notice does not impair the validity of any action taken under this Code section.

217 (c) For purposes of voting, policyholder means a person who is eligible to vote under the
218 mutual insurer's articles of incorporation or bylaws and who is also a policyholder of the
219 mutual insurer as of the date on which the reorganization plan or merger plan is initially
220 approved by the board of directors of the mutual insurer.

221 33-13A-11.

222 The majority of the voting stock of the reorganized stock insurer, which is required by this
223 Code section to be at all times owned by a mutual insurance holding company, shall not
224 be conveyed, transferred, assigned, pledged, subject to a security interest or lien,
225 encumbered, or otherwise hypothecated or alienated by the mutual insurance holding
226 company or intermediate stock holding company. Any conveyance, transfer, assignment,
227 pledge, security interest, lien, encumbrance, hypothecation, or alienation of, in or on the
228 majority of the voting stock of the reorganized stock insurer that is required by this Code
229 section to be at all times owned by a mutual insurance holding company, is in violation of
230 the provisions of this Code section and shall be void in inverse chronological order of the
231 date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance,
232 hypothecation, or alienation as to the shares necessary to constitute a majority of such

233 voting stock. The majority of the voting stock of the reorganized stock insurer that is
234 required by this Code section to be at all times owned by a mutual insurance holding
235 company shall not be subject to execution and levy. The shares of the capital stock of the
236 surviving or new company resulting from a merger or consolidation of two or more
237 reorganized stock insurers or two or more intermediate stock holding companies that were
238 subsidiaries of the same mutual insurance holding company are subject to the same
239 requirements, restrictions, and limitations as provided in this Code section to which the
240 shares of the merging or consolidating reorganized stock insurers or intermediate stock
241 holding companies were subject as provided in this Code section prior to the merger or
242 consolidation.

243 33-13A-12.

244 It is the intent of the General Assembly that the formation of a mutual insurance holding
245 company shall not increase the Georgia tax burden of the mutual insurance holding
246 company system and that a reorganized stock insurer shall continue to be subject to
247 Georgia insurance premium taxation in lieu of all other taxes except as provided in
248 Chapter 8 of this title.

249 33-13A-13.

250 The Commissioner shall have the authority to promulgate rules and regulations to
251 implement and enforce the provisions of this chapter."

252 **SECTION 2.**

253 This Act shall become effective on July 1, 2015.

254 **SECTION 3.**

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