

The House Committee on Judiciary offers the following substitute to SB 113:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated,
2 relating to agents, agencies, subagents, counselors, and adjusters, so as to provide for
3 background checks; to provide definitions; to require appointment of an agent by an
4 authorized insurer before licensing; to provide for forms for license applications; to provide
5 for appointment of limited subagents; to prohibit agents whose licenses are inactive from
6 selling, soliciting, or negotiating insurance; to provide for rules and regulations for certain
7 adjusters; to provide for limited licenses for retail vendors of communications equipment to
8 offer or sell insurance policies covering certain risks for communications equipment; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated, relating to
13 agents, agencies, subagents, counselors, and adjusters, is amended by revising subsection (a)
14 of Code Section 33-23-1, relating to definitions, by adding a new paragraph to read as
15 follows:

16 "(10.1) 'Limited subagent' means an individual licensed on behalf of a licensed agent
17 pursuant to Code Section 33-23-12."

18 **SECTION 2.**

19 Said article is further amended by revising subsection (a) of Code Section 33-23-5, relating
20 to qualifications and requirements for license, as follows:

21 "(a) For the protection of the people of this state, the Commissioner shall not issue,
22 continue, or permit to exist any license, except in compliance with this chapter and except
23 as provided in Code Sections 33-23-3, 33-23-4, 33-23-12, 33-23-13, 33-23-14, 33-23-16,
24 33-23-17, 33-23-29, 33-23-29.1, and 33-23-37. The Commissioner shall not issue a license

1 to any individual applicant for a license who does not meet or conform to qualifications or
2 requirements set forth in paragraphs (1) through (8) of this subsection:

3 (1) The individual applicant ~~must~~ shall be a resident of this state who ~~will~~ shall reside
4 and be present within this state for at least six months of every year or an individual
5 whose principal place of business is within this state; provided, however, that in cities,
6 towns, or trade areas, either unincorporated or ~~comprised~~ composed of two or more
7 incorporated cities or towns, located partly within and partly outside ~~the~~ this state,
8 requirements as to residence and principal place of business shall be deemed met if the
9 residence or place of business is located in any part of the city, town, or trade area and
10 if the other state in which the city, town, or trade area is located in part has established
11 like requirements as to residence and place of business. The individual applying for an
12 agent, adjuster, or counselor license ~~must~~ shall be at least 18 years of age;

13 (2) If applying for an agent's license for property and casualty insurance, the applicant
14 ~~must~~ shall not use or intend to use ~~the~~ such license for the purpose of obtaining a rebate
15 or commission upon controlled business; and the applicant ~~must~~ shall not in any calendar
16 year effect controlled business that will aggregate as much as 25 percent of the volume
17 of insurance effected by such applicant during such year, as measured by the comparative
18 amounts of premiums;

19 (3) If applying for an agent's license, the applicant ~~must have been~~ shall be appointed
20 an agent by an authorized insurer subject prior to issuance of the license;

21 (4) The individual applicant ~~must~~ shall be of good character, and the Commissioner may,
22 by rule or regulation, establish criteria and procedures for criminal or other background
23 check requirements;

24 (5) The individual applicant ~~must~~ shall pass any written examination required for the
25 license by this article, provided that:

26 (A) An individual who applies for an insurance agent's license in this state who was
27 previously licensed for the same lines of authority in another state shall not be required
28 to complete any prelicensing education or examination. This exemption is shall only
29 be available if the individual is currently licensed in that state or if the application is
30 received within 90 days of the cancellation of the applicant's previous license and if the
31 prior state issues a certification that, at the time of cancellation, the applicant was in
32 good standing in that state or the state's producer data base records maintained by the
33 National Association of Insurance Commissioners, its affiliates, or subsidiaries indicate
34 that the agent is or was licensed in good standing for the line of authority requested; and

35 (B) An individual licensed as an insurance agent in another state who moves to this
36 state shall make application within 90 days of establishing legal residence to become
37 a resident licensee pursuant to Code Section 33-23-8. No prelicensing education or

1 examination shall be required of that individual to obtain a license for any line of
 2 authority previously held in the prior state except where the Commissioner determines
 3 otherwise by rule or regulation;

4 (6) If applying for a license as counselor, the applicant ~~must~~ shall show that he or she
 5 either has had five years' experience as an agent, subagent, or adjuster or in some other
 6 phase of the insurance business or has sufficient teaching or educational qualifications
 7 or experience which, in the opinion of the Commissioner, has qualified the applicant to
 8 act as such counselor; and the applicant shall pass such examination as shall be required
 9 by the Commissioner unless ~~the~~ such applicant is exempted by the Commissioner, based
 10 on the applicant's experience and qualifications and pursuant to a regulation adopted by
 11 the Commissioner;

12 (7) If applying for an agent's license, subagent's license, or adjuster's license, no
 13 applicant shall be qualified therefor or be so licensed unless he or she has successfully
 14 completed classroom courses in insurance satisfactory to the Commissioner at a school
 15 which has been approved by the Commissioner; and

16 (8) The Commissioner shall by rule or regulation establish criteria and procedures for the
 17 scope of prelicensing requirements and exemptions, if any, to the prelicensing or
 18 examination requirements."

19 SECTION 3.

20 Said article is further amended by adding a new Code section to read as follows:

21 "33-23-5.1.

22 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
 23 verdict of guilty or plea of guilty or nolo contendere with regard to any crime regardless
 24 of whether an appeal of the conviction has been sought.

25 (b) With respect to the requirements of paragraph (4) of subsection (a) of Code Section
 26 33-23-5, the Commissioner shall be authorized to obtain conviction data with respect to an
 27 applicant as authorized in this Code section. The Commissioner shall submit to the
 28 Georgia Crime Information Center two complete sets of fingerprints of the applicant for
 29 appointment or employment, the required records search fees, and such other information
 30 as may be required. Upon receipt of such material, the Georgia Crime Information Center
 31 shall promptly forward one set of fingerprints to the Federal Bureau of Investigation for a
 32 search of bureau records and the preparation of an appropriate report concerning such
 33 records search and shall retain the other set and promptly conduct a search of its own
 34 records and all records to which the center has access. The Georgia Crime Information
 35 Center shall notify the Commissioner in writing of any derogatory finding, including, but
 36 not limited to, any conviction data regarding the fingerprint records check or if there is no

1 such finding. All conviction data received by the Commissioner shall not be a public
 2 record, shall be privileged, and shall not be disclosed to any other person or agency except
 3 as provided in this Code section and except to any person or agency that otherwise has a
 4 legal right to inspect the employment file. All such records shall be maintained by the
 5 Commissioner pursuant to the laws regarding such records and the rules and regulations
 6 of the Federal Bureau of Investigation and the Georgia Crime Information Center, as
 7 applicable."

8 SECTION 4.

9 Said article is further amended by revising Code Section 33-23-8, relating to form and
 10 contents of license application, as follows:

11 "33-23-8.

12 (a) An individual applicant for any license required by this chapter shall file with the
 13 Commissioner ~~a written~~ an application upon forms prescribed by the Commissioner. ~~The~~
 14 ~~application shall be signed and verified by the oath of the applicant.~~

15 (b) If the application is for an agent's or limited subagent's license, the application shall
 16 state the kinds of insurance proposed to be transacted, ~~and~~ If applying as a limited
 17 subagent, shall be accompanied by written appointment of the applicant shall be appointed
 18 as agent or a limited subagent by ~~an authorized insurer or a~~ sponsoring agent subject prior
 19 to the issuance of ~~the~~ such license.

20 (c) As to any application for ~~an agent's or a limited~~ subagent's license or certificate of
 21 authority, the Commissioner shall require as part of the application a certificate of the
 22 ~~insurer or~~ sponsoring agent proposed to be represented. The certificate shall state, relative
 23 to the applicant's character, including criminal background, identity, residence, experience,
 24 and instruction as to the kinds of insurance to be transacted, that the ~~insurer or~~ sponsoring
 25 agent is satisfied that the applicant is trustworthy and qualified to act as its ~~agent or limited~~
 26 subagent and to hold himself or herself out in good faith to the general public as ~~an agent~~
 27 ~~or a limited~~ subagent; and the fact that the ~~insurer or~~ sponsoring agent desires that the
 28 applicant be licensed as ~~an agent or a limited~~ subagent to represent it in this state.

29 (d) Each applicant for an agency license shall file with the Commissioner the information
 30 required under Code Section 33-23-3.

31 (e) All such applications shall be accompanied by the appropriate fees in the respective
 32 amounts as provided by law."

33 SECTION 5.

34 Said article is further amended by revising subsections (c) and (d) of Code Section 33-23-12,
 35 relating to limited licenses, as follows:

1 "(c)(1) As used in this subsection, the term:

2 (A) 'Limited licensee' means a person or entity authorized to sell certain coverages
3 relating to the rental of vehicles pursuant to the provisions of this subsection.

4 (B) 'Rental agreement' means any written agreement setting forth the terms and
5 conditions governing the use of a vehicle provided by the rental company for rental or
6 lease.

7 (C) 'Rental company' means any person or entity in the business of providing primarily
8 private passenger vehicles to the public under a rental agreement for a period not to
9 exceed 90 days.

10 (D) 'Rental period' means the term of the rental agreement.

11 (E) 'Renter' means any person obtaining the use of a vehicle from a rental company
12 under the terms of a rental agreement for a period not to exceed 90 days.

13 (F) 'Vehicle' or 'rental vehicle' means a motor vehicle of the private passenger type,
14 including passenger vans, minivans, and sport utility vehicles, and of the cargo type,
15 including cargo vans, pick-up trucks, and trucks with a gross vehicle weight of less than
16 26,000 pounds and which do not require the operator to possess a commercial driver's
17 license.

18 (2) The Commissioner may issue to a rental company that has complied with the
19 requirements of this subsection a limited license authorizing the limited licensee to offer
20 or sell insurance through a licensed insurer in connection with the rental of vehicles.

21 (3) As a prerequisite for issuance of a limited license under this subsection, there shall
22 be filed with the Commissioner ~~a written~~ an application for a limited license, ~~signed by~~
23 ~~an officer of the applicant~~, in such form or forms, and supplements thereto, and
24 containing such information; as the Commissioner may prescribe.

25 (4) In the event that any provision of this subsection is violated by a limited licensee, the
26 Commissioner may:

27 (A) After notice and a hearing, revoke or suspend a limited license issued under this
28 subsection in accordance with the provisions of Code Sections 33-23-21 and 33-23-22;
29 or

30 (B) After notice and a hearing, impose such other penalties, including suspending the
31 transaction of insurance at specific rental locations where violations of this subsection
32 have occurred, as the Commissioner deems to be necessary or convenient to carry out
33 the purposes of this subsection.

34 (5) The rental company licensed pursuant to paragraph (2) of this subsection ~~may~~ shall
35 offer or sell insurance through licensed insurers only in connection with and incidental
36 to the rental of vehicles, whether at the rental office or by preselection of coverage in an

1 individual, master, corporate, or group rental agreement, in any of the following general
2 categories:

3 (A) Personal accident insurance covering the risks of travel, including, but not limited
4 to, accident and health insurance that provides coverage, as applicable, to renters and
5 other rental vehicle occupants for accidental death or dismemberment and
6 reimbursement for medical expenses resulting from an accident that occurs during the
7 rental period;

8 (B) Liability insurance, which, at the exclusive option of the rental company, may
9 include uninsured and underinsured motorist coverage, whether offered separately or
10 in combination with other liability insurance, that provides coverage, as applicable, to
11 renters and other authorized drivers of rental vehicles for liability arising from the
12 operation of the rental vehicle;

13 (C) Personal effects insurance that provides coverage, as applicable, to renters and
14 other rental vehicle occupants for the loss of, or damage to, personal effects that occurs
15 during the rental period;

16 (D) Roadside assistance and emergency sickness protection programs; and

17 (E) Any other travel or vehicle related coverage that a rental company offers in
18 connection with and incidental to the rental of vehicles.

19 (6) No insurance ~~may~~ shall be offered by a limited licensee pursuant to this subsection
20 unless:

21 (A) The rental period of the rental agreement does not exceed 90 consecutive days;

22 (B) At every rental location where rental agreements are executed, brochures or other
23 written materials are readily available to the prospective renter that:

24 (i) Summarize clearly and correctly the material terms of coverage offered to renters,
25 including the identity of the insurer;

26 (ii) Disclose that such policies offered by the rental company may provide a
27 duplication of coverage already provided by a renter's personal automobile insurance
28 policy, homeowner's insurance policy, personal liability insurance policy, or other
29 source of coverage;

30 (iii) State that the purchase by the renter of the kinds of coverage specified in this
31 subsection is not required in order to rent a vehicle; and

32 (iv) Describe the process for filing a claim in the event the renter elects to purchase
33 coverage and in the event of a claim;

34 (C) Evidence of coverage on the face of the rental agreement is disclosed to every
35 renter who elects to purchase such coverage.

1 (7) Any limited license issued under this subsection shall also authorize any employee
 2 of the limited licensee to act individually on behalf; and under the supervision; of the
 3 limited licensee with respect to the kinds of coverage specified in this subsection.

4 (8) Each rental company licensed pursuant to this subsection shall provide a training
 5 program in which employees being trained by a licensed instructor receive basic
 6 insurance instruction about the kinds of coverage specified in this subsection and offered
 7 for purchase by prospective renters of rental vehicles. Additionally, each rental company
 8 shall provide for such employees two hours of continuing education courses annually to
 9 be taught by a licensed instructor. A rental company shall certify that, prior to offering
 10 such coverages, each employee has received such instruction.

11 (9) Notwithstanding any other provision of this subsection or any rule adopted by the
 12 Commissioner, a limited licensee pursuant to this subsection shall not be required to treat
 13 moneys collected from renters purchasing such insurance when renting vehicles as funds
 14 received in a fiduciary capacity, provided that the charges for coverage shall be itemized
 15 and be ancillary to a rental transaction. The sale of insurance not in conjunction with a
 16 rental transaction shall not be permitted.

17 (10) No limited licensee under this subsection shall advertise, represent, or otherwise
 18 hold itself or any of its employees out as licensed insurers, insurance agents, or insurance
 19 brokers.

20 (d)(1) As used in this subsection, the term 'communications equipment' ~~shall mean~~ means
 21 handsets, pagers, personal digital assistants, portable computers, automatic answering
 22 devices, cellular telephones, batteries, and other devices or their accessories used to
 23 originate or receive communications signals or service for individual customer use only
 24 and includes services related to the use of such devices, including, but not limited to,
 25 individual customer access to a wireless network.

26 (2) The Commissioner ~~shall~~ may issue ~~limited licenses to each business location of to~~
 27 a retail vendor of communications equipment ~~which covers employees and authorized~~
 28 ~~representatives of such retail vendors for the sale and offer for sale of~~ that has complied
 29 with the requirements of this subsection a limited license authorizing the limited licensee
 30 to offer or sell insurance policies covering only the loss, theft, mechanical failure, or
 31 malfunction of or damage to communications equipment.

32 (3) The sale of such insurance policies shall be limited to sales in connection with the
 33 sale of or provision of service for communications equipment by the retail vendor.

34 (4) As a prerequisite for issuance of a limited license under this subsection, there shall
 35 be filed with the Commissioner a ~~written~~ an application for such limited license or
 36 licenses in a form and manner prescribed by the Commissioner, signed by the applicant

1 ~~or an officer of the applicant, on such form or forms, and supplements thereto, and~~
 2 ~~containing such information as the Commissioner may prescribe.~~

3 (5) Each retail vendor licensed pursuant to this subsection shall provide a training
 4 program in which employees and authorized representatives of ~~the~~ such retail vendor ~~are~~
 5 shall be trained by a licensed instructor and receive basic insurance instruction about the
 6 kind of coverage authorized in this subsection and offered for purchase by prospective
 7 purchasers of communications equipment or service.

8 (6) No prelicensing examination shall be required for issuance of such license."

9 **SECTION 6.**

10 Said article is further amended by revising Code Section 33-23-13, relating to temporary
 11 licenses, by adding a new subsection to read as follows:

12 "(e) As to any application for a temporary agent's license pursuant to subsection (b) of this
 13 Code section, the Commissioner shall require as part of the application a certificate of the
 14 insurer proposed to be represented. The certificate shall state, relative to the applicant's
 15 character, including criminal background, identity, residence, experience, and instruction
 16 as to the kinds of insurance to be transacted, that the insurer is satisfied that such applicant
 17 is trustworthy and qualified to act as its temporary agent and to hold himself or herself out
 18 in good faith to the general public as a temporary agent and the fact that the insurer desires
 19 that the applicant be licensed as a temporary agent to represent it in this state."

20 **SECTION 7.**

21 Said article is further amended by revising subsection (b) of Code Section 33-23-19, relating
 22 to placing of license on inactive status, as follows:

23 "(b) When a license is placed on inactive status under this Code section, the agent shall be
 24 prohibited from selling, soliciting, or negotiating insurance ~~has been in such status for two~~
 25 ~~consecutive years without a certificate of authority having been filed with and accepted by~~
 26 ~~the Commissioner, such license may be revoked without further notice or hearing."~~

27 **SECTION 8.**

28 Said article is further amended by revising Code Section 33-23-26, relating to agent's
 29 certificate of authority, by adding a new subsection to read as follows:

30 "(i) As to any application for an agent's certificate of authority, the Commissioner shall
 31 require as part of the application a certificate of the insurer proposed to be represented.
 32 The certificate shall state, relative to the applicant's character, including criminal
 33 background, identity, residence, experience, and instruction as to the kinds of insurance to

1 be transacted, that the insurer or sponsoring agent is satisfied that such applicant is
2 trustworthy and qualified to act as its agent in this state."

3 **SECTION 9.**

4 Said article is further amended by revising subsection (b) of Code Section 33-23-29, relating
5 to authority of agent to act as adjuster, as follows:

6 "(b) No license by this state shall be required:

7 (1) Of a nonresident independent adjuster for the adjustment in this state of a single loss
8 or of losses arising out of a catastrophe common to all such losses; or

9 (2) Of a nonresident adjuster who regularly adjusts in another state and who is licensed
10 in such other state, if such state requires a license, to act as adjuster in this state for
11 emergency insurance adjustment work for a period not exceeding 60 days and performed
12 for an employer who is an insurance adjuster licensed by this state or who is a regular
13 employer of one or more insurance adjusters licensed by this state, provided that the
14 employer shall furnish to the Commissioner a notice in writing immediately upon the
15 beginning of the emergency insurance adjustment work. The Commissioner may by rule
16 or regulation establish criteria and procedures for adjusters operating under this Code
17 section."

18 **SECTION 10.**

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