

ADOPTED

Representative Lumsden of the 12th offers the following amendment:

1 *Amend HB 182 (LC 46 1215S) by replacing lines 1 through 50 with the following:*

2 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
3 provide for efficiency in the practices of the Department of Insurance; to provide for the
4 confidentiality of examination reports; to revise the statutory deposit requirement for foreign
5 insurers; to remove fees for branch licensees; to revise application requirements for a
6 domestic stock and mutual insurer; to remove the publication requirement for application,
7 amendments, and surrenders for such insurer; to remove such publication requirement for
8 charters, consolidations, and mergers of fraternal benefit societies; to revise application
9 requirements for farmers' mutual fire insurance companies; to remove the licensure
10 requirement for agency branches; to provide for biennial renewals for agency licenses to be
11 based on the origination month of the agency; to require a license to state the legal name of
12 the licensee; to provide for related matters; to provide for an effective date; to repeal
13 conflicting laws; and for other purposes.

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

15 **SECTION 1.**

16 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in
17 Chapter 2, relating to department and Commissioner, by revising subsection (g) of Code
18 Section 33-2-14, relating to preparation of written reports of examinations generally,
19 certification of reports, admissibility in evidence, notice and hearing on reports, and use of
20 examination documents, as follows:

21 "(g) Notwithstanding the provisions of Article 4 of Chapter 18 of Title 50, relating to the
 22 inspection of public records, all work papers, analysis, information, documents,
 23 information received from another state, and any other materials created, produced, or
 24 obtained by or disclosed to the Commissioner or any other person in the course of an
 25 examination made under this chapter or in the course of analysis by the Commissioner of
 26 the financial condition or market conduct of a company ~~must~~ shall be given confidential
 27 treatment, ~~and~~ are not subject to subpoena or otherwise discoverable by any person for any
 28 purpose, and ~~may~~ shall not be made public by the Commissioner or any other person.
 29 Access may be granted to authorized representatives of the National Association of
 30 Insurance Commissioners. Such representatives must agree in writing prior to receiving
 31 the information to treat such information confidentially as required by this Code section,
 32 unless the prior written consent of the company to which it pertains has been obtained."

33 SECTION 2.

34 Said title is further amended in Chapter 3, relating to authorization and general requirements
 35 for transaction of insurance, by revising subsection (b) of Code Section 33-3-8, relating to
 36 requirements as to deposit of securities generally, as follows:

37 "(b)(1) Except as otherwise provided in this subsection, the amount of the deposit
 38 required under this Code section for a certificate to transact any one class of insurance
 39 shall be \$100,000.00; to transact each additional class of insurance, the amount of deposit
 40 shall be \$25,000.00, subject to the limitation that not more than \$200,000.00 total deposit
 41 shall be required for any combination of classes.

42 (2) As to any foreign insurer, in lieu of such deposit or part of such deposit in this state,
 43 the Commissioner shall accept the current certificate in proper form of the public official
 44 having supervision over insurers in any other state to the effect that a like deposit or part
 45 of like deposit by such insurer is being maintained in public custody in such state in trust
 46 for the purpose, ~~among other reasonable purposes, of protection of policyholders and~~

47 ~~creditors or of the protection of all the insurer's policyholders or of all of its policyholders~~
48 ~~and obligees.~~

49 (3) As to any alien insurer, other than a title insurer, which has entered through and the
50 United States branch of which is licensed to transact insurance in another state, in lieu of
51 such deposit or part thereof in this state, the Commissioner shall accept the certificate of
52 the official having supervision over insurance of such other state in the United States,
53 given under his or her hand and seal, that the insurer maintains within the United States
54 by way of deposits with public depositories, or in trust institutions within the United
55 States approved by such official, assets available for discharge of its United States
56 insurance obligations, which assets shall be in an amount not less than the outstanding
57 liabilities of the insurer arising out of its insurance transactions in the United States
58 together with the larger of the following sums: the largest deposit required by this title
59 to be made in this state by any type of domestic insurer transacting like kinds of insurance
60 or \$300,000.00.

61 (4) As to any alien insurer entering through this state to transact insurance in the United
62 States through a United States branch, such insurer shall deposit in accordance with
63 Chapter 12 of this title assets available for discharge of its United States insurance
64 obligations, which assets shall be in an amount not less than the outstanding liabilities of
65 the insurer arising out of its insurance transactions in the United States together with the
66 larger of the following sums: the largest deposit required by this title to be made in this
67 state by any type of domestic insurer transacting like kinds of insurance or \$300,000.00."

68 **SECTION 3.**

69 Said title is further amended in Chapter 8, relating to fees and taxes, by repealing
70 subparagraphs (B.1) and (B.2) of paragraph (1) of Code Section 33-8-1, relating to fees and
71 charges generally.

72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97

SECTION 4.

Said title is further amended in Chapter 14, relating to domestic stock and mutual insurers, by revising Code Section 33-14-5, relating to filing of application for charter, fee, certification and publication of application, and approval or disapproval of charter, as follows:

"33-14-5.

(a) The application for charter with any and all exhibits that may be included with the application shall be filed ~~in triplicate~~ in the office of the Commissioner of Insurance and a fee of \$100.00 shall be paid to the Commissioner to be paid by him or her into the state treasury. The Commissioner shall not receive the application until the fee ~~shall be~~ is paid.

(b) Reserved. ~~Immediately upon receipt of the triplicate copies of the application, with any and all exhibits included with the application, the Commissioner shall certify one of the copies of the application and deliver the same to the applicants and the same shall be published by the applicants once a week for four weeks in the newspaper in which is published the legal advertisements of the county where the principal office of the company is to be located. When the application with any and all exhibits attached to it shall have been published once a week for four weeks, the applicants may apply to the judge of the probate court of the county to certify the fact of such publication, which certificate shall be filed by the applicants in the office of the Commissioner of Insurance.~~

(c) The Commissioner shall approve or disapprove the application within 45 days of the date the application is received by the Commissioner.

(d) The Commissioner shall examine the application to determine whether the charter, if granted, will enable the insurer to comply with the applicable insurance laws of this state; and, if the Commissioner finds that the charter, if granted, will enable the insurer to comply with the applicable provisions of law for carrying on the business for which incorporation is sought, the Commissioner shall issue under his or her hand and official seal a certificate

98 approving the granting of the charter for such insurer and shall transmit a copy of the
99 certificate of approval to the Secretary of State.

100 (e) If the Commissioner finds that the proposed application for a charter does not comply
101 with the law, or that the corporation, if organized, could not meet the requirements for a
102 certificate of authority as set forth in this chapter or any other provision of this title, the
103 Commissioner shall refuse to approve the application for charter and shall notify the
104 incorporators in writing, as to his or her reasons for such failure to approve; and the
105 Commissioner shall issue under his or her hand and official seal a certificate disapproving
106 the granting of the charter for such insurer."

107 SECTION 5.

108 Said title is further amended in said chapter by revising Code Section 33-14-6, relating to
109 grant of corporate powers and privileges, issuance of certificate of incorporation, recordation
110 of documents, and appointment of attorney for acceptance of service of process, as follows:

111 "33-14-6.

112 (a) All corporate powers and privileges to insurance companies shall be issued and granted
113 by the Secretary of State upon the terms, liabilities, and restrictions of and subject to this
114 title and the laws and Constitution of this state. If from any cause the Secretary of State
115 ~~should be~~ is disqualified from issuing and granting said powers, the duties required by this
116 title to be performed by the Secretary of State shall be performed by the Commissioner of
117 Insurance.

118 (b) ~~When the certificate of the judge of the probate court as to the fact of publication of~~
119 ~~the application for charter and the certificate of the Commissioner as to his or her approval~~
120 of the application for charter ~~shall have been~~ is received in the office of the Secretary of
121 State, the Secretary of State shall issue to the corporation under the seal of the state a
122 certificate of incorporation. The corporation shall not transact business as an insurer until

123 it has applied for and received from the Commissioner a certificate of authority as provided
124 by this title.

125 (c) The Secretary of State shall record the application for charter, the certificate of
126 approval of the Commissioner, ~~the certificate of the judge of the probate court as to~~
127 ~~publication~~, and the certificate of incorporation.

128 (d) No corporation shall directly or indirectly take risks or transact any business of
129 insurance in this state by any agent or agents in this state until it ~~shall have~~ has appointed
130 an attorney in this state on whom process of law can be served and filed in the office of the
131 Commissioner a written instrument duly signed and sealed certifying such appointment
132 which shall continue until another attorney ~~shall be~~ is substituted. Any process issued by
133 any court of record in this state and served upon the attorney by the proper officer of the
134 county in which the attorney may reside or may be found shall be deemed a sufficient
135 service of process upon the company, but service of process upon the company may also
136 be made in any other manner provided by law. Any violation of this subsection shall
137 subject the party violating this subsection to a penalty of not less than \$100.00 nor more
138 than \$500.00."

139 **SECTION 6.**

140 Said title is further amended in said chapter by revising Code Section 33-14-8, relating to
141 procedures for amendment or renewal of charter, as follows:

142 "33-14-8.

143 (a) A domestic insurer may amend its charter for any lawful purpose by written
144 authorization by the holders of a majority of the voting power of its outstanding capital
145 stock, by members if a mutual insurer, or by affirmative vote of such a majority voting at
146 a lawful meeting of stockholders or members of which the notice given to stockholders or
147 members included prior notice of not less than ten days of the proposal to amend.

148 (b) Upon authorization of such an amendment, the insurer shall file in the office of the
149 Commissioner of Insurance an application asking that its charter be so amended and a fee
150 of \$50.00 shall be paid to the Commissioner to be transmitted by him or her into the state
151 treasury; and the Commissioner shall not receive said application until said fee ~~shall be~~ is
152 paid. The application with any and all exhibits that may be included shall be filed ~~in~~
153 ~~triplicate~~, and signed with the corporate name and under the corporate seal; and shall state:

154 (1) The name and character of the corporation; and the city ~~or town~~, and county in this
155 state in which is located its principal place of business;

156 (2) The date of its original charter and any and all amendments to the charter, and the
157 date or dates of renewal of the charter; and

158 (3)(A) That it desires an amendment to its charter and the purpose of said amendment;

159 (B) There shall be annexed to the application a certificate ~~in triplicate~~ under the
160 corporate seal of the insurer and executed by the insurer's president or ~~vice-president~~
161 vice president and attested to by the secretary or assistant secretary under the seal of the
162 corporation, setting forth that the amendment has been authorized in writing by the
163 holders of a majority of the voting power of the outstanding capital stock, by members
164 if a mutual insurer, or by affirmative vote of such a majority voting at a lawful meeting
165 of stockholders or members of which the notice given to stockholders or members
166 included prior notice of not less than ten days of the proposal to amend.

167 (c) ~~Immediately upon receipt of the triplicate copies of the application, with any and all~~
168 ~~exhibits included with the application, the Commissioner shall certify one of the copies of~~
169 ~~the application and deliver the same to the applicants and the same shall be published by~~
170 ~~the applicants once a week for four weeks in the newspaper in which is published the legal~~
171 ~~advertisements of the county where the principal office of said company is to be located.~~
172 ~~When the application, with any and all exhibits attached to it, shall have been published~~
173 ~~once a week for four weeks, the applicants may apply to the judge of the probate court of~~
174 ~~the county to certify the fact of such publication, which certificate shall be filed by the~~

175 ~~applicants in the office of the Commissioner.~~ The Commissioner shall approve or
176 disapprove the application within 45 days of the date the application is received by him or
177 her.

178 (d) No amendment shall be granted which will reduce authorized capital of a stock insurer
179 below the amount required by this title for the kinds of insurance thereafter to be
180 transacted; and no amendment shall reduce the surplus of a mutual insurer below the
181 amount required by this title for the kinds of insurance thereafter to be transacted.

182 (e) If an amendment of the charter would reduce the authorized capital stock of a stock
183 insurer below the amount then outstanding, the Commissioner shall not approve the
184 amendment if he or she has reason to believe that the interest of policyholders or creditors
185 of the insurer would be materially prejudiced by such reduction. If any reduction of capital
186 stock is effectuated, the insurer may require return of the original certificates of stock held
187 by each stockholder in exchange for new certificates for such number of shares as the
188 stockholder is then entitled in the proportion that the reduced capital bears to the amount
189 of capital stock outstanding as of immediately prior to the effective date of the reduction.

190 (f) ~~When the certificate of the judge of the probate court as to the fact of publication of the~~
191 ~~application for amendment to the charter and the certificate of the Commissioner as to his~~
192 ~~or her approval of the application for amendment shall have been~~ is received in the office
193 of the Secretary of State, the Secretary of State shall issue to the corporation under the great
194 seal of the state a certificate of amendment. The Secretary of State shall record the
195 application for amendment to the charter, the certificate of approval of the Commissioner,
196 ~~the certificate of the judge of the probate court as to publication,~~ and the certificate of
197 amendment in a book to be kept by him or her for that purpose.

198 (g) A petition for renewal of the charter shall follow the procedure set forth in
199 subsections (b) through (f) of this Code section, except that the fee for filing a petition for
200 renewal of the charter shall be \$100.00."

201
202
203
204
205
206
207
208
209
210
211
212
213
214

215
216
217

218
219
220
221
222
223
224
225

SECTION 7.

Said title is further amended in said chapter by revising subsection (b) of Code Section 33-14-24, relating to procedure for voluntary dissolution generally, effective date of dissolution, and conditions precedent to effectuation of dissolution, as follows:

"(b) If, at the special meeting or any adjournment thereof, the holders of record of stock entitled to exercise two-thirds of all the voting power on such proposal or if a mutual insurer, two-thirds of the insurer's members present or represented by proxy at the meeting shall by resolution consent that the dissolution shall take place, a copy of the resolution together with a list of the names and residences of the directors and officers certified by the president or a ~~vice-president~~ vice president and the secretary or an assistant secretary or the treasurer or an assistant treasurer of the insurer shall be filed ~~in triplicate~~ with the application to surrender the charter required in Code Section 33-14-25 and ~~one~~ a copy shall be filed for record in the office of the clerk of the superior court of the county in which the office or principal place of business of the insurer is located in this state."

SECTION 8.

Said title is further amended in said chapter by revising Code Section 33-14-25, relating to procedure for surrender of charter, as follows:

"33-14-25.

(a) Any insurance corporation chartered by the Secretary of State may surrender its charter upon the company filing in the office of the Commissioner of Insurance an application ~~in triplicate~~, signed with its corporate name and under its corporate seal, stating:

- (1) The name of the company and the location of its principal place of business in this state;
- (2) The date of its charter and all amendments thereto and the date or dates of renewal or renewals of its charter;

- 226 (3) That it desires to surrender its charter and franchise to the state;
- 227 (4) A certificate attested to by two officers of the company that the procedure required
- 228 by Code Section 33-14-24 has been carried out; and
- 229 (5) Any other information deemed necessary by the Commissioner of Insurance.
- 230 (b) Upon receipt thereof, the Commissioner shall take such action to investigate the
- 231 proposed surrender to determine if the rights of policyholders, creditors, stockholders or
- 232 members, and third party claimants under liability policies of the insurer have been paid
- 233 or properly provided for in a fair and equitable manner. The Commissioner shall after
- 234 making his or her determination issue under his or her hand and official seal a certificate
- 235 approving or disapproving the application for surrender of the charter and shall transmit
- 236 a copy of such certificate of approval to the Secretary of State. If the Commissioner does
- 237 not approve the application, the Commissioner shall notify the insurer in writing of his or
- 238 her reasons for not approving the application for surrender of the charter.
- 239 (c) The fee and ~~publication~~ other requirements set out in ~~subsections (a) through (c) of~~
- 240 Code Section 33-14-5 shall be applicable to a surrender of charter under this Code section.
- 241 (d) Upon receipt of ~~the certificate of the judge of the probate court as to the publication of~~
- 242 ~~the application~~ and the certificate of approval of the surrender from the Commissioner, the
- 243 Secretary of State shall issue under the seal of the state a certificate dissolving the insurer;
- 244 and the Secretary of State shall record the application, ~~the certificate of the judge of the~~
- 245 ~~probate court,~~ the certificate of approval of the Commissioner, and the certificate
- 246 dissolving the insurer."

247 **SECTION 9.**

248 Said title is further amended in Chapter 15, relating to fraternal benefit societies, by revising

249 subsection (b) of Code Section 33-15-40, relating to formation of society, petition for charter,

250 preliminary certificate of authority, advance premiums, and certificate of authority, as

251 follows:

252 "(b) The petition for a charter, duly certified copies of the society's bylaws and rules,
253 copies of all proposed forms of certificates, applications therefor, circulars to be issued by
254 the society, and a bond conditioned upon the return to applicants of the advanced payments
255 if the organization is not completed within one year shall be filed with the Secretary of
256 State, who may require such further information which is deemed necessary. The bond
257 with sureties approved by the Commissioner shall be in such amount, not less than
258 \$300,000.00 nor more than \$1.5 million, as required by the Commissioner. All documents
259 filed ~~are to~~ shall be in the English language. The Secretary of State shall transmit
260 immediately one copy of the petition to the Commissioner and shall return one copy to the
261 petitioner. ~~The petition for a charter, with any and all exhibits attached thereto, shall be~~
262 ~~published in the manner provided in subsection (b) of Code Section 33-14-5.~~ If the
263 purposes of the society conform to the requirements of this chapter and all provisions of
264 the law have been complied with, the Commissioner shall so certify in writing to the
265 Secretary of State and shall furnish the incorporators a preliminary certificate of authority
266 authorizing the society to solicit members as hereinafter provided, but only after the
267 granting of the certificate of incorporation by the Secretary of State."

268 **SECTION 10.**

269 Said title is further amended in said chapter by revising subsection (a) of Code
270 Section 33-15-41, relating to amendment of laws, referendum, and approval of
271 Commissioner, as follows:

272 "(a) A domestic society may amend its laws in accordance with the provisions thereof by
273 action of its supreme governing body at any regular or special meeting thereof or, if its
274 laws so provide, by referendum. Such referendum may be held in accordance with the
275 provisions of its laws by the vote of the voting members of the society, by the vote of
276 delegates or representatives of voting members, or by the vote of local lodges. A society
277 may provide for voting by mail. No amendment submitted for adoption by referendum

278 shall be adopted unless, within six months from the date of submission thereof, a majority
 279 of the members voting shall have signified their consent to such amendment by one of the
 280 methods specified in this Code section. Charter amendments shall be filed in triplicate with
 281 the Commissioner, published, and approved only under the procedure established in Code
 282 Section 33-14-8."

283 SECTION 11.

284 Said title is further amended in said chapter by revising subsections (a) and (e) of Code
 285 Section 33-15-44, relating to consolidations or mergers, as follows:

286 "(a) A domestic society may consolidate or merge with any other society by complying
 287 with the provisions of this Code section. The ~~filing of application, fee, and publication~~
 288 other requirements of ~~subsections (a) through (c) of~~ Code Section 33-14-5 shall be
 289 applicable to a consolidation or merger under this chapter."

290 "(e) Upon receipt of ~~the certificate as to the publication of the application and the~~
 291 ~~certificate of approval of the Commissioner,~~ the Secretary of State shall issue, under the
 292 great seal of the state, a certificate of merger, which certificate shall be the charter of the
 293 consolidated or merged society. The Secretary of State shall record the application, the
 294 contract of merger and the other documents required to be filed, ~~the certificate of the judge~~
 295 ~~of the probate court,~~ the certificate of the Commissioner, and the certificate of merger in
 296 a book to be kept by him for that purpose."

297 SECTION 12.

298 Said title is further amended in Chapter 16, relating to farmer's mutual fire insurance
 299 companies, by revising subsection (a) of Code Section 33-16-3, relating to procedure for
 300 incorporation of companies generally, filing and contents of application for charter, and
 301 granting of charter by Secretary of State, as follows:

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

- 306 (1) The name of the proposed corporation. The name shall contain the words 'Farmers'
 307 Mutual' and shall not be so similar to any name already used by any other corporation
 308 authorized to transact business in this state as to be confusing or misleading;
- 309 (2) The purpose for which the corporation is formed;
- 310 (3) The name of the county in this state in which the corporation will have its principal
 311 office and the names of any other counties in which it proposes to operate;
- 312 (4) The name and address of each incorporator;
- 313 (5) The names and addresses of those composing the board of directors of the
 314 corporation in which the management shall be vested until the first meeting of the
 315 members; and
- 316 (6) Any other provisions not inconsistent with this chapter or other applicable laws as
 317 are deemed desirable by the incorporators or as may be required by the Commissioner."

318 **SECTION 13.**

319 Said title is further amended in Chapter 23, relating to licensing, by revising subsection (a)
 320 of Code Section 33-23-3, relating to agency licensing and biennial renewals and ownership
 321 restrictions, as follows:

322 "(a) Each principal office ~~and each branch office of an agency as defined in paragraph (2)~~
 323 ~~of subsection (a) of Code Section 33-23-1~~ must of an agency shall obtain an agency license
 324 prior to commencement of operations and renew such license biennially ~~and prior to~~
 325 ~~December 31~~ prior to the last day of the origination month of such agency by filing
 326 application forms prescribed by the Commissioner."

327

SECTION 14.

328

Said title is further amended in said chapter by revising subsection (b) of Code Section 33-23-11, relating to issuance and contents of license and display certificate of licensure, as follows:

329

330

331

"(b) The license shall state the legal name and address of the licensee, the date of issue, the general conditions relative to expiration or termination, the kind or kinds of insurance covered if not an insurance agency license, and the other conditions of licensing."

332

333

334

SECTION 15.

335

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

336

337

SECTION 16.

338

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