

House Bill 902

By: Representatives Jones of the 25th, Barrett of the 24th, Williams of the 148th, Douglas of the 78th, and Kelley of the 16th

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 transparency and accountability in insurance rates and rate regulation after the
3 enactment of tort reform law; to provide for definitions; to provide for examinations and
4 hearings; to provide for the publication of certain information; to extend the time for data
5 collection and analysis related to tort reform law; to provide for findings on savings from tort
6 reform law; to provide for the publication of reports; to provide for related matters; to
7 provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in
11 Chapter 9, relating to regulation of rates, underwriting rules, and related organizations, by
12 revising Code Section 33-9-4, relating to standards applicable to making and use of rates, as
13 follows:

14 "33-9-4.

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

16 (1) 'Excessive' means the rate is likely to produce a long-term profit that is unreasonably
17 high in relation to the insurance coverage provided. Any rate increase of 10 percent or
18 more within any 12 month period and any filing for a rate increase two or more times
19 within any 24 month period shall be presumed to be excessive.

20 (2) 'Inadequate' means the rate is insufficient to sustain projected losses and expenses to
21 which the rate applies and continued use of the rate endangers the solvency of the insurer
22 or has the effect of substantially lessening competition or creating a monopoly in a
23 market.

24 (3) 'Unfairly discriminatory' means the rate is not based on sound actuarial principles,
25 does not bear a reasonable relationship to the expected loss and expense experience
26 among risks, or is based wholly or partly on the race, creed, color, ethnicity, or national
27 origin of the applicant, policyholder, or insured.

28 (b) The following standards shall apply to the making and use of rates pertaining to all
29 classes of insurance to which this chapter is applicable:

30 ~~(1) Rates shall not be excessive, or inadequate, or as defined in this Code section, nor~~
31 ~~shall they be unfairly discriminatory;~~

32 ~~(2) No rate shall be held to be excessive unless such rate is unreasonably high for the~~
33 ~~insurance provided and a reasonable degree of competition does not exist in the area with~~
34 ~~respect to the classification to which such rate is applicable; provided, however, with~~
35 ~~respect to rate filings involving an increase in rates, no rate for personal private passenger~~
36 ~~motor vehicle insurance shall be held to be excessive unless such rate is unreasonably~~
37 ~~high for the insurance provided and a reasonable degree of competition does not exist;~~

38 ~~(3) No rate shall be held inadequate unless it is unreasonably low for the insurance~~
39 ~~provided and continued use of it would endanger solvency of the insurer, or unless the~~
40 ~~use of such rate by the insurer using such rate has, or will, if continued, tend to destroy~~
41 ~~competition or create a monopoly;~~

42 ~~(4)~~(2) Consideration shall be given to the extent applicable to past and prospective loss
43 experience within and outside this state, to conflagration and catastrophe hazards, to a
44 reasonable margin for underwriting profit and contingencies, to past and prospective
45 expenses both country wide and those specially applicable to this state, to the insurer's
46 average yield from investment income, and to all other factors, including judgment
47 factors, deemed relevant within and outside this state; and, in the case of fire insurance
48 rates, consideration may be given to the experience of the fire insurance business during
49 the most recent five-year period;

50 ~~(5)~~(3) Consideration may also be given, in the making and use of rates, to dividends,
51 savings, or unabsorbed premium deposits allowed or returned by insurers to their
52 policyholders, members, or subscribers;

53 ~~(6)~~(4) The systems of expense provisions included in the rates for use by any insurer or
54 group of insurers may differ from those of other insurers or groups of insurers to reflect
55 the operating methods of any such insurer or group with respect to any kind of insurance
56 or with respect to any subdivision or combination thereof;

57 ~~(7)~~(5) Risks may be grouped by classifications for the establishment of rates and
58 minimum premiums. Classification rates may be modified to produce rates for individual
59 risks in accordance with rating plans which establish standards for measuring variations
60 in hazards or expense provisions, or both. Such standards may measure any difference
61 among risks that have a probable effect upon losses or expenses. Classifications or
62 modifications of classifications of risks may be established based upon size, expense,
63 management, individual experience, location or dispersion of hazard, or any other
64 reasonable considerations. Such classifications and modifications shall apply to all risks
65 under the same or substantially the same circumstances or conditions; provided, however,
66 the Commissioner shall establish the maximum amount of any such modification;

67 ~~(8)~~(6) Nothing contained in this Code section or elsewhere in this chapter shall be
68 construed to repeal or modify Chapter 6 of this title, relating to unfair trade practices, and

69 any rate, rating classification, rating plan or schedule, or variation thereof established in
 70 violation of Chapter 6 of this title shall, in addition to the consequences stated in Chapter
 71 6 of this title or elsewhere, be deemed ~~violative of~~ to violate this Code section;

72 ~~(9)(7)~~ No insurer shall base any standard or rating plan on vehicle insurance, in whole
 73 or in part, directly or indirectly, upon race, creed, or ethnic extraction; and

74 ~~(10)(8)~~ No insurer shall base any standard or rating plan on vehicle insurance, in whole
 75 or in part, directly or indirectly, upon any physical disability of an insured unless the
 76 disability directly impairs the ability of the insured to drive a motor vehicle."

77 SECTION 2.

78 Said title is further amended in said chapter by revising subsection (e) of Code
 79 Section 33-9-21, relating to maintenance and filing rates, rating plans, rating systems, or
 80 underwriting rules and examination of claim reserve practices by the Commissioner, as
 81 follows:

82 "(e)~~(1)~~ When a rate filing of an insurer required under subsection (d) of this Code section
 83 results in any overall rate increase of 10 percent or more within any 12 month period or
 84 when an insurer files for a rate increase more than two times within any 24 month period,
 85 the Commissioner shall order ~~an~~ a financial and market conduct examination of that
 86 insurer to determine the accuracy of the claim reserves, the applicability of the claim
 87 reserve practices for the loss data used in support of such filing, ~~and~~ any other component
 88 of the rate filing, such insurer's compliance with federal and state laws and regulations,
 89 and such insurer's marketing practices, claims handling, complaint handling, and
 90 policyholder service; provided, however, that in the event the overall increase is less than
 91 25 percent within any 12 month period and the Commissioner affirmatively determines
 92 that he or she has sufficient information to evaluate such rate increase and that the cost
 93 thereof would not be justified, he or she may waive all or part of such examination. In
 94 all other rate filings required under subsection (d) of this Code section, the Commissioner

95 may order ~~an~~ a financial and market conduct examination of that insurer as provided in
 96 this subsection. Such examination shall be conducted in accordance with the provisions
 97 of Chapter 2 of this title. Upon notification by the Commissioner of his or her intent to
 98 conduct such examination, the insurer shall be prohibited from placing the rates so filed
 99 in effect until such examination has been reviewed and certified by the Commissioner as
 100 being complete. Such examination, if conducted by the Commissioner, shall be reviewed
 101 and certified within ~~90~~ 45 days of the date such rate, rating plan, rating system, or
 102 underwriting rule is filed; provided, however, that, if the Commissioner makes an
 103 affirmative finding that the examination may not be completed within ~~the 90-day~~ such
 104 period, he or she may extend such time for one additional ~~60~~ 45 day period.

105 (2) The Commissioner shall conduct a public hearing within 30 days of the completion
 106 of any examination conducted pursuant to this subsection. The Commissioner shall be
 107 authorized to take depositions, subpoena witnesses, administer oaths or affirmations,
 108 examine any individual under oath, and compel the production of records, books, papers,
 109 and other documents, including, but not limited to, a detailed actuarial report
 110 demonstrating the necessity of the proposed rate increase based on claims trends, risk
 111 factors, and financial solvency; a breakdown of administrative expenses, claim costs, and
 112 anticipated profit margins; a statement on how the proposed rate increase shall affect
 113 policyholders, including families, small businesses, and commercial enterprises in this
 114 state; historical past rate changes and corresponding justifications for the preceding five
 115 years; and any other documents deemed necessary. Any ~~examination~~ hearing required
 116 under this ~~Code section~~ subsection shall be conducted in accordance with Chapter 2 of
 117 this title."

118 SECTION 3.

119 Said title is further amended in said chapter by revising Code Section 33-9-41, which is
 120 designated as reserved, as follows:

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121 "33-9-41.

122 (a) On and after July 1, 2026, the Commissioner shall maintain on the department's
123 website in a readily accessible format any rate increases in insurance plans, as
124 demonstrated by the percentage increase from the prior year's premium, based on rates,
125 rating plans, rating systems, and underwriting rules filed pursuant to Code Section 33-9-21.
126 Such data shall be organized by line of insurance and by insurer and shall indicate whether
127 an examination or hearing was conducted.

128 (b) On and after July 1, 2026, any domestic, foreign, or alien insurer that is authorized to
129 write insurance in this state shall publish on its website in a readily accessible format any
130 rate increases in insurance plans, as demonstrated by the percentage increase from the prior
131 year's premium, based on rates, rating plans, rating systems, and underwriting rules filed
132 pursuant to Code Section 33-9-21. Such insurer may offer any explanations for such rate
133 increases and may indicate when rates stayed the same or decreased.

134 (c) The data published as provided for in subsections (a) and (b) of this Code section shall
135 be based on data in existence on or after January 1, 2019, and shall be updated annually and
136 whenever a rate is increased. Reserved."

137

SECTION 4.

138 Said title is further amended in Chapter 66, relating to data analysis for tort reform, by
139 revising subsection (a) of Code Section 33-66-5, relating to data requests, timing, and
140 limitations, as follows:

141 "(a) No later than July 1, 2024, and as often as necessary through July 1, ~~2029~~ 2035, the
142 Commissioner shall request data from insurers, licensed rating organizations, and state
143 agencies for the Commissioner to make findings regarding the impact of tort lawsuits and
144 the assessment of tort related risks. The Commissioner may allow for the confidential
145 submission of such requested data via electronic means."

146 **SECTION 5.**

147 Said title is further amended in said chapter by revising Code Section 33-66-7, relating to
148 subsequent reports, as follows:

149 "33-66-7.

150 (a) The Commissioner shall generate a subsequent report in substantially similar form to
151 the initial report provided for in Code Section 33-66-6, and such subsequent report shall
152 include but not be limited to:

153 (1) Historic and predictive trends based on submitted data;

154 (2) The effects of any enacted tort reform legislation, including any savings or other
155 benefits passed on to policyholders, the general public, and the state. Such findings may
156 be based on analysis of any data available to the Commissioner, including data submitted
157 to the Commissioner pursuant to Code Section 33-66-5 or the department pursuant to this
158 title, including, but not limited to, reported earned premiums, requests for rate increases,
159 the number of insurers issuing liability policies in this state or applying for or renewing
160 a certificate of authority in this state, and the number of insurers deleting lines of
161 business, withdrawing from the business of insurance, or surrendering a certificate of
162 authority in this state; and

163 (3) Any further determinations or recommendations for legislative action.

164 (b) No later than November 1, 2029, the Commissioner shall submit the subsequent report
165 provided for in subsection (a) of this Code section to the Governor's ~~Office~~ office, the
166 House Committee on Insurance, ~~and~~ the Senate Insurance and Labor Committee, and the
167 presiding officers of both houses of the General Assembly and shall notify legislators of
168 the General Assembly of the availability of such report. The Commissioner shall publish
169 such report on the department's website in a prominent location."

170 **SECTION 6.**

171 Said title is further amended in said chapter by revising Code Section 33-66-8, relating to
172 repealer, as follows:

173 "33-66-8.

174 This chapter shall stand repealed in its entirety on January 1, ~~2030~~ 2036."

175 **SECTION 7.**

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

178 **SECTION 8.**

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