

House Bill 1554

By: Representatives Howard of the 71st, New of the 40th, Huddleston of the 72nd, and Smith of the 18th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurance generally, so as to provide for collateral protection insurance; to provide for
3 legislative intent; to provide for applicability; to provide for definitions; to provide for
4 requirements for collateral protection insurance policy terms; to provide for restrictions on
5 insurance charges made to mortgagors; to provide for the calculation of coverage and
6 premiums; to require certain excess replacement cost coverage to be paid to the mortgagor;
7 to prohibit insurers from writing collateral insurance having certain premium rates; to
8 prohibit certain practices by insurers and insurance agents; to provide for certain
9 requirements for the delivery and contents of policies or certificates of collateral protection
10 insurance; to specify requirements for the filing of policy forms and rates; to require certain
11 insurers to file annual reports with the Department of Insurance; to provide for statutory
12 construction; to provide for related matters; to provide for a short title; to provide for an
13 effective date and applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Collateral Protection Insurance Act."

H. B. 1554

SECTION 2.

17
18 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance
19 generally, is amended by adding a new article to read as follows:

"ARTICLE 5

20
21 33-24-130.

22 (a) It is the intention of the General Assembly:

23 (1) To promote the public welfare by strengthening this state's laws governing collateral
24 protection insurance on real property;

25 (2) To create a legal framework within which collateral protection insurance on real
26 property shall be written in this state;

27 (3) To help maintain appropriate separation between the lenders and servicers and the
28 insurers and insurance agents; and

29 (4) To minimize the possibility of unfair competitive practices in the sale, placement,
30 solicitation, and negotiation of collateral protection insurance.

31 (b) This article applies to:

32 (1) Insurers and insurance agents engaged in any mortgage transaction involving
33 collateral protection insurance; and

34 (2) All collateral protection insurance written in connection with mortgaged real
35 property, including manufactured and mobile homes, except:

36 (A) Insurance associated with mortgage loans or other extensions of credit made
37 primarily for business, commercial, or agricultural purposes;

38 (B) Insurance offered by the lender or servicer and elected by the mortgagor at the
39 mortgagor's option;

40 (C) Insurance purchased by a lender or servicer on real estate owned property; or

41 (D) Insurance for which no specific charge is made to the mortgagor or the mortgagor's
42 account.

43 33-24-131.

44 As used in this article, the term:

45 (1) 'Affiliate' means any person that directly, or indirectly through one or more
46 intermediaries, controls, is controlled by, or is under common control with the person
47 specified.

48 (2) 'Agent' has the same meaning as set forth in Code Section 33-23-1.

49 (3) 'Collateral protection insurance' means commercial property insurance where a
50 creditor is the primary beneficiary and policyholder, covering the creditor's interest in real
51 or personal property following a borrower's failure to maintain required coverage;
52 provided, however, that, for purposes of this article, such term applies only to mortgaged
53 real property and not to personal property.

54 (4) 'Individual collateral protection insurance' means coverage for individual real
55 property evidenced by a certificate of coverage under a master collateral protection
56 insurance policy or a collateral protection insurance policy for individual real property.

57 (5) 'Insurer' means any person engaged as an indemnitor, surety, or contractor that issues
58 insurance, subscriber contracts, or other contracts of insurance by whatever name called.

59 (6) 'Investor' means a person, or an affiliate thereof, holding a beneficial interest in loans
60 secured by real property.

61 (7) 'Lapse' means the date on which a mortgagor has failed to comply with a mortgage
62 agreement's requirements to maintain valid and sufficient insurance upon mortgaged real
63 property.

64 (8) 'Lender' means a person, or an affiliate thereof, making loans secured by an interest
65 in real property.

66 (9) 'Loss ratio' means the ratio of incurred losses to earned premium.

67 (10) 'Master collateral protection insurance policy' means a group policy issued to a
68 lender or servicer which provides coverage for all loans in the lender's or servicer's loan
69 portfolio as needed.

70 (11) 'Mortgage agreement' means the written document setting forth an obligation or a
71 liability of any kind secured by a lien on real property and due from, owing by, or
72 incurred by a mortgagor to a lender on account of a mortgage loan, which document
73 includes the security agreement, the deed of trust, other documents of similar effect, and
74 any other document incorporated by reference.

75 (12) 'Mortgage loan' means a residential loan intended for personal, family, or household
76 use.

77 (13) 'Mortgagee' means a person that holds mortgaged real property as security for
78 repayment of a mortgage agreement.

79 (14) 'Mortgagor' means a person that is obligated on a mortgage loan pursuant to a
80 mortgage agreement.

81 (15) 'Real estate owned property' means property owned or held by a lender or servicer
82 as a result of a foreclosure under the related mortgage agreement or acceptance of a deed
83 in lieu of foreclosure.

84 (16) 'Replacement cost value' means the estimated cost to replace covered property at the
85 time of loss or damage without deduction for depreciation. Such term does not mean
86 market value but is the cost to replace covered property to its pre-loss condition.

87 (17) 'Servicer' means a person, or an affiliate thereof, contractually obligated to service
88 one or more mortgage loans for a lender or an investor. Such term includes an entity
89 involved in subservicing arrangements.

90 33-24-132.

91 (a) Collateral protection insurance shall become effective no earlier than the date of lapse
92 of insurance upon mortgaged real property subject to the terms of a mortgage agreement
93 or any state or federal law requiring the same.

94 (b) Individual collateral protection insurance terminates on the earliest of the following
95 dates:

96 (1) The date on which insurance acceptable under the mortgage agreement becomes
97 effective, subject to the mortgagor providing sufficient evidence of such acceptable
98 insurance;

99 (2) The date on which the applicable real property no longer serves as collateral for a
100 mortgage loan pursuant to a mortgage agreement;

101 (3) Such other date as specified by the individual policy or certificate of insurance;

102 (4) Such other date as specified by the lender or servicer; or

103 (5) The termination date of the policy.

104 (c) An insurance charge shall not be made to a mortgagor for collateral protection
105 insurance before the effective date of the collateral protection insurance or for a term
106 longer than the scheduled term of the collateral protection insurance.

107 (d) The calculation of coverage and payment of premiums shall be as follows:

108 (1) Any collateral protection insurance coverage, and the subsequent calculation of
109 premium, shall be based upon the replacement cost value of the property, which is
110 determined as:

111 (A) If known to the lender or servicer, the last known coverage amount, which is the
112 dwelling coverage amount set forth in the most recent evidence of insurance coverage
113 provided by the mortgagee. The insurer shall inquire of the insured at least once as to
114 the last known coverage amount. If the insurer is unable to obtain the last known
115 coverage amount from the insured or in another manner, the insurer may proceed
116 according to subparagraph (B) or (C) of this paragraph, as applicable;

117 (B) If the last known coverage amount is unknown, the replacement cost of the
118 property serving as collateral, as calculated by the insurer, unless the use of replacement
119 cost for this purpose is prohibited by other state or federal law; and

120 (C) If the last known coverage amount is unknown and the replacement cost is not
121 available or its use is prohibited by other state or federal law, the unpaid principal
122 balance of the mortgage loan;

123 (2) In the event of a covered loss, any replacement cost coverage provided by an insurer
124 in excess of the unpaid principal balance of the mortgage loan shall be paid to the
125 mortgagor; and

126 (3) An insurer may not write collateral protection insurance for which the premium rate
127 differs from that determined by the schedules of the insurer on file with the department
128 as of the effective date of any such policy.

129 (e) An insurer or agent shall not:

130 (1) Issue collateral protection insurance on mortgaged property that such insurer or
131 agent, or an affiliate thereof, owns, performs the servicing for, or owns the servicing right
132 to;

133 (2) Compensate, including through the payment of commissions to, a lender, an insurer,
134 an investor, or a servicer on collateral protection property insurance policies issued by the
135 insurer;

136 (3) Share collateral protection insurance premium or risk with the lender, investor, or
137 servicer that obtained the collateral protection insurance;

138 (4) Offer contingent commissions, profit sharing, or other payments dependent upon
139 profitability or loss ratios to any person affiliated with a servicer or the insurer in
140 connection with collateral protection insurance;

141 (5) Provide free or below-cost outsourced services to lenders, investors, or servicers or
142 outsource its own functions to lenders, insurance agents, investors, or servicers on an
143 above-cost basis; or

144 (6) Make any payments, including, but not limited to, the payment of expenses to a
145 lender, an insurer, an investor, or a servicer, for the purpose of securing collateral
146 protection insurance business or related outsourced services.

147 (f) Collateral protection insurance shall be set forth in an individual policy or certificate
148 of insurance. A copy of the individual policy, certificate of insurance, or other evidence
149 of insurance coverage shall be delivered by first-class mail or in person to the last known
150 address of the mortgagor, or delivered in accordance with Code Section 33-24-14.
151 Notwithstanding any other information required by general law or by rule, the individual
152 policy or certificate of insurance coverage shall include the following information:

- 153 (1) The address and identification of the insured property;
154 (2) The coverage amount, or amounts if multiple coverages are provided;
155 (3) The effective date of the coverage;
156 (4) The term of coverage;
157 (5) The premium charge for the coverage;
158 (6) Contact information for filing a claim; and
159 (7) A complete description of the coverage provided.

160 33-24-133.

161 (a) With regard to filing, approval, and withdrawal of forms and rates:

162 (1) Except as otherwise provided in this article, all policy forms and certificates of
163 insurance to be delivered or issued for delivery in this state are subject to the applicable
164 provisions of Code Section 33-24-9, and the schedules of premium rates pertaining
165 thereto are subject to the applicable provisions of Code Section 33-9-21;

166 (2) With respect to any analysis of rates in accordance with Code Section 33-9-21, the
167 analysis must also include a determination as to whether expenses included by the insurer
168 in the rate are appropriate;

169 (3) Notwithstanding any provision of law to the contrary, insurers subject to this article
170 shall refile collateral protection property insurance rates at least once every four years;
171 (4) All insurers writing collateral protection insurance shall have separate rates for
172 collateral protection insurance and voluntary insurance obtained by a mortgage servicer
173 on real estate owned property; and
174 (5) Upon the introduction of a new collateral protection insurance program, the insurer
175 shall reference its experience in existing programs in the associated filings. This article
176 does not limit an insurer's discretion, as actuarially appropriate, to distinguish different
177 terms, conditions, exclusions, eligibility criteria, or other unique or different
178 characteristics. An insurer may, where actuarially acceptable, rely upon models or, in the
179 case of flood filings where applicable experience is not credible, on National Flood
180 Insurance Program data.
181 (b)(1) By April 1 of each year, each insurer with at least \$100,000.00 in direct written
182 premium for collateral protection insurance in this state during the prior calendar year
183 shall report to the department the following information for the prior calendar year:
184 (A) Actual loss ratio;
185 (B) Earned premium;
186 (C) Any aggregate schedule rating debit or credit to earned premium;
187 (D) Itemized expenses;
188 (E) Paid losses; and
189 (F) Loss reserves, including case reserves and reserves for incurred but not reported
190 losses.
191 The report shall be separately produced for each collateral protection insurance program
192 and presented on both an individual jurisdiction and nation-wide basis.
193 (2) Except in the case of collateral protection insurance covering the peril of flood, to
194 which this subsection does not apply, if an insurer experiences an annual loss ratio of less
195 than 35 percent in any collateral protection insurance program for two consecutive years,

196 the insurer shall submit a rate filing, either adjusting its rates or supporting their
197 continuance, to the department no more than 90 days after the submission of the data
198 required in paragraph (1) of this subsection.

199 33-24-134.

200 This article shall not be construed to authorize an insurance agent or insurer solely
201 underwriting collateral protection insurance to circumvent the requirements of this article.

202 Any requirement, limitation, or exclusion provided in this article applies to an insurer or
203 insurance agent involved in collateral protection insurance."

204 **SECTION 3.**

205 This Act shall become effective on January 1, 2028, and shall apply to all applicable
206 insurance policies issued, delivered, issued for delivery, or renewed on or after such date.
207 For purposes of this Act, all contracts are deemed to be renewed no later than the first
208 anniversary of the contract date.

209 **SECTION 4.**

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