

Senate Bill 372

By: Senators Kirk of the 13th, Hufstetler of the 52nd, Miller of the 49th, Dugan of the 30th, Wilkinson of the 50th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 33 of the Official Code of Georgia Annotated, relating to
2 regulation of rates, underwriting rules, and related organizations, so as to change certain
3 standards applicable to the making and use of rates for personal private passenger motor
4 vehicle insurance; to change provisions for filing of rates, rating plans, rating systems, and
5 underwriting rules for personal private passenger motor vehicle insurance; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 9 of Title 33 of the Official Code of Georgia Annotated, relating to regulation of
10 rates, underwriting rules, and related organizations, is amended in Code Section 33-9-4,
11 relating to standards applicable to making and use of rates, by revising paragraph (2) as
12 follows:

13 "(2) No rate shall be held to be excessive unless such rate is unreasonably high for the
14 insurance provided and a reasonable degree of competition does not exist in the area with
15 respect to the classification to which such rate is applicable; provided, however, with
16 respect to rate filings involving an increase in rates, no rate for personal private passenger
17 motor vehicle insurance shall be held to be excessive unless such rate is unreasonably
18 high for the insurance provided and a reasonable degree of competition does not exist
19 does not comply with the rates, rating plans, rating systems, and underwriting rules
20 developed for the categories of risks based on generally accepted actuarial practices and
21 procedures;"

22 **SECTION 2.**

23 Said chapter is further amended by revising Code Section 33-9-21, relating to maintenance
24 and filing rates, rating plans, rating systems, or underwriting rules and examination of claim
25 reserve practices by the Commissioner, as follows:

26 "33-9-21.

27 (a) Every insurer shall maintain with the Commissioner copies of the rates, rating plans,
 28 rating systems, underwriting rules, and policy or bond forms used by it. The maintenance
 29 of rates, rating plans, rating systems, underwriting rules, and policy or bond forms with the
 30 Commissioner by a licensed rating organization of which an insurer is a member or
 31 subscriber will be sufficient compliance with this Code section for any insurer maintaining
 32 membership or subscriberships in such organization, to the extent that the insurer uses the
 33 rates, rating plans, rating systems, underwriting rules, and policy or bond forms of such
 34 organization; provided, however, that the Commissioner, when he or she deems it
 35 necessary, without compliance with the rule-making procedures of this title or Chapter 13
 36 of Title 50, the 'Georgia Administrative Procedure Act':

37 (1) May require any domestic, foreign, and alien insurer to file the required rates, rating
 38 plans, rating systems, underwriting rules, and policy or bond forms used independent of
 39 any filing made on its behalf or as a member of a licensed rating organization, as the
 40 Commissioner shall deem to be necessary to ensure compliance with the standards of this
 41 chapter and Code Section 34-9-130 and for the best interests of the citizens of this state;

42 (2) Shall require, not later than July 30, 1990, each domestic, foreign, and alien insurer,
 43 writing or authorized to write workers' compensation insurance in this state, to file such
 44 insurer's own individual rate filing for premium rates to be charged for workers'
 45 compensation insurance coverage written in this state. Such premium rates shall be
 46 developed and established based upon each individual insurer's experience in the State
 47 of Georgia to the extent actuarially credible. The experience filed shall include the loss
 48 ratios, reserves, reserve development information, expenses, including commissions paid
 49 and dividends paid, investment income, pure premium data adjusted for loss development
 50 and loss trending, profits, and all other data and information used by that insurer in
 51 formulating its workers' compensation premium rates which are used in this state and any
 52 other information or data required by the Commissioner. In establishing and maintaining
 53 loss reserves, no workers' compensation insurer shall be allowed to maintain any excess
 54 loss reserve for any claim or potential claim for more than 90 days after the amount of
 55 liability for such claim or potential claim has been established, whether by final
 56 judgment, by settlement agreement, or otherwise. This limitation on the maintenance of
 57 loss reserves shall be enforced through this Code section, as well as through Code
 58 Section 33-9-23, relating to examination of insurers, and any other appropriate
 59 enforcement procedures. The Commissioner is authorized to accept such rate
 60 classifications as are reasonable and necessary for compliance with this chapter. A rate
 61 filing required by this paragraph shall be updated by the insurer at least once every two
 62 years, the initial two-year period to be calculated from July 30, 1990; and

63 (3) As used in paragraph (2) of this subsection, the term 'excess loss reserve' means any
64 reserve amount in excess of the reserve required by law.

65 ~~(b) Any domestic, foreign, or alien insurer that is authorized to write insurance in this state
66 must file with the Commissioner any rate, rating plan, rating system, or underwriting rule
67 for all personal private passenger motor vehicle insurance:~~

68 ~~(1) For private passenger motor vehicle insurance providing only the mandatory
69 minimum limits required by Code Section 33-34-4 and subsection (a) of Code
70 Section 40-9-37, no such rate, rating plan, rating system, or underwriting rule shall
71 become effective, nor may any premium be collected by any insurer thereunder, unless
72 the filing has been received by the Commissioner in his or her office and such filing has
73 been approved by the Commissioner or a period of 45 days has elapsed from the date
74 such filing was received by the Commissioner during which time such filing has not been
75 disapproved by the Commissioner. The Commissioner shall be authorized to extend
76 such 45 day period by no more than 55 days at his or her discretion. If a filing is
77 disapproved, notice of such disapproval order shall be given within 100 days of receipt
78 of filing by the Commissioner, specifying in what respects such filing fails to meet the
79 requirements of this chapter. The filer shall be given a hearing upon written request made
80 within 30 days after the issuance of the disapproval order, and such hearing shall
81 commence within 30 days after such request unless postponed by mutual consent. Such
82 hearing, once commenced, may be postponed or recessed by the Commissioner only for
83 weekends, holidays, or after normal working hours or at any time by mutual consent of
84 all parties to the hearing. The Commissioner may also, at his or her discretion, recess any
85 hearing for not more than two recess periods of up to 15 consecutive days each. In
86 connection with any hearing or judicial review with respect to the approval or disapproval
87 of such rates, the burden of persuasion shall fall upon the affected insurer or insurers to
88 establish that the challenged rates are adequate, not excessive, and not unfairly
89 discriminatory. After such a hearing, the Commissioner must affirm, modify, or reverse
90 his or her previous action within the time period provided in subsection (a) of Code
91 Section 33-2-23 relative to orders of the Commissioner. The requirement of approval or
92 disapproval of a rate filing by the Commissioner under this subsection shall not prohibit
93 actions by the Commissioner regarding compliance of such rate filing with the
94 requirements of Code Section 33-9-4 brought after such approval or disapproval:~~

95 ~~(2) For private passenger motor vehicle insurance other than that described in
96 paragraph (1) of subsection (b) of Code Section 33-9-21, such rate, rating plan, rating
97 system, or underwriting rule for all such private passenger motor vehicle insurance shall
98 be effective upon filing and shall be implemented without approval of the Commissioner.
99 This subsection shall apply to the entire private passenger motor vehicle insurance policy~~

100 ~~with limits above the mandatory minimum required by Code Section 33-34-4 and~~
 101 ~~subsection (a) of Code Section 40-9-37 and shall apply to the entire private passenger~~
 102 ~~motor vehicle policy with minimum limits if such policy has any additional~~
 103 ~~nonmandatory coverage or coverages.~~

104 ~~(c) When a rate filing of an insurer required under paragraph (1) of subsection (b) of this~~
 105 ~~Code section is not accompanied by the information upon which the insurer supports the~~
 106 ~~filing and the Commissioner does not have sufficient information to determine whether the~~
 107 ~~filing meets the requirements of this chapter, then the Commissioner shall request in~~
 108 ~~writing, within 20 days of the date he or she receives the filing, the specifics of such~~
 109 ~~additional information as he or she requires, and the insurer shall be required to furnish~~
 110 ~~such information, and in such event the 45 day period provided for in paragraph (1) of~~
 111 ~~subsection (b) of this Code section shall commence as of the date such information is~~
 112 ~~furnished.~~

113 ~~(d)~~(b) Any domestic, foreign, or alien insurer that is authorized to write insurance in this
 114 state must file with the Commissioner any rate, rating plan, rating system, or underwriting
 115 rule at least 45 days prior to any indicated effective date ~~for all insurance other than~~
 116 ~~personal private passenger motor vehicle insurance.~~ No rate, rating plan, rating system, or
 117 underwriting rule required to be filed under this subsection ~~will~~ shall become effective, nor
 118 ~~may~~ shall any premium be collected by any insurer thereunder, unless the filing has been
 119 received by the Commissioner in his or her office not less than 45 days prior to its effective
 120 date.

121 ~~(e)~~(c) When a rate filing of an insurer required under subsection ~~(d)~~ (b) of this Code
 122 section results in any overall rate increase of 10 percent or more within any 12 month
 123 period, the Commissioner shall order an examination of that insurer to determine the
 124 accuracy of the claim reserves, the applicability of the claim reserve practices for the loss
 125 data used in support of such filing, and any other component of the rate filing; provided,
 126 however, that in the event the overall increase is less than 25 percent within any 12 month
 127 period and the Commissioner affirmatively determines that he or she has sufficient
 128 information to evaluate such rate increase and that the cost thereof would not be justified,
 129 he or she may waive all or part of such examination. In all other rate filings required under
 130 subsection ~~(d)~~ (b) of this Code section, the Commissioner may order an examination of that
 131 insurer as provided in this subsection. Such examination shall be conducted in accordance
 132 with the provisions of Chapter 2 of this title. Upon notification by the Commissioner of
 133 his or her intent to conduct such examination, the insurer shall be prohibited from placing
 134 the rates so filed in effect until such examination has been reviewed and certified by the
 135 Commissioner as being complete. Such examination, if conducted by the Commissioner,
 136 shall be reviewed and certified within 90 days of the date such rate, rating plan, rating

137 system, or underwriting rule is filed; provided, however, that if the Commissioner makes
138 an affirmative finding that the examination may not be completed within the 90 day period,
139 he or she may extend such time for one additional 60 day period. Any examination
140 required under this Code section shall be conducted in accordance with Chapter 2 of this
141 title.

142 ~~(f)~~(d) Notwithstanding the provisions of subsection ~~(d)~~ (b) of this Code section, in the
143 event the filing of any rate, rating plan, rating system, or underwriting rule under
144 subsection ~~(d)~~ (b) of this Code section is not necessary, in the judgment of the
145 Commissioner, to accomplish the purposes of this chapter as set forth in Code Section
146 33-9-1, then the Commissioner may exempt all domestic, foreign, and alien insurers from
147 being required to file such rate, rating plan, rating system, or underwriting rule.

148 ~~(g)~~(e) Filings required pursuant to this Code section shall be accompanied by a fee or fees
149 as provided in Code Section 33-8-1."

150

SECTION 3.

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