

House Bill 222 (AS PASSED HOUSE AND SENATE)

By: Representatives Lumsden of the 12th, Tarvin of the 2nd, Williams of the 148th, Taylor of the 173rd, and Hawkins of the 27th

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 clarify, streamline, and make transparent the practices of the department of insurance; to
3 provide that property insurance does not include service contracts sold or offered for sale to
4 persons other than consumers; to allow the Commissioner of Insurance to issue a
5 probationary license for a period not longer than 24 months; to allow, at the Commissioner
6 of Insurance's discretion, an applicant whose application has been refused to reapply for a
7 license after one year; to require specific language in public adjuster contracts; to provide for
8 related matters; to provide for an effective date; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
13 revising subsection (f) of Code Section 33-7-6, relating to property insurance, contract
14 requirements, rules and regulations, and exemptions, as follows:

15 "(f) Property insurance does not include service contracts sold or offered for sale to
16 persons other than consumers, or those agreements commonly known as vehicle service

17 agreements or extended warranty agreements which are issued, sold, or offered for sale by
18 a retail installment seller, as defined in Code Section 10-1-31 in connection with the sale
19 of a motor vehicle by such retail installment seller, provided that such retail installment
20 seller:

21 (1) Maintains, or has a parent company maintain, a net worth or stockholders' equity of
22 at least \$50 million, provided the parent company guarantees the obligations of the retail
23 installment seller arising from vehicle service agreements or extended warranty
24 agreements underwritten pursuant to this paragraph;

25 (2) Complies with the registration requirement prescribed by the Commissioner through
26 regulation;

27 (3) Files with the Commissioner a true and correct copy of the vehicle service agreement
28 or extended warranty agreement that has a term of and is no longer than nine months in
29 a form that is consistent with the terms prescribed by the Commissioner through
30 regulation;

31 (4) Files a copy of its Form 10-K or Form 20-F disclosure statements, or if it does not
32 file such statements with the United States Securities and Exchange Commission, a copy
33 of its audited financial statements reported on a GAAP basis. If the retail installment
34 seller's financial statements are consolidated with those of its parent company, then the
35 retail installment seller may comply with this provision by filing the statements of its
36 parent company. The statement shall be filed with the Commissioner 30 days prior to the
37 retail installment seller's initial offering or delivering of a service agreement or extended
38 warranty agreement, and thereafter, the statement shall be filed with the Commissioner
39 annually; and

40 (5) Upon the request of the Commissioner, posts a security deposit or surety bond in an
41 amount not to exceed \$250,000.00 and in the manner prescribed by the Commissioner
42 through regulation."

43 **SECTION 2.**

44 Said title is further amended by revising subsection (b) of Code Section 33-23-14, relating
45 to probationary licenses, as follows:

46 "(b) A probationary license may be issued for a period of not less than three months and
47 not longer than ~~12~~ 24 months and shall be subject to immediate revocation for cause at any
48 time without a hearing."

49 **SECTION 3.**

50 Said title is further amended by adding a new subsection to Code Section 33-23-23, relating
51 to limitation on application after refusal or revocation of license and effect of surrender of
52 license under written consent order, to read as follows:

53 "33-23-23.

54 (a) No licensee or applicant whose license or application has been refused or revoked as
55 provided by Code Sections 33-23-21 and 33-23-22 shall be entitled to file another
56 application for a license as an agent, agency, limited subagent, surplus lines broker,
57 counselor, or adjuster within five years from the effective date of the refusal, revocation,
58 or, if judicial review of such refusal or revocation is sought, within five years from the date
59 of the final court order or decree affirming such refusal or revocation.

60 (b) The application when filed may be refused by the Commissioner unless the applicant
61 shows good cause why the refusal or revocation of the license shall not be deemed a bar
62 to the issuance of a new license.

63 (c) Any surrender of a license under written consent order shall have the same effect as a
64 revocation under subsections (a) and (b) of this Code section.

65 (d) At the Commissioner's discretion, an applicant whose application was refused under
66 subsection (a) or (b) of this Code section may be permitted to file an application for a
67 license; provided, however, that such application shall be filed no less than one year from
68 the effective date of the refusal."

69 **SECTION 4.**

70 Said title is further amended by revising subsection (b) of Code Section 33-23-43.2, relating
71 to public adjuster contracts, as follows:

72 "(b) Public adjusters shall ensure that all contracts for their services are in writing,
73 prominently captioned and titled 'Public Adjuster Contract,' and contain the following:

74 (1) Legible full name of the public adjuster signing the contract, as specified on the
75 license issued by the department and attestation language that the public adjuster is fully
76 bonded pursuant to state law;

77 (2) Permanent home state business address and contact information of the public
78 adjuster, including email address;

79 (3) The public adjuster's department license number and a statement that the license is
80 valid and in full force and effect as of the date the contract is signed;

81 (4) The insured's full name and street address;

82 (5) A description of the loss and its location, if applicable;

83 (6) A description of services to be provided to the insured;

84 (7) Signatures of the public adjuster and the insured;

85 (8) The date the contract was signed by the public adjuster, and the date the contract was
86 signed by the insured;

87 (9) A statement of the fee, compensation, or other considerations that the public adjuster
88 is to receive for services, including a listing of typical costs and expenses for which the
89 public adjuster is to be reimbursed;

90 (10) A statement prominently captioned in a minimum 12 point font ~~that contains the~~
91 following: indicating that the public adjuster has no direct or indirect interest, including
92 participation in activities that may be reasonably construed as a conflict of interest or as
93 compensation by or interest in, any firm that performs any work in conjunction with the
94 damages incident to any loss the public adjuster has been contracted to adjust, except for
95 the compensation or fee from the insured for such public adjuster's services; and

- 96 ~~(A) Any direct or indirect interest in or compensation by any construction firm, salvage~~
97 ~~firm, building appraisal firm, storage company, or any other firm or business entity that~~
98 ~~performs any work in conjunction with damages incident to any loss which the adjuster~~
99 ~~has been contracted to adjust;~~
- 100 ~~(B) Any direct or indirect participation in the reconstruction, repair, or restoration of~~
101 ~~damaged property that is the subject of a claim adjusted by the adjuster or disclosure~~
102 ~~of any other activities that may be reasonably construed as a conflict of interest,~~
103 ~~including a financial interest in any salvage, repair, construction, or restoration of any~~
104 ~~business entity that obtains business in connection with any claims that the public~~
105 ~~adjuster has a contract or agreement to adjust; and~~
- 106 ~~(C) Any direct or indirect compensation of value in connection with an insured's~~
107 ~~specific loss other than compensation from the insured for service as a public adjuster,~~
108 ~~as explicitly permitted by subsection (d) of Code Section 33-23-43.7; and~~
- 109 (11) A prominently displayed notice in 12-point boldface type that states "WE
110 REPRESENT THE INSURED ONLY."

111 **SECTION 5.**

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

114 **SECTION 6.**

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