

House Bill 491 (AS PASSED HOUSE AND SENATE)

By: Representatives Taylor of the 173<sup>rd</sup>, Smith of the 134<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Hawkins of the 27<sup>th</sup>, and Blackmon of the 146<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 13 of Title 33 of the Official Code of Georgia Annotated, relating to  
2 insurance holding company systems, so as to update the regulation of insurance company  
3 holding systems; to provide for definitions; to provide the Commissioner with new  
4 supervisory authority; to provide for enforcement authority; to provide for confidentiality;  
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 13 of Title 33 of the Official Code of Georgia Annotated, relating to insurance  
9 holding company systems, is amended in Code Section 33-13-1, relating to definitions, by  
10 adding new paragraphs to read as follows:

11 "(4.1) 'Group-wide supervisor' means the regulatory official authorized to engage in  
12 conducting and coordinating group-wide supervision activities who is determined or  
13 acknowledged by the Commissioner under Code Section 33-13-7.1 to have sufficient  
14 significant contacts with an internationally active insurance group."

15 "(6.1) 'Internationally active insurance group' means an insurance holding company  
16 system that includes an insurer registered under Code Section 33-13-4 and that meets the  
17 following criteria:

18 (A) Premiums written in at least three countries;

19 (B) The percentage of gross premiums written outside the United States is at least 10  
20 percent of the insurance holding company system's total gross written premiums; and

21 (C) Based on a three-year rolling average, the total assets of the insurance holding  
22 company system are at least \$50 billion or the total gross written premiums of the  
23 insurance holding company system are at least \$10 billion."

24 **SECTION 2.**

25 Said chapter is further amended by adding a new Code section to read as follows:

26 "33-13-7.1.

27 (a) The Commissioner is authorized to act as the group-wide supervisor for any  
28 internationally active insurance group in accordance with the provisions of this Code  
29 section. However, the Commissioner may acknowledge another regulatory official as the  
30 group-wide supervisor where the internationally active insurance group:

31 (1) Does not have substantial insurance operations in the United States;

32 (2) Has substantial insurance operations in the United States but not in this state; or

33 (3) Has substantial insurance operations in the United States and this state, but the  
34 Commissioner has determined pursuant to the factors set forth in subsections (b) and (f)  
35 of this Code section that the other regulatory official is the appropriate group-wide  
36 supervisor.

37 An insurance holding company system that does not otherwise qualify as an internationally  
38 active insurance group may request that the Commissioner make a determination or  
39 acknowledgment as to a group-wide supervisor pursuant to this Code section.

40 (b) In cooperation with other state, federal, and international regulatory agencies, the  
41 Commissioner shall identify a single group-wide supervisor for an internationally active  
42 insurance group. The Commissioner may determine that he or she is the appropriate  
43 group-wide supervisor for an internationally active insurance group that conducts  
44 substantial insurance operations concentrated in this state. However, the Commissioner  
45 may acknowledge that a regulatory official from another jurisdiction is the appropriate  
46 group-wide supervisor for an internationally active insurance group. The Commissioner  
47 shall consider the following factors when making a determination or acknowledgment  
48 under this subsection:

49 (1) The place of domicile of the insurers within the internationally active insurance group  
50 that hold the largest share of the group's written premiums, assets, or liabilities;

51 (2) The place of domicile of the top-tiered insurer or insurers in the insurance holding  
52 company system of the internationally active insurance group;

53 (3) The location of the executive offices or largest operational offices of the  
54 internationally active insurance group;

55 (4) Whether another regulatory official is acting or is seeking to act as the group-wide  
56 supervisor under a regulatory system that the Commissioner determines to be:

57 (A) Substantially similar to the system of regulation provided under the laws of this  
58 state; or

59 (B) Otherwise sufficient in terms of providing for group-wide supervision, enterprise  
60 risk analysis, and cooperation with other regulatory officials; and

61 (5) Whether another regulatory official acting or seeking to act as the group-wide  
62 supervisor provides the Commissioner with reasonably reciprocal recognition and  
63 cooperation.

64 The Commissioner acting as the group-wide supervisor may determine that it is appropriate  
65 to acknowledge another supervisor to serve as the group-wide supervisor. The  
66 acknowledgment of the group-wide supervisor shall be made after consideration of the  
67 factors listed in paragraphs (1) through (5) of this subsection, in cooperation with and  
68 subject to the acknowledgment of other regulatory officials involved with supervision of  
69 the members of the internationally active insurance group, and in consultation with the  
70 internationally active insurance group.

71 (c) Notwithstanding any other provision of law, when another regulatory official is acting  
72 as the group-wide supervisor of an internationally active insurance group, the  
73 Commissioner shall acknowledge such regulatory official as the group-wide supervisor.  
74 In the event of a material change in the internationally active insurance group that results  
75 in such group's insurers domiciled in this state holding the largest share of the group's  
76 premiums, assets, or liabilities or that results in this state being the place of domicile of the  
77 top tiered insurer or insurers in the insurance holding company system of the  
78 internationally active insurance group, the Commissioner shall make a determination or  
79 acknowledgment as to the appropriate group-wide supervisor for such internationally active  
80 insurance group pursuant to subsection (b) of this Code section.

81 (d) Pursuant to Code Section 33-13-6, the Commissioner is authorized to collect from any  
82 insurer registered pursuant to Code Section 33-13-4 all information necessary to determine  
83 whether the Commissioner may act as the group-wide supervisor of an internationally  
84 active insurance group or if the Commissioner may acknowledge another regulatory  
85 official to act as the group-wide supervisor. Prior to issuing a determination that an  
86 internationally active insurance group is subject to group-wide supervision by the  
87 Commissioner, the Commissioner shall notify the insurer registered pursuant to Code  
88 Section 33-13-4 and the ultimate controlling person within the internationally active  
89 insurance group. The internationally active insurance group shall have not less than 30  
90 days to provide the Commissioner with additional information pertinent to the pending  
91 determination. The Commissioner shall publish in a newspaper having general state-wide  
92 circulation and on its internet website the identity of internationally active insurance groups  
93 that the Commissioner has determined are subject to group-wide supervision by the  
94 Commissioner.

95 (e) If the Commissioner is the group-wide supervisor for an internationally active  
96 insurance group, the Commissioner is authorized to engage in any of the following  
97 group-wide supervision activities:

- 98 (1) Assess the enterprise risks within the internationally active insurance group to ensure  
99 that:
- 100 (A) The material financial condition and liquidity risks to the members of the  
101 internationally active insurance group that are engaged in the business of insurance are  
102 identified by management; and
- 103 (B) Reasonable and effective mitigation measures are in place;
- 104 (2) Request from any member of such group information necessary and appropriate to  
105 assess enterprise risk, including, but not limited to, information about the members of the  
106 internationally active insurance group regarding:
- 107 (A) Governance, risk assessment, and management;  
108 (B) Capital adequacy; and  
109 (C) Material intercompany transactions;
- 110 (3) Coordinate and, through the authority of the regulatory officials of the jurisdictions  
111 where members of the internationally active insurance group are domiciled, compel  
112 development and implementation of reasonable measures designed to ensure that the  
113 internationally active insurance group is able to timely recognize and mitigate enterprise  
114 risks to members of such internationally active insurance group that are engaged in the  
115 business of insurance;
- 116 (4) Communicate with other state, federal, and international regulatory agencies for  
117 members within the internationally active insurance group and share relevant information  
118 subject to the confidentiality provisions of Code Section 33-13-8 through supervisory  
119 colleges as set forth in Code Section 33-13-7 or otherwise;
- 120 (5) Enter into agreements with or obtain documentation from any insurer registered  
121 under Code Section 33-13-4, any member of the internationally active insurance group,  
122 and any other state, federal, and international regulatory agencies for members of the  
123 internationally active insurance group, providing the basis for or otherwise clarifying the  
124 Commissioner's role as group-wide supervisor, including provisions for resolving  
125 disputes with other regulatory officials. Such agreements or documentation shall not  
126 serve as evidence in any proceeding that any insurer or person within an insurance  
127 holding company system not domiciled or incorporated in this state is doing business in  
128 this state or is otherwise subject to jurisdiction in this state; and
- 129 (6) Other group-wide supervision activities consistent with the authorities and purposes  
130 enumerated in this subsection as deemed necessary by the Commissioner.
- 131 (f) If the Commissioner acknowledges that another regulatory official from a jurisdiction  
132 that is not accredited by the National Association of Insurance Commissioners is the  
133 group-wide supervisor, the Commissioner is authorized to reasonably cooperate, through

134 supervisory colleges or otherwise, with group-wide supervision undertaken by such  
 135 group-wide supervisor, provided that:

136 (1) The Commissioner's cooperation is in compliance with the laws of this state; and

137 (2) The regulatory official acknowledged as the group-wide supervisor also recognizes  
 138 and cooperates with the Commissioner's activities as a group-wide supervisor for other  
 139 internationally active insurance groups where applicable. Where such recognition and  
 140 cooperation is not reasonably reciprocal, the Commissioner is authorized to refuse  
 141 recognition and cooperation.

142 (g) The Commissioner is authorized to enter into agreements with or obtain documentation  
 143 from any insurer registered under Code Section 33-13-4, any affiliate of the insurer, and  
 144 other state, federal, and international regulatory agencies for members of the internationally  
 145 active insurance group that provide the basis for or otherwise clarify a regulatory official's  
 146 role as group-wide supervisor.

147 (h) The Commissioner may promulgate rules and regulations necessary for the  
 148 administration of this Code section.

149 (i) A registered insurer subject to this Code section shall be liable for and shall pay the  
 150 reasonable expenses of the Commissioner's participation in the administration of this Code  
 151 section, including the engagement of attorneys, actuaries, and any other professionals and  
 152 all reasonable travel expenses."

153 **SECTION 3.**

154 Said chapter is further amended in Code Section 33-13-8, relating to confidentiality of  
 155 information and documents obtained during examinations or investigations, sharing certain  
 156 information, not delegation of regulatory authority or rule making, and responsibility for  
 157 enforcement, by revising subsection (a) as follows:

158 "(a) Documents, materials, or other information in the possession or control of the  
 159 department that are obtained by or disclosed to the Commissioner or any other person in  
 160 the course of an examination or investigation made pursuant to Code Section 33-13-6 and  
 161 all information reported or provided to the department pursuant to paragraphs (12) and (13)  
 162 of subsection (b) of Code Section 33-13-3; and Code Section Sections 33-13-4, and Code  
 163 Section 33-13-5, and 33-13-7.1 shall be confidential by law and privileged, shall not be  
 164 subject to public disclosure under Article 4 of Chapter 18 of Title 50, shall not be subject  
 165 to subpoena, and shall not be subject to discovery or admissible in evidence in any private  
 166 civil action. However, the Commissioner is authorized to use the documents, materials,  
 167 or other information in the furtherance of any regulatory or legal action brought as a part  
 168 of the Commissioner's official duties. The Commissioner shall not otherwise make the  
 169 documents, materials, or other information public without the prior written consent of the

170 insurer to which it pertains unless the Commissioner, after giving the insurer and its  
171 affiliates that would be affected thereby notice and opportunity to be heard, determines that  
172 the interest of policyholders, shareholders, or the public will be served by the publication  
173 thereof, in which event the Commissioner may publish all or any part in such manner as  
174 may be deemed appropriate."

175 **SECTION 4.**

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