Senate Bill 133

By: Senators Harbin of the 16th, Jones of the 25th and Walker III of the 20th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for modernization and updates; to amend various provisions of the Official Code of Georgia Annotated for purposes of conformity; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code Section 33-21-17, relating to examinations of organizations and providers, reports of examinations, and payment of expenses of examinations, by revising subsection (d) as follows:

"(d) The Commissioner ~~of Insurance~~ or his or her designee shall make a full written report of each examination made by him or her containing only facts ascertained from the accounts, records, and documents examined and from the sworn testimony of ~~witness~~ witnesses."

SECTION 2.

Said title is further amended by revising Code Section 33-21-20.1, relating to regulation of HMOs by commissioner of community health, as follows:

"33-21-20.1.

~~On May 13, 2004, all~~ All health maintenance organizations meeting the requirements of subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the commissioner of ~~human resources (now known as the commissioner of community health for these purposes)~~ community health. Upon the ~~Commissioner of Insurance's~~ Commissioner's determination that a health maintenance organization no longer meets the requirements of subsection (b.1) of Code Section 33-21-3, the Commissioner shall immediately notify the commissioner of community health~~;~~ and such health maintenance

organization shall be subject to regulation by the commissioner of community health until such time as it again meets the requirements of subsection (b.1) of Code Section 33-21-3 as determined by the Commissioner ~~of Insurance~~."

SECTION 3.

Said title is further amended in Code Section 33-21-23, relating to confidentiality of medical information and claim of privileges by organizations, by revising subsection (a) as follows:

"(a) Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from the person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except:

(1) To ~~to~~ the extent that it may be necessary to carry out the purposes of this chapter;

(2) Upon ~~or upon~~ the express consent of the enrollee or applicant;

(3) Pursuant ~~or pursuant~~ to statute or court order for the production of evidence;

(4) The ~~or the~~ discovery of evidence; or

(5) In ~~in~~ the event of claim or litigation between the person and the health maintenance organization wherein such data or information is pertinent."

SECTION 4.

Said title is further amended by revising Code Section 33-23-3, relating to agency licensing and biennual renewals, and ownership restrictions, as follows:

"33-23-3.

(a) Each principal office and each branch office of an agency as defined in paragraph (2) of subsection (a) of Code Section 33-23-1 must obtain an agency license prior to commencement of operations and renew such license biennially and prior to December 31 by filing application forms prescribed by the Commissioner.

~~(a.1) All agency licenses that were issued with an expiration date of December 31, 2012, shall expire on that date, but shall be renewed pursuant to subsection (a) of this Code section.~~

(b) An agency shall be subject to all penalties, fines, criminal sanctions, and other actions authorized for agents under this ~~chapter~~ title.

(c) No person shall be an owner of an agency or, if the agency is a corporation, no person shall be an officer or director of such corporation or own 10 percent or more of the corporation if such person has had his or her license under this ~~chapter~~ title refused, revoked, or suspended."

SECTION 5.

Said title is further amended in Code Section 33-23-4, relating to license required; restrictions on payment or receipt of commissions; and positions indirectly related to sale, solicitation, or negotiation of insurance excluded from licensing requirements, by revising paragraph (1) of subsection (a) and subsections (c) and (f) as follows:

"(a)(1) A person shall not sell, solicit, or negotiate insurance in this state for any class or classes of insurance unless ~~the~~ such person is licensed for that line of authority in accordance with this ~~chapter~~ article and applicable regulations."

"(c) An insurer may pay a commission or other valuable consideration to a licensed insurance agency in which all employees, stockholders, directors, or officers who sell, solicit, or negotiate insurance contracts are qualified insurance agents, limited subagents, or counselors holding ~~currently~~ valid licenses as required by the laws of this state; and an agent, limited subagent, or counselor may share any commission or other valuable consideration with such a licensed insurance agency."

"(f) Any individual who has been licensed as an agent for ten consecutive years or more and who does not perform any of the functions specified in paragraph (3) of subsection (a) of Code Section 33-23-1 other than receipt of renewal or deferred commissions shall be exempt from the requirement to maintain at least one certificate of authority; provided, however, that if such individual wishes to again perform any of the other functions specified in said paragraph, such individual must obtain approval from the Commissioner and comply with the requirements of this ~~chapter~~ article and applicable rules and regulations, including without limitation the requirements for certificate of authority."

SECTION 6.

Said title is further amended in Code Section 33-23-11, relating to issuance and contents of license and display certificate of licensure, by revising subsections (a) and (d) as follows:

"(a) The Commissioner shall issue licenses applied for to persons qualified for the licenses in accordance with this ~~chapter~~ article."

"(d) The Commissioner shall have the authority to enter into agreements with persons for the purposes of providing licensing testing, administrative, record-keeping, printing, mounting, and other services related to the administration of the Commissioner's duties under this ~~chapter~~ article and to set appropriate charges by rule or regulation to cover the costs of such services which shall be in addition to the fees otherwise provided for in this title and shall be paid directly to the providers of such services. The Commissioner may require applicants for licenses to pay such charges for licensing testing and for the cost of the printing and mounting of a certificate of licensure which is suitable for display directly to the provider of such services. The Commissioner may require insurers to pay such

charges for licensing testing, administrative, record-keeping, and other services provided for in this subsection directly to the provider of such services in ~~proportion~~ an amount corresponding to the number of their authorized agents."

SECTION 7.

Said title is further amended in Code Section 33-23-12, relating to limited licenses, by revising paragraphs (6) and (8) of subsection (c), paragraphs (1), (2), (4), (12), (14), (15), and (16) of subsection (d), subparagraph (e)(1)(A), and paragraph (7) of subsection (e) as follows:

"(6) No insurance shall be offered by a limited licensee pursuant to this subsection unless:

(A) The rental period of the rental agreement does not exceed 90 consecutive days;

(B) At every rental location where rental agreements are executed, brochures or other written materials are readily available to the prospective renter that:

(i) Summarize clearly and correctly the material terms of coverage offered to renters, including the identity of the insurer;

(ii) Disclose that such policies offered by the rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;

(iii) State that the purchase by the renter of the kinds of coverage specified in this subsection is not required in order to rent a vehicle; and

(iv) Describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and

(C) Evidence of coverage on the face of the rental agreement is disclosed to every renter who elects to purchase such coverage."

"(8) Each rental company licensed pursuant to this subsection shall provide a training program in which employees being trained by ~~a licensed~~ an instructor licensed under this article receive basic insurance instruction about the kinds of coverage specified in this subsection and offered for purchase by prospective renters of rental vehicles. Additionally, each rental company shall provide for such employees two hours of continuing education courses annually to be taught by ~~a licensed~~ an instructor licensed under this article. A rental company shall certify that, prior to offering such coverages, each employee has received such instruction."

"(d)(1) As used in this subsection, the term:

(A) 'Customer' means a person who purchases portable electronics or services.

(B) 'Enrolled customer' means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

(C) 'Location' means any physical location in ~~the State of Georgia~~ this state or any website, call center site, or similar location directed to residents of ~~the State of Georgia~~ this state.

(D) 'Portable electronics' means handsets, pagers, personal digital assistants, portable computers, automatic answering devices, cellular telephones, batteries, and other similar devices and their accessories and includes services related to the use of such devices, including, but not limited to, individual customer access to a wireless network.

(E) 'Portable electronics insurance' means insurance providing coverage for the repair or replacement of portable electronics which may provide coverage for portable electronics against any one or more of the following ~~causes of loss~~: loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss. Such term shall not include a service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property in cases of operational or structural failure due to a defect in materials, workmanship, accidental damage from handling power surges, or normal wear and tear.

(F) 'Portable electronics transaction' means the sale or lease of portable electronics by a vendor to a customer or the sale of a service related to the use of portable electronics by a vendor to a customer.

(G) 'Supervising entity' means a business entity that is a licensed insurer, or insurance producer that is authorized by a licensed insurer, to supervise the administration of a portable electronics insurance program.

(H) 'Vendor' means a person in the business of engaging in portable electronics transactions directly or indirectly.

(2) The ~~commissioner~~ Commissioner may issue to a retail vendor of portable electronics that has complied with the requirements of this subsection a limited license authorizing the limited licensee to offer or sell portable electronics insurance policies."

"(4) The supervising entity shall maintain a registry of vendor locations that are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the ~~commissioner~~ Commissioner and with ten ~~days~~ days' notice to the supervising entity, the registry shall be open to inspection and examination by the ~~commissioner~~ Commissioner during regular business hours of the supervising entity."

"(12) The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as an insurance producer under this Code section, provided that the supervising entity supervises the administration of a training program in which employees and authorized representatives

of a vendor shall be trained and receive basic insurance instruction about the kind of coverage authorized in this subsection and offered for purchase by prospective purchasers. The training required by this subsection may be provided in electronic form. However, if provided in electronic form, the supervising entity shall implement a supplemental education program regarding the portable electronics insurance that is conducted and overseen by ~~a licensed~~ an instructor licensed under this article.″

″(14) If a vendor or its employee or authorized representative violates any provision of this subsection, the ~~commissioner~~ Commissioner may impose any of the following penalties:

(A) After notice and hearing, fines not to exceed $500.00 per violation or $5,000.00 in the aggregate for such conduct;

(B) After notice and hearing, other penalties that the ~~commissioner~~ Commissioner deems necessary and reasonable to carry out the purpose of this article, including:

(i) Suspending the privilege of transacting portable electronics insurance pursuant to this subsection at specific business locations where violations have occurred; and

(ii) Suspending or revoking the ability of individual employees or authorized representatives to act under the license;

(15) Notwithstanding any other provision of law:

(A) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least 60 days' notice;

(B) If the insurer changes the terms and conditions, then ~~the~~ such insurer shall provide the vendor with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of ~~material~~ such changes;

(C) Notwithstanding ~~paragraph (15) of subsection (a) of this Code section~~ subparagraph (A) of this paragraph, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon 15 days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim;

(D) Notwithstanding ~~paragraph (15) of subsection (a) of this Code section~~ subparagraph (A) of this paragraph, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy:

(i) For nonpayment of premium;

(ii) If the enrolled customer ceases to have an active service with the vendor of portable electronics; or

(iii) If the enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within 30 calendar days after exhaustion of the limit. However, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer; and

(E) ~~Where~~ When a portable electronics insurance policy is terminated by a policyholder, the vendor shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled customer at least 30 days prior to the termination.

(16) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this subsection or is otherwise required by law, it shall be in writing and sent within the notice period, if any, specified within the statute or regulation requiring the notice or correspondence. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this ~~subparagraph~~ paragraph. If the notice or correspondence is mailed, it shall be sent to the vendor of portable electronics at the vendor's mailing address specified for such purpose and to its affected enrolled customers' last known mailing addresses on file with the insurer. The insurer or vendor of portable electronics, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the vendor of portable electronics at the vendor's e-mail address specified for such purpose and to its affected enrolled customers' last known e-mail address as provided by each enrolled customer to the insurer or vendor of portable electronics, as the case may be. For purposes of this paragraph, an enrolled customer's provision of an e-mail address to the insurer or vendor of portable electronics, as the case may be, shall be deemed as consent to receive notices and correspondence by electronic means. The insurer or vendor of portable electronics, as the case may be, shall maintain proof that the notice or correspondence was sent.″

″(e)(1) As used in this subsection, the term:

(A) 'Limited licensee' means an owner authorized to act as an agent of an insurance provider for purposes of selling certain insurance coverages for personal property maintained in self-service storage facilities pursuant to ~~the provisions of~~ this subsection.″

″(7) Each owner licensed pursuant to this subsection shall provide a training program in which employees and authorized representatives of such owner shall be trained by ~~a~~

~~licensed~~ an instructor licensed pursuant to this article and receive basic insurance instruction about the kind of coverage authorized in this subsection and offered for purchase by prospective occupants."

SECTION 8.

Said title is further amended in Code Section 33-23-18, relating to issuance of license on biennial basis, filing for renewal, continuing education requirements, transition from annual renewal to biennial renewal, by revising subsections (a), (c), and (c.1) as follows:

"(a) All resident agent, limited subagent, adjuster, and counselor licenses, with the exception of temporary or probationary licenses, shall be issued on a biennial basis and shall expire on the last day of the licensee's birth month~~, except as provided in subsection (c.1) of this Code section~~."

"(c) Renewal of the license on forms prescribed by rule or regulation must be made prior to the last day of the licensee's birth month and biennially thereafter~~, except as provided in subsection (c.1) of this Code section~~.

~~(c.1) All licenses that expire on December 31, 2012, shall be transitioned to a biennial term and shall expire on the last day of the licensee's birth month, provided that, during the transition, the Commissioner may, as provided by rule or regulation, renew such licenses for a term greater or shorter than the biennial term and may prorate the license renewal fees.~~"

SECTION 9.

Said title is further amended in Code Section 33-23-20, relating to effect of license suspension or placement of license on inactive status, by revising subsection (b) as follows:

"(b) In case of a sale of an agency upon a work-out basis, the ~~vendor~~ seller without maintaining his or her license or the executors and administrators of the ~~vendor's~~ seller's estate may participate in the proceeds of premiums on insurance written by the purchaser of the agency when and as authorized to do so by the contract of sale of the agency; and this participation may be without limitation of time after the ~~vendor~~ seller ceased to hold a license. An agent whose license has been suspended or placed in inactive status may, when the countersignature of a resident licensed agent is required pursuant to Code Section 33-3-26 and if authorized by the insurer, countersign certificates and endorsements necessary to continue coverage to the expiration date, including renewal option periods."

SECTION 10.

Said title is further amended in Code Section 33-23-23, relating to limitation on application after refusal or revocation of license and effect of surrender of license under written consent order, by revising subsection (c) as follows:

"(c) ~~By law, any~~ Any surrender of a license under written consent order shall have the same effect as a revocation under subsections (a) and (b) of this Code section."

SECTION 11.

Said title is further amended in Code Section 33-23-28, relating to scope of subagent's authority and record of transactions, by revising subsection (d) as follows:

"(d) A record of each transaction shall be maintained jointly by ~~both~~ the agent and the subagent or limited subagent."

SECTION 12.

Said title is further amended in Code Section 33-23-29, relating to authority of agent to act as adjuster, nonresident, and reciprocal agreements, by revising paragraph (2) of subsection (b) as follows:

"(2) Of a nonresident adjuster who regularly adjusts in another state and who is licensed in such other state, if such state requires a license, to act as adjuster in this state for emergency insurance adjustment work for a period not exceeding 60 days and performed for an employer ~~who~~ that is an insurance adjuster licensed by this state or ~~who~~ that is a regular employer of one or more insurance adjusters licensed by this state, provided that ~~the~~ such employer shall furnish to the Commissioner a notice in writing immediately upon the beginning of the emergency insurance adjustment work. ~~The Commissioner may by rule or regulation establish criteria and procedures for adjusters operating under this Code section.~~"

SECTION 13.

Said title is further amended in Code Section 33-23-31, relating to risk situs, service on nonresidents, and venue of action, by revising subsection (b) as follows:

"(b) Each nonresident by obtaining a license in this state or by doing business in this state shall be deemed to have consented that any notice provided in this chapter and any summons, notice, or process in connection with any action or proceeding in any state or federal court in this state, which notice, summons, or process grows out of or is based upon any business or acts done or omitted to be done in this state, may be sufficiently served upon such nonresident by serving the same upon the Commissioner. Service shall be made by leaving with the office of the Commissioner a copy of the notice, summons, or process

with a fee ~~in the hands of the Commissioner~~. The fee for such service shall be as provided by law. Such service shall be sufficient service upon the nonresident, provided that notice of the service and a copy of the notice, summons, or process shall be immediately sent by registered or certified mail or statutory overnight delivery by the plaintiff or by the Commissioner to the residence of the nonresident addressed to the nonresident. The nonresident's return receipt and the affidavit of compliance with the notice, summons, or process made by the plaintiff or the plaintiff's attorney or by the Commissioner shall be appended to the notice, summons, or process and filed with the case in the court where it is pending or filed with the Commissioner if in regard to a proceeding provided under this chapter. Venue of such an action shall be in the county of the residence of a plaintiff in the action, if the plaintiff resides in this state; otherwise venue shall be in Fulton County. The place of residence of a licensed nonresident placed on file by him or her with the Commissioner shall be deemed to be his or her place of residence until the nonresident places on file with the Commissioner a written notice stating another place of residence. As used in this subsection, the term 'process' shall include a petition or complaint attached thereto."

SECTION 14.

Said title is amended in Code Section 33-23-33, relating to duty of licensees to provide current information of names and addresses, by revising subsection (a) as follows:

"(a) Every licensee under this chapter shall keep the Commissioner advised of:

(1) The ~~the~~ office address of the licensee;

(2) The ~~the~~ residence address of the licensee;

(3) The ~~the~~ name and address of each insurer that the licensee represents directly or indirectly;

(4) The ~~the~~ name and address of each agency of which the licensee is proprietor, partner, officer, director, or employee or which the licensee represents;

(5) Every ~~every~~ trade name of such agency; and

(6) The ~~the~~ names of all partners and members of any firm or association and the corporate name of any corporation owning or operating ~~the~~ such agency as such information changes."

SECTION 15.

Said title is further amended in Code Section 33-23-35, relating to reporting and disposition of premiums, by revising subsection (c) as follows:

"(c) Any violation of this Code section shall constitute grounds or cause for action by the Commissioner, including, but not limited to, probation, suspension, or revocation of the

license. Each and every act by a licensee shall also constitute grounds for fines and penalties, which amounts shall be set by rule or regulation of the Commissioner. Any willful violation of this Code section shall constitute a misdemeanor unless such amounts involved exceed ~~$500.00~~ $1,000.00, whereby such violation shall constitute a felony."

SECTION 16.

Said title is further amended in Code Section 33-23-37, relating to licensing of surplus lines broker, application, bond, and written examination, by revising paragraphs (3) and (3.1) of subsection (b) as follows:

"(3) Each license shall be issued on a biennial basis and shall expire on the last day of the licensee's birth month and may be renewed by filing an application and paying the prescribed fee in accordance with this Code section ~~except as provided in paragraph (3.1) of this subsection~~;

~~(3.1) All licenses that expire on December 31, 2012, shall be transitioned to a biennial term, provided that, during the transition, the Commissioner may, as provided by rule or regulation, renew such licenses for a term greater or shorter than the biennial term and may prorate the license renewal fees;~~"

SECTION 17.

Said title is further amended by revising Code Section 33-23-40, relating to contracts issued by unauthorized persons not rendered unenforceable and participants guilty of misdemeanor, as follows:

"33-23-40.

Any contract of insurance issued by a person prohibited by this chapter from so issuing it shall not be rendered unenforceable by reason of the violation of this chapter~~;~~, but all persons knowingly participating in the violation shall be ~~guilty of a misdemeanor~~ subject to the provisions of Chapter 2 of this title."

SECTION 18.

Said title is further amended by revising Code Section 33-23-41, relating to liability and penalties for unauthorized acts, as follows:

"33-23-41.

Any person who in this state acts, purports to act, or holds himself or herself out as an agent, limited subagent, counselor, or adjuster or as an employee of an agent, limited subagent, counselor, or adjuster of or for an insurer that has not obtained from the Commissioner a certificate of authority then in effect to do business in this state as required by this ~~title~~ article or who has not obtained a certificate of authority as required by this

article and any person who in this state collects or forwards any premium or portion of the premium for or to the insurer shall pay a sum equal to the state, county, and municipal taxes and license fees required to be paid by the insurance companies legally doing business in this state. It is the Commissioner's duty to report violators of this Code section to the district attorney for the county in which the violations occurred. Violators of this Code section shall also be personally liable to the same extent as the insurer upon every contract of insurance made by the insurer with reference to a risk having a situs in this state, if the violator participated in the solicitation, negotiation, or making of the contract or in any endorsement to the contract, in any modification of the contract, or in the collection or forwarding of any premium or portion of the premium relating to such contract. This Code section shall have no application to a contract of insurance entered into in accordance with Chapter 5 of this title."

SECTION 19.

Said title is further amended in Code Section 33-23-43, relating to authority of adjusters and penalty for violation, by revising subparagraph (c)(4)(B) as follows:

"(B) Paying the insured or any person directly or indirectly associated with the ~~property~~ claim any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason;"

SECTION 20.

Said title is further amended in Code Section 33-23-43.1, relating to requirements for public adjuster contracts, by revising paragraph (2) of subsection (c) as follows:

"(2) A provision that if the insured exercises the right to rescind the contract, anything of value given by the insured under the contract ~~will~~ shall be returned to the insured within 15 business days following the receipt by the public adjuster of the ~~cancellation~~ rescission notice; and"

SECTION 21.

Said title is further amended by revising Code Section 33-23-45, relating to limitation on applicability of article, as follows:

"33-23-45.

~~This article shall apply only with respect to acts occurring on or after July 1, 2002; provided, however, that nothing in this Code section shall prevent the Commissioner from implementing sanctions which were authorized by law with respect to acts occurring prior to July 1, 2002~~ Reserved."

SECTION 22.

Said title is further amended in Code Section 33-23-101, relating to licensing of administrators; filing fee; refusal, suspension, or revocation of license; notice and hearing; reissuance of revoked license; appeal; probationary licenses; additional qualifications for license; restrictions on licensees; and penalties, by revising subsections (g) and (j) as follows:

"(g)(1) The Commissioner shall have the authority to issue a probationary license to any applicant under this ~~chapter~~ article.

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

(3) The Commissioner, at his or her discretion, shall prescribe the terms of probation, may extend the probationary period, or refuse to grant a license at the end of any probationary period."

"(j) The Commissioner may, at his or her discretion, assess a penalty or a fine against any business entity acting as an administrator without a license for each transaction in violation of this ~~chapter~~ article."

SECTION 23.

Said title is further amended in Code Section 33-24-3, relating to insurable interest – personal insurance, by revising subsection (k) as follows:

"(k) The insurable interests set forth in this Code section are not exclusive but are cumulative of and not in lieu of insurable interests existing in common law and not expressly set forth in this Code section. ~~No part of this Code section specifically recognizing any insurable interest shall create any presumption or implication that such insurable interest did not exist prior to July 1, 2006. To the contrary, an insurable interest shall be presumed with respect to any life insurance policy issued prior to July 1, 2006, to any person whose insurable interest is recognized in this Code section.~~"

SECTION 24.

Said title is further amended by revising Code Section 33-24-4, relating to insurable interest – property insurance, as follows:

"33-24-4.

(a) As used in this Code section, 'insurable interest' means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

(b) No insurance contract on property or of any interest therein or arising therefrom shall be enforceable except for the benefit of persons having, at the time of the loss, an insurable interest in the things insured.

~~(c) The measure of an insurable interest in property is the extent to which the insured might be damnified by loss, injury, or impairment of such interest in such property.~~"

SECTION 25.

Said title is further amended in Code Section 33-24-6, relating to consent of insured to insurance contract, exceptions, and reliance by insurer on statements in application, by revising paragraph (1) of subsection (b) as follows:

"(b)(1) If a contract of life insurance is issued as authorized in paragraph (4) or (5) of subsection (a) of this Code section, the insurer shall be required to give written notice of such life insurance in accordance with paragraph (3) of this subsection and provide the employees an opportunity to refuse to participate. For all contracts of life insurance issued or delivered for issuance in this state ~~after July 1, 2003,~~ pursuant to paragraph (4) or (5) of subsection (a) of this Code section, the written consent of each individual proposed to be insured shall be obtained prior to the issuance of a policy on such individual. Written consent shall include an acknowledgment that the corporation may maintain life insurance coverage on such individual after such individual's employment with the corporation has terminated."

SECTION 26.

Said title is further amended in Code Section 33-24-10, relating to grounds for disapproval of forms, by revising paragraph (6) as follows:

"(6) If the benefits provided in any medicare supplement insurance policy ~~defined~~ described in Code Section 33-24-29 are unreasonable in relation to the premium charged."

SECTION 27.

Said title is further amended by revising Code Section 33-24-10.1, relating to standard or uniform claim form, as follows:

"33-24-10.1.

The Commissioner is authorized to establish by rule or regulation a standard or uniform claim form to be supplied by insurers ~~on and after January 1, 1994,~~ to their insureds for the purpose of filing claims under policies or contracts of accident and sickness insurance. The Commissioner shall file and maintain on file in the office of the Commissioner a true copy of the standard or uniform claim form designated as such and bearing the Commissioner's authenticating signature and the date of filing."

SECTION 28.

Said title is further amended in Code Section 33-24-11, relating to waiver by Commissioner of use of standard or uniform provision in policies or contracts and approval of use of substitute provisions, by revising subsection (a) as follows:

"(a) The Commissioner may waive the required use of a particular provision in a particular insurance policy form or annuity or endowment contract form if ~~he~~ the Commissioner finds ~~the~~ such provision unnecessary for the protection of the insured or inconsistent with the purposes of the policy and if the policy is otherwise approved by ~~him~~ the Commissioner."

SECTION 29.

Said title is further amended in Code Section 33-24-12, relating to noncomplying conditions or provisions and cancellation of contracts covering uninsurable subjects, by revising subsection (a) as follows:

"(a) Any insurance policy, rider, or endorsement issued ~~after January 1, 1961,~~ and otherwise valid which contains any condition or provision not in compliance with the requirements of this title shall not be rendered invalid due to the noncomplying condition or provision but shall be construed and applied in accordance with such conditions and provisions as would have applied had the policy, rider, or endorsement been in full compliance with this title."

SECTION 30.

Said title is further amended in Code Section 33-24-16.1, relating to clarification of term "actual charge" or "actual fee", by revising subsection (b) as follows:

"(b) The General Assembly finds and declares that the provisions of subsection (a) of this Code section are intended to clarify the ~~current~~ correct interpretation of the defined terms for instances in which the particular insurance policy does not otherwise contain a definition."

SECTION 31.

Said title is further amended in Code Section 33-24-18, relating to contents of insurance policies and annuity contracts generally, by revising subsection (e) as follows:

"(e) All policies and annuity contracts issued by ~~domestic~~ admitted insurers and the forms of the policies and annuity contracts filed with the Commissioner shall have printed thereon an appropriate designating letter or figure or combination of letters or figures or terms identifying the respective forms of policies or contracts. Whenever any change is made in any form, the designating letters, figures, or terms thereon shall be correspondingly changed."

SECTION 32.

Said title is further amended in Code Section 33-24-19.1, relating to certificate of insurance forms to be approved by Commission, definitions, and required provisions of certificate, by revising paragraph (4) of subsection (a) and subsection (i) as follows:

"(4) 'Insurer' means any person engaged as indemnitor, surety, or contractor who issues insurance as defined by Code Sections 33-7-3 and 33-7-6. Nothing in this Code section shall apply to or affect any offering of accident, sickness, or disability insurance by a fraternal benefit society, as provided under Code Section 33-15-60; ~~nonprofit medical service corporations, as provided under Chapters 18 and 19 of this title;~~ health care plans, as provided under Chapter 20 of this title; health maintenance organizations, as provided under Chapter 21 of this title; any provisions of accident and sickness insurance policies generally, as provided under Code Sections 33-24-20 through 33-24-31; individual accident and sickness insurance, as provided under Chapter 29 of this title; or group or blanket accident and sickness insurance, as provided under Chapter 30 of this title."

"(i) ~~The provisions of this~~ This Code section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance coverages on property, operations, or risks located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located."

SECTION 33.

Said title is further amended in Code Section 33-24-21.1, relating to group accident and sickness contracts, conversion privilege and continuation right provisions, and impact of federal legislation, by revising paragraph (1) of subsection (a), subparagraph (a)(2)(C), subsection (a.1), subsection (a.2), paragraph (2) of subsection (c), subparagraphs (c)(2)(B) and (c)(2)(C), paragraph (3) of subsection (c), and subsections (d), (l), and (m) as follows:

"(1) '~~Assistance eligible~~ Assistance-eligible individual' shall have the same meaning as provided by Section 3001 of Title III of the federal American Recovery and Reinvestment Act of 2009, as amended."

"(C) An individual accident and sickness insurance policy, including coverage issued by a health maintenance organization, ~~nonprofit hospital or nonprofit medical service corporation,~~ health care corporation, or fraternal benefit society;"

"(a.1) Any group member or qualifying eligible individual who is an ~~assistance eligible~~ assistance-eligible individual as provided by Section 3001 of Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended, during the period permitted under such act whose coverage has been terminated and who has been continuously covered under the group contract or group plan, and under any contract or

plan providing similar benefits that it replaces, for at least six months immediately prior to such termination, shall be entitled to have his or her coverage and the coverage of his or her eligible dependents continued under the contract or plan in accordance with paragraph (2) of subsection (c) of this Code section. Such coverage shall continue for the fractional policy month remaining, if any, at termination plus up to the maximum number of additional policy months specified in paragraph (2) of subsection (c) of this Code section upon payment of the premium to the insurer by cash, certified check, or money order, at the same rate for active group members set forth in the contract or plan, on a monthly basis in advance as such premium becomes due during this coverage period. An ~~assistance eligible~~ assistance-eligible individual who is in a transition period as defined in Section 3001 of Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended, shall be treated for purposes of any continuation of coverage provision as having timely paid such premium if such individual was covered under the continuation of coverage to which such premium relates for the period immediately preceding such transition period, if such individual remains eligible for such continuation of coverage, and if such individual pays the amount of such premium not later than 30 days after the date of provision of notice regarding eligibility for extended continuation of coverage. For the period that the ~~assistance eligible~~ assistance-eligible individual is eligible for the premium reduction assistance as provided in Section 3001 of Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended, such premium payment shall be calculated as 35 percent of the rate for active group members including any portion of the premium paid by a former employer or other person if such employer or other person no longer contributes premium payments for this coverage.

(a.2) The rights and benefits under this Code section attributable to Section 3001 of Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended, shall expire when that ~~act~~ Act expires. Any extension of such benefits shall require an Act of the Georgia General Assembly. Under no circumstances shall the extended benefits for ~~assistance eligible~~ assistance-eligible individuals become the responsibility of ~~the State of Georgia~~ this state or any insurer after the expiration of the premium subsidy made available to individuals pursuant to Section 3001 of Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended."

"(2) Any group member or qualifying eligible individual who is an ~~assistance eligible~~ assistance-eligible individual has a right to elect continuation of his or her coverage and the coverage of his or her dependents at any time between May 5, 2009, and 60 days after receiving notice from the employer's insurer of the right to participate in state continuation benefits under this Code section in accordance with Section 3001 of Title

III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended, if:″

″(B) The individual was eligible for state continuation under this ~~chapter~~ Code section at the time of termination;

(C) The individual continues to be eligible for state continuation benefits under this ~~chapter~~ Code section, provided that the total period of continuous eligibility shall not exceed the number of policy months equal to the maximum premium reduction period specified in Section 3001 of Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), as amended, as measured from the month of the qualifying event making the individual an ~~assistance-eligible~~ assistance-eligible individual; and″

″(3) In addition to the group policy under which the group member was insured, the group member and any qualifying eligible individual shall, to the extent that such plan is ~~currently~~ offered under the group plans offered by the company, also be offered the option of continuation coverage through a high deductible health plan, or its actuarial equivalent, that is eligible for use with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code. Such high deductible health plans shall have premiums consistent with the underlying group plan of coverage rated relative to the standard or manual rates for the benefits provided.

(d)(1) A group member shall not be entitled to have coverage continued if:

(A) ~~termination~~ Termination of coverage occurred because the employment of the group member was terminated for cause;

(B) ~~termination~~ Termination of coverage occurred because the group member failed to pay any required contribution; or

(C) ~~any~~ Any discontinued group coverage is immediately replaced by similar group coverage including coverage under a health benefits plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq. Further, a group member shall not be entitled to have coverage continued if the group contract or group plan was terminated in its entirety or was terminated with respect to a class to which the group member belonged. This subsection shall not affect conversion rights available to a qualifying eligible individual under any contract or plan.

(2) A qualifying eligible individual shall not be entitled to have coverage continued if the most recent creditable coverage within the coverage period was terminated based on one of the following factors:

(A) ~~failure~~ Failure of the qualifying eligible individual to pay premiums or contributions in accordance with the terms of the health insurance coverage or failure of the issuer to receive timely premium payments;

(B) ~~the~~ The qualifying eligible individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of coverage; or

(C) ~~any~~ Any discontinued group coverage is immediately replaced by similar group coverage, including coverage under a health benefits plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq. This subsection shall not affect conversion rights available to a group member under any contract or plan."

"(l) As soon as practicable, but no later than June 4, 2009, the Commissioner shall develop and direct insurers to issue notices for ~~assistance eligible~~ assistance-eligible individuals regarding availability of expanded eligibility and continuation coverage assistance to be sent to the last known addresses of such ~~assistance eligible~~ assistance-eligible individuals.

(m) Nothing in this ~~chapter~~ Code section shall imply that individuals entitled to continuation coverage who are not ~~assistance eligible~~ assistance-eligible individuals shall receive benefits beyond the period of coverage provided in paragraph (1) of subsection (c) of this Code section or that ~~assistance eligible~~ assistance-eligible individuals are entitled to any continuation benefit period beyond what is provided by Section 3001 of Title III of the federal American Recovery and Reinvestment Act of 2009 or extensions to that Act which are enacted on and after May 5, 2009."

SECTION 34.

Said title is amended in Code Section 33-24-22, relating to provision in health insurance policies for coverage of newly born or adopted children, by revising subsection (e) as follows:

"(e) ~~The requirements of this Code section shall apply to all insurance policies and subscriber contracts delivered or issued for delivery in this state on or after July 1, 1998.~~ Reserved."

SECTION 35.

Said title is amended by revising Code Section 33-24-23, relating to provision in group policies of accident and sickness insurance for exclusion or reduction of benefits, as follows:

"33-24-23.

Notwithstanding any other provisions in this title to the contrary, no group policy of accident and sickness insurance offered for sale in this state shall be issued or renewed ~~after~~

~~April 17, 1975,~~ by any insurer transacting business in this state, or health care plan under Chapter 20 of this title, which by the terms of the group policy excludes or reduces the benefits payable or services to be rendered to or on behalf of any insured by reason of the fact that benefits have been paid or are also payable under any blanket school accident policy regardless of who makes the premium contribution or any individually underwritten and individually issued contract or plan of insurance which provides exclusively for accident and sickness benefits and for which 100 percent of the premiums have been paid by the insured or a member of the insured's family, irrespective of the mode or channel of premium payment to the insurer or any discount received on such premium by virtue of the insured's membership in any organization or status as an employee. Any policy provision in violation of this Code section shall be void and unenforceable. Nothing in this Code section shall affect the practice of coordinating benefits between group policies issued pursuant to Chapter 30 of this title."

SECTION 36.

Said title is further amended in Code Section 33-24-24, relating to provision in group or blanket accident and sickness policies of coverage for complications of pregnancy, by revising subsection (b) as follows:

"(b) Each group policy or group contract issued, delivered, issued for delivery, amended, or renewed in this state ~~after January 1, 1978,~~ which provides major medical coverage and which includes maternity benefits shall include complications of pregnancy within such major medical coverage for all persons who have been covered by the policy or contract for a period of nine months or for a period of at least 30 days immediately prior to the date conception occurs or pregnancy commences. The same coverage for complications of pregnancy shall be provided for all family members and dependents with major medical coverage under the group policy or group contract."

SECTION 37.

Said title is further amended by revising Code Section 33-24-25, relating to provisions in group or blanket policies excluding or reducing coverage of persons eligible for or receiving medical assistance, as follows:

"33-24-25.

No group or blanket accident and sickness policy shall contain any provision purporting to exclude or reduce coverage provided an otherwise insurable person solely for the reason that the person is eligible for or receiving medical assistance as defined in Article 7 of Chapter 4 of Title 49. Any such provision appearing in a group or blanket accident and sickness insurance policy ~~subsequent to July 1, 1978,~~ shall be null and void."

SECTION 38.

Said title is further amended in Code Section 33-24-26.1, relating to provisions required in group policies or contracts of disability income insurance covering preexisting conditions and restrictions on preexisting condition limitations or exclusions, by revising subsection (d) as follows:

"(d) ~~This Code section shall apply to group policies or contracts of disability income insurance issued, delivered, issued for delivery, or renewed in this state on or after July 1, 1995.~~ Reserved."

SECTION 39.

Such title is further amended in Code Section 33-24-27, relating to provision for reimbursement for services within the lawful scope of practice of psychologists or chiropractors, by revising subsection (b) as follows:

"(b) Notwithstanding any provisions in policies or contracts which might be construed to the contrary, ~~from and after July 1, 1980,~~ all individual, group, or blanket policies of accident and sickness insurance and individual or group service ~~or indemnity~~ contracts ~~issued by nonprofit corporations or by health care corporations~~ which are issued, delivered, issued for delivery, amended, or renewed in this state and which provide coverage for services which are within the lawful scope of practice of a psychologist or chiropractor duly licensed to practice in this state shall be deemed to provide that any person covered under the policies or contracts shall be entitled to receive reimbursement for services under the policies or contracts regardless of whether they are rendered by a duly licensed doctor of medicine or by a duly licensed psychologist or chiropractor."

SECTION 40.

Said title is further amended by revising Code Section 33-24-27.1, relating to provision for reimbursement for services within the lawful scope of practice of optometrists, as follows:

"33-24-27.1.

~~(a)~~ Notwithstanding any provisions in such policies or contracts which might be construed to the contrary, ~~from and after July 1, 1981,~~ all individual and group or blanket policies of accident and sickness insurance and individual or group service ~~or indemnity~~ contracts ~~issued by nonprofit corporations, pursuant to Chapters 18 and 19 of this title,~~ or by health care corporations, pursuant to Chapter 20 of this title, which policies are issued, delivered, issued for delivery, amended, or renewed in this state and which provide coverage for services which are within the lawful scope of practice of an optometrist duly licensed to practice in this state, shall be deemed to provide that any person covered under such policies or contracts shall be entitled to receive reimbursement for such services under such

policies or contracts regardless of whether they are rendered by a duly licensed doctor of medicine or by a duly licensed optometrist.

~~(b) This Code section shall not be construed so as to impair the obligation of any policy or contract which is in existence prior to July 1, 1981.~~"

SECTION 41.

Said title is further amended by revising Code Section 33-24-27.2, relating to provision for reimbursement for services within the lawful scope of practice of athletic trainers, as follows:

"33-24-27.2.

~~(a)~~ Notwithstanding any provisions in policies or contracts which might be construed to the contrary, ~~from and after July 1, 1999,~~ all individual, group, or blanket policies of accident and sickness insurance and individual or group service ~~or indemnity~~ contracts ~~issued by nonprofit corporations~~ or by health care corporations which are issued, delivered, issued for delivery, amended, or renewed in this state and which provide coverage for services which are within the lawful scope of practice of an athletic trainer qualified pursuant to Code Section 43-5-8 shall be deemed to provide that any person covered under such policies or contracts shall be entitled to receive reimbursement for services under such policies or contracts regardless of whether such services are rendered by a duly licensed doctor of medicine or by an athletic trainer qualified pursuant to Code Section 43-5-8. Nothing contained in this subsection shall require an insurer to offer such coverage.

~~(b) This Code section shall not be construed so as to impair the obligation of any policy or contract which is in existence prior to July 1, 1999.~~"

SECTION 42.

Said title is further amended in Code Section 33-24-28, relating to termination of coverage of dependent child upon attainment of specified age, by revising subsections (a) and (b) as follows:

"(a) An individual hospital or medical expense insurance policy or hospital ~~or medical service plan~~ contract which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both incapable of self-sustaining employment by reason of developmental disability or physical disability as determined by the Department of Behavioral Health and Developmental Disabilities and chiefly dependent upon the policyholder or subscriber for support and maintenance, provided proof of incapacity and dependency is furnished to the insurer~~,~~ or hospital~~, or medical service plan corporation~~ by the policyholder or subscriber within 31 days of the

child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(b) A group hospital or medical expense insurance policy or hospital ~~or medical service plan~~ contract which provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both incapable of self-sustaining employment by reason of developmental disability or physical disability as determined by the Department of Behavioral Health and Developmental Disabilities and chiefly dependent upon the employee or member for support and maintenance, provided proof of incapacity and dependency is furnished to the insurer or hospital ~~or medical service plan corporation~~ by the employee or member within 31 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two-year period following the child's attainment of the limiting age.″

SECTION 43.

Said title is further amended in Code Section 33-24-28.1, relating to coverage of treatment of mental disorders, by revising subsections (b) and (d) as follows:

″(b) Every insurer authorized to issue accident and sickness insurance benefit plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1984,~~ coverage for the treatment of mental disorders, which coverage shall be at least as extensive and provide at least the same degree of coverage as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall also cover the spouse and the dependents of the insured if ~~the~~ such insured's spouse and dependents are covered under such benefit plan, policy, or contract. In no event shall such an insurer be required to cover inpatient treatment for more than a maximum of 30 days per policy year or outpatient treatment for more than a maximum of 48 visits per policy year under individual policies.″

″(d) Nothing in this Code section shall be construed to prohibit an insurer, ~~nonprofit corporation,~~ health care plan, health maintenance organization, or other person issuing any similar accident and sickness insurance benefit plan, policy, or contract from issuing or continuing to issue an accident and sickness insurance benefit plan, policy, or contract

which provides benefits greater than the minimum benefits required to be made available under this Code section or from issuing any such plans, policies, or contracts which provide benefits which are generally more favorable to the insured than those required to be made available under this Code section."

SECTION 44.

Said title is further amended in Code Section 33-24-29, relating to coverage for treatment of mental disorders under accident and sickness insurance benefit plans providing major medical benefits covering small groups and federal law, by revising subsection (c) as follows:

"(c) Every insurer authorized to issue accident and sickness insurance benefit plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1998,~~ coverage for the treatment of mental disorders, which coverage shall be at least as extensive and provide at least the same degree of coverage and the same annual and lifetime dollar limits, but which may provide for different limits on the number of inpatient treatment days and outpatient treatment visits, as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall also cover the spouse and the dependents of the insured if the insured's spouse and dependents are covered under such benefit plan, policy, or contract."

SECTION 45.

Said title is further amended in Code Section 33-24-29.1, relating to coverage for mental disorders under accident and sickness insurance benefit plans providing major medical benefits covering all groups except small groups, by revising subsection (c) as follows:

"(c) Every insurer authorized to issue accident and sickness insurance benefit plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1998,~~ coverage for the treatment of mental disorders, which coverage shall be at least as extensive and provide at least the same degree of coverage and the same annual and lifetime dollar limits as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall

also cover the spouse and the dependents of the insured if the insured's spouse and dependents are covered under such benefit plan, policy, or contract."

SECTION 46.

Said title is further amended by revising Code Section 33-24-31, relating to provision in group disability income policies for offsetting of increased social security benefits, as follows:

"33-24-31.

~~(a)~~ No group disability income policy which integrates benefits shall provide that the amount of any disability benefit actually being paid to the disabled person shall be reduced by changes in the level of social security benefits resulting either from changes in the federal Social Security Act or due to cost-of-living adjustments provided in the federal Social Security Act, which become effective after the first day for which disability benefits become payable.

~~(b) This Code section shall apply to all group disability income policies delivered or issued for delivery in this state on or after July 1, 1979.~~"

SECTION 47.

Said title is further amended by revising Code Section 33-24-34, relating to group insurance for government employees – authorization generally and deduction of premiums from wages or salaries, as follows:

"33-24-34.

Each and every county, county board of ~~public instruction~~ education, city, town, governmental unit, department, board, or bureau of this state or of the cities and towns of this state is authorized to make deductions periodically from the wages or salaries of its employees with which to pay the premium for life, accident and sickness, hospitalization, or annuity insurance, or any other kind of insurance, for the benefit of such employees upon a group insurance plan and to that end to enter into agreements with insurance companies whereby the kind of group insurance desired by the employees may be furnished to them and the premiums for the group insurance remitted periodically by the counties, boards, cities, towns, ~~bureaus, or~~ units, departments, or bureaus."

SECTION 48.

Said title is further amended by revising Code Section 33-24-37, relating to group insurance for government employees – effect upon local and special laws, as follows:

"33-24-37.

~~Nothing in Code Sections 33-24-34 and 33-24-35 is intended to restrict or repeal the operation of any special or local law enacted prior to January 1, 1961, authorizing the participation in group insurance by employees of the state or counties, cities, or towns of the state~~ Reserved."

SECTION 49.

Said title is further amended in Code Section 33-24-41.1, relating to motor vehicle accident claim covered by two or more insurance carriers and limited release, by revising subsection (c) as follows:

"(c) No policy of uninsured or underinsured motorist coverage issued in this state ~~after July 1, 1994~~, shall prohibit any claimant from settling any claim with a liability carrier as provided in subsection (a) of this Code section or require the permission of the uninsured or underinsured motorist carrier to so settle any claim with the liability carrier."

SECTION 50.

Said title is further amended in Code Section 33-24-41.2, relating to written notice by insurer to claimant of payment of claim in third-party settlement, by revising subsection (b) as follows:

"(b) Nothing in subsection (a) of this Code section shall:

(1) Create, ~~create,~~ or be construed to create, a cause of action for any person or entity, other than the Commissioner ~~of Insurance~~, against the insurer or its representative based upon a failure to serve such notice or the defective service of such notice~~.~~;

(2) Establish, ~~Nothing in subsection (a) of this Code section shall establish,~~ or be construed to establish, a defense for any party to any cause of action based upon a failure by the insurer or its representative to serve such notice or the defective service of such notice~~,~~; or

(3) Invalidate ~~Nothing in subsection (a) of this Code section shall invalidate~~ or in any way affect the settlement for which the payment was made by the insurer."

SECTION 51.

Said title is further amended in Code Section 33-24-44.1, relating to procedure for cancellation by insured and notice, by revising subsection (a) as follows:

"(a) An insured may request cancellation of an existing insurance policy by returning the original policy to the insurer or by making a request for cancellation of an insurance policy to the insurer or its duly authorized agent orally, electronically, or in writing stating a future date on which the policy is to be canceled. In the event of oral cancellation the insurer,

shall~~,~~ within ~~10~~ ten days provide such insured~~,~~ electronically or in writing, confirmation of such requested cancellation. The insurer or its duly authorized agent may require that the insured provide written, electronic, or other recorded verification of the request for cancellation prior to such cancellation taking effect. Such cancellation shall be accomplished in the following manner:

(1) If only the interest of the insured is affected, the policy shall be canceled on the later of the date the returned policy or request is received by the insurer or its duly authorized agent or the date specified in the request; provided, however, that upon receipt of a request for cancellation from an insured, an insurer may waive the future date requirement by confirming the date and time of cancellation to the insured and the insurer shall document in its policy file the request for cancellation along with the date of the requested cancellation;

(2) If by statute, regulation, or contract the insurance policy may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party, the insurer shall mail or deliver such notice stating the date cancellation shall become effective, but such date shall not be less than ten days from the date of mailing or delivery of the notice.″

SECTION 52.

Said title is further amended in Code Section 33-24-47.1, relating to notice prior to cancellation or nonrenewal of individual or group accident and sickness policy, by revising subsections (a) and (b) as follows:

″(a) This Code section shall apply only to policies, contracts, or certificates of insurance insuring against loss resulting from sickness or from bodily injury or death by accident, or both, or any contract to furnish ambulance service in the future governed by the provisions of Chapters 15, ~~18, 19,~~ 20, 21, 30, and 42 of this title.

(b) No insurer shall refuse to renew a policy to which this Code section applies unless a written notice of nonrenewal is mailed or delivered in person to the group policyholder. Such notice stating the time when nonrenewal will be effective, which shall not be less than 60 days from the date of mailing or delivery of such notice of nonrenewal or such longer period as may be provided in the contract or by statute, shall be delivered as provided in subsection (d) of Code Section 33-24-14 in person or by depositing the notice in the United States mail to be dispatched by at least first-class mail to the last address of record of the group policyholder and receiving the receipt provided by the United States Postal Service or such other evidence of mailing as prescribed or accepted by the United States Postal Service.″

SECTION 53.

Said title is further amended in Code Section 33-24-56, relating to prohibition against requiring referral from primary care physician to dermatologist, by revising subsection (c) as follows:

"(c) No health benefit policy which is issued, delivered, issued for delivery, or renewed in this state ~~on or after July 1, 1995,~~ shall require as a condition to the coverage of dermatological services that an enrollee, subscriber, or insured first obtain a referral from a primary care physician, as such term is defined by the group plan, policy, or contract for health care services."

SECTION 54.

Said title is further amended in Code Section 33-24-56.2, relating to surveillance tests for ovarian cancer, by revising subsections (a) and (b) as follows:

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

(1) 'At risk for ovarian cancer' means:

(A) Having a family history:

(i) With one or more first or second-degree relatives with ovarian cancer;

(ii) Of clusters of women relatives with breast cancer;

(iii) Of nonpolyposis colorectal cancer; or

(B) Testing positive for BRCA1 or BRCA2 mutations.

(2) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the ~~State of Georgia~~ state on behalf of state employees under Article 1 of Chapter 18 of Title 45, by an insurer.

(3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

(4) 'Surveillance tests' means annual screening using:

(A) CA-125 serum tumor marker testing;

(B) Transvaginal ultrasound; and

(C) Pelvic examination.

(b) Every health benefit policy that is delivered, issued, issued for delivery, executed, or renewed in this state or approved for issuance or renewal in this state by the Commissioner ~~on or after July 1, 2001,~~ shall provide coverage for surveillance tests for women age 35 and over at risk for ovarian cancer."

SECTION 55.

Said title is further amended in Code Section 33-24-56.3, relating to colorectal cancer screening and testing, by revising subsections (a) and (b) as follows:

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

(1) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed by an insurer in this state ~~on or after July 1, 2002,~~ including, but not limited to, those contracts executed by the Department of Community Health pursuant to paragraph (1) of subsection (d) of Code Section 31-2-4. The term 'health benefit policy' does not include the following limited benefit insurance policies: accident only, CHAMPUS supplement, dental, disability income, fixed indemnity, long-term care, medicare supplement, specified disease, vision, and nonrenewable individual policies written for a period of less than six months.

(2) 'Insurer' means any person, corporation, or other entity authorized to provide health benefit policies under this title.

(b) Every health benefit policy shall provide coverage for colorectal cancer screening, examinations, and laboratory tests in accordance with ~~the most recently published~~ guidelines and recommendations established by the American Cancer Society, in consultation with the American College of Gastroenterology and the American College of Radiology, for the ages, family histories, and frequencies referenced in such guidelines and recommendations and deemed appropriate by the attending physician after conferring with the patient."

SECTION 56.

Said title is further amended in Code Section 33-24-56.4, relating to payment for telemedicine services, by revising subsections (b) and (d) as follows:

"(b) As used in this Code section, the term:

(1) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the ~~State of Georgia~~ state on behalf of state employees under Article 1 of Chapter 18 of Title 45, by an insurer.

(2) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

(3) 'Telemedicine' means the practice, by a duly licensed physician or other health care provider acting within the scope of such provider's practice, of health care delivery, diagnosis, consultation, treatment, or transfer of medical data by means of audio, video, or data communications which are used during a medical visit with a patient or which are used to transfer medical data obtained during a medical visit with a patient. Standard telephone, facsimile transmissions, unsecured e-mail, or a combination thereof do not constitute telemedicine services."

"(d) ~~On and after July 1, 2005, every~~ Every health benefit policy that is issued, amended, or renewed shall include payment for services that are covered under such health benefit policy and are appropriately provided through telemedicine in accordance with Code Section 43-34-31 and generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this Code section may be subject to all terms and conditions of the applicable health benefit plan."

SECTION 57.

Said title is further amended in Code Section 33-24-56.5, relating to health benefit policy to provide coverage for orally administered chemotherapy for the treatment of cancer and definitions, by revising paragraph (2) of subsection (a) and paragraphs (1) and (5) of subsection (c) as follows:

"(2) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed by an insurer in this state ~~on or after January 1, 2015~~. The term 'health benefit policy' does not include the following limited benefit insurance policies: accident only, CHAMPUS supplement, dental, disability income, fixed indemnity, long-term care, Medicaid, medicare supplement, specified disease, vision, self-insured plans, and nonrenewable individual policies written for a period of less than six months."

"(1) Vary the terms of any health benefit policy ~~in effect on December 30, 2014~~, to avoid compliance with this Code section;"

"(5) Change the classification of any intravenously administered or injected chemotherapy treatment or increase the amount of cost sharing applicable to any intravenously administered or injected chemotherapy ~~in effect on January 1, 2015~~, in order to achieve compliance with this Code section."

SECTION 58.

Said title is further amended in Code Section 33-24-57, relating to health insurance, provision that coverage cannot be terminated due to individual claims experience required, by revising subsections (b), (c), and (d) as follows:

"(b) Notwithstanding any provisions of this title which might be construed to the contrary, ~~on and after April 1, 1996,~~ all individual basic hospital or medical expense, major medical, or comprehensive medical expense insurance policies issued, delivered, issued for delivery, or renewed in this state shall provide that once an individual has been accepted for coverage, his or her coverage cannot be terminated by the insurer due solely to his or her individual claims experience.

(c) The Commissioner shall promulgate appropriate procedures and guidelines by rules and regulations to implement the provisions of this Code section ~~on or before November 1, 1995,~~ after notification and review of such regulation by the appropriate standing committees of the House of Representatives and Senate in accordance with the requirements of applicable law. Nothing in this Code section shall be construed to prohibit the Commissioner and any insurers with a desire to do so from mutually agreeing on procedures, rules, regulations, and guidelines and from implementing the provisions of this Code section on a voluntary basis before April 1, 1996.

~~(d) Beginning April 1, 1999, the Commissioner shall conduct a review of the costs associated with the coverage required by this Code section and shall provide the members of the General Assembly with such information no later than December 31, 1999.~~"

SECTION 59.

Said title is further amended in Code Section 33-24-57.1, relating to health insurance identification card, issue required, contents, updating, and social security numbers not to be displayed, by revising subsections (a) and (f) as follows:

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

(1) 'Health policy' means any health care plan, dental plan, subscriber contract, or other policy plan or contract by whatever name called, including without limitation any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45; other than a disability income policy, a long-term care insurance policy, a medicare supplement policy, a health insurance policy written as a part of workers' compensation equivalent coverage, a specified disease policy, a credit insurance policy, a hospital indemnity policy, a limited accident policy, or other type of limited accident and sickness policy.

(2) 'Insurer' means a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health

maintenance corporation, provider sponsored health care corporation, any similar entity authorized to issue contracts under this title, or the plan administrator of any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45."

"(f) Insurance identification cards issued by any insurer under this Code section ~~on and after July 1, 2004,~~ shall not use or display the insured's social security number for any purpose or in any manner on such card."

SECTION 60.

Said title is further amended in Code Section 33-24-58.2, relating to Newborn Baby and Mother Protection Act – minimum health benefit policy coverage, prohibited actions by insurance providers, and required notice to mother, by revising subsections (a), (b), and (f) as follows:

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

(1) 'Attending provider' means:

(A) Pediatricians and other physicians attending the newborn; and

(B) Obstetricians, other physicians, and certified nurse midwives attending the mother.

(2) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state, including those contracts executed by the ~~State of Georgia~~ state on behalf of indigents and on behalf of state employees under Article 1 of Chapter 18 of Title 45, by a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ or other insurer or similar entity.

(3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, or any similar entity authorized to issue contracts under this title and also means any state program funded under Title XIX of the federal Social Security Act, 42 U.S.C.A. Section 1396, et seq., and any other publicly funded state health care program.

(b) Every health benefit policy that provides maternity benefits that is delivered, issued, executed, or renewed in this state or approved for issuance or renewal in this state by the Commissioner ~~on or after July 1, 1996,~~ shall provide coverage for a minimum of 48 hours of inpatient care following a normal vaginal delivery and a minimum of 96 hours of inpatient care following a cesarean section for a mother and her newly born child in a licensed health care facility."

"(f) Every insurer shall provide notice to policyholders regarding the coverage required by this Code section. The notice shall be in writing and prominently positioned in any of the following literature:

(1) The next mailing to the policyholder;

(2) The yearly informational packets sent to the policyholder; or

(3) Other literature ~~mailed before January 1, 1997~~."

SECTION 61.

Said title is further amended in Code Section 33-24-59, relating to women's access to health care, health insurance, provision disclosing insured's right to direct access to obstetricians and gynecologists required, by revising subsections (c) and (d) as follows:

"(c) No health benefit policy which is issued, delivered, issued for delivery, or renewed in this state ~~on or after July 1, 1996,~~ shall require as a condition to the coverage of services of an obstetrician or gynecologist who is within the health benefit policy network of health care providers that an enrollee, subscriber, or insured first obtain a referral from another physician; provided, however, that the services covered by this subsection shall be limited to those services defined by the published recommendations of the Accreditation Council ~~For~~ for Graduate Medical Education for training as an obstetrician or gynecologist, including, but not limited to, diagnosis, treatment, and referral.

(d) Each health benefit policy which is issued, delivered, issued for delivery, or renewed in this state ~~on or after July 1, 1996,~~ shall disclose to enrollees, subscribers, or insureds, in clear, accurate language, such person's right to direct access to obstetricians and gynecologists as provided in this Code section. Such information shall be disclosed to each such person at the time of enrollment or otherwise first becoming an enrollee, subscriber, or insured, and at least annually thereafter."

SECTION 62.

Said title is further amended in Code Section 33-24-59.1, relating to coverage for treatment of dependent children of cancer, by revising subsections (b) and (d) as follows:

"(b) ~~On and after July 1, 1998, any~~ Any state health plan or any accident and sickness insurance benefit plan, policy, or contract, by whatever name called, that provides major medical coverage for dependent children and which is issued, delivered, issued for delivery, or renewed in this state ~~on or after July 1, 1998,~~ shall provide coverage for routine patient care costs incurred in connection with the provision of goods, services, and benefits to such dependent children in connection with approved clinical trial programs for the treatment of children's cancer with respect to those dependent children who:

(1) Are covered dependents under a state health plan or under the major medical coverage of an accident and sickness insurance plan, policy, or contract;

(2) Have been diagnosed with cancer prior to their nineteenth birthday;

(3) Are enrolled in an approved clinical trial program for treatment of children's cancer; and

(4) Are not otherwise eligible for benefits, payments, or reimbursements from any other third party payors or other similar sources."

"(d) Except as provided in subsections (b) and (c) of this Code section, nothing in this Code section shall be construed to:

(1) Prohibit a state health plan or an insurer, ~~nonprofit corporation,~~ health care plan, health maintenance organization, fraternal benefit society, or other person from issuing or continuing to issue an accident and sickness insurance benefit plan, policy, or contract which has benefits that are greater than the minimum benefits required by this Code section or from issuing or continuing to issue any accident and sickness insurance plan, policy, or contract which provides benefits which are generally more favorable to the insured than those required by this Code section; or

(2) Change the contractual relations between any insurer, nonprofit corporation, health care plan, health maintenance organization, fraternal benefit society, or other similar person and their insureds or covered dependents by whatever name called."

SECTION 63.

Said title is further amended in Code Section 33-24-59.2, relating to coverage for equipment and self-management training for individuals with diabetes and enforcement, by revising subsections (a) and (b) as follows:

"(a) ~~On or after July 1, 2002, every~~ Every individual major medical and group health insurance policy, group health insurance plan or policy, and any other form of managed or capitated care plans or policies shall provide coverage for medically necessary equipment, supplies, pharmacologic agents, and outpatient self-management training and education, including medical nutrition therapy, for individuals with insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and noninsulin-using diabetes who adhere to the prognosis and treatment regimen prescribed by a physician licensed to practice medicine pursuant to Title 43.

(b)(1) Diabetes outpatient self-management training and education as provided for in subsection (a) of this Code section shall be provided by a certified, registered, or licensed health care professional with expertise in diabetes.

(2) The ~~office of the~~ Commissioner ~~of Insurance~~ shall promulgate rules and regulations after consultation with the Department of Public Health which conform to the ~~current~~

standards for diabetes outpatient self-management training and educational services established by the American Diabetes Association for purposes of this Code section.

(3) The ~~office of the~~ Commissioner ~~of Insurance~~ shall promulgate rules and regulations, relating to standards of diabetes care, ~~to become effective July 1, 2002,~~ after consultation with the Department ~~of Human Resources (now known as the Department of Public Health for these purposes)~~ of Public Health, the American Diabetes Association, and the National Institutes of Health. Such rules and regulations shall be adopted in accordance with the provisions of Code Section 33-2-9.″

SECTION 64.

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

″33-24-59.25.

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

(1) 'Preventive services' means screening tests, counseling, and preventive medicines, or treatments provided or conducted to prevent medical illness or condition prior to symptoms or physical manifestations of such medical illness or condition.

(2) 'Short-term health benefit policy or certificate' means any individual or group plan, policy, or contract for health care services for a coverage period of less than one year issued, delivered, issued for delivery, or renewed in this state which provides major medical benefits by a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, or any similar entity and any self-insured plan not subject to the exclusive jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1101, et seq.

(b) No short-term health benefit policy or certificate shall contain a provision defining 'preexisting condition' which is more restrictive than the following:

(1) Preexisting condition means the existence of symptoms which would cause an ordinary prudent person to seek diagnosis, care, or treatment; or

(2) A condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person. The condition at issue must be the ultimate condition for which medical advice or treatment was recommended by or received from a provider of health care services and excludes any preventive services.″

SECTION 65.

Said title is further amended in Code Section 33-24-59.3, relating to payments sent directly to health care provider by insurer, by revising subsection (a) as follows:

"(a) As used in this Code section, the term 'health care insurer' means any insurer which issues, delivers, issues for delivery, or renews an individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state by a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ or other insurer or similar entity. It shall not, however, include a policy of insurance designed, advertised, and marketed to supplement basic health care coverage for hospital, medical-surgical, or major medical expenses so long as said supplemental insurance contract provides for payment directly to the insured."

SECTION 66.

Said title is further amended in Code Section 33-24-59.4, relating to confidentiality of medical information obtained from pharmacies, restrictions on release of information, and penalty for violation, by revising subsection (a) as follows:

"(a) As used in this Code section, the term 'insurer' means an accident and sickness insurer, fraternal benefit society, health care corporation, health maintenance organization, provider sponsored health care corporation, or the plan administrator of any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45~~;~~ and ~~such term~~ includes any entity which ~~administrates~~ administers or processes claims on behalf of any of the foregoing."

SECTION 67.

Said title is further amended in Code Section 33-24-59.5, relating to definitions, timely payment of health benefits, notification of failure to pay, penalties, and applicability, by revising paragraph (2) of subsection (b) as follows:

"(2) Receipt of any proof, claim, or documentation by an entity which ~~administrates~~ administers or processes claims on behalf of an insurer shall be deemed receipt of the same by the insurer for purposes of this Code section."

SECTION 68.

Said title is further amended in Code Section 33-24-59.6, relating to prescribed female contraceptive drugs or devices and insurance coverage, by revising subsections (b) and (c) as follows:

"(b) As used in this Code section, the term:

(1) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state, including those contracts executed by the ~~State of Georgia~~ state on behalf of state

employees under Article 1 of Chapter 18 of Title 45, by a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ provider sponsored health care corporation, or other insurer or similar entity.

(2) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, or any similar entity authorized to issue contracts under this title.

(c) Every health benefit policy that is delivered, issued, executed, or renewed in this state or approved for issuance or renewal in this state by the Commissioner ~~on or after July 1, 1999,~~ which provides coverage for prescription drugs on an outpatient basis shall provide coverage for any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive. This Code section shall not apply to limited benefit policies described in paragraph (4) of subsection (e) of Code Section 33-30-12. Likewise, nothing contained in this Code section shall be construed to require any insurance company to provide coverage for abortion.″

SECTION 69.

Said title is further amended in Code Section 33-24-59.7, relating to coverage for the treatment of morbidly obese patients, short title, legislative findings, and adoptions of rules and regulations by the Commissioner, by revising subsection (c) as follows:

″(c)(1) As used in this Code section, the term:

(A) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state which provides major medical benefits, including those contracts executed by the ~~State of Georgia~~ state on behalf of indigents and on behalf of state employees under Article 1 of Chapter 18 of Title 45, by a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ or other insurer or similar entity.

(B) 'Health care providers' means those physicians and medical institutions that are specifically qualified to treat in a comprehensive manner the entire complex of illness and disease associated with morbid obesity.

(C) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, or any similar entity authorized to issue contracts under this title and also means any state program funded under Title XIX of the federal Social

Security Act, 42 U.S.C.A. Section 1396 et seq., and any other publicly funded state health care program.

(D) 'Morbid obesity' means a weight which is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables. Morbid obesity also means a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes or a BMI of 40 kilograms per meter squared without such comorbidity. BMI equals weight in kilograms divided by height in meters squared.

(2) Every health benefit policy that is delivered, issued, executed, or renewed in this state or approved for issuance or renewal in this state by the Commissioner ~~on or after July 1, 1999,~~ which provides major medical benefits may offer coverage for the treatment of morbid obesity.″

SECTION 70.

Said title is further amended by revising Code Section 33-24-59.8, relating to coverage for prescription inhalers and no restriction on the number of days before obtaining a refill as prescribed, as follows:

″33-24-59.8.

No individual major medical or group health insurance policy, group health insurance plan or policy, or any other form of managed or capitated health care plans or policies issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1999,~~ containing coverage for prescription drugs and pharmaceuticals shall deny or limit coverage for prescription inhalants required to enable persons to breathe when suffering from asthma or other life-threatening bronchial ailments based upon any restriction on the number of days before an inhaler refill may be obtained if, contrary to such restrictions, such inhalants have been ordered or prescribed by the treating physician.″

SECTION 71.

Said title is further amended in Code Section 33-24-59.9, relating to registered nurse first assistants, by revising subsections (c) and (d) as follows:

″(c) As used in this Code section, the term:

(1) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state, including, but not limited to, those policies, plans, or contracts executed by the ~~State of Georgia~~ state on behalf of state employees under Article 1 of Chapter 18 of Title 45, by a health care corporation, health maintenance organization, preferred provider

organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ workers' compensation insurance carrier in accordance with Chapter 9 of Title 34, or other insurer or similar entity.

(2) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation,~~ workers' compensation insurance carrier, ~~medical service corporation,~~ health care corporation, health maintenance organization, managed care plan other than a dental plan, or any similar entity authorized to issue contracts under this title, but shall exclude any state program funded under Title XIX of the federal Social Security Act, 42 U.S.C.A. Section 1396, et seq., and any other publicly funded state health care program.

(3) 'Perioperative nursing' means a practice of registered professional nursing in which the registered nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients.

(4) 'Recognized educational curriculum program' means a program that:

(A) Addresses all content of the Association of periOperative Registered Nurses, Inc., Core Curriculum for the Registered Nurse First Assistant and the Certification Board of Perioperative Nurses; and

(B) Includes indicated didactic and clinical internship as required by the curriculum.

(5) 'Registered nurse first assistant' means a person who:

(A)(i) Is licensed as a registered professional nurse in ~~the State of Georgia~~ this state;

(ii) Is certified in perioperative nursing; and

(iii) Has successfully completed a registered nurse first assistant education program that meets the Association of periOperative Registered Nurses, Inc.'s education standard for the registered nurse first assistant; or

(B) Was holding the title of and practicing as a registered nurse first assistant as of January 1, 1993.

(d) Notwithstanding any provisions in policies or contracts which might be construed to the contrary, whenever any health benefit policy which is issued, executed, or renewed in this state ~~on or after July 1, 2001~~, provides that any of its benefits are payable to a surgical first assistant for services rendered, the insurer shall be required to directly reimburse any registered nurse first assistant who has rendered such services at the request of a physician and within the scope of a registered nurse first assistant's professional license. This Code section shall not apply to a registered nurse first assistant who is employed by the requesting physician or renders such services in the capacity as an employee of the hospital where services are rendered.″

SECTION 72.

Said title is further amended in Code Section 33-24-59.10, relating to coverage for autism, by revising subsection (f) as follows:

"(f) Beginning January 1, 2016, to the extent that this Code section requires benefits that exceed the essential health benefits required under Section 1302(b) of the federal Patient Protection and Affordable Care Act, ~~P. L.~~ P.L. 111-148, the specific benefits that exceed the required essential health benefits shall not be required of a 'qualified health plan' as defined in such ~~act~~ Act when the qualified health plan is offered in this state through the exchange. Nothing in this subsection shall nullify the application of this Code section to plans offered outside the state's exchange."

SECTION 73.

Said title is further amended in Code Section 33-24-59.11, relating to insurance coverage for prescription drugs used in manner different than use authorized by FDA, by revising paragraph (2) of subsection (a) as follows:

"(2) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state ~~on or after July 1, 2003~~, including, but not limited to, those contracts executed by the ~~State of Georgia~~ state on behalf of state employees under Article 1 of Chapter 18 of Title 45, by an insurer; provided, however, that 'health benefit policy' shall not include the limited benefit policies as defined in paragraph (4) of subsection (e) of Code Section 33-30-12."

SECTION 74.

Said title is further amended in Code Section 33-24-59.14, relating to definitions, prompt pay requirements, and penalties, by revising paragraph (6) of subsection (a) as follows:

"(6) 'Insurer' means an accident and sickness insurer, fraternal benefit society, health care corporation, health maintenance organization, provider sponsored health care corporation, or any similar entity, which ~~entity~~ provides for the financing or delivery of health care services through a health benefit plan, the plan administrator of any health plan, or the plan administrator of any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45."

SECTION 75.

Said title is further amended in Code Section 33-24-59.16, relating to equal access to child's health insurance information and exceptions, by revising paragraph (2) of subsection (a) as follows:

″(2) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.″

SECTION 76.

Said title is further amended in Code Section 33-24-59.17, relating to coverage of certain abortions through certain qualified health plans prohibited and definitions, by revising subsection (e) as follows:

″(e) It is not the intention of this Code section to make lawful an abortion that is ~~currently~~ unlawful.″

SECTION 77.

Said title is further amended in Code Section 33-24-59.23, relating to carrier issuing health benefit plans to pay insurance agent's commissions and regulation, by revising paragraph (3) of subsection (a) as follows:

″(3) 'Health benefit plan' ~~shall have the same meaning as in Code Section 33-30A-1~~ means any hospital or medical insurance policy or certificate, health care plan contract or certificate, qualified higher deductible health plan, or health maintenance organization subscriber contract. Health benefit plan does not include policies issued in accordance with Chapter 31 of this title; disability income policies; policies issued in accordance with Code Section 34-9-14 or 34-9-122.1; limited accident and sickness insurance policies such as credit, dental, vision, medicare supplement, long-term care, hospital indemnity, or specified disease insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical payment insurance.″

SECTION 78.

Said title is further amended in Code Section 33-24-72, relating to mastectomy, lymph node dissection, coverage for inpatient care and follow-up visits required by health insurers, and notice to policyholders, by revising paragraphs (2) and (3) of subsection (a) and subsections (b) and (c) as follows:

″(2) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state, including, but not limited to, those contracts executed by the ~~State of Georgia~~ state on behalf of indigents and on behalf of state employees under Article 1 of Chapter 18 of Title 45, by a health care corporation, health maintenance organization, preferred

provider organization, accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ or other insurer or similar entity; except that such term does not include any policy of limited benefit insurance as defined in paragraph (4) of subsection (e) of Code Section 33-30-12.

(3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, ~~hospital service corporation, medical service corporation,~~ health care corporation, health maintenance organization, managed care plan other than a dental plan, or any similar entity authorized to issue contracts under this title and also means any state program funded under Title XIX of the federal Social Security Act, 42 U.S.C.A. Section 1396 et seq., and any other publicly funded state health care program."

"(b) Every health benefit policy that provides surgical benefits for mastectomies that is delivered, issued, executed, or renewed in this state or approved for issuance or renewal in this state by the Commissioner ~~on or after July 1, 1999,~~ shall provide coverage in a licensed health care facility for inpatient care following a mastectomy or lymph node dissection until the completion of the appropriate period of stay for such inpatient care as determined by the attending physician in consultation with the patient. Coverage shall also be provided ~~also~~ for such number of follow-up visits as determined to be appropriate by the attending physician after consultation with the patient. Such follow-up visits shall be conducted by a physician, a physician assistant, or a registered professional nurse with experience and training in postsurgical care. In consultation with the patient, such attending physician, physician assistant, or registered professional nurse shall determine whether any follow-up visit or visits will be conducted at home or at the office.

(c) Every insurer shall provide notice to policyholders regarding the coverage required by this Code section. The notice shall be in writing and prominently positioned in any of the following literature:

(1) ~~The next~~ A mailing to the policyholder;

(2) The yearly informational packets sent to the policyholder; or

(3) Other mailed literature ~~mailed before January 1, 2000~~."

SECTION 79.

Said title is further amended in Code Section 33-24-91, relating to use of credit information to underwrite or rate risks, by revising paragraph (7) as follows:

"(7) Use credit information unless not later than every 36 months following the last time that the insurer obtained ~~current~~ credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report. Regardless of the requirements of this paragraph:

(A) At annual renewal, upon the request of a consumer, the insurer shall reunderwrite and rerate the policy based upon a ~~current~~ credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a 12 month period. Prior to a consumer exercising his or her option for the insurer to reunderwrite or rerate the policy, the insurer shall notify the consumer orally or in writing that the reunderwriting or rerating of the policy may result in a higher rate, a lower rate, or other possible consequences, including nonrenewal or termination of the policy, or could produce no change for the consumer;

(B) The insurer shall have the discretion to obtain ~~current~~ credit information upon any renewal before the 36 months, if consistent with its underwriting guidelines; and

(C) No insurer need obtain ~~current~~ credit information for an insured, despite the requirements of subparagraph (A) of this paragraph, if one of the following applies:

(i) The insurer is treating the consumer as otherwise approved by the Commissioner;

(ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers; however, the insurer shall have the discretion to order such report, if consistent with its underwriting guidelines;

(iii) Credit information was not used for underwriting or rating such insured when the policy was initially written; however, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal, if consistent with its underwriting guidelines; or

(iv) The insurer reevaluates the insured beginning no later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information; or″

SECTION 80.

Said title is further amended in Code Section 33-25-8, relating to right of person to whom policy or contract issued to return policy or contract and receive premium refund, effect of return, and proof of return, by revising subsection (a) as follows:

″(a) Every individual life insurance policy or contract issued for delivery in this state ~~on or after July 1, 1979~~, except those issued in connection with a credit transaction, shall have printed on or attached to the contract a notice stating in substance that the person to whom the policy or contract is issued shall be permitted to return the policy or contract within ten days after receipt thereof and to have the premium paid refunded if, after examination of the policy or contract, the purchaser is not satisfied with it for any reason.″

SECTION 81.

Said title is further amended in Code Section 33-27-5, relating to notification of right to convert group policy to individual life insurance policy, by revising subsection (a) as follows:

"(a) If any individual insured under a group insurance policy ~~hereafter~~ delivered in this state becomes entitled under the terms of the policy to have an individual policy of life insurance issued to him or her without evidence of insurability, subject to making of application therefor and payment of the first premium within the period specified in such policy and, if ~~the~~ such individual is not given notice of the existence of the right at least 15 days prior to the expiration date of the period, in such event the individual shall have an additional period within which to exercise the right~~;~~, but nothing contained in this Code section shall be construed to continue any insurance beyond the period provided in the policy. This additional period shall expire 15 days after ~~the~~ such individual is given notice, but in no event shall the additional period extend beyond 60 days after the expiration date of the period provided in the policy."

SECTION 82.

Said title is further amended by revising Code Section 33-27-6, relating to assignment of incidents of ownership in group life insurance policies, as follows:

"33-27-6.

Nothing in this title or in any other law shall be construed to prohibit any person insured under a group life insurance policy from making an assignment of all or any part of his or her incidents of ownership under the policy, including, but not limited to, the privilege to have issued to him or her an individual policy of life insurance pursuant and subject to paragraphs (8) and (9) of subsection (a) of Code Section 33-27-3 and Code Section 33-27-5 and the right to name a beneficiary. Subject to the terms of the policy or agreement between the insured, the group policyholder and the insurer relating to assignment of incidents of ownership under the policy, an assignment made by an insured ~~made either before or after July 1, 1969,~~ is valid for the purpose of vesting in the assignee, in accordance with any provisions included in the policy as to the time at which it is to be effective, all of the incidents of ownership so assigned without prejudice to the insurer on account of any payment it may make or individual policy it may issue in accordance with paragraphs (8) and (9) of subsection (a) of Code Section 33-27-3 prior to receipt of notice of the assignment."

SECTION 83.

Said title is further amended by revising Code Section 33-27-9, relating to notices of premium increases to be mailed or delivered to group policyholder, as follows:

″33-27-9.

Notice of the maximum amount of a group life insurance premium increase shall be mailed or delivered to the group policyholder and to each employer group or subgroup insured under the group policy not less than 60 days prior to the effective date of the premium increase.″

SECTION 84.

Said title is further amended in Code Section 33-28-3, relating to standard nonforfeiture provisions for individual deferred annuities, by revising subsections (c), (f), and (g) as follows:

″(c) ~~In the case of contracts issued on or after July 1, 2000, no~~ No contract of annuity, except as stated in subsection (b) of this Code section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the contract holder upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company ~~will~~ shall grant a paid-up annuity benefit on a plan stipulated in ~~the~~ such contract of such value as is specified in subsections (e) through (h) and (j) of this Code section;

(2) If a contract provides for a lump sum settlement at maturity or at any other time, that upon surrender of ~~the~~ such contract at or prior to the commencement of any annuity payments, the company ~~will~~ shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e) through (h) and (j) of this Code section and that interest shall be payable on such amount in the same manner, at the same rate, and subject to the same conditions as provided by Code Section 33-25-10 for payment of interest on proceeds or payments under an individual policy of life insurance. Subject to the provisions of this paragraph, the company shall reserve the right to defer the payment of the cash surrender benefit for a period of six months after demand for the benefit with surrender of the contract. The provisions of this paragraph requiring the payment of interest shall not apply to variable contracts which provide for annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the company as to such contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract together with sufficient information to determine the amounts of the benefits;

(4) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any

statute of the state in which ~~the~~ such contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to ~~the~~ such contract, any indebtedness to the company on ~~the~~ such contract, or any prior withdrawals from or partial surrenders of ~~the~~ such contract; and

(5) Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in ~~the~~ such contract arising from considerations paid prior to such period would be less than $20.00 monthly, the company may at its option terminate ~~the~~ such contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by the payment shall be relieved of any further obligation under ~~the~~ such contract."

"(f) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of ~~the~~ such contract, such present value being calculated on the basis of an interest rate not more than 1 percent higher than the interest rate specified in ~~the~~ such contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on ~~the~~ such contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to ~~the~~ such contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(g) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in ~~the~~ such contract for accumulating the net considerations to determine the maturity value and increased by any existing additional amounts credited by the company to ~~the~~ such contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, the present values shall be calculated

on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time."

SECTION 85.

Said title is further amended in Code Section 33-29-1, relating to "accident and sickness" policy defined and applicability of chapter, by revising subsection (b) as follows:

"(b) Nothing in this chapter shall apply to or affect:

(1) Any policy of workers' compensation insurance or any policy of workers' insurance or any policy of liability insurance with or without supplementary expense coverage on the policy;

(2) Any policy or contract of reinsurance;

(3) Any policy, the renewal of which is subject to continuation of employment with a specified employer, or any blanket or group policy of insurance, or any policy issued pursuant to the exercise of conversion privileges provided for in group insurance policies; or

(4) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance which provide additional benefits in case of death or dismemberment or loss of sight by accident, or which operate to safeguard such contracts against lapse or give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled as defined by the contract or supplemental contract~~;~~.

~~(5) Companies, organizations, or associations provided for in Chapters 18 and 19 of this title; or~~

~~(6) Any policy of accident, sickness, or hospitalization insurance issued prior to January 1, 1961.~~"

SECTION 86.

Said title is further amended in Code Section 33-29-2, relating to requirements as to policies generally, by revising paragraph (8) of subsection (a) and subsection (c) as follows:

"(8) It contains no provision purporting to exclude or reduce coverage provided an otherwise insurable person solely for the reason that the person is eligible for or receiving medical assistance, as defined in Code Section 49-4-141. Any such provision appearing in an individual accident and sickness insurance policy~~, subsequent to July 1, 1978,~~ shall be null and void; and"

"(c) ~~This Code section shall not be construed so as to impair the obligation of any contract in existence prior to January 1, 1979.~~ Reserved."

SECTION 87.

Said title is further amended in Code Section 33-29-3.1, relating to coverage for human heart transplants, options endorsement, requirements, and guidelines, by revising subsection (a) as follows:

"(a) Every insurer authorized to issue individual accident and sickness insurance plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1988,~~ coverage for human heart transplants, including any charges for acquisition, transportation, or donation of a human heart when a human heart transplant is performed. Such coverage shall be at least as extensive and provide at least the same degree of coverage as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall also cover the spouse and the dependents of the insured if the insured's spouse and dependents are covered under such benefit plan, policy, or contract."

SECTION 88.

Said title is further amended in Code Section 33-29-3.2, relating to coverage for mammograms, Pap smears, and prostate specific antigen tests, by revising paragraphs (2) and (5) of subsection (a) and subsection (b) as follows:

"(2)(A) 'Mammogram' means any low-dose radiologic screening procedure for the early detection of breast cancer provided to a woman and which utilizes equipment approved by the Department of Community Health dedicated specifically for mammography and includes a physician's interpretation of the results of the procedure or interpretation by a radiologist experienced in mammograms in accordance with guidelines established by the American College of Radiology.

(B) Reimbursement for a mammogram authorized under this Code section shall be made only if the facility in which the mammogram was performed meets accreditation standards established by the American College of Radiology or equivalent standards established by this state.

(C) Policies subject to this Code section shall contain coverage for mammograms made with at least the following frequency:

~~(A)~~(i) Once as a base-line mammogram for any female who is at least 35 but less than 40 years of age;

~~(B)~~(ii) Once every two years for any female who is at least 40 but less than 50 years of age;

~~(C)~~(iii) Once every year for any female who is at least 50 years of age; and

~~(D)~~(iv) When ordered by a physician for a female at risk."

"(5) ~~'Prostate specific~~ 'Prostate-specific antigen test' means a measurement, in accordance with standards established by the American College of Pathologists, of a substance produced by the epithelium to determine if there is any benign or malignant prostate tissue."

"(b)(1) Every insurer authorized to issue an individual accident and sickness insurance policy in this state which includes coverage for any female shall include as part of or as a required endorsement to each such policy which is issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1992,~~ coverage for mammograms and Pap smears for the covered females which at least meets the minimum requirements of this Code section.

(2) Every insurer authorized to issue an individual accident and sickness insurance policy in this state which includes coverage for any male shall include as a part of or as a required endorsement to each such policy which is issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1992,~~ coverage for annual ~~prostate specific~~ prostate-specific antigen tests for the covered males who are 45 years of age or older, or for covered males who are 40 years of age or older, if ordered by a physician."

SECTION 89.

Said title is further amended in Code Section 33-29-3.3, relating to coverage for bone marrow transplants for the treatment of breast cancer and Hodgkin's disease, optional endorsement, requirements, guidelines, and applicability, by revising subsection (a) as follows:

"(a) Every insurer authorized to issue individual accident and sickness insurance plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1995,~~ coverage for bone marrow transplants for the treatment of breast cancer and Hodgkin's disease. Such coverage shall be at least as extensive and provide at least the same degree of coverage as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall also cover the

spouse and the dependents of the insured if the insured's spouse and dependents are covered under such benefit plan, policy, or contract."

SECTION 90.

Said title is further amended in Code Section 33-29-3.4, relating to insurance coverage for child wellness services, by revising subsections (b) and (g) as follows:

"(b) Every insurer authorized to issue an individual accident and sickness policy in this state shall include, either as a part of or as a required endorsement to each basic medical or hospital expense, major medical, or comprehensive medical expense policy issued, delivered, issued for delivery, or renewed in this state ~~on or after July 1, 1995,~~ basic coverage for child wellness services for an insured child from birth through the age of five years. Any such policy may provide that the child wellness services which are rendered during a periodic review shall only be covered to the extent that such services are provided by or under the supervision of a single physician during the course of one visit. The Commissioner shall define by regulation the basic coverage for child wellness services and may consider the current recommendations for preventive pediatric health care by the American Academy for Pediatrics and any other relevant data or information in the promulgation of such regulation."

"(g) ~~Beginning July 1, 2000, the Commissioner shall conduct a review of the cost associated with the coverage required by this Code section and shall provide the members of the General Assembly with such information not later than December 31, 2000.~~ Reserved."

SECTION 91.

Said title is further amended in Code Section 33-29-4, relating to optional policy provisions, by revising paragraphs (1) and (3) of subsection (b) and subparagraph (b)(4)(A) as follows:

"(b)(1) **Change of occupation.** If the insured is injured or contracts sickness after having changed his or her occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer ~~will~~ shall pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his or her occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, ~~will~~ shall reduce the premium rate accordingly and ~~will~~ shall return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In

applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer, prior to the occurrence of the loss for which the ~~insured~~ insurer is liable or prior to date of proof of change in occupation, with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued.~~; but, if~~ If, however, such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in the state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

"(3) **Other insurance with this insurer.**

(A) If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured is in force concurrently herewith, making the aggregate indemnity for _____ (insert type of coverage or coverages) in excess of $_____ (insert maximum limit of indemnity or indemnities), the excess insurance shall be void and all premiums paid for the excess shall be returned to the insured or to his or her estate;

or, in lieu thereof:

(B) Insurance effective at any one time on the insured under a like policy or policies with this insurer is limited to the one such policy elected by the insured, his or her beneficiary, or his or her estate, as the case may be, and the insurer will return all premiums paid for all other policies."

"(A) If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his or her average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of the monthly earnings or the average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of that part of the premiums paid during such two years which exceeds the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all the coverage upon the insured below the sum of $200.00 or the sum of the monthly benefits specified in the coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

SECTION 92.

Said title is further amended in Code Section 33-29-6, relating to provision in policies for medical or surgical services, by revising subsection (c) as follows:

"(c) Any other laws to the contrary notwithstanding, whenever the term 'physician' or 'surgeon' is used in any policy of health or accident and sickness insurance issued in this state or in any contract for health care, services, or benefits ~~issued by any health, medical, or other service corporation~~ existing under, and by virtue of, any laws of this state, said term shall include, within its meaning, medical practitioners licensed under and in accordance with Chapter 11 of Title 43, relating to dentists, in respect to any care, services, procedures, or benefits covered by said policy of insurance or health care contract which the said persons are licensed to perform, any provisions in any such policy of insurance or health care contract to the contrary notwithstanding. This subsection shall be applicable to all policies in this state, regardless of date of issue."

SECTION 93.

Said title is further amended in Code Section 33-29-9, relating to requirements as to references in policies to noncancelable nature or guaranteed renewability nature, exception for certain matters concerning renewability of individual accident and sickness policies, and rules and regulations, by revising subsection (b) as follows:

"(b) An insurer operating in the major medical or comprehensive, guaranteed renewable business in ~~the State of Georgia~~ this state shall permit an insured to change his or her major medical or comprehensive coverage, upon election at any renewal, to a comparable product ~~currently~~ offered by that insurer or a product ~~currently~~ offered by that insurer with more limited product benefits; to a product with higher deductibles; or to modify his or her existing coverage to elect any optional higher deductibles under that policy. If such product, benefit, or deductible change is elected by the insured during the 60 day required period after notice of renewal premium increase but before renewal date, such insured shall not be subject to any new preexisting conditions exclusion that did not apply to his or her original coverage."

SECTION 94.

Said title is further amended by revising Code Section 33-29-11, relating to right of person to whom policy or contract issued to return policy or contract and receive premium refund, effect of return, and proof of return, as follows:

"33-29-11.

(a) Every individual accident and sickness policy or contract, except single premium nonrenewable policies or contracts, issued for delivery in this state ~~on or after January 1,~~

~~1961,~~ by an insurer shall have printed on or attached to the policy or contract a notice stating in substance that the person to whom the policy or contract is issued shall be permitted to return the policy or contract within ten days of its delivery to said purchaser and to have the premium paid refunded if, after examination of the policy or contract, the purchaser is not satisfied with it for any reason.

(b) If the insured or purchaser, pursuant to such notice, returns the policy or contract to the insurer at its home or branch office, or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy or contract had been issued. Without limiting any other method of returning ~~an annuity~~ a policy or contract under this Code section, it shall be prima-facie evidence of the fact and date of return of ~~an annuity~~ a policy or contract if the ~~annuity~~ policy or contract is dispatched by certified mail or statutory overnight delivery to the insurer or agent, as provided in this Code section, and a return receipt provided by the United States Postal Service or commercial delivery company is obtained."

SECTION 95.

Said title is further amended in Code Section 33-29-15, relating to exemption of policy proceeds from liability for debts of insured and beneficiary, by revising subsection (a) as follows:

"(a) The proceeds or avails of all accident and sickness policies and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity ~~contract~~ contracts, except credit accident and sickness policies and credit life policies, shall be exempt from all liability for any debt of the insured and from any debt of the beneficiary existing at the time the proceeds are made available for his or her use."

SECTION 96.

Said title is further amended in Code Section 33-29-20, relating to insurance coverage for treatment of temporomandibular joint dysfunction or surgery for deformities of maxilla or mandible, by revising paragraph (2) of subsection (a) as follows:

"(2) 'Policy' means any major medical benefit plan, contract, or policy except ~~the Georgia Basic Health Plan,~~ a credit insurance policy, disability income policy, specified disease policy, hospital indemnity policy, limited accident policy, or other similarly limited accident and sickness policy."

SECTION 97.

Said title is further amended by revising Code Section 33-29-21, relating to renewal or continuation at option of insured, as follows:

"33-29-21.

Pursuant to the provisions of the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and subject to applicable rules and regulations as issued by the Centers for Medicare and Medicaid Services, ~~on and after July 1, 1997,~~ all insurers which issue, issue for delivery, deliver, or renew existing individual policies, certificates, or contracts of accident and sickness insurance in ~~the State of Georgia~~ this state shall, subject only to timely payment of premiums, renew or continue such coverage at the option of the insured. Such other exemptions and exclusions as are permitted by the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, Section 2742 shall also apply to individual accident and sickness insurance and insurers in this state."

SECTION 98.

Said title is further amended by revising Code Section 33-29-21.1, relating to availability of accident and sickness policy upon termination of dependent coverage based on age of dependent, as follows:

"33-29-21.1.

Every policy which contains a provision for termination of coverage of a dependent upon the reaching of a certain age shall contain a provision to the effect that, upon the date of the dependent reaching the age at which coverage would terminate under the provisions of the policy, the dependent shall be entitled to have issued to him or her, without evidence of insurability, upon application made to the company within 45 days following the date the dependent reaches the age at which coverage would terminate and upon the payment of the appropriate premium, an individual or family policy of accident and sickness insurance then being issued by the insurer which provides coverage most nearly similar to the coverage contained in the policy which was terminated by reason of such dependent reaching a certain age or any similar individual or family policy then being issued by the insurer which contains lesser coverage. Any and all probationary or waiting periods set forth in such an individual or family policy shall be considered as being met to the extent coverage was in force under the prior policy."

SECTION 99.

Said title is further amended in Code Section 33-30-4.2, relating to insurance coverage for mammograms, Pap smears, and prostate specific antigen tests, by revising paragraphs (2) and (5) of subsection (a) and subsection (b) as follows:

"(2)(A) 'Mammogram' means any low-dose radiologic screening procedure for the early detection of breast cancer provided to a woman and which utilizes equipment approved by the Department of Community Health dedicated specifically for mammography and includes a physician's interpretation of the results of the procedure or interpretation by a radiologist experienced in mammograms in accordance with guidelines established by the American College of Radiology.

(B) Reimbursement for a mammogram authorized under this Code section shall be made only if the facility in which the mammogram was performed meets accreditation standards established by the American College of Radiology or equivalent standards established by this state.

(C) Policies subject to this Code section shall contain coverage for mammograms made with at least the following frequency:

~~(A)~~(i) Once as a base-line mammogram for any female who is at least 35 but less than 40 years of age;

~~(B)~~(ii) Once every two years for any female who is at least 40 but less than 50 years of age;

~~(C)~~(iii) Once every year for any female who is at least 50 years of age; and

~~(D)~~(iv) When ordered by a physician for a female at risk."

"(5) ~~'Prostate specific~~ 'Prostate-specific antigen test' means a measurement, in accordance with standards established by the American College of Pathologists, of a substance produced by the epithelium to determine if there is any benign or malignant prostate tissue."

"(b)(1) Every insurer authorized to issue a group accident and sickness insurance policy in this state which includes coverage for any female shall include as part of or as a required endorsement to each such policy which is issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1992,~~ coverage for mammograms and Pap smears for the covered females which at least meets the minimum requirements of this Code section.

(2) Every insurer authorized to issue a group accident and sickness insurance policy in this state which includes coverage for any male shall include as a part of or as a required endorsement to each such policy which is issued, delivered, issued for delivery, or renewed ~~on or after July 1, 1992,~~ coverage for annual ~~prostate specific~~ prostate-specific antigen tests for the covered males who are 45 years of age or older or for covered males who are 40 years of age or older, if ordered by a physician."

SECTION 100.

Said title is further amended in Code Section 33-30-4.3, relating to utilization of mail-order pharmaceutical distributors in policies, plans, contracts, or funds and utilization of other

providers of pharmaceutical services under same terms and conditions, by revising subsection (b) as follows:

"(b) A group or blanket accident and sickness insurance policy, plan, contract, or fund may not be issued, delivered, issued for delivery, or renewed by a health care insurer ~~on or after July 1, 1991,~~ if such policy, plan, contract, or fund requires that insureds thereunder obtain pharmaceutical services, including prescription drugs, exclusively from a mail-order pharmaceutical distributor. Insureds who do not utilize a mail-order pharmaceutical distributor shall not be required to pay a different copayment fee or have imposed any varying conditions for the receipt of pharmaceutical services, including prescription drugs, when that payment or condition is not imposed upon those insureds who utilize a mail-order pharmaceutical distributor for those services if the provider of pharmaceutical services utilized by the insured has agreed to the same terms and conditions as applicable to the mail-order pharmaceutical distributor and has agreed to accept payment or reimbursement from the health care insurer at no more than the same amount which would have been paid to the mail-order pharmaceutical distributor for the same pharmaceutical services."

SECTION 101.

Said title is further amended in Code Section 33-30-4.5, relating to coverage for child wellness services, by revising subsections (b) and (g) as follows:

"(b) Every insurer authorized to issue a group accident and sickness policy in this state shall include, either as a part of or as a required endorsement to each such basic medical or hospital expense, major medical, and comprehensive medical expense insurance policy issued, delivered, issued for delivery, or renewed in this state ~~on or after July 1, 1995~~, basic coverage for child wellness services for an insured child from birth through the age of five years. Any such policy may provide that the child wellness services which are rendered during a periodic review shall only be covered to the extent that such services are provided by or under the supervision of a single physician during the course of one visit. The Commissioner shall define by regulation the basic coverage for child wellness services and may consider the ~~current~~ recommendations for preventive pediatric health care by the American Academy for Pediatrics and any other relevant data or information in the promulgation of such regulation."

"(g) ~~Beginning July 1, 2000, the Commissioner shall conduct a review of the cost associated with the coverage required by this Code section and shall provide the members of the General Assembly with such information not later than December 31, 2000.~~ Reserved."

SECTION 102.

Reserved.

SECTION 103.

Said title is further amended in Code Section 33-30-15, relating to continuation of similar coverage, preexisting conditions, and procedures and guidelines, by revising subsection (b) as follows:

"(b) Notwithstanding any other provision of this title which might be construed to the contrary, ~~on and after July 1, 1998,~~ all group basic hospital or medical expense, major medical, or comprehensive medical expense coverages which are issued, delivered, issued for delivery, or renewed in this state shall provide the following:

(1) Subject to compliance with the provisions of subsections (c) and (d) of this Code section, any newly eligible group member, subscriber, enrollee, or dependent who has had creditable coverage under another health benefit plan within the previous 90 days shall be eligible for coverage immediately upon completion of any policyholder imposed waiting period; and

(2) Once such creditable coverage terminates, including termination of such creditable coverage after any period of continuation of coverage required under Code Section 33-24-21.1 or the provisions of Title X of the Omnibus Budget Reconciliation Act of 1986, the insurer must offer a conversion policy to the eligible group member, subscriber, enrollee, or dependent."

SECTION 104.

Said title is further amended in Code Section 33-30-23, relating to standards, payments or reimbursement for noncontracting provider of covered services, filing requirements for unlicenced entities, and provision for payment solely to provider, by revising paragraph (6) of subsection (b) as follows:

"(6) Be a result of a negotiation with a primary care physician to become a preferred provider unless ~~that~~ such physician shall be furnished~~, beginning on and after January 1, 2001,~~ with a schedule showing common office based fees payable for services under ~~that~~ such arrangement."

SECTION 105.

Reserved.

SECTION 106.

Said title is further amended in Code Section 33-31-2, relating to applicability of chapter, by revising subsection (c) as follows:

"(c) All life insurance and all accident and sickness insurance sold ~~on and after July 1, 1991,~~ in connection with loans or other credit transactions pursuant to a plan covering all debtors of a creditor or a class or classes of debtors shall be subject to this chapter, except such insurance sold ~~on and after July 1, 1991,~~ in connection with a loan or other credit transaction of more than ten years' duration."

SECTION 107.

Said title is further amended in Code Section 33-31-9, relating to premiums and refunds and credits, by revising subsections (b) and (c.1) as follows:

"(b) The amount collected by the creditor from the debtor for any credit life insurance or any credit accident and sickness insurance shall be consistent with the premium rate charged by the insurer. Nothing in this chapter shall be construed to legalize any charge ~~now~~ illegal under any statute or rule of law governing credit transactions."

"(c.1) Each individual policy, notice of proposed insurance, or group certificate of credit life insurance and credit accident and sickness insurance issued ~~after May 2, 2005,~~ shall provide a notice on the face of such policy, notice, or certificate in at least 10 point type that it is the obligation of the insured to notify the insurer of any early payoff of the indebtedness which is covered by the insurance."

SECTION 108.

Said title is further amended by revising Code Section 33-32-6, relating to tobacco crop insurance coverage, as follows:

"33-32-6.

Any insurer issuing ~~on or after April 28, 1999,~~ a policy providing crop insurance coverage, other than federal crop insurance pursuant to 7 U.S.C. Section 1501, et seq., for tobacco crops grown in this state against loss or damage due to wind, hail, or both shall make available such coverage for a term extending until such time as the tobacco crop is harvested, either as a part of or as an optional endorsement to such policy of crop insurance."

SECTION 109.

Said title is further amended by revising Code Section 33-33-7, relating to appeals from actions or decisions, as follows:

″33-33-7.

Any person aggrieved by any action or decision of the administrators of the plan, the underwriting association, or of any insurer as a result of its participation in the plan may appeal to the Commissioner within 30 days from the date of the action or the decision. The Commissioner, after a hearing held upon proper notice, shall issue an order approving the action or decision or disapproving the action or decision with respect to the matter which is the subject of appeal. All final orders and decisions of the Commissioner shall be subject to judicial review as provided in Chapter 2 of this title.″

SECTION 110.

Said title is further amended in Code Section 33-33-8, relating to temporary insurance coverage for local public entity filing appeal of adverse underwriting decision, by revising subsection (b) as follows:

″(b) In the event the ~~existing~~ insurance coverage of a local public entity filing an appeal of an adverse underwriting decision of the association established pursuant to this chapter is scheduled to cancel or expire while such appeal is pending, the Commissioner shall direct the association to provide coverage authorized under this chapter on a temporary basis to the local public entity as provided in this Code section.″

SECTION 111.

Said title is further amended in Code Section 33-34-2, relating to definitions, by revising paragraph (4) as follows:

″(4) 'Self-insurer' means any owner who has on file with the Commissioner ~~of Insurance~~ an approved plan of self-insurance which provides for coverages, benefits, and efficient claims handling procedures substantially equivalent to those afforded by a policy of automobile liability insurance that complies with all of the requirements of this chapter.″

SECTION 112.

Said title is further amended in Code Section 33-34-3, relating to requirements for issuance of policies, by revising subsection (e) as follows:

″(e) Each policy of motor vehicle liability insurance issued in this state ~~on or after October 1, 1991,~~ shall provide that the requirement for giving notice of a claim, if not satisfied by the insured within 30 days of the date of the accident, may be satisfied by an injured third party who, as the result of such accident, has a claim against the insured; provided, however, that notice of a claim given by an injured third party to an insurer under this subsection shall be accomplished by mail. Each policy of motor vehicle liability insurance issued or renewed in this state ~~on and after October 1, 1991,~~ shall be deemed to include and

construed as including the provision regarding the notice requirements provided in this subsection."

SECTION 113.

Said title is further amended in Code Section 33-34-5.1, relating to self-insurers, by revising subparagraphs (a)(3)(C) through (a)(3)(G) as follows:

"(C) ~~Except as otherwise provided in subparagraph (D) of this paragraph, on or after July 1, 1994, to~~ To qualify for a certificate of self-insurance under subparagraph (B) of this paragraph, a person shall maintain with the Commissioner a cash deposit of at least $100,000.00 and shall also possess and thereafter maintain an additional amount of at least $300,000.00 which shall be invested in the types of assets described in subparagraphs (A) through (H) of paragraph (3) of Code Section 33-11-5 and Code Sections 33-11-10, 33-11-14.1, 33-11-20, 33-11-21, and 33-11-25, which relate to various types of authorized investments for insurers.

~~(D) Any person operating as a self-insurer pursuant to a certificate of self-insurance issued prior to July 1, 1994, shall be allowed a transition period in which to meet the requirements of subparagraph (C) of this paragraph; provided, however, that, except as provided in subparagraph (G) of this paragraph, on and after December 31, 1995, all self-insurers under this paragraph shall comply fully with the requirements of subparagraph (C) of this paragraph. The Commissioner shall promulgate rules and regulations relative to the transition period for compliance provided in this subparagraph.~~

~~(E)~~(D) ~~Beginning July 1, 1994, and each~~ Each year ~~thereafter~~, a person operating as a self-insurer pursuant to this paragraph shall submit to the Commissioner, on forms prescribed by the Commissioner, reports of the business affairs and operations of the self-insurer in the same manner as required of insurers pursuant to Code Section 33-3-21. A person operating as a self-insurer pursuant to this paragraph shall also submit to the Commissioner an annual financial statement audited by an independent certified public accountant. The value of any asset listed in any report required by this subparagraph shall be limited to the equity interest of the person operating as a self-insurer pursuant to this paragraph.

~~(F)~~(E) Any person operating as a self-insurer pursuant to this paragraph shall be subject to examination and proceedings in the same manner applicable to insurers transacting motor vehicle insurance in this state as provided in Chapter 2 of this title and shall maintain reserves for losses in the same manner as insurers transacting motor vehicle insurance as provided in Chapter 10 of this title.

~~(G)~~(F) Until December 31, 2003, the provisions of subparagraph (C) of this paragraph shall not apply to taxicab self-insurers which were located in counties with populations of 400,000 or less according to the United States decennial census of 1990 or any future such census and were licensed by the Commissioner on December 31, 1998.″

SECTION 114.

Said title is further amended by revising Code Section 33-34A-2, relating to definitions, as follows:

″33-34A-2.

As used in this chapter, the term:

(1) 'Administrator' means a third party other than the warrantor who is designated by the warrantor to be responsible for the administration of vehicle protection product warranties.

(2) 'Department' means the ~~Insurance~~ Department of Insurance.

~~(3) 'Commissioner' means the Commissioner of Insurance.~~

~~(4)~~(3) 'Service contract' means a contract or agreement as defined under Code Section 33-7-6.

~~(5)~~(4) 'Incidental costs' means expenses specified in the warranty incurred by the warranty holder related to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees.

~~(6)~~(5) 'Vehicle protection product' means a vehicle protection device, system, or service that:

(A) Is installed on or applied to a vehicle;

(B) Is designed to prevent loss or damage to a vehicle from a specific cause; and

(C) Includes a written warranty.

For purposes of this chapter, the term 'vehicle protection product' shall include, without limitation, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

~~(7)~~(6) 'Vehicle protection product warranty' or 'warranty' means, for the purposes of this chapter, a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, then the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty.

~~(8)~~(7) 'Vehicle protection product warrantor' or 'warrantor' for the purposes of this chapter means a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. 'Warrantor' does not include an authorized insurer.

~~(9)~~(8) 'Warranty holder' for the purposes of this chapter means the person who purchases a vehicle protection product or who is a permitted transferee.

~~(10)~~(9) 'Warranty reimbursement insurance policy' means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor or to pay on behalf of the warrantor all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor."

SECTION 115.

Said title is further amended by revising Code Section 33-34A-12, relating to adoption of rules and regulations, as follows:

"33-34A-12.

The Commissioner ~~may~~ shall adopt ~~such administrative rules consistent with the provisions of this chapter as are necessary to implement them. Such~~ rules and regulations ~~shall~~ which include disclosures for the benefit of the warranty holder, record keeping, and procedures for public complaints. Such rules and regulations shall also include the conditions under which surplus lines insurers may be rejected for the purpose of underwriting vehicle protection product warranty agreements."

SECTION 116.

Said title is further amended by revising Code Section 33-34A-13, relating to applicability, as follows:

"33-34A-13.

~~This chapter applies to all service contracts sold or offered for sale on or after January 1, 2004. The failure of any person to comply with this chapter prior to January 1, 2004, shall not be admissible in any court proceeding, administrative proceeding, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper.~~ Reserved."

SECTION 117.

Said title is further amended in Code Section 33-35-1, relating to purposes of chapter and legislative findings of fact, by revising subsection (b) as follows:

"(b) The General Assembly finds that insurers authorized to transact casualty, life, or accident and sickness insurance in this state are authorized to write policies for prepaid legal services. The General Assembly further finds that there ~~presently~~ exists no other specific framework within the insurance laws of this state designed to regulate prepaid legal services. Because of the interest of the state in the controlled development of new methods for providing legal services, exertion of the state's power is necessary for the protection of its citizens."

SECTION 118.

Said title is further amended in Code Section 33-35-2, relating to definitions, by revising paragraph (2) as follows:

"(2) 'Insurer' means an insurer authorized to transact casualty, life, or accident and sickness insurance in this state ~~or any corporation organized pursuant to Chapter 18 or 19 of this title~~."

SECTION 119.

Said title is further amended in Code Section 33-35-7, relating to grounds and procedure for revocation, suspension, or refusal to renew licenses, imposition of probation or fine, and review, by revising subsection (c) as follows:

"(c) In lieu of revoking, suspending, or refusing to renew the license for any of the causes enumerated in subsection (a) of this Code section, after hearing as provided in this subsection the Commissioner may place the sponsor on probation for a period of time not to exceed one year or may fine the sponsor not more than ~~$1,000.00~~ $2,000.00 for each offense, or do both, when, in ~~his~~ the Commissioner's judgment he or she finds that the public interest would not be harmed by the continued operation of the sponsor. The amount of any penalty shall be paid by such sponsor to the Commissioner for the use of the state."

SECTION 120.

Said title is further amended in Code Section 33-35-9, relating to sale of subscription contracts, by revising subsection (a) as follows:

"(a) ~~No subscription contracts for prepaid legal services may be sold or offered for sale in this state prior to April 1, 1976, provided that nothing~~ Nothing contained in this Code section shall be deemed to prohibit an insurer authorized to transact casualty, life, or accident and sickness insurance in this state from selling or offering for sale in this state individually underwritten and individually issued policies of prepaid legal services

insurance on policy forms which have been approved by the Commissioner pursuant to Chapter 9 of this title."

SECTION 121.

Said title is further amended in Code Section 33-35-10, relating to powers of sponsors to contract for provision of legal and administrative services, by revising paragraph (1) of subsection (a) as follows:

"(a)(1) The sponsor of any prepaid legal services plan or authorized representative of the plan may contract with any company licensed to transact casualty, life, or accident and sickness insurance in this state ~~or any corporation organized pursuant to Chapter 18 or 19 of this title,~~ under which contracts the company agrees for a consideration consisting of a specified premium to assume the monetary obligations of the plan to provide or pay for the legal services covered by the subscription contracts issued under such plan upon the failure of the plan itself to meet such obligations within a specified period. The duration of the contract shall not be longer than three years and each contract shall be filed with and subject to the approval of the Commissioner for the fairness of its terms and premiums. The contracts shall be deemed to be approved 90 days after the date of filing with the Commissioner, unless prior to the expiration of such 90 day period the Commissioner notifies the sponsor of the prepaid legal services plan in writing of the Commissioner's disapproval."

SECTION 122.

Said title is further amended in Code Section 33-35-11, relating to submission to Commissioner of underwriting rules and rates, premiums, or fees and approval or disapproval, by revising subsection (c) as follows:

"(c) Insurers authorized to transact casualty, life, or accident and sickness insurance in this state ~~or any corporation organized pursuant to Chapter 18 or 19 of this title~~ shall be required to comply with the requirements of this Code section if they sell or offer for sale policies of prepaid legal services insurance in this state or if they underwrite prepaid legal services plans of sponsors licensed to operate prepaid legal services plans in this state; provided, however, that nothing contained in this Code section shall be deemed to relieve any insurer authorized to transact casualty, life, or accident and sickness insurance in this state ~~or any corporation organized pursuant to Chapter 18 or 19 of this title~~ from complying with the requirements of this title and the laws of this state."

SECTION 123.

Said title is further amended by revising Code Section 33-35-13, relating to investment of funds of plans as follows:

″33-35-13.

A sponsor shall invest the funds of a prepaid legal services plan only in such investments as are authorized by the laws of this state for the investment of assets of insurance companies and subject to the limitations placed on the investments ~~or in such investments as are authorized by the laws of this state for the investment of assets of corporations authorized to transact business in this state pursuant to Chapter 18 or 19 of this title as the case may be~~.″

SECTION 124.

Said title is further amended by revising Code Section 33-35-14, relating to administration of deposits of plans, as follows:

″33-35-14.

Any deposits of a sponsor of a prepaid legal services plan deposited with the Commissioner pursuant to this chapter shall be administered by the Commissioner in accordance with Chapter 12 of this title as though deposited by a domestic casualty, life, or accident and sickness insurer authorized to transact insurance in this state ~~or as deposited by a corporation authorized to transact business in this state pursuant to Chapter 18 or 19 of this title~~.″

SECTION 125.

Said title is further amended by revising Code Section 33-35-20, relating to promulgation of rules and regulations by Commissioner, as follows:

″33-35-20.

~~The Commissioner shall have full power and authority to promulgate and adopt rules and regulations necessary for the implementation of this chapter.~~ Reserved.″

SECTION 126.

Said title is further amended by revising Code Section 33-35-22, relating to applicability of chapter to other insurers, as follows:

″33-35-22.

All insurers authorized to transact casualty, life, or accident and sickness insurance in this state ~~or any corporation organized pursuant to Chapter 18 or 19 of this title~~ which is authorized to issue policies of prepaid legal services insurance in this state shall be required to meet all the requirements of this chapter unless specifically excepted from the

requirements by this chapter, provided that nothing contained in this chapter shall be deemed to relieve the obligations of an insurer authorized to transact casualty, life, or accident and sickness insurance in this state ~~or any corporation organized pursuant to Chapter 18 or 19 of this title~~ from complying with any other applicable requirements of this title and any other applicable laws of this state."

SECTION 127.

Said title is further amended in Code Section 33-36-3, relating to definitions, by revising paragraphs (2), (5), and (8) as follows:

"(2) 'Affiliate of the insolvent insurer' means a person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next ~~proceeding~~ preceding the date the insurer becomes an insolvent insurer."

"(5) 'Insolvent insurer' means an insurer which was licensed to issue property or casualty insurance policies in this state at any time subsequent to July 1, 1970, and against ~~whom~~ which a final order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction in the insurer's state of domicile or of this state and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order."

"(8) 'Insurer' or 'company' means any corporation or organization that has held or currently holds a license to engage in the writing of property or casualty insurance policies in this state ~~since July 1, 1970~~, including the exchanging of reciprocal or interinsurance contracts among individuals, partnerships, and corporations, except farmer assessment mutual insurers, county assessment mutual insurers, and municipal assessment mutual insurers."

SECTION 128.

Said title is further amended in Code Section 33-36-6, relating to plan to govern members, rules, requirements for plan, assignment of claims or judgments against insolvent insurers, claimants of assets of insolvent insurers, jurisdiction, and venue, by revising subsection (b) as follows:

"(b) If, for any reason, the pool fails to adopt a suitable plan ~~within six months following July 1, 1970~~, or if, at any time ~~after July 1, 1970~~, the pool fails to adopt necessary amendments to the plan, the Commissioner shall adopt and promulgate, after a hearing, such reasonable rules as are necessary to effectuate this chapter. The rules shall continue in force until modified by the Commissioner or superseded by a plan of operation adopted by the pool and approved by the Commissioner."

SECTION 129.

Said title is further amended in Code Section 33-36-7.1, relating to surcharge on premiums to recoup assessments, disclosure to insureds, excess surcharges, and exception where the expense of collection would exceed the amount of the surcharge, by revising subsection (a) as follows:

"(a) The plan adopted pursuant to Code Section 33-36-6 shall contain provisions whereby each member insurer is required to recoup over the year following the year of the assessment a sum calculated to recoup the assessments paid by the member insurer under this chapter by way of a surcharge on premiums charged for insurance policies to which this ~~article~~ chapter applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission."

SECTION 130.

Said title is further amended in Code Section 33-37-2, relating to applicability, by revising paragraph (1) as follows:

"(1) All insurers who are doing or have done an insurance business in this state and against whom claims ~~arising~~ may arise from ~~that~~ such business ~~may exist now or in the future~~;"

SECTION 131.

Said title is further amended by revising Code Section 33-37-3, relating to definitions, as follows:

"33-37-3.

As used in this chapter, the term:

(1) 'Ancillary state' means any state other than a domiciliary state.

~~(2) 'Commissioner' means the Commissioner of Insurance.~~

~~(3)~~(2) 'Creditor' means a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed, or contingent.

~~(4)~~(3) 'Delinquency proceeding' means any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer and any summary proceeding under Code Section 33-37-9. 'Formal delinquency proceeding' means any liquidation or rehabilitation proceeding.

~~(5)~~(4) 'Doing business' includes any of the following acts, whether effected by mail or otherwise:

(A) The issuance or delivery of contracts of insurance to persons resident in this state;

(B) The solicitation of applications for such contracts or other negotiations preliminary to the execution of such contracts;

(C) The collection of premiums, membership fees, assessments, or other consideration for such contracts;

(D) The transaction of matters subsequent to execution of such contracts and arising out of them; or

(E) Operating under a license or certificate of authority, as an insurer, issued by the ~~Insurance~~ Department of Insurance.

~~(6)~~(5) 'Domiciliary state' means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry.

~~(7)~~(6) 'Fair consideration' means:

(A) When in exchange for property or obligation as a fair equivalent therefor and in good faith, property is conveyed, services are rendered, an obligation is incurred, or an antecedent debt is satisfied; or

(B) When property or obligation is received in good faith to secure a present advance or antecedent, debt in amount not disproportionately small as compared to the value of the property or obligation obtained.

~~(7.1)~~(7) 'Federal home loan bank' means a federal home loan bank established under the federal Home Loan Bank Act, 12 U.S.C. Section 1421, et seq.

(8) 'Foreign country' means any other jurisdiction not in any state.

(9) 'General assets' means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, general assets includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors in more than a single state shall be treated as general assets.

(10) 'Guaranty association' means the Georgia Insurers Insolvency Pool created by Chapter 36 of this title, the Georgia Life and Health Insurance Guaranty Association created by Chapter 38 of this title, and any other similar entity now or hereafter created by the General Assembly for the payment of claims of insolvent insurers. 'Foreign guaranty association' means any similar entities now in existence in or hereafter created by the legislature of any other state.

(11) 'Insolvency' or 'insolvent' means:

(A) For an insurer issuing only assessable fire insurance policies:

(i) The inability to pay any obligation within 30 days after it becomes payable; or

(ii) If an assessment is made within 30 days after an obligation becomes payable, the inability to pay such obligation 30 days following the date specified in the first assessment notice issued after the date of loss; and

(B) For any other insurer, the inability to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:

(i) Any capital and surplus required by law for its organization; or

(ii) The total par or stated value of its authorized and issued capital stock~~; and~~.

~~(C) As to any insurer licensed to do business in this state as of July 1, 1991, which does not meet the standard established under subparagraph (B) of this paragraph, for a period not to exceed three years from July 1, 1991, the inability to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the Commissioner under provisions of this title.~~

For purposes of this paragraph, 'liabilities' shall include, but not be limited to, reserves required by statute or by regulations or specific requirements imposed by the Commissioner upon a subject company at the time of admission or subsequent thereto.

(12) 'Insurer' means any person who has done, purports to do, is doing, or is licensed to do an insurance business and is or has been subject to liquidation, rehabilitation, reorganization, supervision, the authority of, or conservation by any state insurance regulatory official. For purposes of this chapter, any other persons included under Code Section 33-37-2 shall be deemed to be insurers.

~~(12.1)~~(13) 'Insurer-member' means an insurer who is a member of a federal home loan bank.

~~(13)~~(14) 'Preferred claim' means any claim with respect to which the terms of this chapter accord priority of payment from the general assets of the insurer.

~~(14)~~(15) 'Receiver' means receiver, liquidator, rehabilitator, or conservator as the context requires.

~~(15)~~(16) 'Secured claim' means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against general assets. The term also includes claims which have become liens upon specific assets by reason of judicial process.

~~(16)~~(17) 'Special deposit claim' means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any claim secured by general assets.

~~(17)~~(18) 'State' means any state, district, or territory of the United States.

~~(18)~~(19) Transfer' shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property, an interest therein, the possession thereof or of fixing a lien upon property or upon an interest therein, whether absolutely or conditionally, voluntarily, or by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.″

SECTION 132.

Said title is further amended by revising Code Section 33-37-7, relating to effect of enactment of chapter on pending proceedings, as follows:

″33-37-7.

~~Every proceeding commenced under the laws in effect before July 1, 1991, shall be deemed to have commenced under this chapter for the purpose of conducting the proceeding in this chapter, except that in the discretion of the Commissioner the proceeding may be continued, in whole or in part, as it would have been continued had this chapter not been enacted.~~ Reserved.″

SECTION 133.

Said title is further amended in Code Section 33-37-8.1, relating to immunity of receivers and employees, indemnification, attorney's fees, approval of settlement, and application of provisions, by revising subsections (b) and (h) as follows:

″(b) The receiver and his or her employees shall have official immunity and shall be immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property, personal injury, or other civil liability caused by or resulting from any alleged act, error, or omission of the receiver or any employee arising out of or by reason of their duties or employment, provided that nothing in this ~~provision~~ subsection shall be construed to hold the receiver or any employee immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the receiver or any employee.″

″(h)~~(1) Subsection (b) of this Code section shall apply to any suit based in whole or in part on any alleged act, error, or omission which takes place on or after April 15, 1996.~~

~~(2) No legal action shall lie against the receiver or any employee based in whole or in part on any alleged act, error, or omission which took place prior to April 15, 1996, unless a suit is filed and valid service of process is obtained within 12 months after April 15, 1996.~~

~~(3) Subsections (c), (d), (e), and (f) of this Code section shall apply to any suit which is pending on or filed after April 15, 1996, without regard to when the alleged act, error, or omission took place.~~ Reserved.″

SECTION 134.

Said title is further amended in Code Section 33-37-11, relating to petition for rehabilitation and grounds, by revising paragraph (12) as follows:

"(12) The board of directors or the holders of a majority of the shares entitled to vote or a majority of those individuals entitled to the control of ~~insurers~~ the insurer request or consent to rehabilitation under this chapter."

SECTION 135.

Said title is further amended in Code Section 33-37-17, relating to Commissioner appointed as liquidator, seizure and administration of assets, effect of final order, petition for declaration of insolvency, financial reports, and plan for continued performance pending appeal, by revising paragraph (1) of subsection (f) as follows:

"(f)(1) ~~Within ten days of July 1, 1991, or, if later, within~~ Within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the Commissioner shall present for the court's approval a plan for the continued performance of the defendant company's policy claims obligations, including the duty to defend insureds under liability insurance policies, during the pendency of an appeal. Such plan shall provide for the continued performance and payment of policy claims obligations in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. In the event the defendant company's financial condition will not, in the judgment of the Commissioner, support the full performance of all policy claims obligations during the appeal pendency period, the plan may prefer the claims of certain policyholders and claimants over creditors and interested parties as well as other policyholders and claimants as the Commissioner finds to be fair and equitable considering the relative circumstances of such policyholders and claimants. The court shall examine the plan submitted by the Commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. No action shall lie against the Commissioner or any of his or her deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court."

SECTION 136.

Said title is further amended in Code Section 33-37-18, relating to termination of policy coverage, by revising paragraph (4) of subsection (a) as follows:

"(4) The date on which the liquidator effects a transfer of the policy obligation pursuant to paragraph (9) or (10) of subsection (a) of Code Section 33-37-20; or"

SECTION 137.

Said title is further amended by revising Code Section 33-37-26.1, relating to limitations on ability of receiver to void transfer of certain property in connection with federal home loan bank security agreement and transfer avoidance under certain circumstances, as follows:

"33-37-26.1.

The receiver for an ~~insurer-member~~ insurer shall not void any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any federal home loan bank security agreement; any pledge, security, collateral, or guarantee agreement; or any other similar arrangement or credit enhancement relating to a federal home loan bank security agreement made in the ordinary course of business and in compliance with the applicable federal home loan bank agreement. However, a transfer may be avoided under this Code section if the transfer was made with intent to hinder, delay, or defraud the ~~insurer-member~~ insurer, the receiver for the ~~insurer-member~~ insurer, or existing or future creditors. This Code section shall not affect a receiver's rights regarding advances to an ~~insurer-member~~ insurer in delinquency proceedings pursuant to 12 C.F.R. Section 1266.4."

SECTION 138.

Said title is further amended in Code Section 33-37-28, relating to disallowing preferred creditor's claims, by revising subsection (b) as follows:

"(b) A claim allowable under subsection (a) of this Code section by reason of the avoidance, whether voluntary or involuntary, a preference, lien, conveyance, transfer, assignment, or encumbrance, may be filed as an excused ~~last~~ late filing under Code Section 33-37-34 if filed within 30 days from the date of the avoidance, or within the further time allowed by the court under subsection (a) of this Code section."

SECTION 139.

Said title is further amended in Code Section 33-37-33, relating to application for approval of proposal to disburse assets and notice, by revising subsection (e) as follows:

"(e) Notice of such application shall be given to the association in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States ~~certified mails, first-class postage prepaid~~ mail to be dispatched by certified mail or first-class mail at least 30 days prior to submission of such application to the court. Action on the application may be taken by the court provided the above-required notice has been given and, provided, further, that the liquidator's proposal complies with paragraphs (1) and (2) of subsection (b) of this Code section."

SECTION 140.

Said title is further amended by revising Code Section 33-37-41, relating to priority of distribution of claims, as follows:

"33-37-41.

~~For all pending and future claims in insolvencies existing on July 1, 1997, and for~~ For all claims in ~~future~~ insolvencies, the priority of distribution of claims from the insurer's estate shall be in accordance with the order as set forth in this Code section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(1) **Class 1.** The costs and expenses of administration during rehabilitation and liquidation, including, but not limited to, the following:

(A) The actual and necessary costs of preserving or recovering the assets of the insurer;

(B) Compensation for all authorized services rendered in the rehabilitation and liquidation;

(C) Any necessary filing fees;

(D) The fees and mileage payable to witnesses;

(E) Authorized reasonable attorney's fees and other professional services rendered in the rehabilitation and liquidation; and

(F) The reasonable expenses of a guaranty association or foreign guaranty association for unallocated loss adjustment expenses;

(2) **Class 2.** All claims under policies, including third-party claims and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class other than benefits or advantages recovered or recoverable in discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance or as gratuities. No payment by an employer to his or her employee shall be treated as a gratuity;

(3) **Class 3.** Claims of the federal government except those under Class 2;

(4) **Class 4.** Reasonable compensation to employees for services performed to the extent that such compensation does not exceed two months of monetary compensation and represents payment for services performed within one year before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Principal officers and directors shall not be entitled to the benefit of this priority except as otherwise approved by the liquidator and

the court. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees;

(5) **Class 5.** Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors, including claims of ceding and assuming companies in their capacity as such;

(6) **Class 6.** Claims of any state or local government except those under Class 2. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims established under paragraph (9) of this Code section;

(7) **Class 7.** Claims filed late or any other claims other than claims under paragraphs (8) and (9) of this Code section;

(8) **Class 8.** Surplus or contribution notes or similar obligations and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law; and

(9) **Class 9.** The claims of shareholders or other owners in their capacity as shareholders.″

SECTION 141.

Said title is further amended in Code Section 33-38-2, relating to scope, by revising subsection (d) as follows:

″(d) The provisions of this Code section shall apply only to coverage the guaranty association provides in connection with any member insurer that is placed under an order of liquidation with a finding of insolvency on or after ~~the effective date of this Code section~~ July 1, 2012.″

SECTION 142.

Said title is further amended in Code Section 33-38-4, relating to definitions, by revising paragraphs (11) and (12) as follows:

″(11) 'Impaired insurer' means a member insurer which is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction ~~on or after July 1, 1981~~.

(12) 'Insolvent insurer' means a member insurer against which an order of liquidation containing a finding of insolvency has been entered by a court of competent jurisdiction ~~on or after July 1, 1981~~.″

SECTION 143.

Said title is further amended in Code Section 33-38-7, relating to powers and duties of the association generally, by revising paragraph (13) of subsection (a) and subsection (b) as follows:

"(13) In performing its obligations to provide coverage under ~~Code Section 33-38-7~~ this Code section, the association shall not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract;"

"(b) The provisions of this Code section shall apply only to coverage the guaranty association provides in connection with any member insurer that is placed under an order of liquidation with a finding of insolvency on or after ~~the effective date of this Code section~~ July 1, 2012."

SECTION 144.

Said title is further amended in Code Section 33-38-8, relating to submission of plan of operation, contents, and compliance with such plan, by revising subsection (a) as follows:

"(a) The association shall submit to the Commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the Commissioner. If the association fails to submit a suitable plan of operation ~~within 180 days following July 1, 1981,~~ or, if at any time thereafter the association fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the Commissioner or superseded by a plan submitted by the association and approved in writing by the Commissioner."

SECTION 145.

Said title is further amended in Code Section 33-39-2, relating to applicability of obligations imposed by chapter, extension of rights granted by chapter, and applicability of chapter to information from public records pertaining to title insurance, by revising subsection (a) as follows:

"(a) The obligations imposed by this chapter shall apply to those insurance institutions, agents, or insurance-support organizations which~~, on or after January 1, 1984~~:

(1) In the case of life, health, or disability insurance:

(A) Collect, receive, or maintain information which pertains to natural persons who are residents of this state in connection with insurance transactions; or

(B) Engage in insurance transactions with applicants, individuals, or policyholders who are residents of this state; and

(2) In the case of property or casualty insurance:

(A) Collect, receive, or maintain information in connection with insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this state; or

(B) Engage in insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this state.″

SECTION 146.

Said title is further amended by revising Code Section 33-39-3, relating to definitions, as follows:

″33-39-3.

As used in this chapter:

(1) 'Adverse underwriting decision' means:

(A) Any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(i) A declination of insurance coverage;

(ii) A termination of insurance coverage;

(iii) Failure of an agent to apply for insurance coverage with a specific insurance institution which the agent represents and which is requested by an applicant;

(iv) In the case of property or casualty insurance coverage:

(I) Placement by an insurance institution or agent of a risk with a residual market mechanism or an unauthorized insurer; or

(II) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished;

(v) In the case of a life, health, or disability insurance coverage, an offer to insure at higher than standard rates; or

(B) Notwithstanding subparagraph (A) of this paragraph, the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(i) The termination of an individual policy form on a class or state-wide basis;

(ii) A declination of insurance coverage solely because such coverage is not available on a class or state-wide basis;

(iii) The rescission of a policy; or

(iv) The accommodation of an insured by an agent who places insurance for such insured with any insurer, residual market mechanism, or unauthorized insurer which is satisfactory to such insured when such insured has been canceled, nonrenewed, declined, or otherwise unable to obtain coverage for any reason.

(2) 'Affiliate' or 'affiliated' means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(3) 'Agent' means any agent, broker, subagent, counselor, adjustor, solicitor, or service representative as defined in Code Sections 33-23-1 and 33-23-40.

(4) 'Applicant' means any person who seeks to contract for insurance coverage other than a person seeking insurance coverage that is not individually underwritten.

~~(5) 'Commissioner' means the Commissioner of Insurance of the State of Georgia.~~

~~(6)~~(5) 'Consumer report' means any written, oral, or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used in connection with an insurance transaction.

~~(7)~~(6) 'Consumer reporting agency' means any person who:

(A) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(B) Obtains information primarily from sources other than insurance institutions; and

(C) Furnishes consumer reports to other persons.

~~(8)~~(7) 'Control' including the term 'controlled by' or 'under common control with,' means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

~~(9)~~(8) 'Declination of insurance coverage' means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

~~(10)~~(9) 'Individual' means any natural person who:

(A) In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder;

(B) In the case of life, health, or disability insurance, is a past, present, or proposed principal insured or certificate holder;

(C) Is a past, present, or proposed policyowner;

(D) Is a past or present applicant;

(E) Is a past or present claimant; or

(F) Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this chapter.

~~(11)~~(10) 'Institutional source' means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance-support organization other than:

(A) An agent;

(B) The individual who is the subject of the information; or

(C) A natural person acting in a personal capacity rather than in a business or professional capacity.

~~(12)~~(11) 'Insurance institution' means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance, including ~~medical service corporations, hospital service corporations,~~ health care plans~~,~~ and health maintenance organizations as defined in Chapters ~~18, 19,~~ 20~~,~~ and 21. 'Insurance institution' shall not include agents or insurance-support organizations.

~~(13)~~(12) 'Insurance-support organization' means:

(A) Any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including:

(i) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction; or

(ii) The collection of personal information from insurance institutions, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(B) Notwithstanding subparagraph (A) of this paragraph, the following persons shall not be considered 'insurance-support organizations' for purposes of this chapter: agents, government institutions, insurance institutions, medical care institutions, and medical professionals.

~~(14)~~(13) 'Insurance transaction' means any transaction involving insurance primarily for personal, family, or household needs rather than business or professional needs which entails:

(A) The individual determination of an individual's eligibility for an insurance coverage, benefit, or payment; or

(B) The servicing of an insurance application, policy, contract, or certificate.

~~(15)~~(14) 'Investigative consumer report' means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning such items of information.

~~(16)~~(15) 'Medical-care institution' means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to: health maintenance organizations, home health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies, and skilled nursing facilities.

~~(17)~~(16) 'Medical professional' means any person licensed or certified to provide health care services to natural persons, including but not limited to, a chiropractor, clinical dietitian, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker, or speech therapist.

~~(18)~~(17) 'Medical-record information' means personal information which:

(A) Relates to an individual's physical or mental condition, medical history, or medical treatment; and

(B) Is obtained from a medical professional or medical-care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

~~(19)~~(18) 'Person' means any natural person, corporation, association, partnership, or other legal entity.

~~(20)~~(19) 'Personal information' means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. 'Personal information' does not include an individual's name, address, and age when no other underwriting information is gathered on that individual nor does it include any 'privileged information.'

~~(21)~~(20) 'Policyholder' means any person who:

(A) In the case of individual property or casualty insurance, is a present named insured;

(B) In the case of individual life, health, or disability insurance, is a present policyholder; or

(C) In the case of group insurance which is individually underwritten, is a present group certificate holder.

~~(22)~~(21) 'Pretext interview' means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(A) Pretends to be someone he or she is not;

(B) Pretends to represent a person he or she is not in fact representing;

(C) Misrepresents the true purpose of the interview; or

(D) Refuses to identify himself or herself upon request.

~~(23)~~(22) 'Privileged information' means any individually identifiable information that:

(A) Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual; and

(B) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual;

provided, however, that information otherwise meeting the requirements of this paragraph shall nevertheless be considered 'personal information' under this chapter if it is disclosed in violation of Code Section 33-39-14.

~~(24)~~(23) 'Residual market mechanism' means an association, organization, or other entity defined or described in Code Sections 33-9-7, 33-9-8, and 33-9-10.

~~(25)~~(24) 'Termination of insurance coverage' or 'termination of an insurance policy' means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

~~(26)~~(25) 'Unauthorized insurer' means an insurance institution that has not been granted a certificate of authority by the Commissioner to transact the business of insurance in this state.″

SECTION 147.

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