

House Bill 277 (COMMITTEE SUBSTITUTE)

By: Representatives Carson of the 46th, Smith of the 134th, Williamson of the 115th, and Blackmon of the 146th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 allow good will from insurer acquisitions to be treated as an asset; to allow mutual insurers
3 to charge policyholder dividends directly to surplus; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
8 revising Code Section 33-10-1, relating to assets considered in determining financial
9 condition of insurers generally, as follows:

10 "33-10-1.

11 In any determination of the financial condition of an insurer, there shall be allowed as
12 assets only such assets as are owned by the insurer and which consist of:

13 (1) Cash in the possession of the insurer or in transit under its control, including the true
14 balance of any deposit in a solvent bank, a trust company, a savings and loan association,
15 or a building and loan association;

16 (2) Investments, securities, properties, and loans acquired or held in accordance with this
17 title and in connection therewith the following items:

18 (A) Interest due or accrued on any bond or evidence of indebtedness which is not in
19 default and which is not valued on a basis including accrued interest;

20 (B) Declared and unpaid dividends on stock and shares, unless such amount has
21 otherwise been allowed as an asset;

22 (C) Interest due or accrued upon a collateral loan in an amount not to exceed one year's
23 interest thereon;

24 (D) Interest due or accrued on deposits in solvent banks, trust companies, savings and
25 loan associations, or building and loan associations and interest due or accrued on other
26 assets, if such interest is in the judgment of the Commissioner a collectable asset;

- 27 (E) Interest due or accrued on a mortgage loan, in an amount not exceeding in any
 28 event the amount, if any, of the excess of the value of the property less delinquent taxes
 29 on the property over the unpaid principal; but in no event shall interest accrued for a
 30 period in excess of 18 months be allowed as an asset;
- 31 (F) Rent due or accrued on real property if such rent is not in arrears for more than
 32 three months and rent more than three months in arrears if the payment of such rent be
 33 adequately secured by property held in the name of the tenant and conveyed to the
 34 insurer as collateral; or
- 35 (G) The unaccrued portion of taxes paid prior to the due date on real property;
- 36 (3) Electronic and mechanical machines and software, ~~as such term is defined in Code~~
 37 ~~Section 11-9-102~~, constituting a data processing, record-keeping, or accounting system
 38 if the cost of such system does not exceed 10 percent of admitted assets or ~~\$7,500,000.00~~
 39 \$7.5 million, whichever is less;
- 40 (4) Good will up to 10 percent of the acquiring insurer's capital and surplus shown on its
 41 statutory balance sheet for its most recently filed statement with the Commissioner
 42 adjusted to exclude any net positive good will, electronic data processing equipment,
 43 operating system software, and net deferred tax asset;
- 44 ~~(4)~~(5) Premium notes, policy loans, and other policy assets and liens on policies and
 45 certificates of life insurance and annuity contracts and accrued interest thereon, in an
 46 amount not exceeding the legal reserve and other policy liabilities carried on each
 47 individual policy;
- 48 ~~(5)~~(6) The net amount of uncollected and deferred premiums and annuity considerations
 49 in the case of a life insurer;
- 50 ~~(6)~~(7) Premiums in the course of collection, other than for life insurance and annuity
 51 considerations, not more than three months past due, less commissions payable thereon.
 52 The foregoing limitation shall not apply to premiums payable directly or indirectly by the
 53 United States government or by any state or by any of their instrumentalities;
- 54 ~~(7)~~(8) Installment premiums other than life insurance premiums to the extent of the
 55 unearned premium reserves carried thereon;
- 56 ~~(8)~~(9) Notes and similar written obligations not past due taken for premiums other than
 57 life insurance premiums on policies permitted to be issued on such basis to the extent of
 58 the unearned premium reserves carried thereon;
- 59 ~~(9)~~(10) The full amount of reinsurance recoverable by a ceding insurer from a solvent
 60 reinsurer and which reinsurance is authorized under Code Section 33-7-14;
- 61 ~~(10)~~(11) Amounts receivable by an assuming insurer representing funds withheld by a
 62 solvent ceding insurer under a reinsurance treaty;

63 ~~(11)~~(12) Deposit or equities recoverable from underwriting associations, syndicates, and
 64 reinsurance funds or from any suspended banking institution to the extent deemed by the
 65 Commissioner available for the payment of losses and claims and at values to be
 66 determined by ~~him~~ the Commissioner;

67 ~~(12)~~(13) All assets, whether or not consistent with this Code section, as may be allowed
 68 pursuant to the annual statement form approved by the Commissioner for the kinds of
 69 insurance to be reported upon therein; and

70 ~~(13)~~(14) Other assets, not inconsistent with this Code section, deemed by the
 71 Commissioner to be available for the payment of losses and claims at values to be
 72 determined by the Commissioner."

73 **SECTION 2.**

74 Said title is further amended in Code Section 33-10-2, relating to assets excluded from
 75 consideration in determining financial condition of insurer, by revising paragraph (1) as
 76 follows:

77 "(1) ~~Good will, trade~~ Trade names; and other similar intangible assets, ~~except that good~~
 78 ~~will may be allowed as an asset under such limitations as are imposed by rule of the~~
 79 ~~Commissioner;~~"

80 **SECTION 3.**

81 Said title is further amended in Code Section 33-13-5, relating to standards governing
 82 transactions by registered insurers with affiliates generally, extraordinary distributions, and
 83 adequacy of surplus, by revising paragraphs (1) and (2) of subsection (b) as follows:

84 "(b)(1) No domestic insurer shall declare any ordinary dividend until five days after the
 85 Commissioner has received notice of the declaration, or distribute any ordinary dividend
 86 until ten days after the Commissioner has received notice of the distribution, and the
 87 Commissioner has not within such period disapproved such declaration or distribution.

88 No domestic insurer shall apply any extraordinary dividend or make any other
 89 extraordinary distribution to its shareholders until 30 days after the Commissioner has
 90 received notice of the declaration thereof and has not within such period disapproved
 91 such payment, or until the Commissioner has approved such payment within such 30 day
 92 period.

93 (2) For the purposes of this subsection, an extraordinary dividend or distribution includes
 94 any dividend or distribution of cash or other property, whose fair market value together
 95 with that of other dividends or distributions made within the preceding 12 months
 96 exceeds the ~~lesser~~ greater of 10 percent of such insurer's surplus with regard to
 97 policyholders as of December 31 next preceding, or the net gain from operations of such

98 insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life
99 insurer, not including realized capital gains, for the 12 month period ending December 31
100 next preceding, but shall not include pro rata distributions of any class of the insurer's
101 own securities."

102 **SECTION 4.**

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