

House Bill 491

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

A BILL TO BE ENTITLED
AN ACT

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

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

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

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

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

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

24 **SECTION 2.**

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

26 "33-13-7.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

153 **SECTION 3.**

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

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

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

175 **SECTION 4.**

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