

Representative Hall, Atlanta, Georgia**Monday, February 27, 2012****Twenty-Sixth Legislative Day**

The House met pursuant to adjournment at 10:00 o'clock, A.M., this day and was called to order by the Speaker.

The roll was called and the following Representatives answered to their names:

E Abdul-Salaam	Dawkins-Haigler	Hembree	McCall	E Sims, C
E Abrams	Dempsey	E Henson	McKillip	Smith, E
Allison	Dickerson	Hightower	Meadows	Smith, K
Amerson	Dickey	Hill	Mitchell	Smith, L
Anderson	Dickson	Holcomb	E Morgan	Smith, R
Atwood	Dobbs	Holmes	Mosby	E Smith, T
Baker	Drenner	Holt	Murphy	Spencer
Battles	Dudgeon	Horne	Neal, Y	Stephens, M
E Beasley-Teague	Dukes	Houston	O'Neal	Stephens, R
E Benfield	Dunahoo	E Hudson	Pak	E Stephenson
Benton	Dutton	Hugley	Parrish	E Talton
Beverly	Ehrhart	Jackson	E Parsons	Tankersley
Black	England	Jasperse	E Peake	Taylor, D
Braddock	Epps, C	Jerguson	Powell, A	E Taylor, R
Brockway	Epps, J	Johnson	Powell, J	Taylor, T
Brooks	Evans	Jones, J	Purcell	Teasley
Bruce	Frazier	Jones, S	Ramsey	Thomas
Buckner	E Fullerton	Kaiser	Randall	Waites
Burns	Gardner	Kendrick	Reece	Watson
Byrd	E Geisinger	Knight	Rice	Welch
Carson	Golick	Lane	Riley	Weldon
Carter	Gordon	Lindsey	Roberts	Wilkerson
Casas	Greene	Maddox, B	Rogers, C	Wilkinson
Channell	Hamilton	Maddox, G	Rogers, T	E Williams, A
Cheokas	Hanner	Manning	Rynders	Williams, C
Clark, V	Harden, B	Marin	E Scott, M	Williams, E
Coleman	E Harden, M	Martin	Scott, S	Williams, R
Collins	Harrell	Maxwell	Shaw	Williamson
Cooke	Hatchett	Mayo	Sheldon	Yates
Coomer	Heard	McBrayer	Sims, B	Ralston, Speaker
Davis	Heckstall			

The following members were off the floor of the House when the roll was called:

Representatives Ashe of the 56th, Bell of the 58th, Bryant of the 160th, Clark of the 98th, Cooper of the 41st, Dollar of the 45th, Fludd of the 66th, Harbin of the 118th, Hatfield of the 177th, Howard of the 121st, Jacobs of the 80th, James of the 135th, Jordan of the 77th, Kidd of the 141st, Long of the 61st, Morris of the 155th, Nimmer of the

178th, Nix of the 69th, Oliver of the 83rd, Parent of the 81st, Setzler of the 35th, and Willard of the 49th.

They wished to be recorded as present.

Prayer was offered by Reverend Alvelyn Sanders, Assistant Minister, Big Bethel African Methodist Episcopal Church, Atlanta, Georgia.

The members pledged allegiance to the flag.

Representative Davis of the 109th, Chairman of the Committee on Information and Audits, reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

By unanimous consent, the following was established as the order of business during the first part of the period of unanimous consents:

1. Introduction of Bills and Resolutions.
2. First reading and reference of House Bills and Resolutions.
3. Second reading of Bills and Resolutions.
4. Reports of Standing Committees.
5. Third reading and passage of Local uncontested Bills.
6. First reading and reference of Senate Bills and Resolutions.

By unanimous consent, the following Bills and Resolutions of the House were introduced, read the first time and referred to the Committees:

HB 1164. By Representatives Tankersley of the 158th, Purcell of the 159th, Burns of the 157th and Parrish of the 156th:

A BILL to be entitled an Act to amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, so as to provide for a limited period of time an exemption with respect to sales of program materials by certain organizations to be used by certain churches

for the purpose of providing youth sports activities; to provide for conditions and limitations; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Ways & Means.

HB 1165. By Representatives Clark of the 98th, Sheldon of the 105th, Rice of the 51st, Harrell of the 106th, Thomas of the 100th and others:

A BILL to be entitled an Act to amend Code Section 48-5-299 of the Official Code of Georgia Annotated, relating to ascertainment of taxable property, assessments against unreturned property, penalty for unreturned property, and changing real property values established by appeal in prior year, so as to eliminate a population provision; to provide for penalties for certain unreturned property; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Ways & Means.

HB 1166. By Representatives Atwood of the 179th, Smith of the 131st, Meadows of the 5th, Maxwell of the 17th, Williams of the 113th and others:

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 individual health insurance coverage to children through child-only health plans; to provide for legislative intent; to establish a mandatory, uniform open enrollment period; to provide for definitions; to provide for guaranteed-issue coverage regardless of health status; to provide for special enrollment periods for loss of coverage because of a qualifying event; to provide for a list of qualifying events; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Insurance.

HB 1167. By Representatives Harbin of the 118th, Anderson of the 117th and Sims of the 119th:

A BILL to be entitled an Act to amend an Act creating a new Board of Commissioners of Columbia County, approved March 21, 1980 (Ga. L. 1980, p. 3707), as amended, so to provide for term limits for the chairperson and commission members; to provide for related matters; to provide for a referendum; to provide for contingent effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1168. By Representatives Brooks of the 63rd, Williams of the 165th, Beasley-Teague of the 65th, Scott of the 76th, Stephenson of the 92nd and others:

A BILL to be entitled an Act to amend the Official Code of Georgia Annotated so as to make legislative findings; to repeal the imposition of the death penalty in this state; to repeal references to procedures related to capital cases; to provide for matters relative to the foregoing; to provide for applicability; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Judiciary Non-Civil.

HB 1169. By Representatives Bruce of the 64th, Fludd of the 66th, Willard of the 49th, Beasley-Teague of the 65th and Brooks of the 63rd:

A BILL to be entitled an Act to amend Code Section 48-8-89.1 of the Official Code of Georgia Annotated, relating to distribution of local option sales tax proceeds after certification of additional qualified municipalities, so as to change provisions relating to distribution of tax proceeds; to make provisions for qualified district areas; to define terms; to provide for distribution certificates and distribution formulas; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Ways & Means.

HB 1170. By Representatives Manning of the 32nd, Dempsey of the 13th and Williams of the 113th:

A BILL to be entitled an Act to amend Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and learning, so as to revise a limitation on family day-care homes; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Education.

HB 1171. By Representatives Randall of the 138th, Epps of the 140th, Dickey of the 136th, Beverly of the 139th, Holmes of the 125th and others:

A BILL to be entitled an Act to provide for the restructuring of the governments of the City of Macon, the City of Payne City, and Bibb County;

to create and incorporate a new political body corporate under the name Macon-Bibb County; to provide for the status, boundaries, and powers of the restructured government; to provide for the form, administration, and affairs of the restructured government; to provide for officers and employees, elections, courts, authorities, taxation, and finance; to provide for related matters; to provide for severability; to provide for a referendum; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HR 1602. By Representatives Powell of the 29th and McCall of the 30th:

A RESOLUTION recognizing Mr. Louie Clark and dedicating a road in his honor; and for other purposes.

Referred to the Committee on Transportation.

HR 1603. By Representatives Hamilton of the 23rd, Collins of the 27th, Dudgeon of the 24th, Byrd of the 20th, Hill of the 21st and others:

A RESOLUTION recognizing the destructive and insidious nature of the United Nations Agenda 21; and for other purposes.

Referred to the Committee on Governmental Affairs.

By unanimous consent, the rules were suspended in order that the following Bills of the House could be introduced, read the first time and referred to the Committees:

HB 1175. By Representatives Rogers of the 26th, Lindsey of the 54th, Smith of the 131st, Meadows of the 5th and Lane of the 167th:

A BILL To be entitled an Act to amend Chapter 4 of Title 33 of the Official Code of Georgia Annotated, relating to actions against insurance companies, so as to provide for procedure relative to claimant's offers to settle tort claims involving liability insurance policies; to provide that failure to make an offer to settle in conformity with the law precludes the recovery of a claim for bad faith or negligent failure to settle; to provide for construction; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Insurance.

HB 1176. By Representatives Golick of the 34th, Neal of the 1st, Willard of the 49th, Lindsey of the 54th, Oliver of the 83rd and others:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 and Title 16 of the O.C.G.A., relating to general provisions relative to courts and crimes and offenses, respectively, so as to enact provisions recommended by the 2011 Special Council on Criminal Justice Reform for Georgians and enact other criminal justice reforms; to amend Title 17 of the O.C.G.A., relating to criminal procedure, so as to extend certain statutes of limitations; to amend Code Section 19-7-5 of the O.C.G.A., relating to reporting of child abuse, so as to expand mandatory reporting requirements; to amend Article 2 of Chapter 3 of Title 35 of the O.C.G.A., relating to the Georgia Crime Information Center, so as to change provisions relating to inspection, purging, modifying, or supplementing of criminal records; to amend Title 42 of the O.C.G.A., relating to penal institutions, so as to provide for the use of evidence based practices in supervising inmates, probationers, and parolees; to amend certain Titles of the O.C.G.A., so as to conform provisions and correct cross-references.

Referred to the Committee on Special Joint Committee on Georgia Criminal Justice Reform.

By unanimous consent, the following Bills and Resolution of the House and Senate were read the second time:

HB 1150	HB 1151
HB 1152	HB 1153
HB 1154	HB 1155
HB 1156	HB 1157
HB 1158	HB 1159
HB 1161	HB 1162
HB 1163	HR 1564
SB 153	SB 289
SB 316	SB 378
SB 382	SB 385
SB 402	SB 436

Representative Sims of the 169th District, Chairman of the Committee on Intragovernmental Coordination, submitted the following report:

Mr. Speaker:

Your Committee on Intragovernmental Coordination - Local Legislation has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 956	Do Pass, by Substitute	HB 1122	Do Pass
HB 1129	Do Pass	HB 1142	Do Pass
HB 1148	Do Pass		

Respectfully submitted,
/s/ Sims of the 169th
Chairman

The following Resolution of the House, referred to the House Rules Subcommittee on Invites, was reported by the Committee on Rules with the following recommendation:

HR 1523 Do Pass

The following report of the Committee on Rules was read and adopted:

HOUSE RULES CALENDAR
MONDAY, FEBRUARY 27, 2012

Mr. Speaker and Members of the House:

The Committee on Rules has fixed the calendar for this 26th Legislative Day as enumerated below:

DEBATE CALENDAR

Open Rule

None

Modified Open Rule

HB 250	Georgia Judicial Retirement System; revised survivor's benefit option; provisions (Ret-Weldon-3rd)
HB 463	Limited licenses; insurance coverage on self-service storage; provide (Substitute)(Ins-Dollar-45th)
HB 820	Guaranteed asset protection waivers; retail seller's requirements to insure waiver obligations; provide exception (Substitute)(Ins-Maxwell-17th)
HB 880	Professions and businesses; real estate professionals; change certain provisions (Substitute)(RegI-Powell-29th)

Modified Structured Rule

HB 955	Georgia Life and Health Insurance Guaranty Association; provide comprehensive revision of the provisions (Substitute)(Ins-Hembree-67th)
--------	---

HB 971 Workers' compensation; awards and benefits; change certain provisions
(Substitute)(IndR-Hembree-67th)

Structured Rule

HB 215 Drivers' licenses; convicted of crime against a minor; prohibit certain
transport (Substitute)(MotV-Battles-15th)

Bills and Resolutions on this calendar may be called in any order the Speaker desires.

Respectfully submitted,
/s/ Meadows of the 5th
Chairman

By unanimous consent, the following Bills of the House were taken up for consideration and read the third time:

HB 956. By Representative Rice of the 51st:

A BILL to be entitled an Act to amend an Act to provide a new charter for the City of Berkeley Lake, approved April 9, 1999 (Ga. L. 1999, p. 3636), as amended, so as to change the corporate limits of the city; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend an Act to provide a new charter for the City of Berkeley Lake, approved April 9, 1999 (Ga. L. 1999, p. 3636), as amended, so as to change the corporate limits of the city; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act to provide a new charter for the City of Berkeley Lake, approved April 9, 1999 (Ga. L. 1999, p. 3636), as amended, is amended by adding a new subsection to Section 1.11 to read as follows:

"(d)(1) In addition to any territory lying within the corporate limits of the City of Berkeley Lake on the effective date of this subsection, such corporate limits shall also include the following properties included in the tax parcels set forth below as those tax parcels exist on the tax rolls and the tax maps of Gwinnett County, and all of the public roadways and rights of way adjacent to those parcels, including railroad rights of way lying adjacent to those parcels or to public road ways adjacent to those parcels, and further including those portions of the rights of way of North Berkeley Lake Road and Peachtree Industrial Boulevard adjacent to the City of Berkeley Lake:

R6269 114	4720 Peachtree Industrial Blvd.
R6269 069	4590 Peachtree Industrial Blvd.
R6269 059	4600 Peachtree Industrial Blvd.
R6269 032	4610 Peachtree Industrial Blvd.
R6269 148	4775 Peachtree Industrial Blvd.
R6270 088	4855 Peachtree Industrial Blvd.
R6270 092	4830 Peachtree Industrial Blvd.
R6270 093	4850 Peachtree Industrial Blvd.
R6269 158	4790 Peachtree Industrial Blvd.
R6269 159	4760 Peachtree Industrial Blvd.
R6270 009	4810 Peachtree Industrial Blvd.
R6269 029	4530 South Berkeley Lake Rd.
R6269 006B	4540 South Berkeley Lake Rd.
R6269 004	4560 South Berkeley Lake Rd.
R6269 007	4580 South Berkeley Lake Rd.
R6269 008	4590 South Berkeley Lake Rd.
R6269 006	4600 South Berkeley Lake Rd.
R6269 005	4525 South Berkeley Lake Rd.
R6269 150	4535 South Berkeley Lake Rd.
R6269 019	4535 South Berkeley Lake Rd.
R6269 024	4545 South Berkeley Lake Rd.
R6269 073	4561 South Berkeley Lake Rd.
R6269 050	4567 South Berkeley Lake Rd.
R6269 047	4519 South Old Peachtree Rd.
R6269 041	4555 South Berkeley Lake Rd.
R6269 161	South Berkeley Lake Rd.
R6269 152	4575 South Berkeley Lake Rd.
R6269 067	4515 South Old Peachtree Rd.
R6269 040	4585 South Berkeley Lake Rd.
R6269 063	4575 South Old Peachtree Rd.
R6269 043	4527 South Old Peachtree Rd.
R6269 048	4497 South Old Peachtree Rd.
R6269 031	4487 South Old Peachtree Rd.
R6268 031	3088 Process Dr.
R6268 035	3157 Process Dr.

R6269 011	South Old Peachtree Rd.
R6269 065	4685 South Berkeley Lake Rd.
R6268 005	4464 South Old Peachtree Rd.
R6258 128	4708 South Old Peachtree Rd.
R6269 105	4708 South Old Peachtree Rd.
R6269 075	4708 South Old Peachtree Rd.
R6269 022	South Old Peachtree Rd.
R6269 110	4708 South Old Peachtree Rd.
R6269 091	4708 South Old Peachtree Rd.
R6269A007	4708 South Old Peachtree Rd.
R6269 112	4708 South Old Peachtree Rd.
R6269 109	4708 South Old Peachtree Rd.
R6269 097	4708 South Old Peachtree Rd.
R6258 129	4708 South Old Peachtree Rd.
R6258 131	S. Old Peachtree Rd.
R6258 130	4708 South Old Peachtree Rd.
R6258 254	South Old Peachtree Rd.
R6258 238	4708 South Old Peachtree Rd.
R6269 020	4698 South Old Peachtree Rd.
R6258 332	Hwy. 23 Rear
R6269 077	4690 South Old Peachtree Rd.
R6258 132	South Old Peachtree Rd.
R6269 146	4684 South Old Peachtree Rd.
R6269 012	4648 South Old Peachtree Rd.
R6269 001	4648 South Old Peachtree Rd.
R6269 014	4658 South Old Peachtree Rd.
R6269 015	4644 South Berkeley Lake Rd.
R6269 006A	4684 South Berkeley Lake Rd.
R6258 240	4521 Buford Hwy.
R6258 060	4541 Buford Hwy.
R6258 048	4685 Buford Hwy.
R6258 036	4655 Buford Hwy.
R6258 032A	4585 Buford Hwy.
R6258 033	4571 Buford Hwy.
R6259 047	4493 Buford Hwy.
R6258 248	4745 South Berkeley Lake Rd.
R6259 064	4454 Freedom Ln.
R6259 050	4449 NE Hwy. 23
R6259 049	4465 Buford Hwy.
R6259 048	NE Buford Hwy.
R6259 068	4428 Freedom Ln.
R6259 063	4424 Freedom Ln.
R6259 052	4421 Buford Hwy.

R6259 051	4431 NE Hwy. 23
R6259 053	4411 Buford Hwy.
R6259 054	4395 Buford Hwy.
R6259 055	NE Hwy. 23
R6259 062	4393 Freedom Ln.
R6259 061	4384 Freedom Ln.
R6259 057	4381 Buford Hwy.
R6259 056	4399 Buford Hwy.
R6268 001	4327 South Old Peachtree Rd.
R6268 057	South Old Peachtree Rd.
R6268 056	South Old Peachtree Rd.
R6268 058	South Old Peachtree Rd.
R6259 373	South Old Peachtree Rd.
R6259 374	South Old Peachtree Rd.
R6269 375	4255 Buford Hwy.
R6268 021	South Old Peachtree Rd.
R6268 014	Turman Dr.
R6268 012	4400 Peachtree Industrial Blvd.
R6268 009	Peachtree Ind. Blv.
R6268 008	4350 Peachtree Industrial Blvd.
R6268 007	NE Turman Dr.
R6268 016	4285 S. Old Peachtree Rd.
R6268 003	4175 Buford Hwy.
R6268 002	4235 Buford Hwy.
R6259 060	4279 Buford Hwy.
R6267 001	4125 Buford Hwy.
R6259 059	4305 Buford Hwy.
R6267 056	4075 Buford Hwy.
R6267 001A	4025 Buford Hwy.
R6267 023	Industrial Park Dr.
R6267 022	4067 Industrial Park Dr.
R6267 028	3275 North Berkeley Lake Rd.
R6268 011	4427 South Old Peachtree Rd.
R6268 036	3127 Process Dr.
R6268 037	3087 Process Dr.
R6268 034	3158 Process Dr.
R6268 033	3128 Process Dr.
R6299 027	4503 Bush Rd.
R6299 025	4539 Bush Rd.
R6299 095	3657 Habersham Ln.
R6299 094	3667 Habersham Ln.
R6299 093	3677 Habersham Ln.
R6299 092	3687 Habersham Ln.

R6299 091	3697 Habersham Ln.
R6299 090	3707 Habersham Ln.
R6299 089	3708 Habersham Ln.
R6299 088	3698 Habersham Ln.
R6299 087	3688 Habersham Ln.
R6299 086	3678 Habersham Ln.
R6299 085	3668 Habersham Ln.
R6299 084	3658 Habersham Ln.
R6299 083	3648 Habersham Ln.

(2) The following properties are hereby de-annexed from the existing corporate limits of the City of Berkeley Lake:

R6270 095	4890 Peachtree Industrial Blvd.
R6270 191	4875 Peachtree Industrial Blvd.
R6270 023	4940 Peachtree Industrial Blvd.
R6270 094	4870 Peachtree Industrial Blvd.
R6270 192	4895 Peachtree Industrial Blvd.
R6270 096	4895 South Old Peachtree Rd.
R6270 041	4900 South Old Peachtree Rd.
R6269 099	South Old Peachtree Rd.
R6269 013	4788 South Old Peachtree Rd.
R6270 025	South Old Peachtree Rd.
R6270 001	4810 South Old Peachtree Rd.
R6270 055	South Old Peachtree Rd.
R6270 002	South Old Peachtree Rd.
R6269 016	4795 South Old Peachtree Rd.
R6269 003	4707 South Old Peachtree Rd.
R6269 009	4520 South Berkeley Lake Rd.
R6268 053	4488 Peachtree Industrial Blvd."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; provided, however, that, this Act shall be deemed effective as of December 31, 2011, for ad valorem tax purposes.

SECTION 3.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

HB 1122. By Representative Dunahoo of the 25th:

A BILL to be entitled an Act to amend an Act to create a new charter for the City of Flowery Branch, approved April 11, 1979 (Ga. L. 1979, p. 3404), as amended, so as to establish the corporate limits of the City of Flowery Branch; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1129. By Representatives England of the 108th, Benton of the 31st, Dunahoo of the 25th and Sheldon of the 105th:

A BILL to be entitled an Act to amend an Act creating the Town of Braselton Community Improvement District, approved May 29, 2007 (Ga. L. 2007, p. 4100), so as to allow the district to apply for, receive, administer, or utilize grants from federal, state, county, or municipal governments or agencies or any other public sources under certain conditions; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1142. By Representatives Brockway of the 101st, Rice of the 51st, Sheldon of the 105th, Thomas of the 100th, Floyd of the 99th and others:

A BILL to be entitled an Act to amend an Act to create and establish for and in the County of Gwinnett a court to be known as the Recorder's Court of Gwinnett County, approved March 27, 1972 (Ga. L. 1972, p. 3125), as amended by an Act approved March 5, 1987 (Ga. L. 1987, p. 3765), so as to change provisions relating to the clerk's compensation; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1148. By Representatives Maxwell of the 17th and Cooke of the 18th:

A BILL to be entitled an Act to abolish the office of county treasurer of Haralson County; to repeal an Act entitled "An Act to fix the salary of the Treasurer of Haralson County," approved August 16, 1915 (Ga. L. 1915, p.

258); to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

By unanimous consent, the following roll call vote was made applicable to the previously read Bills.

On the passage of the Bills, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
E Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	E Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Morris	Y Smith, L
Y Baker	Y Dollar	Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
E Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
E Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	E Stephenson
Y Black	Y England	Jacobs	O'Neal	E Talton
Y Braddock	Y Epps, C	James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Y Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	E Fullerton	Y Jordan	Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Lindsey	Y Rice	Y Wilkinson
Clark, J	Y Hanner	Long	Y Riley	Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Cooper	Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	Setzler	Ralston, Speaker

On the passage of the Bills, the ayes were 144, nays 0.

The Bills, having received the requisite constitutional majority, were passed.

Representative Long of the 61st stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Beasley-Teague of the 65th was excused on the preceding roll call. She wished to be recorded as voting "aye" thereon.

The following message was received from the Senate through Mr. Ewing, the Secretary thereof:

Mr. Speaker:

The Senate has passed by the requisite constitutional majority the following bills of the Senate and House:

SB 447. By Senators Millar of the 40th, Bethel of the 54th, Goggans of the 7th, Williams of the 19th and Rogers of the 21st:

A BILL to be entitled an Act to amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, so as to change certain provisions relating to unemployment compensation; to change the amount of taxable wages; to change certain provisions relating to determination of the weekly benefit amount; to change certain provisions relating to determination of eligibility for unemployment benefits generally so as to require a waiting period of one week; to provide for related matters; to provide for severability; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 693. By Representative Burns of the 157th:

A BILL to be entitled an Act to amend an Act for the election and creation of a board of commissioners for Screven County, approved December 9, 1871 (Ga. L. 1871-72, p. 231), as amended, particularly by an Act approved August 19, 1912 (Ga. L. 1912, p. 456), by an Act approved August 16, 1915 (Ga. L. 1915, p. 345), by an Act approved April 3, 1972 (Ga. L. 1972, p. 3495), and by an Act approved April 1, 2002 (Ga. L. 2002, p. 3650), so as to provide for the election of members of the board of commissioners of Screven County; to provide for related matters; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 737. By Representative Williamson of the 111th:

A BILL to be entitled an Act to amend an Act creating a Board of Commissioners of Walton County, approved August 1, 1929 (Ga. L. 1929, p. 747), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4503), so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 738. By Representative Williamson of the 111th:

A BILL to be entitled an Act to amend an Act providing for districts for the election of the Board of Education of Walton County, approved April 4, 1968 (Ga. L. 1968, p. 2974), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4511), so as to change provisions relating to education districts for the board; to define certain terms; to provide for the submission of this Act to the United States Department of Justice; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 860. By Representatives Carter of the 175th, Shaw of the 176th and Black of the 174th:

A BILL to be entitled an Act to amend an Act providing for the number of members and for the election of members of the Board of Education of Lowndes County, approved April 13, 1992 (Ga. L. 1992, p. 5827), as amended, particularly by an Act approved June 3, 2003 (Ga. L. 2003, p. 4340), so as to change the description of the educational districts; to provide for definitions and inclusions; to provide for the continuance in office of current members; to provide for submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 907. By Representatives Benton of the 31st and McCall of the 30th:

A BILL to be entitled an Act to amend an Act entitled "An Act to create a board of county commissioners for the county of Jackson," approved December 18, 1901 (Ga. L. 1901, p. 257), as amended, particularly by an Act approved May 18, 2007 (Ga. L. 2007, p. 4030), so as to change the description of the commissioner districts; to provide for definitions and inclusions; to

provide for the continuation in office of current members; to provide for the submission of this Act pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 909. By Representative Benton of the 31st:

A BILL to be entitled an Act to amend an Act establishing a system of public schools in the City of Jefferson, Georgia, approved July 30, 1912 (Ga. L. 1912, p. 1019), as amended, particularly by an Act approved April 18, 2002 (Ga. L. 2002, p. 4007), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 975. By Representative Rogers of the 10th:

A BILL to be entitled an Act to provide a homestead exemption from Habersham County school district ad valorem taxes for educational purposes in the amount of \$130,000.00 of the assessed value of the homestead for residents of that school district who are 65 years of age or older; to provide for applicability; to replace 1978 House Resolution 662-1850 granting a homestead exemption from Habersham Taxes levied for county purposes and such taxes levied for school purposes (Ga. L. 1978, p. 2444); to repeal an Act entitled "An Act to provide a homestead exemption from Habersham County school district taxes for educational purposes," approved May 4, 2006 (Ga. L. 2006, p. 4123); to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 1019. By Representatives Parent of the 81st, Taylor of the 79th and Bell of the 58th:

A BILL to be entitled an Act to amend an Act to reincorporate the City of Doraville in the County of DeKalb, approved October 13, 1971 (Ga. L. 1971, Ex. Sess., p. 2154), as amended, so as to provide for the filling of vacancies in the offices of mayor and councilmember; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate has adopted by the requisite constitutional majority the following resolution of the Senate:

SR 765. By Senators Carter of the 1st, Grant of the 25th, Jeffares of the 17th and Williams of the 19th:

A RESOLUTION authorizing the change of use of certain properties located in Bryan and Butts counties currently dedicated as a heritage preserve; authorizing the granting of nonexclusive easements for the construction, operation, and maintenance of facilities, utilities, and ingress and egress in, on, over, upon, across, or through certain state owned real property located in Bryan, Butts, and Liberty counties; to provide an effective date; to repeal conflicting laws; and for other purposes.

By unanimous consent, the following Bill and Resolution of the Senate were read the first time and referred to the Committees:

SB 447. By Senators Millar of the 40th, Bethel of the 54th, Goggans of the 7th, Williams of the 19th and Rogers of the 21st:

A BILL to be entitled an Act to amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, so as to change certain provisions relating to unemployment compensation; to change the amount of taxable wages; to change certain provisions relating to determination of the weekly benefit amount; to change certain provisions relating to determination of eligibility for unemployment benefits generally so as to require a waiting period of one week; to provide for related matters; to provide for severability; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Industrial Relations.

SR 765. By Senators Carter of the 1st, Grant of the 25th, Jeffares of the 17th and Williams of the 19th:

A RESOLUTION authorizing the change of use of certain properties located in Bryan and Butts counties currently dedicated as a heritage preserve; authorizing the granting of nonexclusive easements for the construction, operation, and maintenance of facilities, utilities, and ingress and egress in, on, over, upon, across, or through certain state owned real property located in Bryan, Butts, and Liberty counties; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on State Institutions & Property.

Representative Murphy of the 120th moved that the House reconsider its action in giving the requisite constitutional majority to the following Bill of the House:

HB 776. By Representatives Sims of the 119th, Harbin of the 118th, Maxwell of the 17th and Ramsey of the 72nd:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections, so as to provide that nonpartisan elections for members of consolidated governments shall be considered county elections and not municipal elections; to provide for legislative intent; to provide an effective date; to repeal conflicting laws; and for other purposes.

On the motion, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	N Davis	Y Heckstall	N McBrayer	N Shaw
Y Abrams	Y Dawkins-Haigler	N Hembree	N McCall	N Sheldon
N Allison	N Dempsey	Y Henson	N McKillip	N Sims, B
N Amerson	Y Dickerson	N Hightower	N Meadows	E Sims, C
Anderson	N Dickey	N Hill	Y Mitchell	Y Smith, E
Y Ashe	N Dickson	Y Holcomb	E Morgan	N Smith, K
N Atwood	Y Dobbs	N Holmes	Morris	N Smith, L
Y Baker	N Dollar	N Holt	Y Mosby	N Smith, R
N Battles	Y Drenner	N Horne	Y Murphy	E Smith, T
E Beasley-Teague	N Dudgeon	N Houston	N Neal, J	Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	N Spencer
E Benfield	N Dunahoo	Hudson	N Nimmer	Y Stephens, M
N Benton	N Dutton	Y Hugley	N Nix	N Stephens, R
Y Beverly	N Ehrhart	Y Jackson	Y Oliver	E Stephenson
Black	N England	Jacobs	N O'Neal	E Talton
N Braddock	Y Epps, C	James	N Pak	N Tankersley
N Brockway	Y Epps, J	N Jasperse	Y Parent	N Taylor, D
Y Brooks	Y Evans	Jerguson	N Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	N Parsons	N Taylor, T
Y Bryant	Fludd	N Jones, J	E Peake	N Teasley
Y Buckner	Y Frazier	Y Jones, S	N Powell, A	Y Thomas
N Burns	E Fullerton	Y Jordan	N Powell, J	VACANT
N Byrd	Y Gardner	Y Kaiser	N Pruet	Y Waites
N Carson	E Geisinger	Y Kendrick	N Purcell	N Watson
N Carter	Golick	N Kidd	N Ramsey	N Welch
N Casas	Y Gordon	Knight	Y Randall	Weldon
N Channell	N Greene	N Lane	Y Reece	Y Wilkerson
N Cheokas	N Hamilton	N Lindsey	N Rice	N Wilkinson
Clark, J	N Hanner	Long	N Riley	N Willard
N Clark, V	N Harbin	N Maddox, B	N Roberts	E Williams, A
N Coleman	N Harden, B	N Maddox, G	N Rogers, C	N Williams, C
N Collins	E Harden, M	N Manning	N Rogers, T	Y Williams, E
N Cooke	N Harrell	Y Marin	N Rynders	N Williams, R
N Coomer	N Hatchett	N Martin	E Scott, M	N Williamson
Cooper	N Hatfield	Maxwell	Y Scott, S	N Yates
Crawford	Y Heard	Y Mayo	Setzler	Ralston, Speaker

On the motion, the ayes were 50, nays 95.

The motion was lost.

Representative Long of the 61st stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Beasley-Teague of the 65th was excused on the preceding roll call. She wished to be recorded as voting "aye" thereon.

The following members were recognized during the period of Morning Orders and addressed the House:

Representatives Dawkins-Haigler of the 93rd, Epps of the 140th, Holmes of the 125th, Stephens of the 164th, and Neal of the 75th.

Pursuant to HR 1523, the House commended American Idol's Lauren Alaina and invited her to be recognized by the House of Representatives.

Pursuant to HR 1535, the House recognized and commended the Trion High School Cheerleading Squad on their GHSA Class A State Championship.

Pursuant to HR 1534, the House recognized and commended the Coosa High School cheerleading squad on their exceptional performance in the 2011 GHSA Class AA State Cheerleading Championship.

The following Resolution of the House, favorably reported by the Committee on Rules, was read and adopted:

HR 1523. By Representatives Neal of the 1st, Dickson of the 6th, Weldon of the 3rd and Ralston of the 7th:

A RESOLUTION Commending American Idol's Lauren Alaina and inviting her to be recognized by the House of Representatives; and for other purposes.

By order of the Committee on Rules, the following Bill of the House was withdrawn from the General Calendar and recommitted to the Committee on Governmental Affairs:

HB 899. By Representatives Brockway of the 101st, Hamilton of the 23rd, Williamson of the 111th, Powell of the 29th, Morgan of the 39th and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so

as to provide for the dates of nonpartisan elections; to provide a minimum number of members for local boards of election; to provide for the form of petitions to qualify as a pauper; to provide for certification of write-in candidates; to provide for related matters; to repeal conflicting laws; and for other purposes.

Under the general order of business, established by the Committee on Rules, the following Bills of the House were taken up for consideration and read the third time:

HB 463. By Representatives Dollar of the 45th, Black of the 174th, Harbin of the 118th, Rogers of the 26th, Roberts of the 154th and others:

A BILL to be entitled an Act to amend Code Section 33-23-12 of the Official Code of Georgia Annotated, relating to limited licenses, so as to provide for the sale of individual insurance coverage by limited licensees on personal property stored in self-service storage facilities; to provide for definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 33-23-12 of the Official Code of Georgia Annotated, relating to limited licenses, so as to provide for the sale of individual insurance coverage by limited licensees on personal property stored in self-service storage facilities; to provide for definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 33-23-12 of the Official Code of Georgia Annotated, relating to limited licenses, is amended by adding a new subsection to read as follows:

"(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.

(B) 'Occupant' means a person, his or her sublessee, successor, or assign entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(C) 'Owner' means the owner, operator, lessor, or sublessor of a self-service storage facility, his or her agent, or any other person authorized by him or her to manage the self-service storage facility or to receive rent from an occupant under a rental agreement.

(D) 'Personal property' means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

(E) 'Rental agreement' means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.

(F) 'Self-service storage facility' means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse within the meaning of Article 1 of Chapter 4 of Title 10, the 'Georgia State Warehouse Act.' A self-service storage facility is not a safe-deposit box or vault maintained by banks, trust companies, or other financial entities.

(2) The Commissioner may issue to an owner that is in compliance with the requirements of this subsection a limited license authorizing the limited licensee to offer or sell insurance through a licensed insurer in connection with a self-service storage facility.

(3) A limited licensee shall be authorized to offer or sell insurance on behalf of a licensed insurer only in connection with a rental agreement and only for either an individual policy issued to an individual occupant or as a group policy for occupants for personal property insurance. A limited licensee shall only be authorized to provide to occupants insurance coverage for:

(A) The loss of or damage to personal property stored at a self-service storage facility where the loss or damage occurs at such self-service storage facility during the occupant's rental agreement; or

(B) Such other loss directly related to an occupant's rental agreement.

(4) No insurance shall be issued pursuant to this subsection unless the limited licensee provides to a prospective occupant written material that:

(A) Provides a summary of the terms of insurance coverage, including the identity of the insurer;

(B) Conspicuously discloses that the policy of insurance may provide a duplication of coverage already provided by an existing policy of insurance;

(C) Describes the process for filing a claim in the event the occupant elects to purchase coverage and experiences a covered loss;

(D) Provides information regarding the price, deductible, benefits, exclusions, conditions, and any other limitations of such policy;

(E) States that the limited licensee is not authorized to evaluate the adequacy of the occupant's existing insurance coverages, unless such limited licensee is otherwise licensed; and

(F) States that the occupant may cancel the insurance at any time, and any unearned premium will be refunded in accordance with applicable law.

(5) Notwithstanding any other provision of this subsection or any rule adopted by the Commissioner, a limited licensee licensed pursuant to this subsection shall not be required to treat moneys collected from occupants under rental agreements as funds received in a fiduciary capacity, provided that the charges for coverage shall be itemized and be ancillary to a rental agreement. The sale of insurance not in conjunction with a rental agreement shall not be permitted.

(6) Any limited license issued under this subsection shall also authorize any employee of the limited licensee to act individually on behalf and under the supervision of the limited licensee with respect to the kinds of coverage specified in 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 instructor and receive basic insurance instruction about the kind of coverage authorized in this subsection and offered for purchase by prospective occupants.

(8) As a prerequisite for issuance of a limited license under this subsection, there shall be filed with the Commissioner an application for a limited license in such form or forms, and supplements thereto, and containing such information as the Commissioner may prescribe.

(9) In the event that any provision of this title is violated by a limited licensee, or an employee of a limited licensee, the limited licensee shall be subject to all penalties, fines, criminal sanctions, and other actions authorized by this title.

(10) No prelicensing examination shall be required for issuance of a limited license pursuant to this subsection."

SECTION 2.

This Act shall become effective on July 1, 2012.

SECTION 3.

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

Pursuant to Rule 133, Representative Cheokas of the 134th was excused from voting on HB 463.

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
E Benfield	Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Ehrhart	Y Jackson	Y Oliver	E Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	E Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Jones, S	Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Reece	Y Wilkerson
Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Clark, J	Y Hanner	Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Rogers, C	Y Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 148, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Beasley-Teague of the 65th, Jones of the 44th, and Long of the 61st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

HB 820. By Representatives Maxwell of the 17th, Smith of the 131st, Ehrhart of the 36th, Davis of the 109th, Rice of the 51st and others:

A BILL to be entitled an Act to amend Chapter 63 of Title 33 of the Official Code of Georgia Annotated, relating to guaranteed asset protection waivers, so as to provide for an exception to a retail installment seller's requirement to insure its guaranteed asset protection waiver obligations under a contractual liability policy or other such policy; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

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 requirements of retail installment sellers to be exempted from reinsurance requirements relating to vehicle service agreements or extended warranty agreements; to provide for an exception to a retail installment seller's requirement to insure its guaranteed asset protection waiver obligations under a contractual liability policy or other such policy; 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 by revising paragraph (1) of subsection (b) of Code Section 33-7-6, relating to property insurance, contract requirements, rules and regulation, and exemption, as follows:

"(1) Any contract, agreement, or instrument whereby a person assumes the risk of and the expense or portion thereof for the mechanical breakdown or mechanical failure of a motor vehicle, or for the removal of dents, dings, or creases in a motor vehicle without affecting the existing paint finish using paintless dent repair techniques or the removal of small windshield chips and cracks without replacement of the entire windshield, and shall include those agreements commonly known as vehicle service agreements or extended warranty agreements, if made by a person other than the motor vehicle manufacturer in exchange for a separately stated charge or the cost of the contract or contracts is included on a nonidentifiable basis in the cost of a motor vehicle sold in conjunction therewith, except that this provision shall not apply to:

(A) An agreement underwritten by an insurer licensed to transact insurance in this state, either directly or through a reinsurance contract or, without regard to the requirement that the insurance cannot be obtained from an insurer authorized to do business in this state as required by Code Section 33-5-21, to an agreement underwritten by a surplus lines insurer which has not been rejected by the Commissioner for such purpose; and

(B) Those agreements commonly known as vehicle service agreements or extended warranty agreements which are issued, sold, or offered for sale by a retail installment seller, as defined in Code Section 10-1-31, provided that such retail installment seller:

- (i) Maintains, or has a parent company maintain, a net worth or stockholders' equity of at least \$100 million, provided the parent company guarantees the obligations of the retail installment seller arising from vehicle service agreements or extended warranty agreements underwritten pursuant to this subparagraph;
- (ii) Complies with the registration requirement prescribed by the Commissioner through regulation;
- (iii) Files with the Commissioner a true and correct copy of the vehicle service agreement or extended warranty agreement in a form that is consistent with the terms prescribed by the Commissioner through regulation;
- (iv) Files a copy of its Form 10-K or Form 20-F disclosure statements, or if it does not file such statements with the United States Securities and Exchange Commission, a copy of its audited financial statements reported on a GAAP basis. If the retail installment seller's financial statements are consolidated with those of its parent company, then the retail installment seller may comply with this provision by filing the statements of its parent company. The statement shall be filed with the Commissioner 30 days prior to the retail installment seller's initial offering or delivering of a service agreement or extended warranty agreement, and thereafter, the statement shall be filed with the Commissioner annually; and
- (v) Upon the request of the Commissioner, posts a security deposit or surety bond in an amount not to exceed \$250,000.00 and in the manner prescribed by the Commissioner through regulation."

SECTION 2.

Said title is further amended by revising Code Section 33-63-4, relating to offering, selling, or providing to borrowers guaranteed asset protection waivers, as follows:

"33-63-4.

- (a) Guaranteed asset protection waivers may be offered, sold, or provided to borrowers in this state in compliance with this chapter.
- (b) Guaranteed asset protection waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.
- (c) Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the federal Truth in Lending Act, 15 U.S.C. Section 1601, et seq., and its implementing regulations, as they may be amended from time to time, ~~must~~ shall be separately stated and is not to be considered a finance charge or interest.
- (d) A retail installment seller ~~must~~ shall insure its guaranteed asset protection waiver obligations under a contractual liability or other insurance policy issued by an insurer, except as provided in subsection (i) of this Code section. A creditor other than a retail installment seller may insure its guaranteed asset protection waiver obligations under a

contractual liability policy or other such policy issued by an insurer. Any such insurance policy may be directly obtained by a creditor or retail installment seller or may be procured by an administrator to cover a creditor's or retail installment seller's obligations. However, retail installment sellers that are lessors on motor vehicles ~~are not~~ shall not be required to insure obligations related to guaranteed asset protection waivers on such leased vehicles.

(e) The guaranteed asset protection waiver shall remain a part of the finance agreement upon the assignment, sale, or transfer of such finance agreement by the creditor.

(f) Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a guaranteed asset protection waiver.

(g) Any creditor that offers a guaranteed asset protection waiver ~~must~~ shall report the sale of, and forward funds received on, all such waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy or other specified program documents.

(h) Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator pursuant to the terms of a written agreement ~~must~~ shall be held by such creditor or administrator in a fiduciary capacity.

(i) A retail installment seller shall not be required to insure its guaranteed asset protection waiver obligations under a contractual liability policy or other such policy issued by an insurer if the retail installment seller does both of the following:

(1) Maintains, or has a parent company that maintains, a net worth or stockholders' equity of at least \$100 million, provided the parent company guarantees the obligations of the retail installment seller arising from guaranteed asset protection waivers underwritten pursuant to this subsection; and

(2) Files a copy of its Form 10-K or Form 20-F disclosure statements, or, if it does not file with the United States Securities and Exchange Commission, a copy of its audited financial statements reported on generally accepted accounting principles. If the retail installment seller's financial statements are consolidated with those of its parent company, then the retail installment seller may comply with the provisions of this paragraph by filing the statements of its parent company. The statement shall be filed with the Commissioner at least 30 days prior to the retail installment seller's initial offering or delivering a guaranteed asset protection waiver, and thereafter the statement shall be filed with the Commissioner annually."

SECTION 3.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Morris	Y Smith, L
Y Baker	Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
E Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	E Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	E Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Jones, S	Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
N Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Clark, J	Y Hanner	Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 148, nays 1.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Beasley-Teague of the 65th, Jones of the 44th, Long of the 61st, and Maddox of the 172nd stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

HB 250. By Representatives Weldon of the 3rd, Maxwell of the 17th, Benton of the 31st, Epps of the 140th, Greene of the 149th and others:

A BILL to be entitled an Act to amend Chapter 23 of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia Judicial Retirement

System, so as to provide that a member who rejected survivor's benefits may elect such benefits by paying the actuarial cost; to provide for a revised survivor's benefit option for persons who become members on or after July 1, 2012; to provide for options; to provide for the event of death or divorce; to provide for the death of an active member; to provide for the payment of the remainder of a member's accumulated contributions; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	N Houston	Neal, J	Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	E Stephenson
Y Black	Y England	E Jacobs	Y O'Neal	E Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Y Clark, J	Y Hanner	Long	Y Riley	Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	N Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, the ayes were 149, nays 2.

The Bill, having received the requisite constitutional majority, was passed.

Representatives Beasley-Teague of the 65th, Jones of the 44th, and Long of the 61st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

Representative Scott of the 2nd was excused on the preceding roll call. He wished to be recorded as voting "aye" thereon.

HB 215. By Representatives Battles of the 15th, Maddox of the 172nd, Rynders of the 152nd, Shaw of the 176th and Hanner of the 148th:

A BILL to be entitled an Act to amend Article 7 of Chapter 5 of Title 40, relating to commercial drivers' licenses, so as to prohibit persons convicted of a criminal offense against a victim who is a minor from driving commercial motor vehicles designed to transport 16 or more persons; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, so as to prohibit persons required to register on the State Sexual Offender Registry for an act committed on or after July 1, 2012, from being licensed to drive certain commercial motor vehicles; to provide for a definition; to provide for revocation of certain commercial driver's license endorsements under certain circumstances; to provide for exceptions; to provide for penalties; to provide for a sunset of this Code section; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, is amended by adding a new Code section to read as follows:

"40-5-145.1.

(a) As used in this Code section, the term 'State Sexual Offender Registry' means the registration required by Code Section 42-1-12.

(b) Except as otherwise provided in subsection (c) of this Code section and as required by the affidavit set forth in subparagraph (f)(3)(A) of this Code section, this Code section shall only apply to those persons who are required to register on the State Sexual Offender Registry for an act committed on or after July 1, 2012.

(c) A person who has a 'P' or 'S' endorsement to a commercial driver's license that was issued prior to July 1, 2012, who is required to register on the State Sexual Offender Registry shall not be disqualified from seeking renewals of such endorsements unless such person is convicted of an offense for an act committed on or after July 1, 2012, that requires registration on the State Sexual Offender Registry.

(d) Except as otherwise provided in subsection (c) of this Code section, effective July 1, 2012, no person shall seek the issuance of or renewal of a 'P' or 'S' endorsement to a commercial driver's license during the period he or she is required to maintain registration on the State Sexual Offender Registry.

(e) Except as otherwise provided in subsection (c) of this Code section, the department shall revoke a 'P' or 'S' endorsement to the commercial driver's license of any person registered on the State Sexual Offender Registry.

(f)(1) Effective July 1, 2012, the department shall not issue or renew a 'P' or 'S' endorsement to a commercial driver's license to any person who is registered on the State Sexual Offender Registry.

(2) The department shall not issue a 'P' or 'S' endorsement to a commercial driver's license to an applicant until the department has determined if the applicant is currently registered as a sexual offender.

(3)(A) If the department is unable to determine if the applicant is registered on the State Sexual Offender Registry and the person is otherwise qualified to obtain a 'P' or 'S' endorsement to a commercial driver's license, then the department shall issue the 'P' or 'S' endorsement to the commercial driver's license, if the applicant signs an affidavit stating that he or she:

(i) Is not required to register on the State Sexual Offender Registry; or

(ii) Is required to register on the State Sexual Offender Registry for an act committed prior to July 1, 2012.

(B) If the department determines that an applicant is registered on the State Sexual Offender Registry for an act committed on or after July 1, 2012, in violation of this Code section, the department shall immediately revoke the 'P' or 'S' endorsement to a commercial driver's license and shall promptly notify the sheriff of the county where the application was executed that a violation of this Code section may have occurred.

(g) Any person whose 'P' or 'S' endorsement to a commercial driver's license has been revoked or who has been denied a 'P' or 'S' endorsement to a commercial driver's license by the department pursuant to this Code section may make a request in writing to the department for a hearing within ten business days from the date of receipt of the

notice of revocation or date of denial of such endorsement. Such hearing shall be provided by the department within 30 days after the receipt of such request and shall follow the procedures required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of revocation or denial, as applicable, or rescind such order. If no hearing is requested within the ten business days specified, the right to a hearing shall have been waived and such endorsement shall remain revoked or denied. Appeal from such hearing shall be in accordance with such chapter.

(h)(1) Any person who knowingly and willfully submits a false, fictitious, or fraudulent statement in an affidavit provided pursuant to subsection (f) of this Code section shall be guilty of a violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided in such Code section.

(2) Notwithstanding Code Section 40-5-159, any person who is required to register on the state sexual offender registry who drives a commercial motor vehicle which requires the operator of such vehicle to have a 'P' or 'S' endorsement to his or her commercial driver's license in accordance with this Code section and does not have such endorsement issued to him or her shall be in violation of this Code section and shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than two years, a fine not to exceed \$5,000.00, or both.

(i) This Code section shall be repealed in its entirety on July 1, 2015."

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	N Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	Y Houston	Neal, J	E Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	E Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	E Talton
N Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D

Y Brooks	Y Evans	Y Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
N Byrd	Y Gardner	Y Kaiser	N Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Y Clark, J	Y Hanner	Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 157, nays 4.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Beasley-Teague of the 65th and Long of the 61st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

HB 955. By Representatives Hembree of the 67th, Smith of the 131st and Meadows of the 5th:

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 comprehensive revision of the provisions relating to the Georgia Life and Health Insurance Guaranty Association; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

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 comprehensive revision of the provisions relating to the Georgia Life and Health Insurance Guaranty Association; to provide for related matters; to provide for an effective date; 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 by revising Chapter 38 of Title 33, relating to the Georgia Life and Health Insurance Guaranty Association, as follows:

"CHAPTER 38

33-38-1.

The purpose of this chapter is to protect ~~policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts,~~ the persons specified in subsection (b) of Code Section 33-38-2, subject to certain limitations, against failure in the performance of contractual obligations, under life and health insurance policies and annuity contracts specified in subsection (a) of Code Section 33-38-2, due to the impairment or insolvency of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and continuation of coverages as limited by this chapter, (2) members of the association are subject to assessment to provide funds to carry out the purpose of this chapter, and (3) the association is authorized to assist the Commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

33-38-2.

(a) This chapter shall provide coverage to the persons specified in subsection (b) of this Code section for direct, nongroup life, health, or annuity, ~~and supplemental~~ policies or contracts, for certificates under direct group policies and contracts, and for supplemental contracts to any of these, and for unallocated annuity contracts, in each case issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement ~~agreements,~~ annuities, annuities issued to or in connection with government lotteries, and any immediate or deferred annuity contracts.

(b)(1) Coverage under this chapter shall be provided only:

~~(1)(A)~~ (A) To persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees of the persons covered under ~~paragraph (2) of this subsection~~ subparagraph (B) of this paragraph; and

~~(2)(B)~~ (B) To persons who are owners of or certificate holders under such policies or contracts, other than or, in the case of unallocated annuity contracts and structured settlement annuities, to the persons who are the contract holders and who:

~~(A)(i)~~ (i) Are residents; or

~~(B)(ii) Are not residents, but only under all of the following conditions:~~

~~(i) The the insurers which issued such policies or contracts are domiciled in this state;~~

~~(ii) Such insurers never held a license or certificate of authority in the the states in which such persons reside;~~

~~(iii) Such states have associations similar to the association created by this article; and~~

~~(iv) Such such persons are not eligible for coverage by such associations an association in any other state due to the fact that the insurer was not licensed in the state at the time specified in the state's guaranty association law.~~

(2) For unallocated annuity contracts specified in subsection (a) of this Code section, subparagraphs (A) and (B) of paragraph (1) of this subsection shall not apply, and this chapter shall, except as provided in paragraphs (4) and (5) of this subsection, provide coverage to:

(A) Persons who are the owners of the unallocated annuity contracts if the contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; and

(B) Persons who are owners of unallocated annuity contracts issued to or in connection with government lotteries if the owners are residents.

(3) For structured settlement annuities specified in subsection (a) of this Code section, subparagraphs (A) and (B) of paragraph (1) of this subsection shall not apply, and this chapter shall, except as provided in paragraphs (4) and (5) of this subsection, provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(A) Is a resident, regardless of where the contract owner resides; or

(B) Is not a resident, but only under both of the following conditions:

(i)(I) The contract owner of the structured settlement annuity is a resident; or

(II) The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state and the state in which the contract owner resides has an association similar to the association created by this chapter; and

(ii) Neither the payee or beneficiary nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(4) This chapter shall not provide coverage to:

(A) A person who is a payee or beneficiary of a contract owner who is a resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state; or

(B) A person covered under paragraph (2) of this subsection, if any coverage is provided by the association of another state to that person.

(5) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is

provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of the provisions of this subsection in situations where a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association.

(c) This chapter shall not ~~apply~~ provide coverage to:

(1) ~~That portion or part of a variable life insurance or variable annuity policy or contract not guaranteed by an insurer;~~ or

~~(2) That portion or part of any policy or contract under which the risk is borne by the policyholder policy or contract owner;~~

~~(3)(2) A policy or contract of reinsurance or any~~ Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(3) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(A) Averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(B) On and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) Any policy, contract, certificate, or subscriber agreement issued by a nonprofit hospital service corporation referred to in Chapter 19 of this title, a health care plan referred to in Chapter 20 of this title, a nonprofit medical service corporation referred to in Chapter 18 of this title, a prepaid legal services plan, as defined in Code Section 33-35-2, and a health maintenance organization, as defined in Code Section 33-21-1;

(5) Any policy, contract, or certificate issued by a fraternal benefit society, as defined in Code Section 33-15-1;

(6) Accident and sickness insurance as defined in Code Section 33-7-2 when written by a property and casualty insurer as part of an automobile insurance contract;

(7) A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity benefits to its employees, members, or others, to the extent that the plan or program is self-funded

or uninsured, including, but not limited to, benefits payable by an employer, association, or other person under:

(A) A multiple employer welfare arrangement as defined in 29 U.S.C. Section 1002(40);

(B) A minimum premium group insurance plan;

(C) A stop-loss insurance policy; or

(D) An administrative services only contract;

(8) A portion of a policy or contract to the extent that it provides for:

(A) Dividends or experience rating credits;

(B) Voting rights; or

(C) Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

(9) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

~~(7)~~(10) Any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan; or

~~(8)~~(11) Any portion of any unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery;

(12) A portion of a policy or contract to the extent that the assessments required by Code Section 33-38-15 with respect to the policy or contract are preempted by federal or state law;

(13) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including without limitation:

(A) Claims based on marketing materials;

(B) Claims based on side letters, riders, or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements;

(C) Misrepresentations of or regarding policy benefits;

(D) Extra-contractual claims; or

(E) A claim for penalties or consequential or incidental damages;

(14) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;

(15) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture,

as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this paragraph, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture; or

(16) A policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to Part C or Part D of Subchapter XVIII, Chapter 7 of Title 42 of the United States Code, commonly known as Medicare Part C & D, or any regulations issued pursuant thereto.

(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 after the effective date of this Code section.

33-38-3.

This chapter shall be ~~liberally~~ construed to effect the purpose set forth in Code Section 33-38-1, ~~which Code section shall constitute an aid and guide to interpretation.~~

33-38-4.

As used in this chapter, the term:

(1) 'Account' means any of the two accounts created under Code Section 33-38-5.

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

(3) 'Association' means the Georgia Life and Health Insurance Guaranty Association created under Code Section 33-38-5.

(4) 'Authorized assessment,' or 'authorized' when used in the context of assessments, means a resolution by the board of directors of the association has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(5) 'Benefit plan' means a specific employee, union, or association of natural persons benefit plan.

(6) 'Called assessment,' or 'called' when used in the context of assessments, means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

~~(4)(7)~~ 'Contractual obligation' means any obligation under a covered policies or contracts policy, contract, or certificate under a group policy or contract, or portion

thereof for which coverage is provided under Code Section 33-38-2. ~~Notwithstanding any other provision of this chapter, 'contractual obligation' shall not include a claim filed after the final date set by the court for the filing of claims against the liquidator or other such court appointed authority.~~

~~(5)~~(8) 'Control' or 'controlled' 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 ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise.

~~(6)~~(9) 'Covered policy' means any a policy or contract within the scope of this chapter or portion of a policy or contract for which coverage is provided under Code Section 33-38-2.

~~(7)~~ 'Health insurance' means ~~accident and sickness insurance, as that class of insurance is defined in Code Section 33-7-2.~~

(10) 'Extra-contractual claims' shall include, for example, any claim not authorized by, or outside the scope of, the underlying policy or contract to include any claim based on bad faith, punitive or exemplary damages, treble damages, prejudgment or postjudgment interest, attorney's fees, or costs of litigation.

~~(8)~~(11) 'Impaired insurer' means a member insurer ~~deemed by the Commissioner 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, to be potentially unable to fulfill its contractual obligations but not an insolvent insurer.~~

~~(9)~~(12) 'Insolvent insurer' means a member insurer against which ~~a final~~ an order of liquidation containing a finding of insolvency has been entered by a court of competent jurisdiction on or after July 1, 1981.

~~(40)~~(13) 'Member insurer' means any insurer which is licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under Code Section 33-38-2 and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

- (A) A ~~nonprofit~~ hospital or medical service corporation, whether profit or nonprofit;
- (B) A health care corporation;
- (C) A health maintenance organization;
- (D) A fraternal benefit society;
- (E) A mandatory state pooling plan;
- (F) A mutual assessment company or any entity that operates on an assessment basis;
- (G) An insurance exchange; ~~or~~
- (H) An organization that has a certificate or license limited to the issuance of charitable gift annuities under Code Sections 33-58-1 through 33-58-6; or
- (I) Any entity similar to those described in subparagraphs (A) through (H) of this paragraph.

(14) 'Moody's Corporate Bond Yield Average' means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(15) 'Owner' of a policy or contract and 'policy owner' and 'contract owner' mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer. The terms 'owner,' 'contract owner,' and 'policy owner' shall not include persons with a mere beneficial interest in a policy or contract.

~~(14)~~(16) 'Person' means any individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(17) 'Plan sponsor' means:

(A) The employer in the case of a benefit plan established or maintained by a single employer;

(B) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(C) In a case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

~~(12)~~(18) 'Premiums' means ~~direct gross insurance premiums and annuity~~ amounts or considerations, by whatever name called, received on covered policies or contracts, less ~~return~~ returned premiums, ~~and~~ considerations and deposits thereon and less dividends paid or credited to policyholders on such ~~direct business~~ and experience credits. The term 'premiums' ~~does~~ shall not include ~~premiums and:~~

(A) Amounts or considerations ~~on~~ received for policies or contracts ~~between insurers and reinsurers.~~ or for the portions of policies or contracts for which coverage is not provided under this chapter except that assessable premium shall not be reduced on account of paragraph (3) of subsection (c) of Code Section 33-38-2, relating to interest limitations, and paragraph (12) of Code Section 33-38-7, relating to limitations with respect to one individual, one participant, and one contract owner; The term 'premiums' does not include any premiums

(B) Premiums in excess of \$5 million on ~~any~~ an unallocated annuity contract; or

(C) With respect to multiple nongroup policies of life insurance owned by one owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of \$5 million with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(19)(A) 'Principal place of business' of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the association in its reasonable judgment by considering the following factors:

- (i) The state in which the primary executive and administrative headquarters of the entity is located;
- (ii) The state in which the principal office of the chief executive officer of the entity is located;
- (iii) The state in which the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;
- (iv) The state in which the executive or management committee of the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;
- (v) The state from which the management of the overall operations of the entity is directed; and
- (vi) In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors.

However, in the case of a plan sponsor, if more than 50 percent of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor.

(B) The principal place of business of a plan sponsor of a benefit plan described in subparagraph (C) of paragraph (17) of this Code section shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

(20) 'Receivership court' means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

(13)(21) 'Resident' means any person who ~~is domiciled~~ resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed. A person may be a resident of only one state, which, in the case of a person other than a natural person, shall be its principal place of business. Citizens of the United States who are either residents of foreign countries or residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this chapter shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts.

(22) 'State' means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

(23) 'Structured settlement annuity' means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(24) 'Supplemental contract' means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(25) 'Unallocated annuity contract' means an annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

33-38-5.

(a) There is created a nonprofit, unincorporated association to be known as the Georgia Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under Code Section 33-38-8 and shall exercise its powers through a board of directors established under Code Section 33-38-6.

(b) The association shall come under the immediate supervision of the Commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

(c) For purposes of administration and assessment, the association shall maintain two accounts: (1) the health insurance account; and (2) the life insurance and annuity account. The life insurance and annuity account shall contain three subaccounts: (A) the life insurance account; (B) the annuity account; and (C) the unallocated annuity account ~~which shall include contracts qualified under Section 403(b) of the United States Internal Revenue Code.~~

(d) For purposes of assessment, supplementary supplemental contracts shall be covered under the account in which the basic policy is covered.

33-38-6.

~~(a) The board of directors of the association shall consist of seven members and shall at all times contain at least one member from a domestic insurer. The members, who shall not be considered employees of the Insurance Department, shall be appointed as follows:~~

~~(1) The Commissioner shall compile a list of the two stock insurers most likely to incur the largest assessment, per insurer, for each of the accounts under Code Section 33-38-5; he shall compile a list of the two nonstock insurers most likely to incur the largest assessment, per insurer, for each of the accounts under Code Section 33-38-5; and he shall compile a list of the two domestic insurers, either stock or nonstock, most likely to incur the largest assessment, for each of the accounts listed under Code Section 33-38-5. The Commissioner shall solicit from these 18 insurers the names of 18 individuals as nominees for members to the board of directors. The Commissioner shall thereupon separately certify in writing the nominations from stock and nonstock insurers and separately for each account;~~

~~(2) From the nominations so certified for each such account, the Commissioner shall appoint one stock member and one nonstock member to the board of directors until six directors have been appointed. Then the Commissioner shall appoint from the remaining nominations the chairman of the board who shall also be its chief executive; and~~

(a) The board of directors of the association shall consist of not less than five nor more than nine member insurers serving terms as established in the plan of operation. The members of the board shall be selected by the Commissioner from a list provided to the Commissioner from the board. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the Commissioner.

~~(3)(b)~~ In approving selections ~~or in appointing~~ of members to the board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented.

~~(b) Any member may be removed from office by the Commissioner when, in his judgment, the public interest may so require.~~

~~(e) Each member so appointed shall serve for a term of three years and until his successor has been appointed and qualified.~~

~~(d) If there occurs, for any reason, a vacancy in the board of directors, the Commissioner shall appoint a member to fill the unexpired term of office from the nominations as heretofore described.~~

~~(e)(c)~~ Members of the board may be reimbursed from the assets of the association for reasonable expenses incurred by them in their capacity as members of the board of directors, but members of the board shall not otherwise be compensated by the association for their services.

33-38-7.

(a) In addition to the powers and duties enumerated elsewhere in this chapter, the association shall have the following powers and duties:

~~(1) Whenever~~ If a domestic member insurer is an impaired insurer, the association, subject to any conditions, other than those conditions which impair the contractual obligations of the impaired insurer, imposed by the association and approved by the impaired insurer and the Commissioner, may, in its discretion:

(A) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies or contracts of the impaired insurer; and

(B) Provide such moneys, pledges, loans, notes, guarantees, or other means as are proper to effectuate subparagraph (A) of this paragraph and assure payment of the contractual obligations of the impaired insurer pending action under subparagraph

(A) of this paragraph; and

~~(C) Loan money to the impaired insurer;~~

~~(2) Whenever~~ If a domestic member insurer is an insolvent insurer, the association shall, subject to the approval of the Commissioner in its discretion, either:

(A)~~(i)(I)~~ (I) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies or contracts of the insolvent insurer; or

~~(B)(II)~~ (II) Assure payment of the contractual obligations of the insolvent insurer; and

~~(C)(ii)~~ Provide such moneys, pledges, loans, notes, guarantees, or other means as are reasonably necessary to discharge such the association's duties; or

~~(3) Whenever a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the Commissioner:~~

~~(A) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of residents;~~

~~(B) Assure payment of the contractual obligations of the insolvent insurer to residents; and~~

~~(C) Provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.~~

~~This paragraph shall not apply where the Commissioner has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides protection by statute substantially similar to that provided by this chapter for residents of this state;~~

(B) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to life and health insurance policies and annuities, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

(I) With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies and contracts; and

(II) With respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date, if any, under the policies or contracts or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies or contracts;

(ii) Make diligent efforts to provide all known insureds or annuitants, for nongroup policies and contracts, or group policy owners with respect to group policies and contracts, 30 days' notice of the termination, pursuant to division (i) of this subparagraph, of the benefits provided;

(iii) With respect to nongroup life and health insurance policies and annuities covered by the association, make available to each known insured or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly insured or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of division (iv) of this subparagraph, if the insureds or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or annuity or had a right only to make changes in premium by class;

(iv) In providing the substitute coverage required under division (iii) of this subparagraph, the association may offer either to reissue the terminated coverage

or to issue an alternative policy. Alternative or reissued policies shall be offered without requiring evidence of insurability and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy. The association may reinsure any alternative or reissued policy;

(v)(I) Alternative policies adopted by the association shall be subject to the approval of the domiciliary insurance commissioner. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(II) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(III) Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association;

(vi) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the domiciliary insurance commissioner and the receivership court;

(vii) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date the coverage or policy is replaced by another similar policy by the policy owner, the insured, or the association; and

(viii) When proceeding under this subparagraph with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with paragraph (3) of subsection (c) of Code Section 33-38-2;

(3) Nonpayment of premiums within 31 days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage shall terminate the association's obligations under the policy or coverage under this chapter with respect to the policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter;

(4) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association. The association shall be liable for unearned premiums due to policy or contract owners arising after the entry of the order;

(5) The protection provided by this chapter shall not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state;

~~(4)(A)(6) In carrying out its duties under paragraphs paragraph (2) and (3) of this Code section, the association may: impose permanent policy liens or contract liens in connection with any guarantee, assumption, or reinsurance agreement if the court:~~

~~(i) Finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens to be in the public interest; and~~

~~(ii) Approves the specific policy liens or contract liens to be used.~~

(A) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with a guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the association's duties under this chapter, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens, to be in the public interest; and

(B) Before being obligated under paragraphs (2) and (3) of this Code section, the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to any contractual provisions for deferral of such cash value payments or policy loans. Such temporary moratoriums and liens may be imposed if they are approved by a court of competent jurisdiction Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court;

(7) A deposit in this state, held pursuant to law or required by the Commissioner for the benefit of creditors, including policy owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or in a reciprocal state, pursuant to Code Sections 33-3-8 through 33-3-10, shall be promptly paid to the association. The association shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy

owners claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount so paid to the association less the amount retained pursuant to this paragraph. Any amount so paid to the association and retained by it shall be treated as a distribution of estate assets pursuant to applicable state receivership law dealing with early access disbursements.

~~(5)~~(8) If the association fails to act within a reasonable period of time with respect to an insolvent insurer, as provided in ~~paragraphs~~ paragraph (2) and (3) of this Code section, the Commissioner shall have the powers and duties of the association under this chapter with respect to the insolvent insurers;

~~(6)~~(9) Upon ~~his~~ the Commissioner's request, the association may render assistance and advice to the Commissioner concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer;

~~(7)~~(10) The association shall have standing to appear or intervene before any court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. Such standing shall extend to all matters germane to the powers and duties of the association, including but not limited to proposals for reinsuring, modifying, or guaranteeing the ~~covered~~ policies or contracts of the impaired or insolvent insurer and the determination of the ~~covered~~ policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise;

~~(8)(A)~~(11)(A) Any person receiving benefits under this chapter shall be deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations, ~~or~~ continuation of coverage, or provision of substitute or alternative coverages. The association may require an assignment to it of such rights and causes of action by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this chapter upon such person. The association shall be subrogated to these rights against the assets of any impaired or insolvent insurer.

(B) The subrogation rights of the association under this paragraph shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter;

(C) In addition to subparagraphs (A) and (B) of this paragraph, the association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, or payee of a policy or contract with respect to the policy or contracts.

(D) If subparagraphs (A) through (C) of this paragraph are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portion thereof, covered by the association.

(E) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in this paragraph, the person shall pay to the association the portion of the recovery attributable to the policies, or portion thereof, covered by the association;

~~(9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be as great as, but no greater than, the contractual obligations of the insolvent insurer would have been in the absence of an insolvency, unless such obligations are reduced as permitted by paragraph (4) of this Code section. With respect to any one contract holder covered by an unallocated annuity contract, the association shall be liable for not more than \$5 million in benefits irrespective of the number of such contracts held by that contract holder. With respect to any other covered policy, the aggregate liability of the association on any one life shall not exceed \$100,000.00 with respect to the payment of cash values or \$300,000.00 for all benefits including cash values; provided, however, that with respect to claims under policies written to provide benefits as required under Chapter 9 of Title 34, relating to workers' compensation, such claims shall be in the full amount as provided by such chapter; and~~

(12) The benefits that the association may become obligated to cover shall in no event exceed the lesser of:

(A) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(B) With respect to one life, regardless of the number of policies or contracts:

(i) The amount of \$300,000.00 in life insurance death benefits, but not more than \$100,000.00 in net cash surrender and net cash withdrawal values for life insurance;

(ii) In health insurance benefits, \$300,000.00 for disability insurance; \$300,000.00 for long-term care insurance; \$300,000.00 for health insurance other than disability insurance as referenced above, long-term care insurance as referenced above, and basic hospital, medical, and surgical insurance or major medical insurance as referenced below, including any net cash surrender and net cash withdrawal values; and \$500,000.00 for basic hospital, medical, and surgical insurance or major medical insurance; and

(iii) The amount of \$300,000.00 in the present value of annuity benefits, but not more than \$250,000.00 in net cash surrender and net cash withdrawal values for an annuity;

(C) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, \$300,000.00 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(D) However, in no event shall the association be obligated to cover more than:

(i) An aggregate of \$300,000.00 in benefits with respect to any one life under subparagraph (B) of this paragraph except with respect to benefits for basic hospital, medical, and surgical insurance and major medical insurance under division (ii) of this subparagraph, in which case the aggregate liability of the association shall not exceed \$500,000.00 with respect to any one individual; or

(ii) With respect to one owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than \$5 million in benefits, regardless of the number of policies and contracts held by the owner;

(E) With respect to either one contract owner provided coverage under subparagraph (b)(2)(B) of Code Section 33-38-2 or one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts, \$5 million in benefits, regardless of the number of contracts with respect to the contract owner or plan sponsor. However, in the case where one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than \$5 million in benefits with respect to all these unallocated contracts; and

(F) The limitations set forth in this paragraph are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights;

(13) In performing its obligations to provide coverage under Code Section 33-38-7, 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;

~~(10)~~(14) In addition to the rights and powers elsewhere in this chapter, the ~~The~~ association may:

(A) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(B) ~~Bring or defend actions~~ Sue or be sued, including the right to seek a declaratory judgment in any superior court of this state as to uncertainties with respect to the payment of benefits under this Code section. The association may also take ~~taking~~ any legal actions necessary or proper for recovery of any unpaid assessments under Code Section 33-38-15 and may settle claims or potential claims against it;

(C) Borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(D) Employ or retain such persons as are necessary to handle the financial transactions of the association and to perform such other functions as become necessary or proper under this chapter;

(E) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(F) Take such legal action as may be necessary to avoid payment of improper claims; and

(G) Exercise, for the purposes of this chapter and to the extent approved by the Commissioner, the powers of a domestic life or health insurer; but in no case may the association issue insurance policies or annuity contracts other than those ~~necessary issued to perform the contractual its obligations of the impaired or insolvent insurer.~~ under this chapter;

(15) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(16) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request;

(17) Take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter;

(18) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association;

(19) With respect to covered policies for which the association becomes obligated after an entry of an order of liquidation, the association may elect to succeed to the rights of the insolvent insurer arising after the order of liquidation under any contract of reinsurance to which the insolvent insurer was a party, to the extent such contract provides coverage for losses occurring after the date of the order of liquidation. As a condition to making such election, the association must pay all unpaid premiums due under the contract for coverage relating to periods before and after the date on which the order of liquidation was entered;

(20) The board of directors shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this chapter in an economical and efficient manner;

(21) Where the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement;

(22) Exclusive venue in any action by or against the association is in the Superior Court of DeKalb County. The association may, at its option, waive such venue as to specific actions. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter; and

(23) In carrying out its duties in connection with guaranteeing, assuming, or reinsuring policies or contracts under paragraph (1) or (2) of this Code section, the association may, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(A) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for a fixed interest rate, payment of dividends with minimum guarantees, or a different method for calculating interest or changes in value;

(B) There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

(C) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

(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 after the effective date of this Code section.

33-38-8.

(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.

- (b) All member insurers shall comply with the plan of operation.
- (c) The plan of operation shall, in addition to requirements enumerated elsewhere in this chapter:
 - (1) Establish procedures for handling the assets of the association;
 - (2) Establish the amount and method of reimbursing members of the board of directors under Code Section 33-38-6;
 - (3) Establish regular places and times for meetings of the board of directors;
 - (4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;
 - (5) Establish any additional procedures for assessments under Code Section 33-38-15; and
 - (6) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

33-38-9.

The plan of operation described in Code Section 33-38-8 may provide that any or all powers and duties of the association, except those under subparagraph (C) of paragraph ~~(40)~~ (14) of Code Section 33-38-7 and Code Section 33-38-15, shall be delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this Code section shall take effect only with the approval of both the board of directors and the Commissioner and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided for by this chapter.

33-38-10.

In addition to the duties and powers enumerated elsewhere in this chapter:

- (1) The Commissioner shall:
 - (A) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer; and
 - (B) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to comply promptly with such demand shall not excuse the association from the performance of its powers and duties under this chapter; and
- (2) The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation.

33-38-11.

Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under Code Section 33-38-7. ~~Records~~ The records of such negotiations or meetings shall be made public only upon the association with respect to an impaired or insolvent insurer shall not be disclosed prior to the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, except (a) upon the termination of the impairment or insolvency of the insurer, or (b) upon the order of a court of competent jurisdiction. Nothing in this Code section shall limit the duty of the association to render a report of its activities under Code Section 33-38-12.

33-38-12.

The association shall be subject to examination and regulation by the Commissioner. Notwithstanding the foregoing, whether such examinations shall be conducted and the frequency of any such examination shall be at the sole discretion of the Commissioner. The board of directors shall submit to the Commissioner not later than May 1 of each year a financial report and a report of its activities for the preceding calendar year on forms approved by the Commissioner.

33-38-13.

The association shall be exempt from all taxation in this state based upon income or gross receipts and shall likewise be exempt from all state and local occupation license and business fees and occupation license and business taxes.

33-38-14.

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the Commissioner or his or her representatives, for any action ~~taken~~ or omission by them in the performance of their powers and duties under this chapter. This immunity shall extend to the participation in any organization of one or more other state associations of similar purposes and to any such organization and its agents or employees.

33-38-15.

(a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers separately for the health account and for each subaccount of the life insurance and annuity account at such time and for such amounts as the board finds necessary. Assessment shall be due not less than 30 days after prior written notice to the member insurers.

(b) There shall be two classes of assessments, as follows:

(1) Class A assessments shall be ~~made~~ authorized and called for the purpose of meeting administrative costs and legal and other general expenses not related to a

particular impaired or insolvent insurer, and examinations conducted under the authority of subsection (c) of Code Section 33-38-16; and

(2) Class B assessments shall be ~~made~~ authorized and called to the extent necessary to carry out the powers and duties of the association under Code Section 33-38-7 with regard to an impaired or insolvent insurer.

(c)(1) The amount of any Class A assessment shall be determined by the board of directors and may be made on a pro rata or non-pro rata basis. If a Class A assessment is made on a pro rata basis, the board may provide that it be credited against future Class B assessments. An assessment for costs and expenses other than for examinations which is made on a non-pro rata basis shall not exceed ~~\$150.00~~ \$300.00 per company in any one calendar year. The amount of any Class B assessment shall be allocated for assessment purposes among the accounts or subaccounts in subsection (c) of Code Section 33-38-5 pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers for each account or subaccount shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account or subaccount for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be ~~made~~ authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection (b) of this Code section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within 180 days after the assessment is authorized.

(d) The association may abate or defer in whole or in part the assessment of a member insurer if, in the opinion of the board of directors, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this Code section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(e)(1) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed 2 percent of such insurer's premiums received in this state on the policies covered by the account during the calendar year preceding the

assessment. If the maximum assessment in any account, together with the other assets of the association, does not provide in any one year in such account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(2) The total of all assessments upon a member insurer for each subaccount of the life insurance and annuity account shall not in any one calendar year exceed 2 percent of such insurer's premiums received in this state on the policies covered by the subaccount during the calendar year preceding the assessment. If the maximum assessment for any subaccount of the life insurance and annuity account in any one year does not provide an amount sufficient to carry out the responsibilities of the association, then the board shall assess the other subaccounts of the life insurance and annuity account for the necessary additional amount up to the maximum assessment level provided in paragraph (1) of this subsection.

(f) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account or subaccount, the amount by which the assets of the account or subaccount exceed the amount the board finds is necessary to carry out the obligations of the association during the coming year with regard to that account or subaccount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account or subaccount to provide funds for the continuing expenses of the association and for future losses if the board determines that refunds are impractical.

(g) It shall be proper for any member insurer in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this chapter to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(h) The association shall issue to each insurer paying an assessment under this chapter, other than a Class A assessment, a certificate of contribution, in a form prescribed by the Commissioner for the amount of the assessment paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form, for such an amount and for such period of time, not to exceed five years from the date of assessment, as the Commissioner may approve.

(i)(1) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment shall be available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(2) Within 60 days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(3) Within 30 days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within 60 days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the Commissioner.

(4) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the Commissioner for a final decision, with or without a recommendation from the association.

(5) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Interest on a refund due a protesting member shall be paid at the rate actually earned by the association.

(j) The association may request information of member insurers in order to aid in the exercise of its power under this Code section and member insurers shall promptly comply with a request.

33-38-16.

(a) The board of directors may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer, or to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall not be considered public documents.

(b) ~~It shall be the duty of the~~ The board of directors may, upon majority vote, ~~to~~ notify the Commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

(c) The board of directors may, upon majority vote, request that the Commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of such request, the Commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners' examination or may be conducted by such persons as the Commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated the same as other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the Commissioner from complying with subsection (a) of this Code section. The Commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the Commissioner, but it shall not be open to public inspection prior to the release of the examination report to the public.

(d) The board of directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer insolvencies.

(e) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the Commissioner containing such information as it may have in its possession bearing on

the history and causes of such insolvency. The board shall cooperate with the board of directors of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer and may adopt by reference any report prepared by such other associations.

33-38-17.

(a) This chapter shall not be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(b) For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of the assets attributable to covered policies, reduced by any amounts to which the association is entitled as subrogee pursuant to paragraph ~~(8)~~ (11) of Code Section 33-38-7. ~~All~~ The assets of the impaired or insolvent insurer attributable to covered policies shall be used by the association to continue ~~all~~ the covered policies and pay ~~all~~ the contractual obligations of the impaired or insolvent insurer as required by this chapter. For purposes of this subsection, that portion of the total assets of an impaired or insolvent insurer that is attributable to covered policies shall be determined by using the same proportion as the reserves that should have been established for such policies bears to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(c) As a creditor of the impaired or insolvent insurer as established in subsection (b) of this Code section and consistent with Code Section 33-37-33, the association and other similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within 120 days of a final determination of insolvency of an insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association shall be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

~~(b)(1)~~(d)(1) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders, policy owners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(2) No distribution to stockholders of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association with interest thereon for funds expended in carrying out its powers and duties under Code Section 33-38-7, with respect to such insurer, has been fully recovered by the association.

(3) No insurer that is subject to any delinquency proceedings, whether formal or informal, administrative or judicial, shall have any of its assets returned to the control of its shareholders or private management until all payments of or on account of the insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the insurer shall have been approved by the guaranty association.

~~(e)(1)~~(e)(1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right on behalf of the insurer to recover from any affiliate the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation, subject to the limitations of this ~~subsection and subsections (a) and (b) of this~~ Code section.

(2) No such distribution shall be recoverable if the insurer shows that the distribution was lawful and reasonable when paid and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable to the extent of the distributions received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared shall be liable to the extent of the distributions that would have been received if such distributions had been paid immediately. Whenever two persons are liable with respect to the same distribution, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this subsection shall be the amount needed, in excess of all other available assets of the insolvent insurer, to pay the contractual obligations of the insolvent insurer.

(5) Whenever any person liable under paragraph (3) of this subsection is insolvent, all affiliates that controlled it at the time the distribution was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

33-38-18.

All proceedings in any court in this state in which the insolvent insurer is a party shall be stayed ~~60~~ 180 days from the date of a final order of liquidation, rehabilitation, or conservation to permit proper legal action by the association on any matters germane to its powers or duties. As to judgment entered under any decision, order, verdict, or finding based on default, the association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such action on the merits.

33-38-19.

The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this chapter.

33-38-20.

Any action of the board of directors may be appealed to the Commissioner by any member insurer if such appeal is taken within ~~30~~ 60 days of its receipt of notice of the action being appealed. Any final action or order of the Commissioner shall be subject to judicial review in a court of competent jurisdiction in accordance with the laws of this state that may apply to the actions or orders of the Commissioner.

33-38-21.

(a) No person, including an insurer or agent or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication; in the form of a notice, circular, pamphlet, letter, or poster; over any radio station or television station; or in any other way, any advertisement, announcement, or statement which uses the existence of the association for the purposes of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This Code section shall not apply to the association or any other entity which does not sell or solicit insurance.

(b) Any person who violates subsection (a) of this Code section may, after notice and hearing and upon order of the Commissioner, be subject to one or more of the following:

- (1) A monetary penalty of not more than \$1,000.00 for each act or violation, but not to exceed an aggregate penalty of \$10,000.00; or
- (2) Suspension or revocation of his or her license or certificate of authority.

33-38-22.

(a) A member insurer may offset against its premium tax liability to this state an assessment described in Code Section 33-38-15 to the extent of 20 percent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

(b) Any sums which are acquired by refund, pursuant to subsection (f) of Code Section 33-38-15, from the association by member insurers and which have theretofore been offset against premium taxes as provided in subsection (a) of this Code section shall be paid by such insurers to this state in such manner as the Commissioner may require. The association shall notify the Commissioner that such refunds have been made."

SECTION 2.

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

SECTION 3.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	E Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	E Stephenson
Y Black	Y England	Jacobs	Y O'Neal	E Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Y Jerguson	Y Parrish	E Taylor, R
Bruce	Floyd	Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 156, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Beasley-Teague of the 65th stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "aye" thereon.

HB 880. By Representatives Powell of the 29th, Williams of the 4th, Benton of the 31st and Dickson of the 6th:

A BILL to be entitled an Act to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to change certain provisions relating to real estate professionals; to provide for definitions relative to real estate appraisers and to real estate brokers and salespersons; to change certain provisions relating to revocation of licenses; to change certain provisions relating to discipline, sanctions, and citations; to provide for a letter of findings to be issued by the Georgia Real Estate Appraisers Board and the Georgia Real Estate Commission; to change certain provisions relating to qualifications for a broker or associate broker's license; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to change certain provisions relating to real estate professionals; to provide for definitions relative to real estate appraisers; to change certain provisions relating to revocation of licenses; to change certain provisions relating to discipline, sanctions, and citations; to provide for a letter of findings to be issued by the Georgia Real Estate Appraisers Board and the Georgia Real Estate Commission; to change certain provisions relating to qualifications for a broker or associate broker's license; to change certain provisions relating to the real estate education, research, and recovery fund; to revise certain provisions relating to the commission's subrogation rights; 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 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by revising subparagraph (B) of paragraph (3) of Code Section 43-39A-2, relating to definitions relative to real estate appraisers, as follows:

"(B) 'Appraisal management company' does not include:

- (i) Any person licensed to practice law in this state who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an appraiser;
- (ii) Any person who contracts with an appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and who, upon

the completion of such an assignment, cosigns the appraisal report with the appraiser who is acting as an independent contractor;

(iii) Any federal, state, or local government or any of its departments, agencies, or authorities that order appraisals; ~~or~~

(iv) Any person who orders an appraisal on behalf of any federal, state, or local government or its departments, agencies, or authorities as an employee thereof; or

(v) A relocation company."

SECTION 2.

Said title is further amended by revising Code Section 43-39A-2, relating to definitions relative to real estate appraisers, by adding a new paragraph to read as follows:

"(25.1) 'Relocation company' means a business entity that acts as an agent or contractor of an employer for the purposes of relocating the employees of such employer and determining an anticipated sales price of the residences of the employees being relocated."

SECTION 3.

Said title is further amended by revising subsection (e) of Code Section 43-39A-3, relating to the Georgia Real Estate Appraisers Board, membership, qualifications, recusal for conflict of interest, terms, removal, meetings, and compensation, as follows:

"(e) Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. The Governor, after giving notice and opportunity for a hearing, may remove from office any member of the board for any of the following:

- (1) Inability to perform or neglecting to perform the duties required of members;
- (2) Incompetence;
- (3) Dishonest conduct; or
- (4) Having a disciplinary sanction other than a citation or a letter of findings authorized by this chapter imposed by any professional licensing agency on such member's right to practice a trade or profession."

SECTION 4.

Said title is further amended by revising Code Section 43-39A-14, relating to required conduct of applicants, refusal of classification, imposition of sanctions, revocation of classification, noncompliance with child support orders, and borrowers in default, as follows:

"43-39A-14.

(a) Appraiser classifications shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such manner as to safeguard the interests of the public and only after satisfactory proof of such qualifications has been presented to the board.

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

(A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of a felony or any crime involving moral turpitude, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) 'Felony' ~~includes~~ means any offense ~~which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere~~ committed:

(i) Within this state and deemed a felony under the laws of this state or under the laws of the United States; or

(ii) In another state and deemed a felony under the laws of that state or the laws of the United States.

(1.1) No person who has a conviction shall be eligible to become an applicant for a license or an approval authorized by this chapter unless such person has successfully completed all terms and conditions of any sentence imposed for such conviction; provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has a single conviction, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval.

(1.2) A person who has a conviction in a court of competent jurisdiction of this state or any other state, ~~district, or territory of the United States, or of a foreign country,~~ shall be eligible to become an applicant for a licensure or an approval authorized by this chapter only if:

(A) Such person has satisfied all terms and conditions of any conviction such person may have had before making application for licensure or approval, provided that, if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has been convicted of a single felony or of a single crime of moral turpitude, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval;

(B) No criminal charges for forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, a felony, a ~~sex~~ sexual offense, a probation violation, or a crime involving moral turpitude are pending against the person; and

(C) Such person presents to the commission satisfactory proof that the person now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(2) Where an applicant for any classification or approval authorized by this chapter has been convicted in a court of competent jurisdiction of this state or any other state, ~~district, or territory of the United States or of a foreign country~~ of the offense of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, or conspiracy to defraud or other like offense or offenses or has been convicted of a felony, a ~~sex~~ sexual offense, a probation violation, or a crime involving moral turpitude, such conviction in itself may be a sufficient ground for refusal of a classification or approval. An applicant for any classification or approval authorized by this chapter who has been convicted of any offense enumerated in this paragraph may be issued a classification or approval by the board only if:

(A) The time periods identified in paragraph ~~(4)~~ (1.1) of this subsection have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;

(B) No criminal charges are pending against the applicant; and

(C) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such a manner as to safeguard the interest of the public.

(c) Where an applicant or an appraiser has been found guilty of a violation of the federal fair housing law or Article 4 of Chapter 3 of Title 8 by an administrative law judge or a court of competent jurisdiction and after any appeal of such conviction is concluded, such conviction may in itself be a sufficient ground for refusal of an appraiser classification or the imposition of any sanction permitted by this chapter.

(d) Where an applicant or an appraiser has made a false statement of material fact on an application or caused to be submitted or been a party to preparing or submitting any falsified application to the board, such action may, in itself, be a sufficient ground for the refusal, suspension, or revocation of the appraiser classification.

(e) Grounds for suspension or revocation of an appraiser classification, as provided for by this chapter, shall also be grounds for refusal to grant an appraiser classification.

(f) The conduct provided for in subsections (a) through (d) and subsection (h) of this Code section which relates to the denial of an appraiser classification to an applicant shall also be grounds for the imposition of any sanction permitted by this chapter when the conduct is that of an appraiser.

(g) Whenever the board initiates an investigation as provided in Code Section 43-39A-22 to determine whether an appraiser has violated any provision of this chapter or the rules and regulations adopted pursuant to this chapter and such appraiser:

(1) Surrendered or surrenders an appraiser classification to the board;

(2) Allowed or allows an appraiser classification to lapse due to failure to meet education requirements provided by law; or

(3) Allowed or allows an appraiser classification to lapse due to failure to pay any required fees,

the board may issue an order revoking such appraiser's classification. The order ~~will~~ shall be effective ten days after the order is served on the appraiser unless the appraiser

makes a written request for a hearing before the board, in which event, the board ~~will~~ shall file a notice of hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Service shall be accomplished as provided for in Code Section 43-39A-21. ~~If such surrender or lapsing occurs after the board has filed a notice of hearing alleging that such appraiser has violated any provision of this chapter or the rules and regulations adopted pursuant to this chapter but before the board enters a final order in the matter, then upon submission of a new application by such person the matters asserted in the notice of hearing shall be deemed admitted and may be used by the board as grounds for refusal of a new appraiser classification to such person.~~

(h) Whenever any occupational licensing body of this state, or any other state, ~~or any foreign country~~ has ~~sanctioned~~ disciplined any license or classification of an applicant for any appraiser classification or whenever such an applicant has allowed a license or classification to lapse or has surrendered a license or classification to any occupational licensing body of this state, or any other state, ~~or any foreign country~~ after that occupational licensing body has initiated an investigation or a disciplinary process regarding such applicant's licensure or classification, such ~~sanction~~ discipline, lapsing, or surrender in itself may be a sufficient ground for refusal of an appraiser classification. Whenever any occupational licensing body of this state, or any other state, ~~or any foreign country~~ has revoked the license or classification of an applicant for a classification or whenever such an applicant has allowed a license or classification to lapse or has surrendered a license or classification to any occupational licensing body of this state, or any other state, ~~or any foreign country~~ after that body has initiated an investigation or a disciplinary process regarding such applicant's license or classification, the board may issue an appraiser classification only if:

(1) At least five years have passed since the date that the applicant's occupational registration, license, or certification was revoked or surrendered;

(2) No criminal charges are pending against the applicant at the time of application; and

(3) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such a manner as to safeguard the interests of the public.

(i) Whenever any appraiser is convicted of any offense enumerated in subsection (b) of this Code section, such appraiser ~~must~~ shall immediately notify the board of that conviction. Such appraiser's appraiser classification shall automatically be revoked 60 days after the conviction unless the appraiser makes a written request to the board for a hearing during that 60 day period. Following any such hearing requested pursuant to this subsection, the board in its discretion may impose upon that appraiser any sanction permitted by this chapter.

(j) Where an applicant or licensee has been found not in compliance with an order for child support as provided in Code Section 19-6-28.1 or 19-11-9.3, such action ~~is~~ shall be sufficient grounds for refusal of a license or suspension of a license. For purposes of

this subsection, the hearing and appeal procedures provided for in such Code sections shall be the only such procedures required under this article.

(k) Where an applicant or licensee has been found to be a borrower in default who is not in satisfactory repayment status as provided in Code Section 20-3-295, such finding is shall be sufficient grounds for refusal of a license or suspension of a license. For purposes of this subsection, the hearing and appeal procedures provided for in Code Section 20-3-295 shall be the only such procedures required under this article.

(l) Where the board has previously sanctioned any applicant for a classification under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' such sanction may in itself be a sufficient ground for refusing the classification."

SECTION 5.

Said title is further amended by revising subsection (a) of Code Section 43-39A-18, relating to penalties for violations, unfair trade practices, and civil judgments, as follows:

"(a) In accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' whenever an appraiser classification, a school approval, or an instructor approval has been obtained by false or fraudulent representation; or whenever an appraiser, an approved school, or an approved instructor has been found guilty of a violation of this chapter, ~~or~~ of the rules and regulations promulgated by the board, or of any unfair trade practices, including, but not limited to, those listed in this Code section; the board shall have the power to take any one or more of the following actions:

- (1) Refuse to grant or renew a classification to an applicant;
- (2) Administer a reprimand;
- (3) Suspend any classification or approval for a definite period of time or for an indefinite period of time in connection with any condition that may be attached to the restoration of the classification or approval;
- (4) Revoke any classification or approval;
- (5) Revoke any classification issued to an appraiser and simultaneously issue such appraiser a classification with more restricted authority to conduct appraisals;
- (6) Impose on an appraiser, applicant, approved school ~~approval~~, or approved instructor ~~approval~~ monetary assessments in an amount necessary to reimburse the board for administrative, investigative, and legal costs and expenses incurred by the board in conducting any proceeding authorized under this chapter or Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
- (7) Impose a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations with fines for multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other amount as the parties may agree;
- (8) Require completion of a course of study in real estate appraisal or instruction; or
- (9) Limit or restrict any classification or approval as the board deems necessary for the protection of the public.

Any action taken by the board pursuant to this subsection may, at its discretion, be construed as a 'disciplinary sanction' or 'sanction' as such terms are used in this chapter."

SECTION 6.

Said title is further amended by revising Code Section 43-39A-18.1, relating to alternative disciplinary procedures and citations, as follows:

"43-39A-18.1.

(a) It is the intent of the General Assembly to provide the board with a disciplinary tool ~~which is an alternative~~ measures to use as alternatives to the sanctions provided for in subsection (a) of Code Section 43-39A-18. The citation and letter of findings provided for in this Code section shall not be construed as a disciplinary sanction.

(b) Whenever the evidence gathered in an investigation reveals an apparent violation by an appraiser of this chapter, the rules and regulations promulgated by the board, or a standard of conduct, the board, in its discretion, may:

(1) ~~initiate~~ Initiate the process for the imposition of sanctions, as provided for in subsection (a) of Code Section 43-39A-18 and in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, ~~or~~;

(2) ~~issue~~ Issue a citation to the appraiser. Such citation, which shall be served personally or by mail, shall give notice to the appraiser of the alleged violation or violations of this chapter, commission rules, or standard or standards of conduct and inform the appraiser of the opportunity to request a contested case hearing to be held in accordance with the procedures established for such hearings by Chapter 13 of Title 50. A citation issued by the board may include an order to complete a course of study in real estate appraisal or instruction or to pay a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations, with fines for multiple violations limited to \$5,000.00 in any one citation, or both. If the appraiser fails to request a hearing within 30 days of the date of service of the citation, the order contained in the citation shall be final. The failure of an appraiser to comply with a final order contained in a citation may be cause for the imposition of a sanction on such person's classification, after notice and opportunity for a hearing; or

(3) Issue a letter of findings to the appraiser if the alleged violation appears to have done no harm to a third party or to the public. Such letter of findings, which shall be served personally or by mail, shall give notice to the appraiser of the alleged violation or violations of this chapter, commission rules, or standard or standards of conduct. A letter of findings shall be confidential and shall not appear on the classification history of an appraiser. A letter of findings shall not be subject to a subpoena in a civil action, shall not constitute a public record or be available for inspection by the public, and shall not be disclosed to any person or agency, except as provided in subsection (d) of Code Section 43-39A-22.

(c) The board is authorized to promulgate rules and regulations to implement this Code section. Such rules may limit the provisions of this chapter and of its rules and

regulations and standards of conduct which may be the basis for the issuance of a citation or a letter of findings."

SECTION 7.

Said title is further amended by revising subsection (d) of Code Section 43-40-2, relating to creation of commission, members, meetings, recusal for conflict of interest, removal, compensation, annual report, and budget unit, as follows:

"(d) The Governor, after giving notice and an opportunity for a hearing, may remove from office any member of the commission for any of the following:

- (1) Inability to perform or neglecting to perform the duties required of members;
- (2) Incompetence;
- (3) Dishonest conduct; or
- (4) Having a disciplinary sanction, other than a citation or a letter of findings authorized by this chapter, imposed by any professional licensing agency on such member's right to practice a trade or profession."

SECTION 8.

Said title is further amended by revising subsection (c) of Code Section 43-40-8, relating to qualifications of licensees, course of study for licensed salespersons, lapse, reinstatement, renewal, continuing education, and standards for courses, as follows:

"(c) In order to qualify to become an applicant for a broker or associate broker's license, an individual shall:

- (1) Have attained the age of 21 years;
- (2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;
- (3) Be a high school graduate or the holder of a certificate of equivalency;
- (3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;
- (4) Have maintained a license in active status for at least three of the five years immediately preceding the filing of an application to become a broker;
- (5) Furnish evidence of completion of 60 instructional hours in a broker's course of study approved by the commission, provided that if licensed as a community association manager, the applicant shall furnish evidence of completion of an additional 75 instructional hours in courses or a course of study approved by the commission; and
- (6) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers after completing the requirements of paragraph (5) of this subsection and after ~~servng at least two years of active licensure~~ maintaining a license in active status for at least three of the five years immediately preceding such examination.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing."

SECTION 9.

Said title is further amended by revising Code Section 43-40-15, relating to grant, revocation, or suspension of licenses, other sanctions, surrender or lapse, conviction, noncompliance with child support order, and borrowers in default, as follows:

"43-40-15.

(a) Licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commission. The commission may deny a license to a corporation, limited liability company, or partnership if a stockholder, member, or partner or any combination thereof which owns more than a 20 percent interest therein does not bear a good reputation for honesty, trustworthiness, and integrity; has been convicted of any of the crimes enumerated in subsection (b) of this Code section; or has been ~~sanctioned~~ disciplined by any legally constituted regulatory agency for violating a law regulating the sale of real estate.

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

(A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of a felony or any crime involving moral turpitude, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) 'Felony' ~~includes~~ means any offense ~~which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere~~ committed:

(i) Within this state and deemed a felony under the laws of this state or under the laws of the United States; or

(ii) In another state and deemed a felony under the laws of that state or the laws of the United States.

(1.1) No person who has a conviction shall be eligible to become an applicant for a license or an approval authorized by this chapter unless such person has successfully completed all terms and conditions of any sentence imposed for such conviction; ~~;~~ provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has a single conviction, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval.

(1.2) A person who has a conviction in a court of competent jurisdiction of this state or any other state, ~~district, or territory of the United States, or of a foreign country,~~ shall be eligible to become an applicant for a licensure or an approval authorized by this chapter only if:

- (A) Such person has satisfied all terms and conditions of any conviction such person may have had before making application for licensure or approval; provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has been convicted of a single felony or of a single crime of moral turpitude, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval;
- (B) No criminal charges for forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, a felony, a ~~sex~~ sexual offense, a probation violation, or a crime involving moral turpitude are pending against the person; and
- (C) Such person presents to the commission satisfactory proof that the person now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.
- (2) Where an applicant for any license or approval authorized by this chapter has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other like offense or offenses or has been convicted of a felony, a ~~sex~~ sexual offense, a probation violation, or a crime involving moral turpitude and has been convicted thereof in a court of competent jurisdiction of this state or any other state, ~~district, or territory of the United States or of a foreign country~~ such conviction in itself may be sufficient ground for refusal of a license or approval authorized by this chapter. An applicant for licensure as an associate broker or a broker who has been convicted of any offense enumerated in this paragraph may be licensed by the commission as an associate broker or a broker only if:
- (A) At least ten years have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;
- (B) No criminal charges are pending against the applicant; and
- (C) The applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.
- (c) Where an applicant or licensee has been found guilty of a violation of the federal fair housing law or Article 4 of Chapter 3 of Title 8 by an administrative law judge or a court of competent jurisdiction and after any appeal of such conviction is concluded, such conviction may in itself be a sufficient ground for refusal of a license or the imposition of any sanction permitted by this chapter.
- (d) Where an applicant or licensee has made a false statement of material fact on his or her application or caused to be submitted or been a party to preparing or submitting any falsified application to the commission, such action may, in itself, be a sufficient ground for the refusal, suspension, or revocation of the license.

(e) Grounds for suspension or revocation of a license, as provided for by this chapter, shall also be grounds for refusal to grant a license.

(f) The conduct provided for in subsections (a), (b), (c), (d), and (h) of this Code section which relates to the denial of a real estate license to an applicant shall also be grounds for imposition of any sanction permitted by this chapter when the conduct is that of a licensee.

(g) Whenever the commission initiates an investigation as permitted by Code Section 43-40-27 to determine whether a licensee has violated any provision of this chapter or its rules and regulations and such licensee has:

(1) Surrendered or voluntarily surrenders the license to the commission;

(2) Allowed or allows the license to lapse due to failure to meet educational requirements provided by law; or

(3) Allowed or allows the license to lapse due to failure to pay any required fees, ~~then if such surrender or lapsing takes place after before the commission has filed a notice of hearing alleging that such licensee has violated any provision of this chapter or its rules and regulations, but before the commission enters a final order in the matter, then upon submission of a new application by such licensee the matters asserted in the notice of hearing shall be deemed admitted and may be used by the commission as grounds for refusal of a new license to such licensee. If such surrender or lapsing takes place prior to the commission's filing of a notice of hearing, but after the commission initiates an investigation as permitted by Code Section 43-40-27, then the commission may issue an order revoking such licensee's license. Such order of revocation shall be final ten days after it is issued unless the licensee named in the order requests a hearing before the commission. If such licensee requests a hearing, the commission shall file a notice of hearing and provide a hearing for such licensee in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~ the commission may issue an order revoking such licensee's license. The order shall be effective ten days after the order is served on the licensee unless the licensee makes a written request for a hearing before the commission, in which event, the commission shall file a notice of hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Service shall be accomplished as provided for in Code Section 43-40-26.

(h) Whenever any occupational licensing body of this state, or any other state, ~~or any foreign country~~ has ~~sanctioned~~ disciplined the license of an applicant for any license authorized by this chapter or whenever such an applicant has allowed a license to lapse or has surrendered a license to any occupational licensing body of this state, or any other state, ~~or any foreign country~~ after that body has initiated an investigation or a disciplinary process regarding such applicant's license, such ~~sanction~~ discipline, lapsing, or surrender in itself may be a sufficient ground for refusal of a license. Whenever any occupational licensing body of this state, or any other state, ~~or any foreign country~~ has revoked the license of an applicant for any license authorized by this chapter or whenever such an applicant has allowed a license to lapse or has surrendered a license to any occupational licensing body of this state, or any other state, ~~or any foreign country~~ after that body has initiated an investigation or a disciplinary

process regarding such applicant's license, the commission may issue an associate broker's or a broker's license only if:

- (1) At least ten years have passed since the date that the applicant's occupational license was revoked or surrendered;
 - (2) No criminal charges are pending against the applicant at the time of application; and
 - (3) The applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.
- (i) Whenever any licensee is convicted of any offense enumerated in subsection (b) of this Code section, the licensee ~~must~~ shall immediately notify the commission of that conviction. The licensee's license shall automatically be revoked 60 days after the licensee's conviction unless the licensee makes a written request to the commission for a hearing during that 60 day period. Following any such hearing requested pursuant to this subsection, the commission in its discretion may impose upon that licensee any sanction permitted by this chapter.
- (j) Whenever the commission revokes or suspends the license of a community association manager, a salesperson, an associate broker, or a broker, then any school or instructor approval which such licensee holds shall also be revoked or suspended. Whenever a licensee surrenders a real estate license as provided for in subsection (g) of this Code section, any school or instructor approval which such licensee holds shall also be subject to the provisions of subsection (g) of this Code section.
- (k) Where an applicant or licensee has been found not in compliance with an order for child support as provided in Code Section 19-6-28.1 or 19-11-9.3, such action ~~is~~ shall be sufficient grounds for refusal of a license or suspension of a license. In such actions, the hearing and appeal procedures provided for in those Code sections shall be the only such procedures required under this chapter.
- (l) Where an applicant or licensee has been found to be a borrower in default who is not in satisfactory repayment status as provided in Code Section 20-3-295, such status ~~is~~ shall be sufficient grounds for refusal of a license or suspension of a license. In such cases, the hearing and appeal procedures provided for in Code Section 20-3-295 shall be the only such procedures required under this chapter.
- (m) Where the commission has previously sanctioned any applicant for a license under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' such sanction may in itself be a sufficient ground for refusing the license."

SECTION 10

Said title is further amended by revising subsection (b) of Code Section 43-40-22, relating to real estate education, research, and recovery fund, revocation of license upon court order for payment from fund, and subrogation, as follows:

"(b) The commission shall maintain a minimum balance of \$1 million in the real estate education, research, and recovery fund from which any person, except bonding

companies when they are not principals in a real estate transaction, aggrieved by an act, representation, transaction, or conduct of a licensee which is in violation of this chapter or of the rules and regulations of the commission promulgated pursuant thereto, may recover, by order of any court having competent jurisdiction, actual or compensatory damages, not including interests and costs sustained by the act, representation, transaction, or conduct, provided that nothing shall be construed to obligate the fund for more than ~~\$15,000.00~~ \$25,000.00 per transaction regardless of the number of persons aggrieved or parcels of real estate involved in such transaction. In addition:

- (1) The liability of the fund for the acts of a licensee, when acting as such, is terminated upon the issuance of court orders authorizing payments from the fund for judgments, or any unsatisfied portion of judgments, in an aggregate amount of ~~\$45,000.00~~ \$75,000.00 on behalf of such licensee;
- (2) A licensee acting as a principal or agent in a real estate transaction has no claim against the fund; and
- (3) No person who establishes a proper claim or claims under this Code section shall ever obtain more than ~~\$15,000.00~~ \$25,000.00 from the fund."

SECTION 11

Said title is further amended by revising subsection (d) of Code Section 43-40-22, relating to real estate education, research, and recovery fund, revocation of license upon court order for payment from fund, and subrogation, as follows:

"(d)(1) No action for a judgment which subsequently results in an order for collection from the real estate education, research, and recovery fund shall be started later than two years from the accrual of the cause of action thereon. ~~When any aggrieved person commences action for a judgment which may result in collection from the real estate education, research, and recovery fund, the aggrieved person shall notify the commission in writing, by certified mail or statutory overnight delivery, return receipt requested, to this effect at the time of the commencement of such action. The commission shall have the right to intervene in and defend any such action.~~

(2) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee for any act, representation, transaction, or conduct which is in violation of this chapter, or of the regulations promulgated pursuant thereto, which act occurred on or after July 1, 1973, the aggrieved person may, upon termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon ~~ten~~ 30 days' written notice to the commission, may apply to the court for an order directing payment out of the real estate education, research, and recovery fund of the amount unpaid upon the judgment, subject to the limitations stated in this Code section. The commission shall have the right to intervene in and object to such verified claim on the issue of whether or not the claim was in violation of this chapter or of the rules and regulations of the commission promulgated pursuant thereto.

(3) The court shall proceed upon such application in a summary manner and, upon the hearing thereof, the aggrieved person shall be required to show that such person:

- (A) At the time of the cause of action, was not a spouse of the judgment debtor; or a parent, sibling, or child of the judgment debtor or the judgment debtor's spouse; or the personal representative of such person or persons;
- (B) Has complied with all the requirements of this Code section;
- (C) Has obtained a judgment, as set out in paragraph (2) of this subsection, stating the amount thereof and the amount owing thereon at the date of the application; and that, in such action, the aggrieved person had joined any and all bonding companies which issued corporate surety bonds to the judgment debtors as principals and all other necessary parties;
- (D) Has caused to be issued a writ of execution upon such judgment and the officer executing the same has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found or that the amount realized on the sale of them or of such of them as were found, under such execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due to the judgment after application thereon of the amount realized;
- (E) Has caused the judgment debtor to make discovery under oath concerning the judgment debtor's property, in accordance with Chapter 11 of Title 9, the 'Georgia Civil Practice Act';
- (F) Has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment;
- (G) Has discovered by such search no personal or real property or other assets liable to be sold or applied or that certain of them, being described, owned by the judgment debtor and liable to be so applied have been discovered and that the aggrieved person has taken all necessary action and proceedings for the realization thereof and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized; and
- (H) Has applied the following items, if any, as recovered by the aggrieved person, to the actual or compensatory damages awarded by the court:
- (i) Any amount recovered from the judgment debtor or debtors;
 - (ii) Any amount recovered from the bonding company or companies; or
 - (iii) Any amount recovered in out-of-court settlements as to particular defendants.
- (4) Whenever the aggrieved person satisfies the court that it is not practical to comply with one or more of the requirements enumerated in subparagraphs (D), (E), (F), (G), and (H) of paragraph (3) of this subsection and that the aggrieved person has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may, in its discretion, dispense with the necessity for complying with such requirements.
- (5) The court shall make an order directed to the commission requiring payment from the real estate education, research, and recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the

limitations contained in this Code section, if the court is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person by paragraph (3) of this subsection and is satisfied that the aggrieved person has fully pursued and exhausted all remedies available to him or her for recovering the amount awarded by the judgment of the court.

(6) Should the commission pay from the real estate education, research, and recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license of such licensee shall be automatically revoked upon the issuance of a court order authorizing payment from the real estate education, research, and recovery fund. If such license is that of a firm, the license of the qualifying broker of the firm shall automatically be revoked upon the issuance of a court order authorizing payment from the real estate education, research, and recovery fund. No such licensee shall be eligible to receive a new license until such licensee has repaid in full, plus interest at the judgment rate in accordance with Code Section 7-4-12, the amount paid from the real estate education, research, and recovery fund on such licensee's account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(7) If, at any time, the money deposited in the real estate education, research, and recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claims or portions thereof in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of 4 percent a year."

SECTION 12.

Said title is further amended by revising subsection (a) of Code Section 43-40-25, relating to violations by licensees, schools, and instructors, sanctions, and unfair trade practices, as follows:

"(a) In accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' whenever a license, a school approval, or an instructor approval has been obtained by false or fraudulent representation_; or whenever a licensee, an approved school, or an approved instructor has been found guilty of a violation of this chapter, ~~or~~ of the rules and regulations promulgated by the commission, or of any unfair trade practices, including, but not limited to_, those listed in this Code section_; the commission shall have the power to take any one or more of the following actions:

- (1) Refuse to grant or renew a license to an applicant;
- (2) Administer a reprimand;
- (3) Suspend any license or approval for a definite period of time or for an indefinite period of time in connection with any condition that may be attached to the restoration of the license or approval;
- (4) Revoke any license or approval;

- (5) Revoke the license of a broker, qualifying broker, or associate broker and simultaneously issue such licensee a salesperson's license;
- (6) Impose on a licensee, applicant, approved school approval, or approved instructor approval monetary assessments in an amount necessary to reimburse the commission for the administrative, investigative, and legal costs and expenses incurred by the commission in conducting any proceeding authorized under this chapter or Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
- (7) Impose a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations with fines for multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other amount as the parties may agree;
- (8) Require completion of a course of study in real estate brokerage or instruction;
- (9) Require the filing of periodic reports by an independent accountant on a real estate broker's designated trust account; or
- (10) Limit or restrict any license or approval as the commission deems necessary for the protection of the public.

Any action taken by the commission pursuant to this subsection may, at its discretion, be construed as a 'disciplinary sanction' or 'sanction' as such terms are used in this chapter."

SECTION 13.

Said title is further amended by revising subsection (c) of Code Section 43-40-25, relating to violations by licensees, schools, and instructors, sanctions, and unfair trade practices, as follows:

"(c) When a licensee has previously been sanctioned by the commission or disciplined by any other state's real estate brokerage licensing authority, the commission may consider any such prior sanctions or disciplinary actions by another state's real estate brokerage licensing authority in determining the severity of a new sanction which may be imposed upon a finding that the licensee has committed an unfair trade practice, that the licensee has violated any provision of this chapter, or that the licensee has violated any of the rules and regulations of the commission. The failure of a licensee to comply with or to obey a final order of the commission may be cause for suspension or revocation of the individual's license after opportunity for a hearing."

SECTION 14.

Said title is further amended by revising Code Section 43-40-25.2, relating to alternative disciplinary procedures and citations, as follows:

"43-40-25.2.

(a) It is the intent of the General Assembly to provide the commission with a ~~disciplinary tool which is an alternative~~ measures to use as alternatives to the sanctions provided for in subsection (a) of Code Section 43-40-25. The citation and letter of findings provided for in this Code section shall not be construed as a disciplinary sanction.

(b) Whenever the evidence gathered in an investigation reveals an apparent violation of this chapter or of the rules and regulations promulgated by the commission or the apparent commission of any unfair trade practice by a licensee, the commission, in its discretion, may:

(1) ~~initiate~~ Initiate the process for the imposition of sanctions, as provided for in subsection (a) of Code Section 43-40-25 and in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, ~~or~~;

(2) ~~issue~~ Issue a citation to the licensee. Such citation, which shall be served personally or by mail, shall give notice to the licensee of the alleged violation or violations of this chapter or commission rules or alleged unfair trade practice or practices and inform the licensee of the opportunity to request a contested case hearing to be held in accordance with the procedures established for such hearings by Chapter 13 of Title 50. A citation issued by the commission may include an order to complete a course of study in real estate brokerage or instruction; to file periodic reports by an independent accountant on a real estate broker's designated trust account; or to pay a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations, with fines for multiple violations limited to \$5,000.00 in any one citation, or a combination of the above. If the licensee fails to request a hearing within 30 days of the date of service of the citation, the order contained in the citation shall be final. The failure of a licensee to comply with a final order contained in a citation may be cause for the imposition of a sanction on such person's license, after notice and opportunity for a hearing; or

(3) Issue a letter of findings to the licensee if the alleged violation appears to have done no harm to a third party or to the public. Such letter of findings, which shall be served personally or by mail, shall give notice to the licensee of the alleged violation or violations of this chapter or commission rules or alleged unfair trade practice or practices. A letter of findings shall be confidential and shall not appear on the license history of a licensee. A letter of findings shall not be subject to a subpoena in a civil action, shall not constitute a public record or be available for inspection by the public, and shall not be disclosed to any person or agency, except as provided in subsection (d) of Code Section 43-40-27.

(c) The commission is authorized to promulgate rules and regulations to implement this Code section. Such rules may limit the provisions of this chapter and of its rules and regulations and unfair trade practices which may be the basis for the issuance of a citation or a letter of findings."

SECTION 15.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
N Ashe	Y Dickson	Y Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	E Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	N Oliver	E Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	E Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Y Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	E Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	N Welch
Y Casas	Y Gordon	Y Knight	Y Randall	N Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Y Clark, J	Hanner	Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Yates
Crawford	Y Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 154, nays 4.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Beasley-Teague of the 65th and Long of the 61st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

HB 971. By Representative Hembree of the 67th:

A BILL to be entitled an Act to amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to change certain provisions relating to awards and benefits of workers' compensation; to change certain provisions relating to settlement agreements between parties; to change the maximum weekly compensation benefit for total disability; to change the maximum weekly compensation benefit for temporary partial disability; to revise certain provisions relating to compensation for loss of hearing caused by harmful noise; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to change certain provisions relating to settlement agreements between parties; to change certain provisions relating to statistical data submitted by insurance companies to rating organizations, verification by employer, and issuance of experience modification worksheets to insureds; to change certain provisions relating to compensation for medical care, artificial members, and other treatment and supplies, effect of employee's refusal of treatment, and employer's liability for temporary care; to change certain provisions relating to the appointment of a conservator for a minor or an incompetent claimant; to revise certain provisions relating to compensation for loss of hearing caused by harmful noise; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended by revising subsection (c) of Code Section 34-9-15, relating to procedure for settlement between parties generally, approval by the board, finality of settlement, and lump sum settlement, as follows:

"(c) ~~The parties by agreement and with the approval of the board may enter into a compromise lump sum settlement resolving all issues~~ The board or any party to the settlement agreement may require that the settlement documents contain language which prorates the lump sum settlement over the life expectancy of the injured worker. When such an agreement has been approved, neither the weekly compensation rate paid throughout the case nor the maximum statutory weekly rate applicable to the injury shall apply. No compensation rate shall exceed the maximum statutory weekly rate as

of the date of injury. Instead, the prorated rate set forth in the approved settlement documents shall control and become the rate for that case. This subsection shall be retroactive in effect."

SECTION 2.

Said title is further amended by revising Code Section 34-9-136, relating to statistical data submitted by insurance company to rating organization, verification by employer, and issuance of experience modification worksheets to insured, as follows:

"34-9-136.

(a) ~~Before an insurance company is authorized to submit statistical data on an employer to any licensed rating organization for purposes of determining the employer's experience modification factor, the insurance company must verify with the employer the accuracy of the data. In so verifying, the insurance company shall provide to the employer: (1) the data to be submitted; and (2) a statement in boldface type, to be signed by an authorized representative of the employer, and submitted by the insurance company to the licensed rating organization along with the statistical data. Said statement shall indicate that the statistical data to be submitted have been reviewed by the authorized representative of the employer; that said data are accurate; and that an insurance company representative has explained to the employer's representative that the statistical data to be submitted may affect the employer's premium for workers' compensation insurance coverage.~~ Within 30 days of receipt of a written request directly from the employer or agent of record, the insurance company shall provide the employer or agent of record with the statistical data submitted to the statistical agent for purposes of determining the employer's experience modification factor.

(b) When a licensed rating organization issues an insured's experience modification worksheet to the insured's workers' compensation insurance company, the licensed rating organization shall ~~submit~~ make available a copy of the worksheet to the insured."

SECTION 3.

Said title is further amended by revising subsection (f) of Code Section 34-9-221, relating to procedure, payment controverted by employer, delinquency charge, and enforcement, as follows:

"(f) If income benefits payable under the terms of an award are not paid within 20 days after becoming due, there shall be added to the accrued income benefits an amount equal to 20 percent thereof, which shall be paid at the same time as, but in addition to, the accrued benefits unless review of the award is granted by the board or unless this nonpayment is excused by the board after a showing by the employer that due to conditions beyond the control of the employer the income benefits could not be paid within the period prescribed."

SECTION 4.

Said chapter is further amended by revising Code Section 34-9-226, relating to the appointment of a guardian for a minor or an incompetent claimant, as follows:

"34-9-226.

(a) Except as provided in this Code section, the only person capable of representing a minor or legally incompetent claimant entitled to workers' compensation benefits shall be (1) a conservator duly appointed and qualified by the probate court of the county of residence of such minor or legally incompetent person or by any court of competent jurisdiction within this state, or (2) a conservator or the equivalent thereof duly appointed by a court of competent jurisdiction outside the State of Georgia. ~~Said~~ Such conservator shall be required to file with the board a copy of the conservatorship returns filed annually with the probate court or with a court of competent jurisdiction outside the State of Georgia and give notice to all parties within 30 days of any change in status.

(b) The board shall have authority in and shall establish procedures for appointing ~~temporary~~ conservators for purposes of administering workers' compensation rights and benefits without such conservator becoming the legally qualified conservator of any other property, without such conservator's actions being approved by a court of record, and without the posting of a bond, in only the following circumstances:

(1) The board may, in its discretion, authorize and appoint a ~~temporary~~ conservator of a minor or legally incompetent person to receive and administer weekly income benefits on behalf of and for the benefit of said minor or legally incompetent person ~~for a period not to exceed 52 weeks unless renewed or extended by order of the board;~~

(2) The board may, in its discretion, authorize and appoint a ~~temporary~~ conservator of a minor or legally incompetent person to compromise and terminate any claim and receive any sum paid in settlement for the benefits and use of said minor or legally incompetent person where the net settlement amount approved by the board is less than ~~\$50,000.00~~ \$100,000.00; however, where the natural parent is the guardian of a minor and the settlement amount is less than \$15,000.00, no board appointed conservator shall be necessary. After settlement, the board shall retain the authority to resolve disputes regarding continuing representation of a board appointed conservator of a minor or legally incompetent person; and

(3) If a minor or legally incompetent person does not have a duly appointed representative or conservator, the board may, in its discretion, appoint a guardian ad litem to bring or defend an action under this chapter in the name of and for the benefit of said minor or legally incompetent person ~~to serve for a period not to exceed 52 weeks, unless renewed or extended by order of the board.~~ However, no guardian ad litem appointed pursuant to this Code section shall be permitted to receive the proceeds from any such action except as provided in this Code section and the board shall have the authority to determine compensation, if any, for any guardian ad litem appointed pursuant to this Code section."

SECTION 5.

Said chapter is further amended by revising paragraphs (1) and (2) of subsection (b) of Code Section 34-9-264, relating to compensation for loss of hearing caused by harmful noise under workers' compensation, as follows:

"(1) In the evaluation of occupational hearing loss, only the hearing levels at the frequencies of 500, 1,000, ~~and 2,000,~~ and 3,000 cycles per second shall be considered. Hearing losses for frequencies below 500 and above ~~2,000~~ 3,000 cycles per second are not to be considered as constituting compensable hearing disability. No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid. The board may order the employer to provide the employee with an original hearing aid if it will materially improve the employee's ability to hear;

(2) The percentage of hearing loss shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, ~~and 2,000,~~ and 3,000 cycles per second. Pure tone air conduction audiometric instruments, properly calibrated according to accepted national standards such as ~~American Standards Association, Inc. (ASA),~~ International Standards Organization (ISO), or American National Standards Institute, Inc. (ANSI), shall be used for measuring hearing loss. If more than one audiogram is taken, the audiogram having the lowest threshold will be used to calculate occupational hearing loss. If the losses of hearing average ~~45~~ 25 decibels (~~26 db if ANSI or ISO~~) or less in the ~~three~~ four frequencies, such losses of hearing shall not constitute any compensable hearing disability. If the losses of hearing average ~~82~~ 92 decibels (~~93 db if ANSI or ISO~~) or more in the ~~three~~ four frequencies, then the same shall constitute and be total or 100 percent compensable hearing loss. In measuring hearing impairment, the lowest measured losses in each of the ~~three~~ four frequencies shall be added together and divided by ~~three~~ four to determine the average decibel loss. For each decibel of loss exceeding ~~45~~ 25 decibels (~~26 db if ANSI or ISO~~) an allowance of 1 1/2 percent shall be made up to the maximum of 100 percent which is reached at ~~82~~ 92 decibels (~~93 db if ANSI or ISO~~). In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five. The resulting figure shall be added to the percentage of impairment in the poorer ear, and the sum of the two divided by six. The final percentage shall represent the binaural hearing impairment;"

SECTION 6.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

E Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	N Smith, E

Y Ashe	Y Dickson	N Holcomb	E Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	E Smith, T
Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	E Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Jackson	Y Oliver	E Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	E Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	Y Evans	Y Jerguson	Y Parrish	E Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	E Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
N Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	Y Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Y Clark, J	Y Hanner	Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	E Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	E Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 159, nays 3.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Beasley-Teague of the 65th and Long of the 61st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

Representative Meadows of the 5th moved that the following Bill of the House be recommitted to the Committee on Rules:

HB 863. By Representatives Hatchett of the 143rd, Hamilton of the 23rd, Stephens of the 164th, Roberts of the 154th, Carter of the 175th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state purchasing, so as to change certain provisions relating to purchases without competitive bidding,

central bid registry, procurement cards, rules and regulations, applicability to emergency purchases, and the Purchasing Advisory Council; to change a short title; to change certain provisions relating to definitions relative to small business assistance; to repeal conflicting laws; and for other purposes.

The motion prevailed.

Representative Powell of the 171st moved that the following Bill of the House be withdrawn from the Committee on Agriculture & Consumer Affairs and recommitted to the Committee on Game, Fish, & Parks:

HB 1043. By Representatives Powell of the 171st, Roberts of the 154th, Shaw of the 176th, McCall of the 30th, Jasperse of the 12th and others:

A BILL to be entitled an Act to amend Chapter 4 of Title 4 of the O.C.G.A., relating to prevention and control of disease in livestock, so as to provide for regulation of importation of white-tailed deer from other states into this state for breeding purposes; to define certain terms; to provide for deer breeding permits; to provide for terms and conditions; to regulate deer breeders and deer breeding facilities; to prohibit certain acts; to amend Chapter 5 of Title 27 of the O.C.G.A., relating to wild animals, so as to change certain provisions relating to importation restrictions relative to live cervids and prohibitions on possession of cervid carcasses and to change certain provisions relating to wild animal licenses and permits generally; to repeal conflicting laws; and for other purposes.

The motion prevailed.

The following Resolution of the House was read and referred to the Committee on Rules:

HR 1604. By Representatives Bruce of the 64th, Fludd of the 66th, Williams of the 89th, Willard of the 49th, Stephenson of the 92nd and others:

A RESOLUTION commending Monica Pearson and inviting her to be recognized by the House of Representatives; and for other purposes.

The following Resolutions of the House were read and adopted:

HR 1605. By Representative Greene of the 149th:

A RESOLUTION honoring the life and memory of Dr. Lawrence J. Hanks, Sr.; and for other purposes.

HR 1606. By Representatives Dickey of the 136th and James of the 135th:

A RESOLUTION recognizing and commending Mrs. Hope Giles, Peach County District's 2012 Teacher of the Year; and for other purposes.

HR 1607. By Representatives Stephens of the 161st, Gordon of the 162nd, Waites of the 60th, Bell of the 58th, Purcell of the 159th and others:

A RESOLUTION recognizing and commending the Savannah Chapter #159 of the Order of the Eastern Star, Prince Hall on the occasion of its 100th anniversary; and for other purposes.

HR 1608. By Representatives Stephens of the 161st, Gordon of the 162nd, Waites of the 60th, Bell of the 58th, Purcell of the 159th and others:

A RESOLUTION commending the Top Ladies of Distinction, Incorporated, on their Leadership Conference; and for other purposes.

HR 1609. By Representatives Dudgeon of the 24th, Hamilton of the 23rd and Amerson of the 9th:

A RESOLUTION recognizing and commending Anna Aigner-Muehler, Forsyth County's 2012 Teacher of the Year; and for other purposes.

Representative Martin of the 47th District, Chairman of the Committee on Budget and Fiscal Affairs Oversight, submitted the following report:

Mr. Speaker:

Your Committee on Budget and Fiscal Affairs Oversight has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 920 Do Pass, by Substitute

Respectfully submitted,
/s/ Martin of the 47th
Chairman

Representative Sims of the 169th District, Chairman of the Committee on Intra-Governmental Coordination, submitted the following report:

Mr. Speaker:

Your Committee on Intra-Governmental Coordination has had under consideration the following Bills of the House and Senate and has instructed me to report the same back to the House with the following recommendations:

HB 1117	Do Pass	HB 1119	Do Pass
HB 1120	Do Pass	HB 1121	Do Pass
SB 413	Do Pass		

Respectfully submitted,
/s/ Sims of the 169th
Chairman

Representative Golick of the 34th District, Chairman of the Committee on Judiciary Non-Civil, submitted the following report:

Mr. Speaker:

Your Committee on Judiciary Non-Civil has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 871	Do Pass
HB 954	Do Pass, by Substitute

Respectfully submitted,
/s/ Golick of the 34th
Chairman

Representative Knight of the 126th District, Chairman of the Special Committee on Small Business Development and Job Creation, submitted the following report:

Mr. Speaker:

Your Special Committee on Small Business Development and Job Creation has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 1102	Do Pass
---------	---------

Respectfully submitted,
/s/ Knight of the 126th
Chairman

Representative O'Neal of the 146th moved that the House stand in recess until 5:00 o'clock, P.M., at which time the House will stand adjourned until 10:00 o'clock, tomorrow morning.

The Speaker announced the House in recess until 5:00 o'clock, P.M., at which time the House will stand adjourned until 10:00 o'clock, tomorrow morning.