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# Property and Casualty Insurance

## GEORGIA | Law Supplement



PROPERTY AND CASUALTY INSURANCE GEORGIA LAW  
SUPPLEMENT, EFFECTIVE MARCH 17, 2006  
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## INTRODUCTION

This supplement focuses on statutes regarding Georgia insurance law. Key aspects of each statute are discussed to help the student pass the state law portion of the licensing examination. In order to understand the content of this supplement, the student should first study the national insurance License Exam Manual. Thorough preparation for the exam requires the complete study of both the national License Exam Manual and the supplement.

## I. GEORGIA LAWS AND REGULATIONS PERTINENT TO PROPERTY AND CASUALTY INSURANCE

### A. THE INSURANCE DEPARTMENT [CH. 120-2-1.01, .02]

1. The Insurance Department is divided into sections.
  - a. Agent licensing
  - b. Consumer services
  - c. Regulatory services
  - d. Life, accident and sickness insurance
  - e. Property and casualty insurance
  - f. Examinations
2. The agent licensing section:
  - approves formal classroom training courses;
  - prepares and conducts all licensing examinations; and
  - issues licenses.

### B. THE COMMISSIONER OF INSURANCE [SEC. 33-2-1]

1. The Commissioner of Insurance, the chief officer of the Insurance Department, is responsible for carrying out and enforcing Georgia's insurance laws.
  - a. The Commissioner has the authority to:
    - appoint personnel to help the Insurance Department carry out its duties;
    - maintain Georgia's official insurance records;
    - make rules and regulations to carry out the Georgia Insurance Code;
    - conduct hearings; and
    - examine affairs of insurers.

- b. Appointment of deputies [Sec. 33-2-4]** The Commissioner must appoint a chief deputy commissioner and any other deputies needed to help carry out the Commissioner's duties. The chief deputy performs the Commissioner's duties in event of the Commissioner's absence or disability.
- c. Appointment of personnel [Sec. 33-2-5]** The Commissioner may appoint any assistants, examiners, actuaries, clerks, or employees to carry out the duties of the Department.
- d. No financial interest with insurer [Sec. 33-2-5]** Insurance Department appointees or employees (including the Commissioner) cannot have any financial interest in an insurer, agency, or insurance transaction except as a policyholder or claimant under a policy. As long as there is no conflict of interest, however, the Commissioner can periodically employ independent actuaries who may also be employed by insurers.
- e. Annual report [Sec. 33-2-8]** The Commissioner must compile an annual report containing the following information for the previous calendar year:
- names and financial statements of the authorized insurers transacting insurance in Georgia;
  - names of insurers whose businesses were closed during the year, the reason why they were closed, and the amount of their assets and abilities;
  - names of insurers that had delinquency proceedings instituted against them and statements of the facts regarding each proceeding;
  - the Insurance Department's receipts and expenses for the year;
  - the Commissioner's recommendations regarding any amendments or additions to law affecting insurance matters related to the Department; and
  - any other pertinent information.
- f. Rules and regulations [Sec. 33-2-9]** All rules and regulations made by the Commissioner must be approved by the attorney general and filed at the Commissioner's office for at least 10 days before they become effective.
- g. Examination of insurers [Secs. 33-2-11 to 13]** Whenever necessary, the Commissioner (or designee) must examine the affairs, transactions, accounts, records, and assets of insurers authorized to do business in Georgia. The Commissioner must also examine any other facts relating to the insurer's business methods, management, and dealings with policyholders. All records relating to the subject of the examination must be made freely accessible to the Commissioner. If inadequate or incorrect accounts are found and have not been corrected by the examinee within 60 days after notice is given, the Commissioner may employ experts to rewrite, post, or balance the records at the examinee's expense.
- 1.)** Domestic insurers must be examined when applying for authority to do business in Georgia and at least once every five years.

- 2.) Whenever it is in the public's best interest, the Commissioner may examine the affairs, accounts, records, documents, and transactions of:
- insurance agents, subagents, brokers, counselors, adjusters, and any other person licensed to transact insurance business in Georgia;
  - any person with a contract granting dominant right to control an insurer;
  - any person controlling the management of a domestic insurer;
  - any person engaged in the promotion or formation of a domestic insurer, insurance holding corporation, or corporation to finance a domestic insurer;
  - any person transacting insurance business (whether authorized or unauthorized); and
  - any person applying to acquire a domestic insurer or its affiliate.

**h. Examination reports [Sec. 33-2-14]** The Commissioner must make a written report of each examination. He must provide the examinee with a copy of the proposed report at least 20 days before it is filed and may grant a hearing if requested to do so by the examinee within those 20 days. The examination report may be withheld from public inspection to protect the examinee from unwarranted injury. The Commissioner can disclose the contents of an examination report as long as the agency or office receiving the report agrees in writing to treat the report confidentially.

**i. Examination expenses [Sec. 33-2-15]** In most cases, examinees must pay examiners' travel and living expenses related to an examination. If an examination is initiated because of a complaint and the Commissioner determines that the complaint was not justified, the Insurance Department (not the person examined) will pay the examination expenses.

**j. Commissioner's powers regarding examinations [Sec. 33-2-16]** During examinations, investigations, or hearings, the Commissioner has the authority to:

- take depositions;
- subpoena witnesses;
- administer oaths;
- examine individuals under oath; and
- compel the production of records, books, papers, and other documents.

**2. Hearings [Secs. 33-2-17 to 19]** The Commissioner must hold a public hearing whenever such a request is made in writing or whenever a hearing is required by the Georgia Insurance Code. Unless postponed by mutual consent, the hearing must be held no later than 30 days after written request is received by the Commissioner.

**a. Show cause notice [Sec. 33-2-20]** A person entitled to a hearing may be notified of a proposed action in the form of a notice to show cause, which states that the proposed action may be taken unless the person shows cause at a hearing why the action should not be taken.

**b. Rules of order at the hearing [Sec. 33-2-21]** The Commissioner (or designee) presides over all hearings. Formal rules of pleading and evidence do not need to be observed at hearings. All parties to a hearing have the right to:

- appear in person or by counsel;
- be present while evidence is given;
- inspect documentary evidence;
- present evidence supporting their interests;
- have subpoenas issued by the Commissioner to compel the attendance of witnesses and the production of evidence on their behalf; and
- request a rehearing or reargument within 30 days after the Commissioner issues an order.

**c. Order on hearing [Sec. 33-2-23]** No later than 30 days after the conclusion of a hearing, the Commissioner must make an order on the hearing. This order must state the facts found in the hearing, the Commissioner's conclusions, and the effective date of an action.

**d. Penalties [Secs. 33-2-24, 26]** Whenever a person appears to be engaging in an act, practice, or transaction that is prohibited by the Georgia Insurance Code, the Commissioner may issue a cease and desist order prohibiting the person from continuing the act, practice, or transaction. The order must take effect immediately, even before a hearing, if the act or practice could endanger public health, safety, or welfare and requires emergency action. The Commissioner can impose the following penalties for each violation of the Georgia insurance rules or regulations:

- probation for up to one year;
- fine of up to \$1,000 for nonwillful violations; or
- fine of up to \$5,000 for willful violations.

Any party affected by the Commissioner's decision may request a judicial review.

**C. GEORGIA INSURERS INSOLVENCY POOL [33-36-2 TO 7]** The Georgia Insurers Insolvency Pool provides a remedy for covered claims under property and casualty insurance policies when the insurer has become insolvent and is unable to fulfill its contractual obligations.

**1.** The pool consists of three accounts:

- workers' compensation account;
- automobile account; and
- other covered insurance account.

**2.** The pool is responsible for the:

- investigation, adjustment, compromise, settlement, and payment of covered claims;
- investigation, handling, and denial of uncovered claims; and

- management and investment of funds administered by the pool.

- 3. Membership [Sec. 33-36-5]** All insurers must be members of the pool as a condition of their authority to transact insurance in Georgia. The pool functions under the immediate supervision of the Commissioner.
- 4. A covered claim [Sec. 33-36-3]** A covered claim is one that arises out of a property or casualty policy issued by an insurer that was authorized to do business in Georgia either at the time of policy issuance or at the time of the insured event.
- a.** In addition, to be covered the claim must be:
- for unearned premium of a resident policyholder;
  - for unearned premium for property permanently situated in Georgia;
  - of a policyholder who was a resident of the state at the time of the insured event;
  - of a person having an insurable interest in or related to property that was permanently situated in the state; or
  - under liability or workers' compensation when either the insured or the third-party claimant was a resident of the state at the time of the insured event.
- b.** The pool does not cover:
- a claim in an amount less than \$50;
  - a first-party claim in excess of \$300,000 or the policy limit, whichever is less;
  - a third-party claim (other than workers' compensation) in excess of \$300,000 or the policy limit, whichever is less;
  - any claim or obligation to insurers, insurance pools, underwriting associations, or any person with a net worth greater than \$10 million at the time of the insured event;
  - a claim for punitive damages and attorneys' fees;
  - a claim for interest;
  - a claim for workers' compensation benefits payable after the effective date of the court order to rehabilitate or liquidate the insurer;
  - the portion of a claim unearned premium exceeding \$20,000; or
  - a claim for unearned premiums only, if the policy did not contain a stated premium.
- 5. Covered policies [Sec. 33-36-3(7)]** The pool applies to property and casualty policies as defined in the Code, except:
- life insurance and annuities;
  - accident, health and disability policies;
  - title insurance;
  - credit life insurance;
  - credit insurance;

- mortgage guaranty, financial guaranty, and similar insurance;
- fidelity and surety bonds;
- insurance of warranties or service contracts; and
- ocean marine insurance.

**6. Board of trustees [Sec. 33-36-4]** The Georgia Insurers Insolvency Pool is governed by a board of trustees consisting of seven members who are selected by the Commissioner and represent both stock and nonstock insurance companies doing business in the state.

- a. Assessments are based on the amount of business written by the insurer and provide a mechanism to fund the pool.
- b. The members of the board are not paid for their participation but are reimbursed for expenses.
- c. Term of service is three years.

**7. Assessments [Sec. 33-36-7]** All members of the Georgia Insurers Insolvency Pool are assessed an amount based on their net premiums written for the line of business to which the fund applies.

- a. Separate accounts are established for workers' compensation, automobile, and other lines.
- b. When the pool has sufficient funds to pay in the event of an insolvency, assessments are not made against the pool's members.
- c. Members may be exempted from participating in assessments by the Commissioner when he feels that the insurer's financial condition may be seriously affected if payments are made.

## D. DEFINITIONS

- 1. Domestic insurance company [Sec. 33-3-1(4)]** A domestic insurance company is a company incorporated, formed, or organized under the laws of Georgia that usually has its principal or home office located in this state.
- 2. Foreign insurance company [Sec. 33-3-1(5)]** A foreign insurance company is a company incorporated or organized under the laws of another state but licensed and permitted to conduct the business of insurance in the State of Georgia. For instance, Hanover Insurance Company of Worcester, Massachusetts is authorized to solicit insurance business in the state of Georgia. Therefore, in Georgia, the Hanover Insurance Company is viewed as a foreign insurer.
- 3. Alien insurance company [Sec. 33-3-1(2)]** An alien insurance company is a company incorporated or organized outside the United States but licensed in the state of Georgia. For instance, Continental Reinsurance Company of London,

England is incorporated in another country (England) but is licensed to conduct the business of insurance in this state.

- 4. Authorized insurance company** An insurer that has received a certificate of authority from the State of Georgia and is licensed or authorized to conduct insurance business in this state is referred to as an **authorized company**. An authorized insurance company may also be referred to as an admitted company.
- 5. Unauthorized insurance company** An insurer that has not received a certificate of authority from the State of Georgia and is not licensed nor authorized to transact insurance business in this state may be referred to as an **unauthorized company**. An unauthorized insurance company may also be referred to as a nonadmitted company.
- 6. Transacting insurance [Sec. 33-1-2]** Insurance business includes the transaction of all matters pertaining to a contract of insurance, both prior to and subsequent to the effectuation of such a contract, and all matters arising out of such a contract or any claim thereunder. Insurance business does not include the pooling together by public entities for the purpose of self-insuring casualty risks.
  - a.** Transacting insurance involves making, negotiating, procuring, or proposing to make an insurance contract, taking an application, receiving or collecting premiums, issuing contracts, or any form of business considered insurance business.
  - b.** Other types of actions considered as transacting insurance involve disseminating information as to coverages or rates, forwarding applications, delivering policies, inspecting risks, fixing rates, or investigating losses or claims.
- 7. Agent [Sec. 33-23-1]** An **agent** is an individual appointed or employed by an insurer who sells, solicits, or negotiates insurance. *Agent* also means an individual insurance producer.
- 8. Subagent [Sec. 33-23-1]** A **subagent** sells or negotiates insurance or annuity contracts on behalf of a licensed agent. A subagent must file with the Commissioner a certificate of authority from each agent he represents.
- 9. Adjuster [Sec. 33-23-1]** An **adjuster**, for some form of compensation, investigates, settles, adjusts, and reports about claims arising under insurance contracts. Independent adjusters represent the interest of the insurer but are not employees of the insurer. Public adjusters represent persons insured under policies covering physical property.
- 10. Counselor [Sec. 33-23-1]** A **counselor** advises people regarding the benefits, terms, value, or advantages of any insurance contract offered by an insurer. Actuaries or consultants advising insurers are not considered to be consultants. A consultant cannot receive compensation from more than one source involving the same transaction.

**E. CERTIFICATE OF AUTHORITY [SEC. 33-3-2]** The Commissioner must grant a certificate of authority (license) to an insurer before it can transact insurance business in Georgia. The certificate of authority certifies that the company has complied with the requirements of the Georgia Insurance Code. Insurers that collect premiums and service policies currently in force covering residents of Georgia, but do not transact new insurance, are not considered to be transacting insurance (except for purposes of premium tax requirements).

**1. Qualifications for certificate of authority [Sec. 33-3-3]** A certificate of authority can be issued to:

- incorporated stock insurers;
- incorporated mutual insurers;
- fraternal benefit societies;
- hospital service nonprofit corporations;
- nonprofit medical service corporations;
- Farmers' mutual fire insurance companies;
- Lloyd's associations; and
- reciprocal insurers.

**2. Issuance or refusal of certificate of authority [Sec. 33-3-15]** If the Commissioner does not deny a certificate of authority within 90 days after an application is filed, it is considered approved. The certification must specify the kinds of insurance the insurer is authorized to transact in Georgia.

**3. Renewal [Sec. 33-3-16]** Certificates of authority must be renewed annually.

**4. Certificate of authority refusal [Sec. 33-3-17]** After a hearing, the Commissioner can revoke, suspend, or refuse to renew the certificate of authority of an insurer that:

- violates any provision of the Georgia insurance code;
- knowingly violates any rule, regulation, or order of the Commissioner;
- is in an unsound condition or a condition that renders its insurance transactions in Georgia hazardous to the public;
- regularly compels claimants to accept less than the amount due or forces them to take legal action to secure full payment;
- refuses to be examined;
- fails to pay any final judgment rendered against it in Georgia within 30 days; or
- is affiliated with and under the same general management or ownership as another insurer that transacts direct insurance in Georgia without a certificate of authority (except as permitted for surplus lines insurance).

**5. Certificate of authority suspension [Sec. 33-3-18]** The Commissioner may, without giving advance notice or a hearing, place an insurer under administrative supervision or immediately suspend its certificate of authority:

- who is under delinquency proceedings in any state;

- whose authority to do business has been revoked, suspended, or restricted in any state;
- whose business may be hazardous to the public or to its insureds;
- who exceeds the powers granted under its certificate of authority and applicable law; or
- whose business is conducted fraudulently.

## 6. Administrative fines [Sec. 33-3-20]

- a. After a hearing, the Commissioner can impose an administrative fine on an insurer if its officers, employees, agents, or representatives are found to have committed any of the following acts often enough to indicate a general business practice:
  - failure to process or pay claims in a timely manner;
  - failure to notify policyholders of the reason claims payments have not been made when due;
  - refusal to pay claims without just cause;
  - compelling insureds or claimants to accept less than the amount due to them; or
  - compelling insureds to initiate legal action to secure full payment or settlement.
- b. An administrative fine cannot exceed:
  - 1,000 for each nonwillful violation; or
  - \$5,000 for each willful violation.

## 7. Regulation of unauthorized insurers [Sec. 33-5-1] It is illegal for anyone in Georgia to represent an insurer that is not authorized at the time to transact insurance in Georgia. These rules, however, do not apply to:

- surplus lines insurance;
- reinsurance;
- adjusters involved in settling claims under policies that were sold, issued, and delivered outside of Georgia; and
- the professional services provided by an attorney.

## F. AGENT, SUBAGENT, COUNSELOR, AND ADJUSTER LICENSING

**[SECS. 33-23-4, 15]** All agents, subagents, counselors, and adjusters must be licensed by the Commissioner to transact insurance business in Georgia. These licenses can only be issued to individuals. The Commissioner can issue two or more licenses to one individual who satisfies the requirements for each license.

1. **Licensing exemptions [Secs. 33-23-4(h); 33-23-1(b)]** The following do not need to be licensed:
  - salaried officers or employees of an agent or subagent who only perform clerical or administrative services in connection with insurance transactions (but do not sell insurance, sign or countersign contracts, or receive premiums);

- insurance counselors who do not receive commission;
- an employer or its officers, directors, or employees who administer an employee benefit package that involves insurance, as long as the individuals are not compensated by the company issuing the contracts;
- employees of insurers or organizations employed by insurers who engage in the inspection, rating, or classification of risks or in the supervision of the training of insurance agents and who are not individually engaged in the sale, solicitation, or negotiation of insurance;
- a person whose activities are limited to advertising without the intent to solicit insurance in Georgia through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state;
- a nonresident person who sells commercial property and casualty insurance to an insured with risks located in more than one state, provided that the person is otherwise licensed as an insurance agent to sell insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or
- a salaried, full-time employee who advises his employer relative to the insurance interests of the employer or its subsidiaries or business affiliates, provided that the employee does not sell or solicit insurance or receive a commissions.

2. **Types of licenses [Ch. 120-2-3-.06]** Agent and subagent licenses can be issued for the following kinds of insurance: life, accident and sickness, property, casualty, variable products, personal lines property and casualty, limited lines credit insurance, and any other lines permitted by Georgia law.
3. Agents and subagents can only sell the kinds of insurance for which they hold a license and have a certificate of authority on file with the Commissioner. However, the subagent does not include those who:
  - place 12 or fewer insurance policies through another agent in any one calendar year; and
  - only place surplus lines insurance through surplus lines brokers.
4. Insurers or agents doing business in Georgia can only make insurance contracts through or pay commissions to licensed agents, subagents, or adjusters.

**G. LICENSING REQUIREMENTS [SECS. 33-23-5 TO 7]** Applicants for agent, limited subagent, adjuster, and counselor licenses must:

- be a resident of Georgia and be present in the state for at least six months each year (or live in a city that is located partly within Georgia and partly within an adjacent state that has similar licensing requirements);
- be of good character;
- be at least 18 years old;
- complete the approved prelicensing course of study within one year after filing the application;
- pass any written examination required for the license;

- not intend to use the license to obtain rebates or commission upon controlled business (no more than 25% of the agent's premiums collected can come from controlled business);
- (counselor license) five years' experience either as an agent, subagent, adjuster;
- be appointed by an authorized insurer;
- (adjuster license) complete special education regarding the handling of loss claims under insurance contracts; and
- (adjuster and counselor license) file a bond, as required by the Commissioner.

**H. LICENSE APPLICATION [SEC. 33-23-8]** All licensing applicants must file a written application with the Commissioner. All applicants for agent licenses must be sponsored by an authorized insurer, that agrees to appoint the agent as its representative (if the agent's license is granted). Applicants for subagent licenses must be appointed by an agent. The sponsor or appointee must certify that the applicant has satisfied the licensing requirements.

**1. Agent's certificate of authority [Sec. 33-23-26; Ch. 120-2-3-.21]**

Insurers authorized to transact insurance in Georgia must obtain an agent's certificate of authority for each agent who sells insurance and negotiates contracts for them in Georgia. Each year, all insurers must renew their certificates of authority for agents and pay the appropriate fees.

**2. Subagent's certificate of authority [Secs. 33-23-27, 28]**

Agents licensed in Georgia must obtain a certificate of authority for all subagents representing them in Georgia. Each subagent's certificate of authority must be renewed by the agent not more than once every three years. A subagent's certificate of authority can only cover the kinds of insurance for which the agent is licensed. It does not grant the power to bind an insurer or countersign policies. All business transacted by a subagent must be in the name of the agent who employs the subagent. The agent is responsible for all of the subagent's acts.

**3. Prelicensing education [Ch. 120-2-3-.07(3), (4); .08]** Licensing applicants must complete at least 40 classroom hours of prelicensing education or provide evidence of approved related education, such as:

- college transcript showing 10 quarter hours (or equivalent) of insurance courses in the preceding 12 months; or
- Chartered Property and Casualty Underwriter (CPCU®) kind of license.

**4. Examination of applicants [Sec. 33-23-5; Ch. 120-2-3-.09, .14, .32]**

Individual applicants for agent, subagent, counselor, surplus lines broker, or adjuster licenses must take a written examination that tests their competence to act in such capacity. Examinees must obtain a score of at least 70% to pass the examination. Examinees who fail the examination must wait two weeks and pay the required fee before retaking the exam. Anyone who fails the exam three times must take the prelicensing course before retaking the exam. The following applicants are not required to take a written examination:

- applicants for a personal lines license who hold CPCU® designations;

- applicants for counselor licenses who hold Certified Insurance Counselor, CPCU®, or CLU® designations;
- applicants who hold a Ph.D. in risk management;
- adjusters who are salaried employees of insurers;
- applicants for temporary licenses;
- applicants for renewal licenses (unless the Commissioner determines that examination is necessary to establish the applicant's competency);
- travel ticket selling agents who only sell individual accident policies;
- applicants for credit insurance agent licenses; and
- applicants for a workers' compensation adjusters license who hold the designation of CWCP.

### **5. Issuance of license and continuing education [Ch. 120-2-3-.15]**

Licenses (except temporary or probationary licenses) will not expire as long as the Commissioner receives the appropriate fees, along with evidence that the continuing education requirements have been completed every year.

- a. The standard requirement is 15 hours of course work every year. Three hours of the total 15 must be in ethics. The ethics requirement may be satisfied by completing courses in the area of ethical practices, legislative updates or federal or departmental regulatory changes in insurance, current issues, or other topics that the Commissioner approves.
- b. Licensees with 20 years of service or more are only required to complete 10 credit hours of course work every year. Individuals holding limited subagent licenses are required to complete five credit hours each year.

### **6. Refusal, suspension, or revocation of license [Sec. 33-23-21] A**

license (other than a probationary license) can be refused, suspended, or revoked by the Commissioner (anyone whose license or application has been refused or revoked must wait at least five years before reapplying for a license) if the individual commits any of the following acts:

- violates any Georgia insurance laws;
- misrepresents or conceals any facts in a licensing application or any form filed with the Commissioner;
- attempts to obtain a license by misrepresentation, concealment, or other fraud;
- misappropriates, converts to his own use, or illegally withholds money belonging to an insurer, insured, agent, applicant, or beneficiary;
- commits fraudulent or dishonest practices;
- materially misrepresents the terms and conditions of an insurance policy or contract;
- fails or cheats on a required examination;
- violates any rule or regulation issued by the Commissioner;
- holds a license to secure rebates, commissions, or controlled business;
- lacks trustworthiness or competence to act as a licensee;

- fails or refuses (upon written demand) to pay over to any insurer, agent, applicant, beneficiary, or insured any money that belongs to that person;
- refuses to produce records in response to a written demand by the Commissioner;
- has knowingly participated in writing or issuing substantial overinsurance of any property risk;
- fails to report to the Commissioner any criminal prosecution taken in any jurisdiction;
- has not complied with a court order to pay child support;
- is a borrower in default who is not in satisfactory repayment status;
- is convicted, arrested, charged, or sentenced for any felony or crime of immorality; and
- has had any kind of license revoked, suspended, denied, or refused by any licensing authority.

- 7. Temporary licenses [Sec. 33-23-13]** The Commissioner can issue a temporary license to a family member, associate, guardian, or estate executor of a former agent or subagent who dies or becomes unable to carry out his duties because of service in the United States armed forces, illness, disability, or termination of appointment by the insurer.
- a. The Commissioner will only grant a temporary license to an agent if the incapacitated agent or subagent was the only person in the agency who was licensed to transact that specific type of insurance.
  - b. Temporary licenses may also be issued, at the request of the insurer, to agents in training.
  - c. Holders of temporary licenses can continue the former agent or subagent's insurance business, but cannot solicit, negotiate, or procure new insurance accounts.
  - d. Applicants for temporary licenses do not need to meet the agent or subagent examination, residence, or education licensing requirements.
  - e. Temporary licenses are effective for six months and can be renewed, at the discretion of the Commissioner, for up to a total of 15 months.
- 8. Probationary licenses [Sec. 33-23-14]** The Commissioner can issue probationary licenses for periods of between three and 12 months.
- 9. Limited subagent licenses [Ch. 120-2-3-.31]** The Commissioner can issue limited subagent licenses, without requiring an examination, to applicants who only transact personal lines (property and casualty) or personal insurance (life, accident and sickness). Applicants for limited subagent licenses must:
- complete 20 hours of prelicensing education; and
  - complete at least five hours of continuing education each year.

**10. Nonresident licenses [Ch. 120-2-3-.34; Sec. 33-23-16]** The Commissioner can issue nonresident licenses to individuals who reside and are licensed in another state and:

- submit to the Commissioner the licensing application that the person submitted in his home state or a completed uniform application or a form prescribed by the Commissioner for licensing nonresident agents;
- pay the required licensing fee and submit the proper application;
- live in a state that allows Georgia residents to be licensed in the same manner as nonresidents are licensed in Georgia; and
- hold the same kind of license in their state of residence and is currently in good standing.

**I. UNFAIR TRADE PRACTICES** It is illegal to engage in any trade practice that is considered to be an unfair method of competition or a deceptive act. The Commissioner can fine violators or suspend or revoke their licenses.

- 1. Misrepresentations and false advertising [Sec. 33-6-4]** It is illegal to make, issue, or circulate untrue, deceptive, or misleading statements regarding the insurance business. It is also illegal to misrepresent a policy to induce a policyholder to lapse, forfeit, or surrender a policy. This practice is called **twisting**. Specifically prohibited is information that misrepresents:
  - benefits, advantages, or terms of any policy;
  - dividends or share of the surplus previously paid or to be received any policy;
  - financial condition of any insurer or the legal reserve system upon which a life insurer operates; or
  - any policy's name or title to misrepresent its true nature.
- 2. False financial statements [Sec. 33-6-4]** It is illegal to publish or circulate any false statement regarding an insurer's financial condition with the intent to deceive.
- 3. Boycott, coercion, and intimidation [Sec. 33-6-4]** It is illegal to commit an act of boycott, coercion, or intimidation that results in unreasonable restraint of or monopoly in the insurance business.
- 4. Defamation of insurer [Sec. 33-6-4]** It is illegal to make or circulate any statement that is false or maliciously critical regarding an insurer's financial condition to injure any person engaged in the insurance business.
- 5. Delivery of stock [Sec. 33-6-4]** It is illegal to issue or deliver agency or company stock, benefit certificates, or any advisory board contracts promising returns and profits as an inducement to purchase insurance.
- 6. Unfair discrimination [Sec. 33-6-4]** It is illegal to make or permit any unfair discrimination in the issuance, renewal, or cancellation of any policy or contract of insurance against direct loss to residential property and the contents, in the amount of premium, policy fees, or rates charged for the policies or contracts when the

discrimination is based solely upon the age or geographical location of the property within a rated fire district without regard to objective loss experience relating to it.

7. **Rebates [Sec. 33-6-4]** It is illegal to offer, as an inducement to purchase insurance, anything of value not specified in the contract, such as:
  - rebates of premiums payable on the contract;
  - special favors or advantages in the dividends or other benefits; and
  - stocks, bonds, securities, and their dividends or profits.
  
8. **Not considered rebates or unfair discrimination [Sec. 33-6-4]** Not considered to be a rebate or unfair discrimination, and not prohibited is paying commissions or other compensation to agents or brokers or allowing or returning dividends, savings, or unabsorbed premium deposits to participating policyholders, members, or subscribers.
  
9. **Applications and solicitation [Sec. 33-6-4(10)]** It is illegal to encourage agents to accept applications that misrepresent or conceal information that, if stated in the application, would prevent the policy from being issued.
  
10. **Representation [Sec. 33-6-4(12), (14)]** The following acts are illegal:
  - representing that any insurer or agent is employed by or otherwise associated with any Medicare program or with the United States Social Security Administration, or that any insurance policy sold or offered has been endorsed or sponsored by the federal or state government;
  - offering to sell Medicare supplement coverage that does not comply with the Georgia insurance laws or regulations;
  - representing that an individual policy is a group policy;
  - failing to disclose in printed advertising material that medical benefits are calculated on the basis of usual, customary, and reasonable charges; and
  - knowingly selling Medicaid recipients unnecessary coverage that duplicates benefits provided under Medicaid.
  
11. **Prohibited advertising [Sec. 33-6-4(13)]** Insurers cannot advertise individual or group policies in a manner that has not been approved for use in Georgia by the Commissioner.
  
12. **Other unfair methods of competition [Sec. 33-6-5]** It is illegal for agents or insurers to:
  - use a name that deceptively suggests that a person is an insurer;
  - include the premium for insurance in the overall purchase price of merchandise or property, without separately identifying the amount charged and to be paid for the insurance; and
  - limit the amount or kind of coverage available to an individual solely because the individual is blind or partially blind.

**13. Investigation by the Commissioner [Sec. 33-6-6]** The Commissioner can examine and investigate the affairs of all persons engaged in the insurance business in Georgia to determine whether they are engaged in any prohibited unfair method of competition or a deceptive act or practice.

**14. Hearings regarding unfair practices [Sec. 33-6-7]** The Commissioner can issue a statement of charges to any person believed to be engaged in an unfair practice or method of competition, if a proceeding appears to be in the public's best interest. The statement must include a notice of hearing to be held no less than 15 days after the notice is served. At the hearing, the person has the opportunity to show cause why the Commissioner should not issue an order to cease and desist from the practice.

**15. Penalties [Sec. 33-6-8]** If, after a hearing, the Commissioner determines that the person charged has engaged in an unfair practice or method of competition, the Commissioner can fine the violator or issue an order to cease and desist from the practice. A cease and desist order can be appealed by filing a petition for review with a superior court. The Commissioner can also:

- suspend or revoke the person's license; and
- impose a penalty of \$1,000, or \$5,000 if the person knew or should have known that he was engaged in an unfair practice or method of competition.

**16. Unlawful contracts [Sec. 33-6-13]** It is illegal to enter into any contract to:

- control the rates to be charged for insuring any risks in Georgia;
- discriminate against any person in Georgia by reason of his method of transacting insurance or affiliation with any insurance organization; or
- establish any condition in Georgia that is detrimental to competition or injurious to the public.

**J. UNFAIR CLAIMS SETTLEMENT PRACTICES [SEC. 33-6-34]** The insurance code sets forth standards for the investigation of claims arising under policies or certificates of insurance issued to residents of Georgia (not including workers' compensation, fidelity, or surety insurance). The Commissioner can issue a statement of charges and notice of a hearing to anyone believed to be engaging in an unfair claims settlement practice, if a proceeding appears to be in the public interest. It is an improper claims settlement practice for a domestic, foreign, or alien insurer to commit any of the following acts flagrantly or with such frequency that they indicate a general business practice:

- knowingly misrepresent relevant facts or policy provisions to claimants and insureds;
- failing to acknowledge communications regarding claims arising under its policies;
- failing to adopt and implement procedures for the prompt investigation and settlement of claims arising under its policies;
- not attempting in good faith to bring about prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;
- compelling insureds or beneficiaries to institute suits to recover amounts due under their policies by offering substantially less than the amounts ultimately recovered in suits brought by them;
- refusing to pay claims without conducting a reasonable investigation;

- when requested by the insured in writing, failing to affirm or deny coverage of claims within a reasonable time after completing an investigation related to such claims;
- when requested by the insured in writing, making claims payments to an insured or beneficiary without indicating the coverage under which each payment is being made;
- unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss and subsequent verification that duplicates the information;
- when requested by the insured in writing, failing in the case of claims denial or offers of compromise settlement to provide a prompt explanation of the basis for such actions;
- failing to provide forms necessary to file claims within 15 calendar days of a request, with reasonable explanations regarding their use;
- failing to adopt and implement reasonable standards to assure that the repairs of a repairer owned by the insurer are performed in a workmanlike manner;
- indicating to a first-party claimant on a payment, draft check, or accompanying letter that the payment is final or a release of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract; and
- issuing checks or drafts in a partial settlement of a loss or claim under a specific coverage which contains language that releases the insurer or its insured from its total liability.

## II. GEORGIA LAWS, RULES AND REGULATIONS PERTINENT TO PROPERTY INSURANCE ONLY

### A. CANCELLATION AND NONRENEWAL OF POLICIES

1. **General cancellation provisions [Sec. 33-24-44]** When an insurer cancels an insurance policy, the insured must be notified in writing no less than 30 days prior to the effective date of cancellation.
  - a. The notice of cancellation must be delivered in person or via first class mail to the last known address of the insured.
  - b. The notice must contain the reason(s) for cancellation.
  - c. If a policy is cancelled due to nonpayment of premium, the insurer must give the insured 10 days' advance notice of cancellation.
  - d. Any unearned premium that is due the insured must be refunded on a pro rata basis.
    - 1.) If the return premium is not sent with the notice of cancellation, it must be made on or before the cancellation date.

- 2.) Unearned premiums may be refunded to the insured's agent of record, in which case the agent must mail the return to the insured within 10 working days of receipt in the agent's office or on the date of cancellation, whichever is later.
- e. If an insured has an open account with the agent, the agent may apply any return premiums due the insured to any outstanding balance; however, return premiums in excess of amounts owed to the agent must be returned to the insured within 10 working days.

## 2. Cancellation and nonrenewal of homeowners policies [Sec.

**33-24-46]** No insurer shall refuse to renew a policy unless written notice of nonrenewal is delivered or mailed to the insured no less than 30 days prior to the date of such nonrenewal.

- a. The notification must contain the reason(s) for nonrenewal.
- b. When a homeowners policy has been in effect for at least 60 days or is a renewal, cancellation may only be effected for the following reasons:
  - nonpayment of premium;
  - fraud, concealment or a material fact, or material misrepresentation made by or with the knowledge of the insured in obtaining the policy, continuing the policy, or presenting a claim under the policy;
  - a change in the risk that substantially increases the hazard insured against; or
  - violation of any material terms or conditions of the contract by the insured.
- c. When a policy is cancelled for other than nonpayment of premium or if the insurer nonrenews a policy, the insured must be notified of his possible eligibility for coverage under the Georgia Fair Access to Insurance Requirements (FAIR) Plan.
- d. Nonrenewal of a homeowners policy is prohibited if based on:
  - 1.) lack of supporting business with the insurer;
  - 2.) change in the insurer's underwriting guidelines that is not approved by the Commissioner; or
  - 3.) two or fewer claims against the policy in the preceding 36 months if the claims are not attributable to the negligent or intentional acts of the insured or other resident of the household.

**B. PREMIUM FINANCE REGULATIONS [SECS. 33-22-2 TO 33-22-16]** An insured may be billed for insurance coverage in one of two ways: 1) the insurance company may invoice the insured and the premium is sent directly to the company (direct

bill); or 2) the insurance agent or broker may invoice the insured and the premium is remitted to the agent or broker (agency billed).

- 1.** Premiums collected by agents or brokers are held in a fiduciary capacity in a trust account until they are remitted to the insurance company. At times, an insurance company may allow an insured to make periodic payments of insurance premiums for a minimal service fee.
- 2.** When insureds (or applicants) are unable to pay a full insurance premium at one time, they may seek a premium financing contract like any other installment loan agreement that allows them to make smaller periodic payment.
- 3.** In Georgia, a premium finance company is a person engaged in the business of entering into insurance premium finance agreements.
  - a.** The person must obtain a license from the Commissioner to operate as a premium finance company.
  - b.** Failure to obtain the required license may result in a fine of up to \$1,000.
  - c.** An applicant for a license to operate as a premium finance company must demonstrate to the Commissioner that he:
    - is competent and trustworthy and intends to act in good faith;
    - has a good business reputation and has had experience, training, or education that qualifies him for the position;
    - will contribute to and promote the convenience and advantage of the citizens of the state by providing a necessary additional market for the financing of insurance premiums; and
    - if a corporation, is incorporated in Georgia or is authorized to transact business in the state, if a foreign corporation.
  - d.** In addition, the applicant must maintain at least \$5,000 in a capital account and either deposit with the Commissioner securities in the amount of \$25,000 or provide a surety bond payable to the Commissioner in the amount of \$25,000.
- 4.** The Commissioner may suspend or revoke the license of a premium finance company if after investigation the Commissioner finds that:
  - any license issued to the company was obtained by fraud;
  - there was any misrepresentation in the application for the license;
  - the holder of the license has shown himself to be untrustworthy or incompetent;
  - the holder of the license has misappropriated, converted, illegally withheld, or refused to pay on proper demand any monies belonging to an insurer or insured and held in a fiduciary capacity;
  - the holder is found to be in an unsound condition or in such a condition that might be hazardous to the public; or

- the company has violated any of the provisions of the Insurance Code pertaining to premium finance companies.
5. The premium finance company is required to maintain records of transactions for a period of three years.
  6. A premium finance agreement must be in a form approved by the Commissioner and must:
    - be dated and signed by or on behalf of the insured, and printed in at least 8-point type;
    - contain the name and place of business of the insurance agent or insurance broker negotiating the related insurance contract, the name and residence or place of business of the insured, the name and place of business of the premium finance company, a description of the insurance contracts involved, and the amount of the premium for the insurance contracts; and
    - set forth the following items, where applicable the
      - total amount of the premiums;
      - amount of the down payment;
      - principal balance, meaning the difference between the total premium and the down payment;
      - amount of the service charge (finance charge);
      - balance payable by the insured; and
      - number of payments, amount of each payment, and due date.
  7. A copy of the agreement must be provided to the insured.
  8. Premium finance agreements generally contain a limited power of attorney, allowing the finance company to request cancellation of financed policies if the insured defaults on installment payments required under the finance agreement.
  9. When a policy premium has been financed, the finance company may cancel the policy under the following conditions:
    - 10 days' written notice sent to the insured of the finance company's intention to cancel unless any installment in default is received during the 10-day period;
    - after the expiration of the above period, the finance company may require cancellation from the insurer and notify the insured as above; and
    - by giving notice to any governmental agency, mortgagee, or third party in accordance with law or the contract.
  10. A cancellation effected by a premium finance company has the same force and effect as if requested by the insurer.
  11. When a policy has been cancelled, return premiums on the involved insurance contracts should be sent to the premium finance company to apply to the insured's balance.

- a. The finance company must refund any excess return premiums to the insured or the insured's agent within 10 working days.
  - b. Failure to do so will result in the payment of a penalty and interest to the insured.
  - c. Agents who receive return premiums on financed policies on behalf of their insured must refund those premiums to the insured within 10 working days of receipt from the finance company.
12. The provisions of the Insurance Code dealing with premium finance companies do not apply to:
- insurance companies;
  - banks, trust companies, savings and loan associations, credit unions, or other lending institutions;
  - insurance charges in connection with the sale of property; and
  - insurance agents who finance their clients' premiums but do not impose a service or finance charge.

**C. MISCELLANEOUS GEORGIA INSURANCE LAWS** In insurance, the terms *property insurance* and *fire insurance* are often used interchangeably. Generally speaking, property insurance policies are those designed to provide protection for loss of damage to buildings and personal property.

1. **Standard fire insurance policy [Sec. 33-32-1]** Georgia law requires that every policy of fire insurance covering property located in the state conform to the provisions of the standard fire policy as approved by the Commissioner.
  - a. Multiple lines policies that include fire insurance must contain provisions at least as favorable as those provided under the standard fire policy, but need not contain the form itself.
  - b. This provision does not apply to casualty insurance, marine or transportation insurance, or insurance on growing crops.
2. **Return of premiums paid [Sec. 33-32-4]** In the event of a total loss to property, if the insurer pays an amount less than the amount insured under the policy, the insurer must refund to the insured the difference between the amount of premium actually paid and the premium that would have been charged for a policy with an amount of insurance equal to the amount paid by the insurer for the loss.
3. **Valuation of loss [Sec. 33-32-5]** In the event of a total loss by fire to a one- or two-family residential building or structure, Georgia law reflects a valued policy statute.
  - a. An insurer is required to value the property at the amount of insurance in effect at the time of the loss, less any depreciation that may have occurred between the time the policy was issued and the time of the loss.

- b. This provision does not prohibit an insurer from using a coinsurance clause in a policy, nor does it prevent the insurer from repairing or replacing the damaged property at its own expense without contribution from the insured.
- c. This valuation provision does not apply where:
  - the building or structure is not wholly destroyed by fire;
  - two or more policies provide insurance for the same loss;
  - two or more buildings or structures are insured using a blanket amount of insurance; or
  - the completed value of a building or structure is insured under a builder's risk policy.

**4. Tobacco crop coverage [Sec. 33-32-6]** Any insurer who issues a crop insurance policy, other than federal crop insurance, for tobacco crops grown in Georgia will have coverage available for wind, hail, or both until the crop is harvested. This may be accomplished by endorsement or as a part of the basic policy.

**5. Georgia Fair Access to Insurance Requirements plan (FAIR plan)**

**[Secs. 33-33-1 to 33-33-8]** FAIR plans are federally mandated programs used in various states, such as Georgia, that create a pool to provide basic property insurance to individuals who are unable to obtain such coverage through the voluntary insurance market.

- a. The purpose of the FAIR plan is to make property insurance available to urban property owners and others in areas where insurers are reluctant to issue policies.
- b. The plan operates as an underwriting association comprised of licensed insurers who share risks on a fair and equitable basis.
- c. The plan is governed by a board of directors, subject to approval by the Commissioner.
- d. All insurers authorized to and writing insurance in the state are required to participate in the FAIR plan.
- e. A company's share of FAIR plan risks is based on its share of the voluntary market, divided between personal and commercial risks.
- f. When an applicant is refused coverage by the plan, an appeal may be filed with the Commissioner who will either overturn or sustain the action of the plan.
- g. Local public entities, including counties, municipalities, or local boards of education who are insured with the plan and are refused a renewal policy may appeal the decision to the Commissioner.
- h. When requested, the Commissioner will grant the entity temporary coverage if the current policy is due to expire while the review is pending.

- i. During the time any such temporary coverage is in effect, the public entity may be directed to enact loss control measures including:
  - protection of physically damaged property from further damage;
  - prevention or limitation of access to the premises;
  - disconnection of utilities;
  - installation of locks, alarms, or security lighting;
  - inspections of the premises; or
  - provision of security guards.

### III. GEORGIA LAWS, RULES AND REGULATIONS PERTINENT TO CASUALTY INSURANCE ONLY

#### A. CANCELLATION AND NONRENEWAL OF POLICIES

##### 1. Cancellation of personal automobile insurance [Sec. 33-24-45]

No notice of cancellation issued by an insurer is effective except for:

- failure of the insured to pay premiums when due;
- obtaining a policy through material misrepresentation;
- violation of the terms and conditions of the policy by any insured;
- failure to fully disclose motor vehicle records for the past 36 months if asked in an application for insurance;
- failure to disclose information necessary for proper issuance or rating of the risk;
- making a false or fraudulent claim;
- when the insured or a resident of the household
  - has, within the last 36 months, had a driver's license suspended or revoked;
  - is or becomes subject to epilepsy or heart attacks and does not provide a physician statement attesting to the unqualified ability to operate a motor vehicle;
  - has an accident record, conviction record (criminal or traffic), or a physical, mental, or other condition that makes operation of a motor vehicle dangerous to the public;
  - has been addicted to the use of narcotics or other drugs in the past 36 months;
  - has been convicted of a felony during the past 36 months;
  - has been convicted, during the past 36 months, of criminal negligence resulting in death, homicide, or assault arising out of the operation of a motor vehicle;
  - has been convicted of operating a motor vehicle while intoxicated or under the influence of drugs during the past 36 months;
  - has left the scene of an accident;
  - has been convicted of motor vehicle theft;
  - has made false statements in a driver's license application;

- has been convicted of three or more speeding violations in the past 36 months; or
- when the insured automobile:
  - is so mechanically defective that its operation might endanger public safety;
  - is used to carry passengers for hire;
  - is used to transport explosives or flammables;
  - is an authorized emergency vehicle; or
  - has changed in shape or condition so as to substantially increase the risk insured.

**2. Nonrenewal of personal automobile insurance [Sec. 33-24-45]** No insurer shall refuse to renew a policy unless written notice of nonrenewal is delivered or mailed to the insured no less than 30 days prior to the date of such nonrenewal.

- a. The notification must contain the reason(s) for nonrenewal.
- b. Nonrenewal of personal automobile insurance is prohibited if based on:
  - failure of the insured to agree to write supporting business with the insurer;
  - change in the insurer's underwriting rules that is not approved by the Commissioner;
  - accidents in which the insured was not at fault;
  - filing of an uninsured or underinsured motorists claim;
  - filing of a comprehensive claim;
  - filing of a claim for towing or road service;
  - age, sex, residence location, race, creed, national origin, ancestry, or marital status;
  - lawful occupation of the insured;
  - military service of the insured;
  - number of years of driving experience of the insured;
  - claims that occurred more than 36 months prior to the expiration date of the policy;
  - one claim for an at-fault accident if coverage has been in effect continuously for at least 36 months;
  - two claims for at-fault accidents if the policy has been in effect continuously for the past 72 months; or
  - factors not related to the claims record, driving record, or driving ability of the insured or other vehicle operators in the insured's household.

**3. Other provisions for personal automobile insurance [Sec. 33-24-45]**

The above cancellation and nonrenewal provisions do not apply to policies that have been in effect less than 60 days unless it is a renewal policy. When a policy is cancelled for a reason other than nonpayment of premium, or if the policy is nonrenewed, the insurer must notify the insured of his possible eligibility for insurance through the Georgia Automobile Insurance Plan.

**4. Cancellation and nonrenewal of commercial policies [Sec. 33-24-47]** A notice of termination, including a notice of cancellation or nonrenewal, a notice of increase in premiums other than due to a change in risk or exposure, that exceeds 15% of the current policy's premium, or a notice of change in any policy provision that limits or restricts coverage must be delivered or mailed to the insured at least 45 days prior to the effective date of such termination or change.

- a. Failure to comply with this requirement entitles the policyholder to purchase a policy for an additional 30 days beyond the current expiration date on the same terms and conditions and with the same premium as the expiring policy.
- b. If a policy will incur a premium increase of more than 15%, the dollar amount of that increase must be stated in the notice.

**5. Cancellation and nonrenewal of workers' compensation policies [Sec. 33-24-47]** A notice of cancellation or nonrenewal of a workers' compensation policy must be delivered to the insured by certified mail or statutory overnight delivery, return receipt requested, to the last address of record at least 75 days prior to the termination date of the policy.

## B. MISCELLANEOUS GEORGIA INSURANCE LAWS

**1. Automobile insurance** Auto insurance is perhaps the most significant aspect of casualty insurance. Nationwide, it represents more than half of the total premium dollars spent on insurance. The following is a summary of Georgia laws relevant to auto insurance.

**a. Compulsory insurance [Secs. 33-34-3,4; 33-7-11; 40-9-2]**  
Georgia requires that all owners and operators of motor vehicles in the state carry automobile liability insurance as evidence of security in complying with the state's financial responsibility law.

- 1.) This provision does not apply to self-insurers.
- 2.) Policies must be issued for a minimum term of six months.
- 3.) No motor vehicle may be licensed in Georgia until the owner or insured has furnished proof of financial responsibility evidenced by automobile liability insurance or an approved self-insurance plan.
- 4.) No automobile insurance policy may be issued for limits less than the state's financial responsibility limits. The financial responsibility limits in Georgia are (25/50/25):
  - \$25,000 for bodily injury or death of one person;
  - \$50,000 for bodily injury or death of two or more persons; and
  - \$25,000 for property damage to property of others.

- 5.) Insurers must provide liability insurance for bodily injury and property damage, and may also provide coverage for medical payments, comprehensive, collision, and other optional coverages. Insurers may offer coverage restricted to named insured and resident relatives.
- b. Uninsured motorist coverage [Sec. 33-7-11]** Uninsured motorists (UM) coverage allows the insured, resident relatives, and passengers in a covered auto to collect sums another driver would be legally liable to pay for bodily injury or property damage. In other words, the insured's own policy responds by transferring the insured party's own liability insurance to the party causing the accident.
- 1.) This coverage is intended to protect people injured in an accident that was caused by an uninsured motorist, hit-and-run driver, or a driver whose insurer is insolvent.
  - 2.) In Georgia, all automobile policies that provide liability insurance must also provide uninsured motorists coverage.
  - 3.) The insured may reject the coverage by notifying the insurer in writing of his desire to do so.
  - 4.) UM coverage may be issued in an amount up to the limits provided in the policy for bodily injury and property damage, but in no event less than the financial responsibility limit of the state.
  - 5.) The coverage may be issued with a deductible of \$250, \$500, or \$1,000 at the option of the insured.
    - a.) Deductibles may not be reduced below \$250.
    - b.) The deductible will reduce the UM premium otherwise payable.
- c. Advance premium payment [Sec. 33-34-3]** All automobile policies issued in the state require that the insurer collect an advance payment for the first 30 days of coverage.
- 1.) This provision applies only to personal automobile policies.
  - 2.) If payment is made with a check or money order that is not honored by a financial institution upon first presentation, the insurer is deemed to have complied with this provision and may issue notice of cancellation for nonpayment upon 10 days' advance notice.
- d. Selection of repair facility [Sec. 33-34-6]** No insurer shall represent to an insured or other party making a claim under an automobile policy that the use of or failure to use a particular repair facility may result in nonpayment of a claim.

**e. Continuation of spousal coverage [Sec. 33-34-7]** Every policy of automobile insurance providing coverage for private passenger vehicles shall contain a provision that allows the spouse of a named insured to continue coverage for 90 days following the death of the insured or the termination of the marital relationship. This continued coverage must be requested from the insurer or its agent.

**f. Georgia Automobile Insurance Plan [Ch. 120-2-14-.01 to .17]** The Georgia Automobile Insurance Plan makes automobile insurance, including garage liability for commercial risks, available to applicants who are in good faith entitled to such coverage but are unable to procure it through the voluntary insurance market.

- 1.) Every insurer authorized to and writing automobile insurance in the state is required to participate in the plan.
- 2.) Risks are distributed among plan participants based on their percentage of voluntary automobile insurance written in the state.
- 3.) Insurance issued in the plan must contain liability insurance in the minimum amounts contained in the financial responsibility law.
- 4.) In addition, other coverages may be offered.

**2. Workers' compensation coverage [Secs. 34-9-1 to 14]** Workers' compensation provides compensation to employees who are injured on the job, generally without any consideration of fault or negligence on the part of either the employer or employee.

- a. In return for the right of compensation, the employee gives up the right to sue the employer for perhaps a larger but uncertain benefit.
- b. The amount of an employee's compensation is fixed by law.
- c. Workers' compensation insurance is an exclusive remedy coverage.
- d. In Georgia, this coverage may be provided by a private insurer or arranged by an employer who is self-insured or a self insurance group.
- e. Businesses subject to the workers' compensation law are required to obtain insurance or qualify as self-insureds for possible compensation liability to their employees.
- f. All businesses employing three or more employees must comply with the law.
- g. Domestic workers may not be covered, and coverage for farm workers is on a voluntary basis.

- h. State Board [Sec. 34-9-40]** Administration of Georgia's workers' compensation laws is the responsibility of the State Board of Workers' Compensation.
- i. Coverage [Sec. 34-9-260 to 265]** The coverage provided under workers' compensation is:
- wage replacement (temporary total disability, permanent total disability, temporary partial disability, permanent partial disability, and disfigurement);
  - medical compensation;
  - death benefits; and
  - burial allowance.
- j. Residual market mechanism [Sec. 34-9-133]** The Georgia Workers' Compensation Assigned Risk Plan exists to provide required workers' compensation coverage for employers who do not qualify for coverage in the voluntary market. Liability is apportioned among all insurers authorized to write workers' compensation and employer's liability in the state.

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**GEORGIA LAW SUPPLEMENT PRACTICE FINAL**

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Student instructions: Following your thorough study of this supplement, take this 50-question sample examination. Grade your performance utilizing the answer key provided. Carefully review the topics pertaining to those questions answered incorrectly.

1. Which of the following types of insurers is incorporated or organized under the laws of a country other than the United States?
  - A. Foreign
  - B. Domestic
  - C. Alien
  - D. International
2. The Commissioner can impose all of the following penalties for violating Georgia's insurance laws EXCEPT
  - A. a fine of up to \$1,000 for nonwillful violations
  - B. imprisonment for up to 2 years
  - C. a fine of up to \$5,000 for willful violations
  - D. probation for up to 1 year
3. Who investigates, settles, and provides reports involving claims arising under insurance contracts?
  - A. Adjuster
  - B. Agent
  - C. Subagent
  - D. Counselor
4. Who enforces all laws that relate to insurance in Georgia?
  - A. Commissioner of Insurance
  - B. Insurance agents
  - C. Federal Insurance Association
  - D. Georgia legislature
5. Which of the following is NOT a duty of the Commissioner of Insurance?
  - A. Conducting hearings
  - B. Granting licenses to agents
  - C. Writing Georgia insurance laws
  - D. Making rules and regulations to help interpret the state insurance laws
6. To qualify for an agent's license, an applicant must
  - A. be at least 21 years old
  - B. be appointed by at least 2 insurers
  - C. pass the state examination
  - D. be employed for at least 2 years by an insurer
7. If an insurer violates any section of the insurance code, what can the Commissioner issue to stop the insurer from committing the violation?
  - A. Notice of a hearing
  - B. Notice of violation
  - C. Cease and desist order
  - D. Suspension order
8. How often must the Commissioner examine domestic insurers?
  - A. Only when a violation is suspected
  - B. At least once every 5 years
  - C. Annually
  - D. At least once every 3 years
9. When conducting examinations, the Commissioner of Insurance can do all of the following EXCEPT
  - A. subpoena witnesses
  - B. administer oaths
  - C. require the production of records, books, papers and any other relevant documents
  - D. require parties to appear in person
10. The Georgia Insurers Insolvency Pool
  - A. is voluntary for domestic insurers
  - B. protects insureds against insurer insolvencies
  - C. cannot investigate or defend claims
  - D. never offers coverage for claims that involve refunds of unearned premiums

11. An insurer's license to do business in Georgia is called a
  - A. notice of risk assignment
  - B. certificate of authority
  - C. mutual benefit card
  - D. license to solicit registration
12. What nonprofit association in Georgia protects owners of policies issued by insurers that become insolvent?
  - A. Georgia Board of Insolvency
  - B. Department of Insurance
  - C. Georgia Insurers Insolvency Pool
  - D. Georgia Life, Accident and Sickness Insurance Pool
13. All of the following constitute the transaction of insurance EXCEPT
  - A. solicitation of insurance
  - B. making preliminary insurance negotiations
  - C. offer and acceptance of insurance contracts
  - D. applying for an agent's license
14. Parties to a public hearing held by the Commissioner of Insurance have the right to do all of the following EXCEPT
  - A. withhold incriminating evidence
  - B. present evidence supporting their interests
  - C. request a rehearing after an order
  - D. inspect documentary evidence
15. The Commissioner of Insurance may suspend or revoke a certificate of authority for all of the following EXCEPT
  - A. the company is in an unsound condition
  - B. the company refuses to be examined
  - C. the company is under the same ownership as another insurer that transacts direct insurance in Georgia without a certificate of authority
  - D. the company was compelled by a court order to pay a final judgment rendered against it
16. Agent licenses can be issued for all of the following kinds of insurance EXCEPT
  - A. life
  - B. casualty
  - C. credit life, accident and health
  - D. surplus lines through appropriate brokers
17. The Commissioner may, without a hearing, immediately suspend the certificate of authority of an insurer except for each of the following reasons EXCEPT
  - A. failing to pay claims when due
  - B. exceeding powers granted under its certificate of authority
  - C. conducting business in a fraudulent manner
  - D. having authority to do business revoked in any state
18. An applicant for an agent's license is required to take a written examination if he
  - A. is applying for a temporary license
  - B. has completed the prelicensing education requirements
  - C. holds a CPCU designation and is applying for a property and casualty insurance agent's license
  - D. holds a Ph.D. in risk management
19. How long do temporary agent licenses remain in effect?
  - A. Until a licensed agent can fill the position
  - B. Six weeks, renewable up to 5 months
  - C. Three months, nonrenewable
  - D. Six months, renewable up to 15 months
20. Which of the following must be authorized to transact insurance in Georgia?
  - A. Reinsurance insurers
  - B. Insurers that only provide property and casualty insurance
  - C. Surplus lines insurers
  - D. Attorneys who advise clients about insurance

21. Who performs the Commissioner's duties in the Commissioner's absence?
- Chairman of the Board of the Department of Insurance
  - Deputy Commissioner of Insurance
  - Governor
  - Director of the Advisory Board
22. Knowingly circulating a false statement about an insurer's financial condition is called
- defamation
  - replacement
  - conversion
  - rebating
23. Misrepresenting the terms of a policy to induce a policyholder to lapse or surrender a policy is called
- coercion
  - rebating
  - unfair discrimination
  - twisting
24. All of the following are considered to be unfair and deceptive trade practices EXCEPT
- rebating premiums
  - circulating a statement claiming that another insurer is in danger of going bankrupt
  - inflating the dividend amount when discussing the policies advantages with potential policyholders
  - issuing checks in full settlement of a claim that contain language releasing the insurer from liability
25. Each of the following is a valid reason for cancellation of personal automobile insurance EXCEPT
- failure of the insured to pay premiums when due
  - failure of the insured to install safety devices in an automobile
  - obtaining a policy through material misrepresentation
  - making a false or fraudulent claim
26. An insurance company may cancel a personal automobile policy if an insured or a resident of the household has
- cancer
  - any medical condition
  - epilepsy or a heart condition
  - poor eyesight
27. An insurance company is legally entitled to cancel an automobile policy when the insured vehicle
- reaches 20 years of age or older
  - is used to carry passengers other than resident relatives
  - is used as an emergency vehicle
  - has outstanding parking violations
28. Personal automobile insurance must be renewed by an insurer unless they have notified the insured of their intention not to renew within
- 5 days of the expiration
  - 10 days of the expiration
  - 20 days of the expiration
  - 30 days of the expiration
29. A personal automobile policy may be nonrenewed for which of the following reasons?
- Failure of the insured to place homeowners coverage with the insurer
  - Failure of the insured to provide underwriting information
  - Filing an uninsured motorists claim
  - Filing a claim for damage to a vehicle's windshield
30. When an insurer cancels a policy of personal automobile insurance, it must notify the insured that
- coverage is available in another insurer of his choice
  - he may be eligible for workers' compensation benefits
  - coverage may be obtained from the insurer at a later point in time
  - he may be eligible for coverage under the Georgia Automobile Insurance Plan

31. Homeowners insurance may be cancelled by an insurer by mailing or delivering how many days' advance notice of cancellation?
- A. 10 days
  - B. 15 days
  - C. 20 days
  - D. 30 days
32. When a homeowners policy has been in effect for at least 60 days, it may be cancelled for each of the following reasons EXCEPT
- A. nonpayment of premium
  - B. failure to install smoke detectors
  - C. concealment of a material fact
  - D. presenting a fraudulent claim
33. If an insurer cancels a homeowners policy, it must notify the insured
- A. that a hearing may be obtained from the Insurance Commissioner
  - B. that the insured may be eligible for coverage from the Georgia FAIR Plan
  - C. of the phone number for the Georgia Department of Insurance
  - D. that coverage may be obtained for another insurer or the insured's choice
34. Nonrenewal of a homeowners policy is prohibited based on any of the following reasons EXCEPT
- A. change in the insurer's underwriting guidelines if not approved by the Commissioner
  - B. lack of supporting automobile insurance with the insurer
  - C. a claim for a fire started by a tenant of the insured who became angry
  - D. 2 claims in the past 3 years for windstorm damage
35. An insurer must notify a commercial insured when the renewal premium for the policy is going to increase by more than
- A. 10%
  - B. 15%
  - C. 20%
  - D. 25%
36. When the renewal of a commercial policy will contain coverage restrictions not in the current policy, the insurer must notify the insured of this fact how many days prior to renewal?
- A. 20
  - B. 30
  - C. 45
  - D. 60
37. Workers' compensation insurance may only be nonrenewed by giving the insured how many days' advance notice?
- A. 30
  - B. 45
  - C. 60
  - D. 75
38. In order to operate as a premium finance company in Georgia, an individual must obtain a(n)
- A. certificate of authority
  - B. approval
  - C. license
  - D. authorization
39. Failure to obtain the necessary documentation to operate as a premium finance company may result in a fine of up to
- A. \$500
  - B. \$1,000
  - C. \$10,000
  - D. \$25,000
40. Which of the following statements about workers' compensation coverage in Georgia is CORRECT?
- A. Businesses with 10 or more employees must comply with the law.
  - B. Domestic workers must be covered.
  - C. Coverage of farm workers is mandatory.
  - D. It is considered an exclusive remedy coverage.

41. A law that requires an insurer to pay the face amount of a policy in the event of a total loss to property is referred to as a
- A. replacement cost law
  - B. total property law
  - C. valued policy law
  - D. market value law
42. An insurer may pay less than the face amount of a policy when any of the following conditions exist EXCEPT when
- A. the loss is partial
  - B. there is a blanket amount of insurance
  - C. there are two policies covering the loss
  - D. the loss is to a two-family structure
43. The Georgia FAIR Plan is
- A. operated by the Insurance Commissioner
  - B. an association of insurance companies
  - C. a public entity
  - D. a voluntary insurance market
44. Risks submitted to the Georgia FAIR Plan are shared based on an insurer's
- A. operating profit in the prior year
  - B. appetite for high-risk business
  - C. market share of similar business
  - D. complain ratio with the Department
45. When a public entity requests temporary coverage from the Georgia Fair Plan, they may be asked to enact any of the following loss control measures EXCEPT
- A. disconnection of utilities
  - B. provision of security guards
  - C. limitation of access to the premises
  - D. provision of guard dogs
46. Automobile insurance in the state of Georgia is
- A. required by law
  - B. requested as proof of financial responsibility
  - C. difficult to obtain
  - D. optional based on a person's driving record
47. The minimum financial responsibility limits in Georgia are
- A. 15/30/10
  - B. 25/50/10
  - C. 25/50/25
  - D. 15/30/5
48. Automobile policies issued in Georgia must contain which of the following coverages?
- A. Comprehensive
  - B. Medical payments
  - C. Property damage liability
  - D. Towing and labor
49. Which of the following statements regarding uninsured motorists coverage in Georgia is CORRECT?
- A. It is required and may not be rejected by the insured.
  - B. It must be issued at the same limit as the bodily injury liability.
  - C. It must be included but may be rejected by the insured.
  - D. It is optional and an insurer may or may not provide it.
50. Uninsured motorists coverage may include a deductible in any of the following amounts EXCEPT
- A. \$100
  - B. \$250
  - C. \$500
  - D. \$1,000

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## ANSWERS TO GEORGIA LAW PRACTICE FINAL

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1. C	11. B	21. B	31. D	41. C
2. B	12. C	22. A	32. B	42. D
3. A	13. D	23. D	33. B	43. B
4. A	14. A	24. D	34. C	44. C
5. C	15. D	25. B	35. B	45. D
6. C	16. D	26. C	36. C	46. A
7. C	17. A	27. C	37. D	47. C
8. D	18. B	28. D	38. C	48. C
9. D	19. D	29. B	39. B	49. C
10. B	20. B	30. D	40. D	50. A