

House Bill 515

By: Representatives Wilson of the 80th, Kausche of the 50th, Allen of the 40th, and Schofield of the 60th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-9-4 of the Official Code of Georgia Annotated, relating to
2 standards applicable to making and use of rates, so as to prohibit insurers from considering
3 advertising or solicitation expenses when making or using personal private passenger motor
4 vehicle insurance rates; to provide for definitions; to provide for an effective date; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 33-9-4 of the Official Code of Georgia Annotated, relating to standards
9 applicable to making and use of rates, is amended as follows:

10 "33-9-4.

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

12 (1) 'Advertising expenses' means any costs, other than solicitation costs, related to any
13 communication by means of radio, television, newspaper, magazine, periodical, brochure,
14 pamphlet, circular, or any other means, for the purpose of conveying information related
15 to the sale of personal private passenger motor vehicle insurance.

16 (2) 'Solicitation expenses' means any costs, related to any written or oral communication
17 in person or by means of telephone, radio, television, newspaper, magazine, periodical,
18 brochure, circular, or any other device, of any offer of personal private passenger motor
19 vehicle insurance, any invitation or request to purchase such insurance, or any attempt
20 to obtain consideration for the purchase of such insurance for the purpose of inducing the
21 recipient of such communication to pay any consideration for the purchase of such
22 insurance.

23 (b) The following standards shall apply to the making and use of rates pertaining to all
24 classes of insurance to which this chapter is applicable:

25 (1) Rates shall not be excessive or inadequate, as defined in this Code section, nor shall
26 they be unfairly discriminatory;

27 (2) No rate shall be held to be excessive unless such rate is unreasonably high for the
28 insurance provided and a reasonable degree of competition does not exist in the area with
29 respect to the classification to which such rate is applicable; provided, however, with
30 respect to rate filings involving an increase in rates, no rate for personal private passenger
31 motor vehicle insurance shall be held to be excessive unless such rate is unreasonably
32 high for the insurance provided and a reasonable degree of competition does not exist;

33 (3) No rate shall be held inadequate unless it is unreasonably low for the insurance
34 provided and continued use of it would endanger solvency of the insurer, or unless the
35 use of such rate by the insurer using such rate has, or will, if continued, tend to destroy
36 competition or create a monopoly;

37 (4) Consideration shall be given to the extent applicable to past and prospective loss
38 experience within and outside this state, to conflagration and catastrophe hazards, to a
39 reasonable margin for underwriting profit and contingencies, to past and prospective
40 expenses both country wide and those specially applicable to this state, to the insurer's
41 average yield from investment income, and to all other factors, including judgment
42 factors, deemed relevant within and outside this state; and, in the case of fire insurance

43 rates, consideration may be given to the experience of the fire insurance business during
44 the most recent five-year period;

45 (5) Consideration may also be given, in the making and use of rates, to dividends,
46 savings, or unabsorbed premium deposits allowed or returned by insurers to their
47 policyholders, members, or subscribers;

48 (6) The systems of expense provisions included in the rates for use by any insurer or
49 group of insurers may differ from those of other insurers or groups of insurers to reflect
50 the operating methods of any such insurer or group with respect to any kind of insurance
51 or with respect to any subdivision or combination thereof;

52 (7) Risks may be grouped by classifications for the establishment of rates and minimum
53 premiums. Classification rates may be modified to produce rates for individual risks in
54 accordance with rating plans which establish standards for measuring variations in
55 hazards or expense provisions, or both. Such standards may measure any difference
56 among risks that have a probable effect upon losses or expenses. Classifications or
57 modifications of classifications of risks may be established based upon size, expense,
58 management, individual experience, location or dispersion of hazard, or any other
59 reasonable considerations. Such classifications and modifications shall apply to all risks
60 under the same or substantially the same circumstances or conditions; provided, however,
61 the Commissioner shall establish the maximum amount of any such modification;

62 (8) Nothing contained in this Code section or elsewhere in this chapter shall be construed
63 to repeal or modify Chapter 6 of this title, relating to unfair trade practices, and any rate,
64 rating classification, rating plan or schedule, or variation thereof established in violation
65 of Chapter 6 of this title shall, in addition to the consequences stated in Chapter 6 of this
66 title or elsewhere, be deemed violative of this Code section;

67 (9) No insurer shall base any standard or rating plan on vehicle insurance, in whole or
68 in part, directly or indirectly, upon race, creed, or ethnic extraction;

69 (10) No insurer shall base any standard or rating plan on vehicle insurance, in whole or
70 in part, directly or indirectly, upon any physical disability of an insured unless the
71 disability directly impairs the ability of the insured to drive a motor vehicle; and
72 (11) No insurer shall base any standard or rating plan on personal private passenger
73 motor vehicle insurance, in whole or in part, directly or indirectly, upon advertising or
74 solicitation expenses."

75 **SECTION 2.**

76 This Act shall become effective on January 1, 2022, and shall apply to all policies issued,
77 delivered, issued for delivery, or renewed in this state on or after such date.

78 **SECTION 3.**

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