

Senate Bill 229

By: Senators Jones of the 25th, Martin of the 9th, McKoon of the 29th and Bethel of the 54th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 37 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurers rehabilitation and liquidation, so as to provide for federal home loan bank rights
3 regarding collateral pledged by an insurer-member subject to a delinquency proceeding; to
4 provide for definitions; to provide for certain limitations for a receiver to void transfer of
5 certain property in connection with any federal home loan bank security agreement; to
6 provide for transfer avoidance under certain circumstances; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Chapter 37 of Title 33 of the Official Code of Georgia Annotated, relating to insurers
11 rehabilitation and liquidation, is amended in Code Section 33-37-3, relating to definitions,
12 by adding new paragraphs to read as follows:

13 "(7.1) 'Federal home loan bank' means a federal home loan bank established under the
14 federal Home Loan Bank Act, 12 U.S.C. Section 1421, et seq."

15 "(12.1) 'Insurer-member' means an insurer who is a member of a federal home loan
16 bank."

17 style="text-align:center">**SECTION 2.**

18 Said chapter is further amended by revising Code Section 33-37-5, relating to grounds for
19 restraining orders and injunctions, as follows:

20 "33-37-5.

21 (a) Any receiver appointed in a proceeding under this chapter may at any time apply for,
22 and any court of general jurisdiction may grant, such restraining orders, preliminary and
23 permanent injunctions, and other orders as may be deemed necessary and proper to
24 prevent:

25 (1) The transaction of further business;

- 26 (2) The transfer of property;
- 27 (3) Interference with the receiver or with a proceeding under this chapter;
- 28 (4) Waste of the insurer's assets;
- 29 (5) Dissipation and transfer of bank accounts;
- 30 (6) The institution or further prosecution of any actions or proceedings;
- 31 (7) The obtaining of preferences, judgments, attachments, garnishments, or liens against
- 32 the insurer, its assets, or its policyholders;
- 33 (8) The levying of execution against the insurer, its assets, or its policyholders;
- 34 (9) The making of any sale or deed for nonpayment of taxes or assessments that would
- 35 lessen the value of the assets of the insurer;
- 36 (10) The withholding from the receiver of books, accounts, documents, or other records
- 37 relating to the business of the insurer; or
- 38 (11) Any other threatened or contemplated action that might lessen the value of the
- 39 insurer's assets or prejudice the rights of policyholders, creditors, or shareholders, or the
- 40 administration of any proceeding under this chapter.
- 41 (b) The receiver may apply to any court outside of the state for the relief described in
- 42 subsection (a) of this Code section.
- 43 (c)(1) After the seventh day following the filing of a delinquency proceeding, a federal
- 44 home loan bank shall not be stayed or prohibited from exercising its rights regarding
- 45 collateral pledged by an insurer-member.
- 46 (2) If a federal home loan bank exercises its rights regarding collateral pledged by an
- 47 insurer-member who is subject to a delinquency proceeding, the federal home loan bank
- 48 shall repurchase any outstanding capital stock that is in excess of that amount of federal
- 49 home loan bank stock that the insurer-member is required to hold as a minimum
- 50 investment to the extent the federal home loan bank in good faith determines the
- 51 repurchase to be permissible under applicable laws, regulations, regulatory obligations,
- 52 and the federal home loan bank's capital plan and consistent with the federal home loan
- 53 bank's current capital stock practices applicable to its entire membership.
- 54 (d) Following the appointment of a receiver for an insurer-member, the federal home loan
- 55 bank shall, within ten business days after a request from the receiver, provide a process and
- 56 establish a timeline for all of the following:
- 57 (1) The release of collateral that exceeds the amount required to support secured
- 58 obligations remaining after any repayment of loans as determined in accordance with the
- 59 applicable agreements between the federal home loan bank and the insurer-member;
- 60 (2) The release of any of the insurer-member's collateral remaining in the federal home
- 61 loan bank's possession following repayment of all outstanding secured obligations of the
- 62 insurer-member in full;

63 (3) The payment of fees owed by the insurer-member and the operation of deposits and
 64 other accounts of the insurer-member with the federal home loan bank; and
 65 (4) The possible redemption or repurchase of federal home loan bank stock or excess
 66 stock of any class that an insurer-member is required to own.
 67 (e) Upon request from a receiver, the federal home loan bank shall provide any available
 68 options for an insurer-member subject to a delinquency proceeding to renew or restructure
 69 a loan to defer associated prepayment fees, subject to market conditions, the terms of any
 70 loans outstanding to the insurer-member, the applicable policies of the federal home loan
 71 bank, and the federal home loan bank's compliance with federal laws and regulations."

72 **SECTION 3.**

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

74 "33-37-26.1

75 The receiver for an insurer-member shall not void any transfer of, or any obligation to
 76 transfer, money or any other property arising under or in connection with any federal home
 77 loan bank security agreement; any pledge, security, collateral, or guarantee agreement; or
 78 any other similar arrangement or credit enhancement relating to a federal home loan bank
 79 security agreement made in the ordinary course of business and in compliance with the
 80 applicable federal home loan bank agreement. However, a transfer may be avoided under
 81 this Code section if the transfer was made with intent to hinder, delay, or defraud the
 82 insurer-member, the receiver for the insurer-member, or existing or future creditors. This
 83 Code section shall not affect a receiver's rights regarding advances to an insurer-member
 84 in delinquency proceedings pursuant to 12 C.F.R. Section 1266.4."

85 **SECTION 4.**

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