

Chapter 120-2-14

GEORGIA AUTOMOBILE INSURANCE PLAN

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120-2-14-.01 Authority

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-2-9 and 40-9-100.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.02 Purpose

The purpose of this Regulation is:

- (1) to authorize an Automobile Insurance Plan to make automobile insurance, including garage liability insurance. Available to applicants who are in good faith entitled to but are unable to procure policies for such insurance through ordinary methods;
- (2) to authorize a Governing Committee and a Manager to administer such Plan.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.03 Definitions

- (1) "Applicant" means a person making applications for automobile insurance under this Plan.
- (2) "Automobile" means a vehicle required to be registered under the laws of this State relating to motor vehicles designed primarily for operation upon the public streets, roads

and highways and driven by power other than muscle power, including a trailer drawn by or attached to such vehicle.

- (3) "Commissioner" means the Commissioner of Insurance of the State of Georgia.
- (4) "Committee" means Governing Committee of the Georgia Automobile Insurance Plan.
- (5) "Individual" means an officer, employee, agent or committee member or representative of the Plan and may include a partnership, corporation or association.
- (6) "Person" mean any individual, partnership, corporation and association and may extend and be applied to bodies politic and corporate.
- (7) "Plan" means the Georgia Automobile Insurance Plan which has been approved and adopted by the Commissioner.
- (8) "Subscriber" means an insurer authorized pursuant to a valid certificate of authority to write automobile liability insurance in this State, and by virtue of such license a participant in the Plan authorized by this Chapter.
- (9) "User of the Plan" means a person licensed to market automobile liability insurance in this State, and by virtue of such license a participant in the Plan authorized by this Chapter.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.04 Administration of the plan

(1) The Plan shall be administered by a Governing Committee and Manager. The Committee may consist of twelve (12) representatives. Eight (8) representatives will be elected from among Plan subscriber companies, two (2) from each of the following classes of companies: American Insurance Association, Georgia Association of Property and Casualty Insurance Companies, Property Casualty Insurers Association of America, and Non-Affiliated Insurance Companies. Each of the eight (8) shall be submitted to the Commissioner for approval prior to election.

Two (2) representatives will be appointed by the Committee from the users of the Plan for a two (2) year term. These two (2) nominees selected by the Committee shall be approved by the Commissioner prior to being appointed. These two representatives will not have the right to vote in matters pertaining to the determination and fulfillment of quotas, Commercial Automobile Insurance Procedure participation, nor the cost to administer the Plan.

Two (2) representatives may be appointed at the discretion of the Commissioner from subscribers, users of the Plan, or the public. The users of the Plan and public representatives will not have the right to vote in matters pertaining to the determination and fulfillment of quotas, Commercial Automobile Insurance Procedure participation, nor the cost to administer the Plan.

(2) For voting purposes, a quorum shall consist of a majority of the members currently serving on the Committee. If the Committee consists of an even number of members, however, a majority shall constitute one-half of those members but shall not be less than five members.

(3) Each subscriber company serving on the Committee shall designate a representative to act on its behalf. This representative shall be either (1) a salaried employee or officer of the named subscriber company or (2) a salaried employee or officer of another subscriber company

from a group of companies under the same management as the named subscriber company. A salaried employee or officer of the holding company of the named subscriber company may also be designated as the representative. No more than one (1) company in a group under the same management shall serve on the Committee at the same time. A company leaving its class of companies shall resign its seat at the next meeting of the Committee.

(4) Biennially, on a date fixed by the Committee, such respective class of companies heretofore described shall elect its representatives to the Committee to serve for a period of two (2) years or until a successor is elected. Similarly, those elected representatives shall biennially, on a date fixed by the Committee, appoint the two representatives from among the users of the Plan.

(5) A majority of such subscriber companies shall constitute a quorum and voting by proxy shall be permitted. A company may not appoint more than one (1) company in its class of companies to exercise its proxy.

(6) The notice of each biennial meeting shall be accompanied by an agenda for such meeting. At the biennial meeting, a company may cast one (1) vote for each vacant seat on the Committee for its class of companies and it may not cast two (2) votes for one seat. Forty-five (45) days notice of the biennial meeting shall be given in writing to all companies which are subscribers to the Plan.

(7) A vacancy on the Committee shall be filled by the respective organization (American Insurance Association, Georgia Association of Property and Casualty Insurance Companies or Property Casualty Insurers Association of America) who shall appoint a successor to serve until the next biennial meeting. If a non-affiliated company vacancy occurs, a successor to serve until the next biennial meeting shall be elected by the non-affiliated companies. If a user of the Plan representative vacancy occurs, a successor to serve until the next biennial meeting shall be appointed by the committee.

(8) A subscriber company seat not appointed by the American Insurance Association, Georgia Association of Property and Casualty Insurance Companies, Non-Affiliated Insurance Companies, or Property Casualty Insurers of America by the appointment deadline shall be filled as determined by the Committee.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.05 Duties of governing committee

(1) The Committee shall meet at least twice per year and as often as may be required to perform the duties of administration of the Plan. The Committee will be empowered and shall appoint a manager, budget expenses, levy assessments, disburse funds and perform all duties essential to the proper administration of the Plan.

(2) Annually, the Manager shall prepare an operating budget in the prescribed manner for submission to the Committee. Such budget shall be approved by the Committee and furnished to the subscribers on request. Any expenditure in excess of or not included in the annual budget shall be approved by the Committee.

(3) Upon request, the Committee will furnish to any subscriber a written annual report of operations of the Plan in such form and detail as the Committee may determine.

(4) The Committee shall file with the Commissioner a manual including rates and manual rules in such detail as may be necessary for distribution and processing of automobile insurance applications received from applicants, the contents of such manual being known as the Plan.

(5) The Committee shall file necessary and suitable amendments to the Plan as required for the continued effective operation of the Plan.

(6) The Commissioner shall, within thirty (30) days of receipt of a filing as required in paragraphs (4) or (5) above, approved or disapproved such filing, provided, however, the Commissioner may extend by not more than thirty (30) days the period within which he may approve or disapprove the filing by giving written notice to the Committee of the extension before the expiration of the initial thirty-day period.

(7) If the Committee fails to submit an acceptable Plan within thirty (30) days of the effective date of this Regulation, or if at any time fails to submit necessary or suitable amendments thereto, the Commissioner shall, after consultation with insurance companies authorized to issue automobile policies in this State and after notice and hearing, adopt and promulgate such reasonable Plan as is necessary or advisable to effectuate the provision of this Regulation.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.06 Plan composition

(1) The Committee shall address and include the following items listed in this Rule as integral parts of the Plan; the equitable distribution of risks among all subscribers based upon their percentage of writing of automobile liability insurance in this State; the distribution among subscribers of the operational costs of the plan; appropriate notice to all applicants; appropriate assignment period including mandatory renewal features; mandatory removal features; applicability of Plan to nonresidents; payment plans; applicability to license and nonlicensed vehicles; standards for the issuance of insurance policies; standards for the payment of claims; standard for the servicing of policies and eligibility standards.

(2) The Committee is authorized and may include such other provisions as are necessary and proper for the implementation and operation of this Plan.

(3) The Plan shall at all times offer the minimum amounts of insurance coverage as required pursuant to the applicable standards, rules, regulations and laws of Georgia and the United States of America.

(4) The Plan and amendments adopted in accordance with this Rule shall be effective on approval in writing by the Commissioner.

(5) A copy of the Plan adopted in accordance with paragraph (4) above may be obtained by sending a written request to Automobile Insurance Plans Service Office, 302 Central Avenue, Johnston, Rhode Island 02919. The Plan shall be available for public inspection at the Office of the Commissioner.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.07 Participation in the plan

(1) Each subscriber shall pay a minimum annual fee of \$25.00 and a Plan Fee of \$25 and the basis used for distribution of risks under Distribution and Assignments of Applicants section of the approved Plan shall be used as the basis of apportionment of all expenses incurred in excess of the minimum fee except that credits allowed to reduce assignments shall not be considered in the apportionment of expenses.

(2) The Committee may abate or defer in whole or in part the assignment of risks to a subscriber for good cause. When such action is contemplated, the Commissioner shall be promptly notified prior to the intended action being effective.

(3) Each subscriber shall fully participate in the Plan, comply with paragraphs (1) and (2) above and comply with all rules and procedures of the Plan and guidelines of the Committee, as a condition of their authority to transact or continue to transact insurance in Georgia.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.08 Right to appeal

(1) The Committee may hear any appeal from an applicant, insured, producer or company on a matter pertaining to the proper administration of the Plan. Each notice of cancellation or denial of insurance under the provisions of the Plan shall contain or be accompanied by a statement that the insured or applicant has a right of appeal to the Committee. The action of the Committee may be appealed to the Commissioner, in accordance with O.C.G.A. Section 33-2-17.

(2) The Plan shall promptly notify the company, the insured, or applicant, and the producer of record of the disposition of the appeal, which notification in the case of refusal to sustain a cancellation shall include notice that upon payment of the deposit premium to the company, a policy or binder will be issued.

(3) An appeal shall not operate as a stay of cancellation. Provided, however, that if either the Committee or the Commissioner refuse to sustain the cancellation, the insurer which issued the policy or binder shall, within two (2) working days after receipt of the deposit premium, which must be received within thirty (30) days after determination of the appeal, issue a new policy or binder. Such policy shall be issued for a period of one (1) year from the date of issuance. The balance of the premium shall be payable as provided in the Plan rules.

(4) The Commissioner shall be the final authority in all matters relating to the interpretation and enforcement of this Chapter, except insofar as his orders may be reversed or modified by the courts.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.09 Filing of rates, rating systems, rating plans, underwriting rules and policy forms

(1) All risks placed through the Plan shall be subject to the rules, rates, surcharges, minimum premiums and classifications filed on behalf of all companies subscribing to this Plan by the Automobile Insurance Plans Service Office.

(2) For the purpose of such filings, each company subscribing to this Plan is a subscriber to the Automobile Insurance Plans Service Office and authorizes the Commissioner to accept such filings on its behalf.

(3) Every insurer participating in the Plan shall use the standard policy as filed by the Automobile Insurance Plans Service Office and approved by the Commissioner, or a policy approved by the Commissioner which provides equivalent coverage.

(4) If the hazard of the risk is greater than that contemplated by the rate normally applicable under the Plan, the carrier shall consult with the Committee before submission to the Commissioner for an increase in such rate.

(5) All risks underwritten by the Plan shall be afforded pro rata cancellation by a subscriber in each case where a risk is subsequently removed from the Plan and insured in the voluntary market.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.10 Statistical agent

(1) Statistical agents for the Plan may be created upon approval by the Commissioner and his issuing an Order authorizing such entity to act as a statistical agent in the State of Georgia. Such statistical agent must be properly licensed and otherwise comply with the Georgia Insurance Code and the applicable Rules and Regulations of the Georgia Insurance Department.

(2) Statistical agents designated pursuant to paragraph (1) above shall collect and retain for the State of Georgia all statistics, data and other relevant information necessary to effect the equitable distribution of assignments and the establishments of Plan rates and shall file with the Commissioner for his approval a statistical plan by which assignments are effected and rates are established.

(3) Such data, statistics and all other relevant information collected under paragraph (2) above, and all statistics and information resulting from the use of such data, in manual or automated form, shall be and remain the property of the State of Georgia.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.11 Insurers required to provide statistics, data and information to statistical agent

As a condition to continuing to transact insurance in the State of Georgia, every insurer participating in the Plan shall provide to the authorized statistical agent, either directly or indirectly, all statistics, data and other relevant information necessary to effect the equitable distribution of assignments and the establishment of Plan rates.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.12 Hearing

Any person aggrieved by any act, threatened act, or failure of the Commissioner to act under this Chapter may make written demand for a hearing in accordance with O.C.G.A Chapter 33-2.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.13 Commissions

(1) Unless other arrangements have been made with the Commissioner, the commission under the Plan shall be as follows in paragraphs (2) through (5).

(2) For long haul trucking risks and public passenger carrying vehicles other than church and school buses, five (5%) percent of the policy premium for commission to a licensed producer designated by the insured.

(3) For other risks, ten (10%) percent of the policy premium for commission to a licensed producer designated by the insured.

(4) On any risk rated and domiciled outside of this State, the licensed producer may be paid only that portion of the producer's commission specified above which is permissible under the laws of the state in which the risk is rated and domiciled.

(5) There is to be no service charge to an applicant charged by the Producer of Record for the completing of an application for insurance under the Plan except the commissions referred to in paragraph (2), (3) and (4) above.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.14 Claims against plan; members and staff

(1) The Plan shall pay on behalf of any individual or subscriber all sums which the individual or subscriber shall become legally obligated to pay as a result of or in connection with the performance of official duties as an officer, employee or representative on any committee of the Plan.

(2) The Plan shall have the right and duty to defend any suit or claim against such individual or subscriber seeking damages as a result of or in connection with the performance of official duties as an officer, employee or representative on any committee of the Plan.

(3) The Plan shall be obligated under paragraphs (1) and (2) above regardless of when claim or suit is made, as long as the incident giving rise to the obligation occurred during the period of time that individual or subscriber served as an officer, employee or representative on any committee of the Plan, and was acting in such official capacity.

(4) The Plan may make such investigations and settlements of any claims or suits as it deems expedient.

(5) The cost of fulfilling the obligations of the Plan as described in this Rule shall be an expense incurred pursuant to Rule 120-2-14-.07.

(6) The obligations of the Plan as described in this Chapter do not arise:

(a) If the individual or subscriber fails to report the claim or suit to the manager of the Plan within ten (10) days of actual notice of such claim or suit; or

(b) If, after the defense of a claim or suit arising pursuant to this section it is adjudged that the officer, employee or representative acted in bad faith, then the Plan shall be reimbursed by such officer, employee or representative for expenses incurred in such defense.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.15 Penalties

Any subscriber failing to comply with the requirements of this Regulation shall be subject to such penalties as prescribed in O.C.G.A. Chapters 33-2 and 33-3.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.16 Severability

If any provision of this Regulation, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of the Regulation or the applicability of such provision to other persons or circumstances shall not be affected.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.

120-2-14-.17 Effective date

This Regulation shall become effective November 1, 1984.

Authority: O.C.G.A. §§ 33-2-9 and 40-9-100