



Office of Commissioner of
Insurance and Safety Fire
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BULLETIN 22-EX-1

TO: ALL INSURERS AUTHORIZED TO WRITE ACCIDENT AND HEALTH
INSURANCE AND HEALTH BENEFIT PLANS IN THE STATE OF GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: MARCH 7, 2022

RE: ERISA PREEMPTION

Many Georgians have approached me in the last year to ask why our agency does not enforce Georgia laws against ERISA plans. The following Bulletin is intended to inform Georgians why we cannot enforce Georgia's laws against ERISA plans.

The Employee Retirement Income Security Act of 1974 (ERISA) preempts all state and local laws, including those within the State of Georgia, that "relate to" employee benefit plans covered by ERISA. 29 U.S.C. §1144(a). The intent of this broad preemption provision is to encourage employers to offer their employees benefit plans. ERISA preemption accomplishes this goal by preventing every local and state jurisdiction from imposing its own regulations and preferences on employers who offer such plans. ERISA preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan" covered by ERISA. 29 U.S.C. §1144(a). Through ERISA, employers can offer and administer uniform benefit plans to their employees across the nation.

To put it more plainly, ERISA is designed so that the health and benefit plans offered by large employers around the country only have to comply with one set of federal rules. So, were my administration to attempt to enforce Georgia's laws against an ERISA plan, we would be prohibited from doing so by the Federal Government. This is the position of every state insurance department in the United States.

Moreover, despite what some parties may claim, the recent *Rutledge v. PCMA* decision by the U.S. Supreme Court does not permit this office to regulate ERISA plans. Instead, the *Rutledge* decision merely found that an Arkansas law dealing with cost regulation was not pre-empted by ERISA under longstanding Supreme Court precedent. Accordingly, my office will continue to enforce those laws in Georgia which are not pre-empted by ERISA. However, this also means my administration cannot and will not enforce Georgia's laws against ERISA plans until such time as it is permitted expressly by the U.S. Congress or a court of competent jurisdiction.

JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA