

Senate Bill 541

By: Senator Merritt of the 9th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated,  
2 relating to provisions applicable to the Department of Banking and Finance and financial  
3 institutions generally, so as to provide for reporting requirements related to loans for the  
4 creation, acquisition, or rehabilitation of housing units; to amend Title 10 of the Official  
5 Code of Georgia Annotated, relating to commerce and trade, so as to specify that certain  
6 conduct related to the rental of real property to be used as a dwelling shall constitute an  
7 unfair trade practice; to allow actions for certain violations to be brought in a representative  
8 capacity; to change certain requirements for exemptions from registration for investment  
9 advisors; to amend Part 2 of Article 16 of Chapter 2 of Title 14 of the Official Code of  
10 Georgia Annotated, relating to reports of business corporations, so as to require corporations  
11 to provide certain information as part of filing an annual registration; to amend Code Section  
12 44-14-162 of the Official Code of Georgia Annotated, relating to sales made on foreclosure  
13 under power of sale, manner of advertisement and conduct necessary for validity, and filing,  
14 so as to prohibit bundled sales of certain foreclosures; to amend Title 48 of the Official Code  
15 of Georgia Annotated, relating to revenue and taxation, so as to provide for separate bidding  
16 for certain ad valorem tax foreclosure sales; to provide for certain reporting relating to tax  
17 credits for qualified low-income buildings; to provide for a short title; to provide for related  
18 matters; to repeal conflicting laws; and for other purposes.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 This Act shall be known and may be cited as the "End Monopolies in Housing Act."

22 **SECTION 2.**

23 Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to  
24 provisions applicable to the Department of Banking and Finance and financial institutions  
25 generally, is amended by adding a Code section to read as follows:

26 "7-1-239.20.

27 (a) For purposes of this Code section, the term 'banking institution' means a state chartered  
28 bank.

29 (b) Every 24 months, each banking institution shall report to the department information  
30 regarding loans made by such institution for the creation, acquisition, or rehabilitation of  
31 housing units. Such information shall include, but shall not be limited to, the number of  
32 loans; dollar amounts of loans; recipients of loans; types of housing created, acquired, or  
33 rehabilitated; and the number of housing units created, acquired, or rehabilitated.

34 (c) The department shall prepare a written summary of the information collected under  
35 subsection (b) of this Code section for each banking institution and shall make such  
36 summary available to the public."

37 **SECTION 3.**

38 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
39 amended in Code Section 10-1-393, relating to unfair or deceptive practices in consumer  
40 transactions unlawful and examples, by deleting "and" at the end of division (b)(33)(B)(iii),  
41 by replacing the period at the end of paragraph (34) of subsection (b) with "; and", and by  
42 adding a new paragraph to read as follows:

43 "(35) With respect to rental of real property as a dwelling place, for any person to  
44 represent that such real property meets standards or has or shall have certain  
45 characteristics it does not nor shall not have or to represent that such real property is or  
46 shall be in a certain state of repair or condition when it is not nor shall be."

47 **SECTION 4.**

48 Said title is further amended by revising subsection (a) of Code Section 10-1-399, relating  
49 to civil or equitable remedies by individuals relative to deceptive or unfair practices, as  
50 follows:

51 "(a) Any person who suffers injury or damages as a result of a violation of Chapter 5B of  
52 this title, as a result of consumer acts or practices in violation of this part, as a result of  
53 office supply transactions in violation of this part, or whose business or property has been  
54 injured or damaged as a result of such violations may bring an action individually, but not  
55 in a representative capacity except with respect to a violation of paragraph (35) of  
56 subsection (b) of Code Section 10-1-393, against the person or persons engaged in such  
57 violations under the rules of civil procedure to seek equitable injunctive relief and to  
58 recover his or her general and exemplary damages sustained as a consequence thereof in  
59 any court having jurisdiction over the defendant; provided, however, exemplary damages  
60 shall be awarded only in cases of intentional violation. Notwithstanding any other  
61 provisions of law, a debtor seeking equitable relief to redress an injury resulting from a  
62 violation of paragraph (20) of subsection (b) of Code Section 10-1-393, upon facts alleged  
63 showing a likelihood of success on the merits, may not, within the discretion of the court,  
64 be required to make a tender. Nothing in this subsection or paragraph (20) of subsection  
65 (b) of Code Section 10-1-393 shall be construed to interfere with the obligation of the  
66 debtor to a lender who is not in violation of paragraph (20) of subsection (b) of Code  
67 Section 10-1-393. A claim under this Code section may also be asserted as a defense,  
68 setoff, cross-claim, or counterclaim or third-party claim against such person."

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**SECTION 5.**

70 Said title is further amended by revising subsection (b) of Code Section 10-5-32, relating to  
71 registration requirements for investment advisors and exemptions, as follows:

72 "(b) The following persons are exempt from the registration requirement of subsection (a)  
73 of this Code section:

74 (1) A person without a place of business in this state that is registered under the  
75 securities act of the state in which the person has its principal place of business if its only  
76 clients in this state are:

77 (A) Federal covered investment advisers, investment advisers registered under this  
78 chapter, or broker-dealers registered under this chapter;

79 (B) Institutional investors;

80 (C) Bona fide preexisting clients whose principal places of residence are not in this  
81 state if the investment adviser is registered under the securities act of the state in which  
82 the clients maintain principal places of residence; or

83 (D) Any other client exempted by rule adopted or order issued under this chapter; and

84 ~~(2) A person without a place of business in this state if the person has had, during the~~  
85 ~~preceding 12 months, not more than five clients that are resident in this state in addition~~  
86 ~~to those specified under paragraph (1) of this subsection; or~~

87 ~~(3)~~(2) Any other person exempted by rule adopted or order issued under this chapter,  
88 except that any such rule adopted or order issued cannot predicate an exemption on the  
89 number of clients in this state."

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**SECTION 6.**

91 Said title is further amended by revising subsection (b) of Code Section 10-5-34, relating to  
92 registration requirements for federal covered investment advisors, as follows:

93 "(b) The following federal covered investment advisers are not required to comply with  
94 subsection (c) of this Code section:

- 95 (1) A federal covered investment adviser without a place of business in this state if its  
96 only clients in this state are:
- 97 (A) Federal covered investment advisers, investment advisers registered under this  
98 chapter, and broker-dealers registered under this chapter;
- 99 (B) Institutional investors;
- 100 (C) Bona fide preexisting clients whose principal places of residence are not in this  
101 state; or
- 102 (D) Other clients specified by rule adopted or order issued under this chapter; and
- 103 ~~(2) A federal covered investment adviser without a place of business in this state if the~~  
104 ~~person has had, during the preceding 12 months, not more than five clients that are~~  
105 ~~resident in this state in addition to those specified under paragraph (1) of this subsection;~~  
106 ~~and~~
- 107 ~~(3)~~(2) Any other person excluded by rule adopted or order issued under this chapter,  
108 except that any such rule adopted or order issued cannot predicate an exemption on the  
109 number of clients in this state."

110

**SECTION 7.**

111 Part 2 of Article 16 of Chapter 2 of Title 14 of the Official Code of Georgia Annotated,  
112 relating to reports of business corporations, is amended by revising subsection (a) of Code  
113 Section 14-2-1622, relating to annual registration for Secretary of State, as follows:

114 "(a) Each domestic corporation and each foreign corporation authorized to transact  
115 business in this state shall deliver to the Secretary of State for filing an annual registration  
116 that sets forth:

117 (1) The name of the corporation and the state or country under whose law it is  
118 incorporated;

119 (2) Any names under which the corporation transacts business;

120 ~~(2)~~(3) The street address and county of its registered office and the name of its registered  
 121 agent at that office in this state;  
 122 ~~(3)~~(4) The mailing address of its principal office; and  
 123 ~~(4)~~(5) The names and respective addresses of all its officers, including, but not limited  
 124 to, its chief executive officer, chief financial officer, and secretary, or individuals holding  
 125 similar positions; and  
 126 (6) A listing of any real property owned in whole or in part by the corporation and the  
 127 address of any such real property."

128 **SECTION 8.**

129 Code Section 44-14-162 of the Official Code of Georgia Annotated, relating to sales made  
 130 on foreclosure under power of sale, manner of advertisement and conduct necessary for  
 131 validity, and filing, is amended by adding a new subsection to read as follows:

132 "(c) Notwithstanding any other law to the contrary, for a sale of property under the power  
 133 of sale contained in any deed of trust or mortgage, no trustee shall bundle properties for the  
 134 purpose of sale and each property shall be bid on separately, unless the deed of trust or  
 135 mortgage requires otherwise."

136 **SECTION 9.**

137 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 138 amended by revising subsection (a) of Code Section 48-4-81, relating to sale procedures,  
 139 time, minimum bid, finality, right of redemption by owner, execution of tax deed, and report  
 140 of sale relative to ad valorem tax foreclosures, as follows:

141 "(a) Following the hearing and order of the superior court in accordance with Code Section  
 142 48-4-79, a sale of the property shall be advertised and conducted on the date, time, place,  
 143 and manner which are required by law of sheriffs' sales. Such sale shall not occur earlier  
 144 than 45 days following the date of issuance of such order of the superior court. Each

145 property shall be bid on separately and shall not be bundled with other properties for the  
146 purpose of sale, unless the deed of trust or mortgage requires otherwise."

147 **SECTION 10.**

148 Said title is further amended by adding new paragraphs to subsection (b) of Code Section  
149 48-7-29.6, relating to tax credits for qualified low-income buildings, as follows:

150 "(5) To claim the tax credit allowed under this Code section, the taxpayer, including, but  
151 not limited to, any partners, members, or shareholders allocated a tax credit pursuant to  
152 paragraph (4) of this subsection, shall provide to the state housing credit agency a listing  
153 of any real property owned in whole or in part by the taxpayer and the address of any such  
154 real property.

155 (6) The state housing credit agency shall annually prepare a written summary of the  
156 information collected under paragraph (5) of this subsection for each taxpayer claiming a  
157 tax credit and shall make such summary available to the public."

158 **SECTION 11.**

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