

House Bill 891

By: Representatives Williamson of the 115th and Williams of the 148th

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
2 financial institutions, so as to provide for numerous updates; to remove and change reporting
3 requirements for certain personnel of the Department of Banking and Finance regarding the
4 use of financial institutions; to prohibit certain changes in control of financial institutions;
5 to allow the department to extend the period for approval of certain proposed acquisitions;
6 to change certain references to 'bank' to 'financial institutions'; to expand certain notice
7 requirements; to authorize certain mergers of limited liability companies with banks and trust
8 companies; to provide for requirements for establishing a representative office; to provide
9 for requirements and limitations for the activities of certain representative offices; to update
10 provisions relative to bank holding companies; to provide for notification requirements; to
11 remove the department's requirement to consider the convenience and needs of the
12 community for approval of certain transactions; to provide for requirements for interstate
13 acquisitions of banks and bank holding companies; to authorize credit unions to provide
14 third-party payment and check-cashing services and act as sellers of payment instruments and
15 international remittances; to authorize the department to approve alternative schedules for
16 board meetings; to exempt certain obligations from limitations on credit union loans; to
17 remove the requirement to use registered or certified mail for certain notices; to authorize the
18 department to disapprove a change in control by executive officers in certain instances; to

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19 exempt certain acquisitions by passive investors from application requirements and to
20 provide requirements for such acquisitions; to exempt certain acquisitions by licensees from
21 application requirements and establish requirements for such acquisitions; to authorize the
22 department to access, receive, and use international investigative background reports; to
23 authorize the department to use, hire, contract, or employ analytical systems, methods, or
24 software; to update requirements for certain exemptions from licensing by the department
25 as a mortgage loan originator, mortgage broker, or mortgage lender; to exempt from
26 licensing persons who engage in certain transactions with closed mortgage loans; to change
27 the calculation for fees for certain exempt persons; to clarify and remove superfluous
28 language; to update terminology; to remove outdated language; to correct a cross-reference;
29 to amend Chapter 3 of Title 7 of the Official Code of Georgia Annotated, relating to
30 installment loans, so as to include servicing of installment loans to the activity regulated
31 under the chapter; to exempt from regulation certain government entities and certain retail
32 and credit transactions; to change the per loan fee structure for such loans; to clarify that the
33 department may issue cease and desist orders to persons that are not licensed; to amend
34 Chapter 6A of Title 7 of the Official Code of Georgia Annotated, relating to the "Georgia
35 Fair Lending Act," so as to update a citation to a federal regulation; to make conforming
36 changes; to provide for definitions; to provide for related matters; to repeal conflicting laws;
37 and for other purposes.

38 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

39 **SECTION 1.**

40 Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial
41 institutions, is amended by revising subsections (c), (d), and (g) of Code Section 7-1-37,
42 relating to restrictions on commissioner, deputy commissioners, and examiners, as follows:

43 "(c) Notwithstanding the provisions of subsection (a) of this Code section, the
44 commissioner, any deputy commissioner, any department employee with financial
45 institution or licensee supervisory responsibilities, or examiners employed by the
46 department may borrow money from and otherwise deal with any financial institution or
47 subsidiary thereof existing under the laws of the United States or of any state other than
48 this state, provided that the obligee financial institution or subsidiary is not examined or
49 regulated by the department. For the purposes of this subsection, a financial institution
50 shall not be considered regulated solely because it is required to file an exemption from
51 licensing under Code Section 7-1-1001 or solely because it is owned or controlled by
52 another bank or corporation which is or may be examined or regulated by the department.
53 ~~All extensions of credit, including but not limited to such permitted loans, which obligate~~
54 ~~the commissioner or any deputy commissioner to such a financial institution or subsidiary,~~
55 ~~directly or contingently by way of guaranty, endorsement, or otherwise, or which renew~~
56 ~~or modify existing obligations shall be reported by the individual concerned to the Attorney~~
57 ~~General in writing, within ten days after the execution thereof, showing the nature of the~~
58 ~~undertaking and the amount and terms of the loan or other transaction. All credit~~
59 ~~obligations of a similar nature to those set forth above on the part of any other department~~
60 ~~employee with financial institution or licensee supervisory responsibilities or examiner~~
61 ~~shall be reported to the commissioner within ten days after the execution thereof.~~

62 (d) Nothing in this Code section shall prohibit the commissioner, any deputy
63 commissioner, any department employee with financial institution or licensee supervisory
64 responsibilities, or any examiner of the department from maintaining a deposit in any
65 financial institution, purchasing banking services other than credit services, or owning a
66 single share in a credit union in the ordinary course of business and under rates and terms
67 generally available to other customers of the financial institution. The provisions of this
68 Code section shall not be applicable in the cases of a lender credit card obligation to a
69 financial institution where the maximum outstanding credit ~~may~~ does not exceed

70 ~~\$10,000.00~~ \$25,000.00 nor to any other credit obligation fully secured by the pledge of a
71 deposit account in the lending institution, provided that the financial institution is not
72 within the employee's assigned examination authority and provided that the rates and terms
73 of all such obligations are not preferential in comparison to similar obligations of the
74 financial institution's other customers. Such exempt obligations shall, ~~however, be reported~~
75 ~~as provided in subsection (c) of this Code section,~~ be reported to the commissioner within
76 ten days of execution of the credit obligation if the financial institution is regulated or
77 examined by the department, and the employee shall be disqualified from any dealings with
78 the obligee financial institution."

79 "(g) The commissioner, any deputy commissioner, any department employee with
80 financial institution or licensee supervisory responsibility, or any examiner shall not
81 directly or indirectly:

82 (1) Receive any money or property as a loan from any department licensee or any
83 director, officer, agent, employee, or attorney of a department licensee, unless such
84 employee does not examine or exercise supervisory responsibility over that licensee:
85 ~~Any debt owed by a deputy commissioner, department employee with financial~~
86 ~~institution or licensee supervisory responsibility, or examiner of a department licensee~~
87 ~~must be reported to the commissioner. Reporting by the commissioner shall be made to~~
88 ~~the Attorney General;~~

89 (2) Receive any money or property as a gift from any department licensee or any
90 director, officer, agent, employee, or attorney of a department licensee, unless consistent
91 with the ethics in government policy of this state;

92 (3) Give any money or property as a gift to any department licensee or any director,
93 officer, agent, employee, or attorney of a department licensee, unless consistent with the
94 ethics in government policy of this state; or

95 (4) Engage in the business of a department licensee."

96 **SECTION 2.**

97 Said chapter is further amended by revising Code Section 7-1-230, relating to definitions
98 relative to change in control of financial institutions, as follows:

99 "7-1-230.

100 As used in this part, the term:

101 (1) 'Concert with one or more persons' includes, but is not limited to, the following
102 persons and relationships:

103 (A) A company and any controlling shareholder, partner, trustee, or management
104 official of the company if both the company and the individual own voting securities
105 of the financial institution;

106 (B) An individual and the individual's immediate family;

107 (C) Companies under common control;

108 (D) Persons that are parties to any agreement, contract, understanding, or other
109 arrangement, whether written or otherwise, regarding the acquisition, voting, or transfer
110 of control of voting securities of a financial institution;

111 (E) Persons that have made, or propose to make, a joint filing under Section 13 or 14
112 of the Securities Exchange Act of 1934 and the rules promulgated thereunder by the
113 United States Securities and Exchange Commission; and

114 (F) A person and any trust for which the person serves as trustee.

115 (2) 'Control' means the power directly or indirectly to direct the management or policies
116 of a financial institution or to vote 25 percent or more of any class of voting securities of
117 a financial institution.

118 ~~(2)~~(3) 'Person' means an individual or a corporation, partnership, trust, association, joint
119 venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other
120 form of entity not specifically listed in this paragraph.

121 (4) 'Presumption of control' means a person which directly or indirectly owns, controls,
122 or has the power to vote more than 10 percent but less than 25 percent of any class of

123 voting securities of a financial institution if no other persons will own, control, or hold
124 the power to vote a greater percentage of that class of voting securities immediately after
125 the transaction."

126 **SECTION 3.**

127 Said chapter is further amended by revising Code Section 7-1-231, relating to acquisition of
128 control without permission prohibited, as follows:

129 "7-1-231.

130 (a) For purposes of this Code section, the term 'financial institution' shall include any 'bank
131 holding company' as such term is defined in subsection (a) of Code Section 7-1-605.

132 (b) It shall be unlawful for a person, acting directly or indirectly or through concert with
133 one or more persons, to acquire control or the presumption of control of any financial
134 institution through a purchase, assignment, pledge, or other disposition of voting stock of
135 such institution, except with the approval of the department or as otherwise permitted by
136 this part."

137 **SECTION 4.**

138 Said chapter is further amended by revising subsection (b) of Code Section 7-1-232, relating
139 to notice of proposed acquisition required, approval or disapproval by department, and
140 judicial review, as follows:

141 "(b) The department shall be given at least 60 days' prior written notice of any such
142 proposed acquisition. The department may ~~If the department does not issue a notice~~
143 ~~disapproving the proposed acquisition within that time or extend the period during which~~
144 ~~a disapproval may issue for another 30 days, the proposed acquisition shall stand approved.~~
145 The period for disapproval may be further extended only if the department determines that
146 any acquiring party has not furnished all the information required under Code Section
147 7-1-233 or that in its judgment any material information submitted is substantially

148 inaccurate. An acquisition may be made prior to expiration of the disapproval period if the
149 department issues written notice of its intent not to disapprove the action."

150 **SECTION 5.**

151 Said chapter is further amended by revising paragraph (5) of Code Section 7-1-233, relating
152 to contents of notice, as follows:

153 "(5) Any plans or proposals which any acquiring party making the acquisition may have
154 to liquidate the ~~bank~~ financial institution, to sell its assets or merge it with any company,
155 or to make any other major change in its business or corporate structure or management;"

156 **SECTION 6.**

157 Said chapter is further amended by revising paragraphs (3) and (4) of Code Section 7-1-234,
158 relating to grounds for disapproving proposal, as follows:

159 "(3) The financial condition of any acquiring person is such as might jeopardize the
160 financial stability of the ~~bank~~ financial institution or prejudice the interests of the
161 depositors of the ~~bank~~ financial institution;

162 (4) The competence, experience, or integrity of any acquiring person or of any of the
163 proposed management personnel indicates that it would not be in the interest of the
164 depositors of the ~~bank~~ financial institution or in the interest of the public to permit such
165 person to control the ~~bank~~ financial institution;"

166 **SECTION 7.**

167 Said chapter is further amended by revising Code Section 7-1-236, relating to report of
168 change in control, as follows:

169 "7-1-236.

170 Whenever a change occurs in the ownership of or right to vote the outstanding shares of
171 any bank or trust company which will result in the control or a change in the control of the

172 bank or trust company, the president or other officer of such bank or trust company shall,
173 within ten days after knowledge thereof, report such facts to the department.
174 Notwithstanding Code Section 7-1-230, as ~~As~~ used in this Code section, the term 'control'
175 means the power to direct or cause, directly or indirectly, the direction of the management
176 or policies of the institution. If there is any doubt as to whether a change in the ownership
177 or voting rights of such shares is sufficient to result in control thereof or to effect a change
178 in the control thereof, such doubt shall be resolved in favor of reporting the facts to the
179 department."

180 SECTION 8.

181 Said chapter is further amended by revising subsections (b) and (g) of Code Section 7-1-530,
182 relating to authority to merge, consolidate, or exchange shares and requirements relative to
183 merger and consolidation of state banks and trust companies, as follows:

184 "(b) A corporation or limited liability company other than a bank or trust company may
185 be merged into or consolidated with, or may enter into a share exchange with, a bank or
186 trust company, provided that:

- 187 (1) The resulting institution of the merger or consolidation is a bank or trust company;
- 188 (2) The resulting institution of the merger or consolidation, or the acquired bank or trust
189 company in a share exchange, holds only assets and liabilities and is engaged only in
190 activities which may be held or engaged in by a bank or trust company; and
- 191 (3) The merger, share exchange, or consolidation is not otherwise unlawful."

192 "(g) Subject to the provisions of this part, this Code section does not limit the power of a
193 corporation or limited liability company other than a bank or trust company to acquire all
194 or part of the shares of one or more classes or series of a bank or trust company through a
195 voluntary exchange of shares or otherwise."

196

SECTION 9.

197 Said chapter is further amended by replacing the term "shareholders" with "shareholders or
198 members" wherever such term occurs in Code Section 7-1-531, relating to requirements for
199 merger, share exchange, or consolidation plan, adoption of plan, and modification of plan.

200

SECTION 10.

201 Said chapter is further amended by revising subsection (b) of Code Section 7-1-535, relating
202 to federal approval or disapproval and issuance of certificate of merger, share exchange, or
203 consolidation, as follows:

204 "(b) If all the taxes, fees, and charges required by law shall have been paid and if the name
205 of the resulting bank or trust company in a merger or consolidation continues to be reserved
206 or is available on the records of the Secretary of State, upon receipt of the written approval
207 of the department, the Secretary of State shall issue to the resulting bank or trust company
208 or the acquiring corporation or limited liability company in a share exchange a certificate
209 of merger, share exchange, or consolidation with the approved articles of merger or
210 consolidation attached thereto and shall retain a copy of such certificate, articles, and
211 approval by the department."

212

SECTION 11.

213 Said chapter is further amended by revising Code Section 7-1-590, relating to definitions
214 relative to representative offices and registration, as follows:

215 "7-1-590.

216 As used in this part, the term:

217 (1) 'Bank' and 'bank holding company' shall have the same meaning as in Part 18 of this
218 article. A 'banking business' is the business which a bank is authorized to do pursuant to
219 this title. The power to receive deposits or the performance of any transaction directly

220 or through an affiliate or agent relative to a deposit account shall be presumed to
221 constitute a banking business.

222 (2) 'Deposit production office' means a form of a representative office with the authority
223 to solicit deposits, provide information about deposit products, and assist consumers to
224 complete the application forms to open deposit accounts, provided that such office does
225 not open deposit accounts, take deposits, or conduct any other banking business.

226 ~~(2)~~(3) 'Domicile' means the home state as defined in paragraph (12) of Code Section
227 7-1-621 where a bank is chartered or where a bank holding company is incorporated.

228 ~~(3)~~(4) 'Loan production office' is a form of a representative office, where the solicitation
229 of loans or of leases of personal property may occur, but not the closing of loans, the
230 disbursement of loan proceeds nor any other banking business. It shall be established and
231 registered as a representative office.

232 ~~(4)~~(5) 'Representative office' is an office established by a bank, a bank holding company,
233 or an agent or subsidiary of either for the purpose of conducting business activities other
234 than a banking business and includes, but is not limited to, deposit production offices,
235 loan production offices, and trust production offices. It shall not be considered to be a
236 branch office or main office.

237 ~~(5)~~(6) 'Trust production office' means a trust sales office of a qualifying individual or
238 corporate fiduciary which office is not performing fiduciary activities. ~~The trust~~
239 ~~institution desiring to establish such an office in this state must apply to the department~~
240 ~~on forms provided by the department, must be approved by the commissioner to engage~~
241 ~~in sales activities in this state, and must register and pay any fees required for a~~
242 ~~representative office under Code Section 7-1-593. Sales activities shall consist primarily~~
243 ~~of marketing or soliciting in this state using mail, telephone, or electronic means or in~~
244 ~~person to act or propose to act as a fiduciary outside of this state. The department shall~~
245 ~~be permitted to examine such trust production offices to ascertain whether they are~~
246 ~~limiting their activities as prescribed."~~

247 **SECTION 12.**

248 Said chapter is further amended by revising subsection (a) of Code Section 7-1-591, relating
249 to establishment of representative office by bank or bank holding company domiciled in state
250 and out of state activities, as follows:

251 "(a) A bank domiciled in this state and operating under the laws of this state or a subsidiary
252 ~~or agent~~ of such bank may establish a representative office anywhere in the state upon
253 registering with the department. A bank holding company domiciled in this state and
254 operating under the laws of this state or a nonbank subsidiary ~~or agent~~ of such bank holding
255 company may establish a representative office anywhere in this state upon registering with
256 the department."

257 **SECTION 13.**

258 Said chapter is further amended by revising Code Section 7-1-592, relating to establishment
259 of representative office by bank or holding company domiciled in state or outside of state and
260 conformance with requirements of primary regulator, as follows:

261 "7-1-592.

262 A bank or bank holding company domiciled in this state and operating under the laws of
263 the United States or domiciled outside this state and operating under the laws of such other
264 state or territory or of the United States, or its subsidiary ~~or agent~~, may establish
265 representative offices anywhere in this state, provided that such bank or bank holding
266 company conforms to the requirements of its primary regulator. The permissible activities
267 conducted at such a representative office are governed by federal law if the bank is a
268 national bank or by the law of the state or territory where the bank is domiciled if chartered
269 by another state, except to the extent such activities are expressly prohibited by the laws
270 of this state or by any regulation of the commissioner."

271 **SECTION 14.**

272 Said chapter is further amended by revising subsection (a) of Code Section 7-1-593, relating
273 to registration of bank or bank holding company having representative office in state, as
274 follows:

275 "~~(a) A bank or bank holding company domiciled in this state and having a representative~~
276 ~~office shall register such representative office with the department. Prior to closing a~~
277 ~~representative office, such a bank, or bank holding company, or a subsidiary of a bank or~~
278 bank holding company shall ~~must~~ post notice of the closing as required by Code Section
279 7-1-110.1."

280 **SECTION 15.**

281 Said chapter is further amended by revising subsection (a) and paragraph (3) of subsection
282 (c) of Code Section 7-1-605, relating to bank holding companies, definitions, and when
283 company deemed to control shares, as follows:

284 "(a)(1) Except as provided in paragraph (5) of this subsection, 'bank holding company'
285 means any company which has control over any bank or over any company that is or
286 becomes a bank holding company by virtue of this part.

287 (2) Any company has 'control' over a bank or over any company if:

288 (A) The company directly or indirectly or acting through one or more other persons
289 owns, controls, or has power to vote 25 percent or more of any class of voting securities
290 of the bank or company;

291 (B) The company controls in any manner the election of a majority of the directors or
292 trustees of the bank or company; ~~or~~

293 (C) The commissioner determines, after notice and opportunity for hearing, that the
294 company directly or indirectly exercises a controlling influence over the management
295 or policies of the bank or company; or

296 (D) The company directly or indirectly owns, controls, or has power to vote more than
297 10 percent but less than 25 percent of any class of voting securities of the bank or
298 company if no other company or person will own, control, or hold the power to vote a
299 greater percentage of that class of voting securities immediately after the transaction.

300 (3) For the purposes of any proceeding under subparagraph (C) of paragraph (2) of this
301 subsection, there is a presumption that any company which directly or indirectly owns,
302 controls, or has power to vote less than 5 percent of any class of voting securities of a
303 given bank or company does not have control over that bank or company.

304 (4) In any administrative or judicial proceeding under this part, other than a proceeding
305 under subparagraph (C) of paragraph (2) of this subsection, a company may not be held
306 to have had control over any given bank or company at any given time unless that
307 company, at the time in question, directly or indirectly owned, controlled, or had power
308 to vote 5 percent or more of any class of voting securities of the bank or company, or had
309 already been found to have control in a proceeding under subparagraph (C) of
310 paragraph (2) of this subsection.

311 (5) Notwithstanding any other provision of this subsection:

312 (A) No bank and no company owning or controlling voting shares of a bank is a bank
313 holding company by virtue of its ownership or control of shares in a fiduciary capacity,
314 except as provided in paragraphs (2) and (3) of subsection (c) of this Code section. For
315 the purpose of the preceding sentence, bank shares shall not be deemed to have been
316 acquired in a fiduciary capacity if the acquiring bank or company has sole discretionary
317 authority to exercise voting rights with respect thereto, ~~except that this limitation is~~
318 ~~applicable in the case of a bank or company acquiring such shares prior to July 1, 1976,~~
319 ~~only if the bank or company has the right, consistent with its obligations under the~~
320 ~~instrument, agreement, or other arrangement establishing the fiduciary relationship, to~~
321 ~~divest itself of such voting rights and fails to exercise that right to divest within a~~
322 ~~reasonable period not to exceed one year after July 1, 1976; and~~

323 (B) No company is a bank holding company by virtue of its ownership or control of
324 shares acquired in securing or collecting a debt previously contracted in good faith until
325 two years after the date of acquisition.

326 (6) For the purposes of this part, any successor to a bank holding company shall be
327 deemed to be a bank holding company from the date on which the predecessor company
328 became a bank holding company."

329 "(3) Shares transferred ~~after July 1, 1976~~, by any bank holding company (or by the
330 company which, but for such transfer, would be a bank holding company) directly or
331 indirectly to any transferee that is indebted to the transferor, or has one or more officers,
332 directors, trustees, or beneficiaries in common with or subject to control by the transferor,
333 shall be deemed to be indirectly owned or controlled by the transferor unless the
334 commissioner, after opportunity for hearing, determines that the transferor is not in fact
335 capable of controlling the transferee."

336 **SECTION 16.**

337 Said chapter is further amended by revising Code Section 7-1-606, relating to bank holding
338 companies, actions unlawful without prior approval of commissioner, and exceptions, as
339 follows:

340 "7-1-606.

341 (a)(1) ~~On and after July 1, 1976, it~~ It shall be unlawful, except with the prior approval
342 of the commissioner:

343 (A) For any action to be taken that causes any company to become a bank holding
344 company;

345 (B) For any action to be taken that causes a bank to become a subsidiary of a bank
346 holding company;

347 (C) For any bank holding company to acquire direct or indirect ownership or control
348 of any voting shares of any bank if, after such acquisition, such company will directly
349 or indirectly own or control 5 percent or more of the voting shares of such bank;

350 (D) For any bank holding company or subsidiary thereof, other than a bank, to acquire
351 all or substantially all of the assets of a bank;

352 (E) For any bank holding company to merge or consolidate with, or enter into a share
353 exchange with, any other bank holding company; or

354 (F) For any bank holding company to take any action which would violate the federal
355 Bank Holding Company Act of 1956, as amended.

356 (2) Notwithstanding paragraph (1) of this subsection, ~~this prohibition~~ these prohibitions
357 shall not apply to:

358 (A) Shares acquired by a bank:

359 (i) In good faith in a fiduciary capacity, except where such shares are held under a
360 trust that constitutes a company as defined in paragraph (2) of subsection (b) of Code
361 Section 7-1-605 and except as provided in paragraphs (2) and (3) of subsection (c) of
362 Code Section 7-1-605; or

363 (ii) In the regular course of securing or collecting a debt previously contracted in
364 good faith, but ~~any shares acquired after July 1, 1976,~~ such shares in securing or
365 collecting any such previously contracted debt shall be disposed of within a period of
366 two years from the date on which they were acquired;

367 (B) Additional shares acquired by a bank holding company in a bank in which such
368 bank holding company owned or controlled a majority of the voting shares prior to such
369 acquisition; ~~or~~

370 (C) A bank holding company of a national bank with its main office in Georgia
371 acquiring a Georgia bank holding company, as such term is defined in paragraph (10)
372 of Code Section 7-1-621, shall notify the department upon filing an application with the
373 appropriate federal or state financial regulator. The notification requirements of this

374 subparagraph shall be satisfied by furnishing the department with a copy of the
375 application or applications filed with applicable bank supervisory agencies seeking
376 approval for the proposed transaction and such other information as the department may
377 request. In addition, the parties shall file with the department and the Secretary of State
378 a certificate of approval of the acquisition by the appropriate supervisory agencies prior
379 to consummation of the transaction. The department may, for good cause shown,
380 object to the transaction by letter to the bank holding company of a national bank with
381 its main office in Georgia, the Georgia bank holding company, and to the appropriate
382 federal or state financial regulator before consummation of the transaction. In the event
383 of such objection, the acquisition cannot be consummated without the parties obtaining
384 the approval of the department; or

385 (D) Transactions for which the department has established by rule, regulation, or
386 written policy a streamlined or alternative procedure, if such procedure specifically
387 dispenses with the need for approval by the commissioner.

388 For the purpose of this paragraph, bank shares ~~acquired after July 1, 1976~~, shall not be
389 deemed to have been acquired in good faith in a fiduciary capacity if the acquiring bank
390 or company has sole discretionary authority to exercise voting rights with respect thereto;
391 but, in such instances, acquisitions may be made without prior approval of the
392 commissioner if the commissioner, upon application filed within 90 days after the shares
393 are acquired, approves retention or, if retention is disapproved, the acquiring bank
394 disposes of the shares or its sole discretionary voting rights within two years after
395 issuance of the order of disapproval.

396 (b)(1) The commissioner shall not approve nor shall any other procedure authorize:

397 (A) Any acquisition or merger or share exchange or consolidation under this Code
398 section which would result in a monopoly or which would be in furtherance of any
399 combination or conspiracy to monopolize or to attempt to monopolize the business of
400 banking in any part of the State of Georgia; or

401 (B) Any other proposed acquisition or merger or share exchange or consolidation under
402 this Code section whose effect in any section of the state may be substantially to lessen
403 competition, or to tend to create a monopoly, or which in any other manner would be
404 in restraint of trade, unless it finds that the anticompetitive effects of the proposed
405 transaction are clearly outweighed in the public interest by the probable effect of the
406 transaction in meeting the convenience and needs of the community to be served.

407 (2) In every case, the department shall take into consideration the financial and
408 managerial resources and future prospects of the company or companies and the banks
409 concerned ~~and the convenience and needs of the community to be served.~~

410 ~~(c) Nothing contained in this Code section shall affect the obligation of any person or~~
411 ~~company to comply with the provisions of any order of any court or of the commissioner~~
412 ~~entered prior to July 1, 1976 Reserved.~~

413 (d) The commissioner shall not grant any such contemplated approval until he or she shall
414 first cause reasonable public notice of the proposed action to be given in the area to be
415 affected and until he or she shall first afford to the public an opportunity to submit, for the
416 commissioner's consideration, information, objections, and opinions as to the proposed
417 action and its effect. The notice requirement may not apply in the case of a streamlined
418 procedure where the holding company meets certain qualifying criteria established by rule,
419 regulation, or written policy of the department.

420 (e) Notwithstanding any other provisions of this part, a bank holding company which
421 lawfully controls a bank or has received the requisite approvals under this Code section to
422 acquire control of a bank may, with the approval of the commissioner, or as otherwise
423 provided in this chapter or by departmental rule or regulation, either at the time such
424 control is obtained or at any time thereafter, merge or consolidate such bank with another
425 of such bank holding company's banking subsidiaries or have another of such bank holding
426 company's banking subsidiaries acquire all or substantially all of the assets of such bank
427 and consequently operate as a branch office of such other banking subsidiary. Nothing in

428 this subsection shall be deemed to supersede, rescind, or modify any provision,
429 requirement, or condition of this Code section which would otherwise be applicable to any
430 acquisition of a banking subsidiary by a bank holding company under this Code section,
431 nor shall it be deemed to supersede, rescind, or modify any provision, requirement, or
432 condition of Part 14, ~~15~~, 16, 19, or 20 of this article which would otherwise be applicable
433 to the merger of banks or the acquisition or sale of all or substantially all of the assets of
434 a bank."

435 **SECTION 17.**

436 Said chapter is further amended by revising subsection (a) of Code Section 7-1-607, relating
437 to bank holding companies that control a bank, registration, reporting, examinations, and
438 control, as follows:

439 "~~(a) On July 1, 1976, and annually thereafter on dates established by the commissioner~~ an
440 annual basis, each bank holding company that controls a bank chartered by the department
441 shall register with the commissioner on forms provided or prescribed by him or her, which
442 may include such information with respect to the financial condition, operation,
443 management, and intercompany relationships of the bank holding company and its
444 subsidiaries and related matters as the commissioner may deem necessary or appropriate
445 to carry out the purposes of this part."

446 **SECTION 18.**

447 Said chapter is further amended by revising subsections (b) and (c) of Code Section 7-1-622,
448 relating to provisions applicable to interstate acquisitions or mergers by bank holding
449 companies, eligibility of applicants, and commissioner's ruling required, as follows:

450 "(b) Notwithstanding anything contained in subsection (a) of this Code section and subject
451 to the permitted acquisitions of subsection (b) of Code Section 7-1-608, no bank or bank
452 holding company may:

453 (1) Directly or indirectly acquire a Georgia bank unless such bank has been in existence
454 and continuously operated or incorporated as a bank for a period of three years or more
455 prior to the date of acquisition. Notwithstanding the foregoing, nothing shall prohibit an
456 out-of-state bank holding company from acquiring all or substantially all of the shares of
457 a Georgia bank organized solely for the purpose of facilitating the acquisition of a bank
458 which has been in existence and continuously operated as a bank for the requisite
459 three-year period; or

460 (2) Directly or indirectly acquire a bank having banking offices in Georgia if:

461 ~~(A) Immediately before the consummation of the acquisition for which an application~~
462 ~~is filed, the applicant (including any insured depository institution affiliate of the~~
463 ~~applicant) controls any insured depository institution or any branch of an insured~~
464 ~~depository institution in this state; and~~

465 ~~(B) The~~ the applicant (including all insured depository institutions which are affiliates
466 of the applicant), upon consummation of the acquisition, would control 30 percent or
467 more of the total amount of deposits of insured depository institutions in this state. The
468 commissioner may by regulation adopt a procedure whereby the foregoing limitations
469 on concentration of deposits may be waived upon showing of good cause. This
470 restriction shall not apply, in the discretion of the commissioner, to transactions
471 complying with paragraph (1) of subsection (b) of Code Section 7-1-623.

472 (c) The commissioner must rule on any application seeking approval to engage in a
473 transaction under this Code section not later than 90 days following the date of submission
474 of a completed application seeking such approval. If the commissioner decides to hold a
475 public hearing in connection with the application, the time limit specified may be extended
476 to 30 days after the conclusion of the hearing. ~~If the commissioner fails to rule on the~~
477 ~~application within the requisite period, the proposed transaction shall stand approved."~~

478 **SECTION 19.**

479 Said chapter is further amended by revising Code Section 7-1-623, relating to acquisitions
480 not requiring department approval, as follows:

481 "7-1-623.

482 (a) Subject to any applicable restrictions ~~or exceptions provided for in subsection (b) of~~
483 ~~Code Section 7-1-622, a~~ an out-of-state bank holding company having a bank subsidiary
484 with banking offices in Georgia may acquire a bank that does not have banking offices in
485 this state, and a an out-of-state bank holding company may acquire an out-of-state bank
486 with branch offices in Georgia without the approval of the department, but shall notify the
487 department at least 30 days prior to the consummation of the proposed transaction. ~~The~~
488 ~~notification requirements of this subsection shall be satisfied by furnishing the department~~
489 ~~with a copy of the application or applications filed with applicable bank supervisory~~
490 ~~agencies seeking approval for the proposed transaction and such other information as the~~
491 ~~department shall request. In lieu of furnishing the entire application, the applicant may~~
492 ~~submit to the department a description of the transaction within the same time frame. In~~
493 ~~this event, the department shall request further information only if needed. The department~~
494 ~~may, for good cause shown, object to the transaction by letter to the bank holding company~~
495 ~~and to the appropriate federal or state regulator before consummation of the transaction.~~

496 (b) A bank holding company may engage in the transactions described in paragraphs (1)
497 and (2) of this subsection without the necessity of complying with Code Section 7-1-622,
498 provided that it notifies the department not less than 30 days following the consummation
499 of the transaction.

500 (1) The acquisition of a Georgia bank, if such acquisition has been consummated with
501 assistance from the Federal Deposit Insurance Corporation under Section 13(c) of the
502 Federal Deposit Insurance Act, as amended, 12 U.S.C. Section 1823(c); or

503 (2) The acquisition of a Georgia bank, if such acquisition has been consummated in the
504 regular course of securing or collecting a debt previously contracted in good faith, as

505 provided in and subject to the requirements of Section 3(a) of the federal Bank Holding
506 Company Act of 1956, as amended, 12 U.S.C. Section 1842(a). ~~If the bank acquired~~
507 ~~under this provision has banking offices in Georgia, the~~ The bank or bank holding
508 company must divest the securities or assets acquired within two years of the date of
509 acquisition. The department may, in its discretion, permit the bank or bank holding
510 company to retain such interest for up to three additional periods of one year each.

511 (c) An out-of-state bank holding company acquiring a Georgia bank holding company or
512 Georgia state bank shall notify the department upon filing an application with the
513 appropriate federal or state financial regulator. The notification requirements of this
514 subsection shall be satisfied by furnishing the department with a copy of the application or
515 applications filed with applicable bank supervisory agencies seeking approval for the
516 proposed transaction and such other information as the department shall request. In
517 addition, the parties shall file with the department and the Secretary of State a certificate
518 of approval of the acquisition by the appropriate supervisory agencies prior to
519 consummation of the transaction. The department may, for good cause shown, object to
520 the transaction by letter to the out-of-state bank holding company, the Georgia bank
521 holding company, and to the appropriate federal or state financial regulator before
522 consummation of the transaction. In the event of such objection, the acquisition cannot be
523 consummated without the parties obtaining the approval of the department."

524 **SECTION 20.**

525 Said chapter is further amended by revising Code Section 7-1-625, relating to provisions
526 applicable to, and qualification of, bank holding companies in state, reciprocal agreements,
527 and confidentiality of reports, as follows:

528 "7-1-625.

529 (a) Any Georgia bank holding company controlling a bank having banking offices in
530 Georgia and any out-of-state bank holding company controlling a Georgia state bank shall

531 be subject to the provisions of Code Sections 7-1-605 through 7-1-612 and the rules and
532 regulations of the department applicable to bank holding companies.

533 (b) Any out-of-state bank holding company that has a bank subsidiary with banking offices
534 in Georgia that is not otherwise organized under the laws of this state or qualified to do
535 business in this state shall qualify to do business in this state as a foreign corporation. ~~Such~~
536 ~~bank holding company shall agree to be bound by all the provisions of Code Sections~~
537 ~~7-1-605 through 7-1-612 and by the provisions of this part. Any bank holding company~~
538 ~~having a Georgia bank subsidiary shall promptly advise the department of any changes in~~
539 ~~its registered office and agent.~~

540 (c) The department may enter into cooperative and reciprocal agreements with the bank
541 regulatory authorities of any state or the United States for the periodic examination of bank
542 holding companies and may accept reports of examination and other records from such
543 authorities in lieu of conducting its own examinations. The department may enter into joint
544 actions with other regulatory bodies having concurrent jurisdiction or may enter into such
545 actions independently to carry out its responsibilities under this title and assure compliance
546 with the laws of this state. Any examinations or reports originated by Georgia or by
547 another bank supervisory agency shall be deemed and treated as confidential according to
548 Georgia law, and such confidentiality shall not be affected by the sharing of the
549 examinations or reports. The department shall not be obligated to provide or disclose such
550 examinations and reports to any third party. Agreements to share such examinations or
551 reports shall contain provisions for dealing with confidentiality and subpoenas."

552 **SECTION 21.**

553 Said chapter is further amended by revising subsection (b) of Code Section 7-1-628, relating
554 to purpose and scope of part, as follows:

555 "(b) The scope of this part covers mergers where, upon consummation of the interstate
556 merger transaction, the resulting bank will have banking locations in Georgia and at least

557 one other state. It provides for certain approval, notice, and other requirements. ~~Mergers~~
558 ~~involving banks having present and resulting branches located only in this state are~~
559 ~~governed by Part 14 of this article. To the extent a bank participating in an interstate~~
560 ~~merger transaction is owned or controlled by a bank holding company, the applicable~~
561 ~~provisions of Part 19 of this article shall also apply."~~

562 **SECTION 22.**

563 Said chapter is further amended by revising subsection (b) of Code Section 7-1-628.4,
564 relating to permissible interstate merger transactions, as follows:

565 "(b) An out-of-state bank may enter into an interstate merger transaction with a Georgia
566 bank, and an out-of-state bank resulting from such transaction may maintain and operate
567 branches in Georgia. The requirements of Code Section 7-1-628.5 shall be met by the
568 resulting bank. In order to consummate such a merger with a resulting out-of-state state
569 bank, a Georgia state bank shall comply with Code Sections 7-1-531 through 7-1-533 and
570 7-1-537, except that the format of the articles of merger submitted in accordance with Code
571 Section 7-1-532 may be in conformity with the resulting bank's home state law if such law
572 requires a format different from that specified by Code Section 7-1-532. A Georgia state
573 bank shall comply with Code Section ~~7-1-556~~ 7-1-534 if a national bank or a federal
574 savings bank is to be the resulting bank."

575 **SECTION 23.**

576 Said chapter is further amended by revising subsection (a) of Code Section 7-1-633, relating
577 to organizational meeting of directors and commencing of business for credit unions, as
578 follows:

579 "(a) Within 30 days after receipt of the certificate of incorporation from the Secretary of
580 State, an organizational meeting of the board of directors named in the articles of
581 incorporation shall be held for the purpose of accepting the certificate and bylaws,

582 appointing a credit committee or, in lieu thereof, loan officers and an audit committee,
 583 naming the president, and electing or appointing the officers, as provided in Code Section
 584 7-1-655, who shall serve until the first directors' meeting after the first annual meeting.
 585 Notice of the meeting shall be given at least five days prior to the date of the meeting."

586

SECTION 24.

587 Said chapter is further amended by revising paragraphs (1), (12), and (13) and adding new
 588 paragraphs in Code Section 7-1-650, relating to powers of credit unions, as follows:

589 "(1) Receive funds from its members or other financial institutions in the form of shares
 590 and deposits on accounts or as evidenced by certificates of deposit issued by the credit
 591 union ~~but shall not have the power to offer third-party payment services except as~~
 592 ~~authorized under Code Section 7-1-670;~~"

593 "(12) Provide, in its articles of incorporation approved by a majority of its membership
 594 present and voting, for the elimination or limitation of personal liability of a director to
 595 the credit union or its members in their capacity as shareholders of the credit union to the
 596 same extent as a bank or trust company operating under the provisions of this chapter;
 597 **and**

598 (13) Subject to any rules and regulations enacted by the department and in compliance
 599 with federal law and applicable provisions regarding insurable interests in Chapter 24 of
 600 Title 33, purchase, hold, or fund insurance on the life of any of its directors, officers, or
 601 employees, or any other person whose death might cause financial loss to the credit
 602 union, or, pursuant to any contract lawfully obligating the credit union as guarantor or
 603 surety, on the life of the principal obligor;

604 (14) Provide third-party payment services to its members; and

605 (15) Provide check-cashing services, sale of payment instruments, or sale of international
 606 remittances to those consumers eligible for membership."

607 **SECTION 25.**

608 Said chapter is further amended by revising subparagraph (b)(1)(B) of Code Section
609 7-1-651.1, relating to in person annual meetings, requirements for remote options, and impact
610 of emergency declaration, as follows:

611 "(B) Enable members to vote ~~or grant proxies~~ at such meetings by means of electronic
612 communication. Such measures may include, but are not limited to, telephonic or
613 internet voting; and"

614 **SECTION 26.**

615 Said chapter is further amended by revising subsection (c) of Code Section 7-1-655, relating
616 to boards of directors, credit and audit committees, officers, oaths of officials, removal from
617 office, suspension of member, filling of vacancies, and notification to department of change
618 in president or chief executive officer, as follows:

619 "(c) At the organizational meeting and at its first meeting after each annual meeting of the
620 members, the board of directors shall appoint an audit committee, credit committee,
621 chairperson, ~~president~~, secretary, and such other officers consistent with the bylaws as the
622 board deems desirable. No member of the audit committee may serve as a member of the
623 credit committee or as an officer, unless the board of directors functions as the credit
624 committee as provided for in subsection (f) of Code Section 7-1-658."

625 **SECTION 27.**

626 Said chapter is further amended by revising subsection (a) of Code Section 7-1-656, relating
627 to duties of directors, meetings, prohibited activities, eligibility to vote, applicability of Code
628 Section 7-1-490, and appointment of honorary director or director emeritus, as follows:

629 "(a) The board of directors shall be responsible for the affairs, funds, and records of the
630 credit union and shall meet as often as necessary, ~~but~~. The board of directors shall meet
631 at least once during ten different months of each calendar year unless an alternative

632 schedule is approved in writing by the department, but in no event shall the board meet less
633 frequently than once in each calendar quarter. Unless the bylaws specifically reserve any
634 or all of the duties to the members, it shall be the special duty of the directors:

635 (1) To act upon all applications for membership or approve the actions of an officer
636 without loan granting authority, designated by the board of directors to approve
637 applications for membership;

638 (2) To determine from time to time rates of interest and dividends which shall be allowed
639 on deposits and charged on loans consistent with this article and other applicable laws
640 and to authorize any interest refunds on such classes of loans and under such conditions
641 as the board prescribes;

642 (3) To fix the amount of the fidelity bond which shall be required of all officers,
643 employees, agents, or members having custody of funds, properties, or records; provided,
644 however, that the amount of such fidelity bond shall not be less than such minimum
645 requirements as shall be prescribed by regulation of the department and shall be in such
646 form as may from time to time be approved by the department;

647 (4) To fix within the restrictions imposed by statute the maximum amount of deposits
648 which may be made by and the maximum amount that may be loaned to any one member;

649 (5) To fill vacancies on the board of directors, credit committee, and audit committee
650 until the election and qualification of a successor;

651 (6) To have charge of the investment of funds of the credit union other than loans to
652 members within the restrictions imposed by statute or delegate investment authority to
653 a qualified committee or officer as designated by the board of directors;

654 (7) To appoint any committees deemed necessary; and

655 (8) To perform such other duties as the members may from time to time authorize."

656

SECTION 28.

657 Said chapter is further amended by revising subsection (g) of Code Section 7-1-658, relating
658 to loans, as follows:

659 "(g) The limitations of subsection (f) of this Code section shall not apply to:

660 (1) Obligations of and obligations guaranteed by:

661 (A) The United States;

662 (B) The State of Georgia or a public body thereof authorized to levy taxes;

663 (C) Any state of the United States or any public body thereof if the obligations or
664 guarantees are general obligations; or

665 (D) Any agency of this state as defined in subparagraph (a)(1)(A) of Code Section
666 50-14-1;

667 (2) Obligations to the extent secured by:

668 (A) Obligations fully guaranteed by the United States;

669 (B) Guaranties or commitments or agreements to take over or purchase made by any
670 public body of the United States or any corporation owned directly or indirectly by the
671 United States; or

672 (C) Loan agreements between a local public agency or a public housing agency and an
673 instrumentality of the United States pursuant to national housing legislation under
674 which funds will be provided for payment of the obligations secured by such loan
675 agreements;

676 (3) Obligations with respect to the sale of federal or correspondent funds to financial
677 institutions having their deposits insured to the same extent as that required of similar
678 institutions chartered in this state; ~~and~~

679 (4) A renewal or restructuring of a loan as a new loan or extension of credit following
680 the exercise by the credit union of reasonable efforts, consistent with safe and sound
681 banking practices, to bring the loan into conformance with the lending limits of this Code
682 section, unless:

- 683 (A) New funds are advanced by the credit union to the borrower, except as permitted
 684 under this Code section;
- 685 (B) A new borrower replaces the original borrower; or
- 686 (C) The department determines that a renewal or restructuring was undertaken as a
 687 means to evade the credit union's lending limit; and
- 688 (5) Unsecured obligations below the unsecured legal lending limit in conjunction with
 689 secured obligations below the secured legal lending limit so long as the total aggregate
 690 liability for both secured and unsecured obligations is \$50,000.00 or less."

691 SECTION 29.

692 Said chapter is further amended by repealing and reserving Code Section 7-1-670, relating
 693 to third-party payment services, as follows:

694 "7-1-670.

695 ~~(a) Any credit union may apply to the department for permission to offer third-party~~
 696 ~~payment services to its members. The department shall exercise its discretion in~~
 697 ~~determining whether to approve such request but shall not grant its approval until it is~~
 698 ~~satisfied that:~~

699 ~~(1) The convenience and need of the membership will be served by the proposed change;~~

700 ~~(2) There is reasonable promise of adequate support of the program in light of:~~

701 ~~(A) The competition offered by existing financial institutions;~~

702 ~~(B) The financial history of the credit union and its membership; and~~

703 ~~(C) The opportunities for profitable employment of depositors' funds as indicated by~~
 704 ~~the average demand for credit, the number of potential depositors, the volume of~~
 705 ~~transactions, and stability of the common bond;~~

706 ~~(3) The managerial resources, internal controls, and operating procedures of the credit~~
 707 ~~union are sufficient to administer the program in a safe and sound manner; and~~

708 ~~(4) The capital and reserves of the credit union are adequate in light of current economic~~
709 ~~conditions and asset quality of the credit union.~~

710 ~~(b) A credit union meeting certain financial and managerial criteria specified by~~
711 ~~department rule, regulation, or policy shall be exempt from the need for prior approval.~~
712 ~~Prior notice of intent to offer third-party payment services will be provided to the~~
713 ~~department.~~

714 ~~(c) Upon the commencement of third-party payment services, a credit union shall be~~
715 ~~subject to Code Sections 7-1-287, pertaining to investment securities; 7-1-288, pertaining~~
716 ~~to corporate stock and securities; 7-1-371, pertaining to legal reserve requirements; and~~
717 ~~rules and regulations of the department relating to the foregoing Code sections of law and~~
718 ~~shall not pay a greater rate of interest on third-party payment accounts than is allowed to~~
719 ~~be paid by commercial banks.~~

720 ~~(d) A credit union that is approved to offer third-party payment services may apply to the~~
721 ~~department to offer other services, such as check-cashing services, sale of payment~~
722 ~~instruments, or international remittances, which services are determined by the department~~
723 ~~to be safe, sound, convenient, and necessary and responsive to those consumers eligible for~~
724 ~~membership. The department may impose restrictions on these services if approved.~~

725 ~~(e) Authority to offer third-party payment services may be suspended or revoked in~~
726 ~~accordance with Code Section 7-1-91 Reserved.~~

727 **SECTION 30.**

728 Said chapter is further amended by revising paragraphs (5), (8), and (24) and adding new
729 paragraphs in Code Section 7-1-680, relating to definitions relative to the sale of payment
730 instruments, as follows:

731 "(5) 'Control,' 'controlling,' 'controlled by,' or 'under common control with' means the
732 direct or indirect possession of power to direct or cause the direction of the management
733 and policies of a person or the direct or indirect possession of power to elect or appoint

734 a majority of executive officers or other persons exercising managerial authority of a
735 person."

736 "(8) 'Executive officer' means the chief executive officer, president, chief financial
737 officer, chief operating officer, each ~~vice president officer~~ officer with responsibility involving
738 policy-making functions for a significant aspect of a person's business, ~~secretary,~~
739 ~~treasurer,~~ or any other ~~person~~ individual performing similar managerial or supervisory
740 functions with respect to any organization, whether incorporated or unincorporated."

741 "(14.1) 'Multistate licensing process' means any licensing agreement entered into by and
742 among state agencies that regulate money transmitters and sellers of payment
743 instruments."

744 "(16.1) 'Passive investor' means a person that:

745 (A) Owns, directly or indirectly, at least 10 percent but less than 25 percent interest in
746 or voting shares of a licensee or person in control of a licensee;

747 (B) Does not have the power to elect a majority of the members of the board of
748 directors of a licensee;

749 (C) Is not employed by and does not perform any managerial duties for the licensee or
750 person in control of a licensee; and

751 (D) Does not have the power to exercise, directly or indirectly, a controlling influence
752 over the management or policies of a licensee or person in control of a licensee."

753 "(24) 'Ultimate equitable owner' means a person that:

754 (A) Owns, directly or indirectly, a 10 percent or more interest in a corporation or any
755 other form of business organization;

756 (B) Owns, directly or indirectly, 10 percent or more of the voting shares of any
757 corporation or any other form of business organization; or

758 (C) Exerts control, directly or indirectly, over a corporation or any other form of
759 business organization, regardless of whether such person owns or controls such interest
760 through one or more natural persons or one or more proxies, powers of attorney,

761 nominees, corporations, associations, limited liability companies, partnerships, trusts,
 762 joint stock companies, other entities or devices, or any combination thereof.
 763 For purposes of determining ultimate equitable ownership by an individual, the
 764 individual's interest shall be aggregated with the interest of any other immediate family
 765 member, including the individual's spouse, parents, children, siblings, mothers- and
 766 fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other
 767 individual who shares such individual's home."

768 **SECTION 31.**

769 Said chapter is further amended by revising subsections (a), (d), and (e) of Code Section
 770 7-1-687, relating to notice of action against licensee by creditor or claimant and other
 771 notification requirements, as follows:

772 "(a) A licensee shall give written notice to the department ~~by registered or certified mail~~
 773 of any action which may be brought against it by any creditor or claimant where such
 774 action relates to the activities authorized under this article or involves a claim against the
 775 bond filed with the department under Code Section 7-1-683.2. The notice shall provide
 776 details sufficient to identify the action and shall be sent within 30 days after the
 777 commencement of any such action. The licensee shall also give written notice to the
 778 department ~~by registered or certified mail~~ within 30 days of the entry of any judgment
 779 entered against the licensee."

780 "(d) A licensee shall give written notice to the department ~~by registered or certified mail~~
 781 within ten days of the following:

- 782 (1) Any knowledge or discovery of an act prohibited by Code Section 7-1-684 or
 783 7-1-691 or subsection (a) of Code Section 7-1-692;
 784 (2) The discharge of any employee for actual or suspected misrepresentations, dishonest
 785 acts, or fraudulent acts;

786 (3) Any knowledge or discovery of the discharge of a covered employee or an authorized
787 agent for actual or suspected misrepresentations, dishonest acts, or fraudulent acts;

788 (4) Any knowledge or discovery of an administrative, civil, or criminal action initiated
789 by any government entity against the licensee or an authorized agent; any director,
790 officer, partner, or ultimate equitable owner of the licensee or authorized agent; or any
791 individual who directs the affairs of or controls or establishes policy for the licensee or
792 authorized agent; or

793 (5) The filing of a petition by or against the licensee under the United States Bankruptcy
794 Code, 11 U.S.C. Sections 101 through 110, for bankruptcy reorganization or the filing of
795 a petition by or against the licensee for receivership or the making of a general
796 assignment for the benefit of its creditors.

797 (e) Unless prior approval of a change in executive officer is required under Code Section
798 7-1-688 and notwithstanding subsection (e) of Code Section 7-1-684 requiring a criminal
799 background check prior to the initial date of hire, a licensee shall notify the department in
800 writing of any change of executive officer in such a manner that the notice is received by
801 the department no later than ten business days after the effective date of the change. In the
802 event of such change, the licensee shall initiate a criminal background check no later than
803 ten business days after the effective date of the change. If the department determines that
804 an executive officer does not meet the requirements of subsections (a) or (b) of Code
805 Section 7-1-684, the department may disapprove the notice of change, and the licensee
806 shall remove the individual from the executive officer position upon receipt of the
807 disapproval."

808 **SECTION 32.**

809 Said chapter is further amended by adding a new subsection to Code Section 7-1-688,
810 relating to approval required of new ultimate equitable owner, other change of control, or
811 executive officer of licensee, and denial of application, to read as follows:

812 "(d) The application provisions of this Code section shall not apply to:
813 (1) An acquisition by a passive investor, provided that such person submits
814 documentation to the department, in a form prescribed by the department, establishing
815 that such person meets the criteria for a passive investor prior to such acquisition. The
816 failure to provide acceptable documentation establishing that the person qualifies as a
817 passive investor or to continuously satisfy the passive investor requirements shall require
818 the filing of a change of control application; or
819 (2) An acquisition of a licensee by a person licensed by the department under this article,
820 provided that:
821 (A) The person has not had a license revoked or suspended in any jurisdiction;
822 (B) The person is well-managed and has received at least a satisfactory rating for
823 compliance and supervision at its most recent examination by the department or a state
824 agency whose money transmitter regulatory program has been accredited by the
825 appropriate governing authority;
826 (C) The resulting entity or entities are projected to meet the financial condition
827 requirements established by this article;
828 (D) Neither the person nor the licensee to be acquired will implement any material
829 changes to their respective business plans as a result of the acquisition; and
830 (E) The person provides the department with prior notice of the acquisition and attests
831 to the requirements provided in this paragraph in a form prescribed by the department.
832 If the department does not approve such notice of acquisition within 30 days of the date
833 on which the notice was determined by the department to be complete, the notice is
834 deemed approved. If the department disapproves such notice of acquisition, the
835 acquiring person shall be required to file a change of control application."

836 **SECTION 33.**

837 Said chapter is further amended by revising subsection (f) of Code Section 7-1-689, relating
838 to record keeping, investigations and examinations by department, subpoenas,
839 confidentiality, and limitations on civil liability, as follows:

840 "(f) In addition to any other authority set forth under this article, the department shall be
841 authorized to conduct investigations and examinations of applicants, licensees, and
842 authorized agents as follows:

843 (1) The department shall have the authority to access, receive, and use any books,
844 accounts, records, files, documents, information, or evidence, including, but not limited
845 to:

846 (A) Criminal, civil, and administrative history information, including nonconviction
847 data;

848 (B) Personal history and experience information, including, but not limited to,
849 independent credit reports obtained from a consumer reporting agency described in the
850 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a; ~~and~~

851 (C) For an individual who has resided outside of the United States, an international
852 investigative background report prepared by a competent independent search firm,
853 which shall include, at a minimum, comprehensive credit, criminal, employment,
854 media, and financial services regulatory history information; and

855 (D) Any other documents, information, or evidence the department deems relevant to
856 the inquiry, examination, or investigation regardless of the location, possession, control,
857 or custody of such documents, information, or evidence;

858 (2) The department may review, investigate, or examine any licensee or person subject
859 to this article as often as necessary in order to carry out the purposes of this article;

860 (3) Each licensee or person subject to this article shall make available to the department,
861 upon request, any books and records relating to the activities of selling payment
862 instruments or the transmission of money;

- 863 (4) No licensee or person subject to investigation or examination under this article shall
864 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records,
865 documents, files, computer records, evidence, or other information; and
- 866 (5) In order to carry out the purposes of this Code section, the department may:
- 867 (A) Enter into agreements or relationships with other government officials or
868 regulatory associations in order to improve efficiencies and reduce regulatory burden
869 by sharing resources, documents, records, information, or evidence or by utilizing
870 standardized or uniform methods or procedures;
- 871 (B) Accept and rely on examination or investigation reports made by other government
872 officials within or outside this state, including, but not limited to, investigations
873 pursuant to a multistate licensing process; and
- 874 (C) Accept audit reports or portions of audit reports made by an independent certified
875 public accountant on behalf of the licensee or person subject to this article covering the
876 same general subject matter as the audit and may incorporate the audit report in the
877 report of examination, report of investigation, or other writing of the department; and
878 (D) Use, hire, contract, or employ analytical systems, methods, or software."

879 **SECTION 34.**

880 Said chapter is further amended by revising subsections (a) and (b) of Code Section 7-1-705,
881 relating to written notice of claims against licensee, judgments, or other misconduct by
882 employees, directors, or others and written notice of change of executive officer relative to
883 cashing of payment instruments, as follows:

884 "(a) A licensee shall give written notice to the department ~~by registered or certified mail~~
885 of any action which may be brought against it by any creditor or claimant where such
886 action relates to activities authorized under this article or involves a claim against the bond
887 filed with the department under subsection (c) of Code Section 7-1-707. The notice shall
888 provide details sufficient to identify the action and shall be sent within 30 days after the

889 commencement of any such action. The licensee shall also give written notice to the
890 department ~~by registered or certified mail~~ within 30 days of the entry of any judgment
891 against the licensee.

892 (b) A licensee shall give written notice to the department ~~by registered or certified mail~~
893 within ten days of the following:

894 (1) Any knowledge or discovery of an act prohibited by Code Section 7-1-703 or
895 7-1-707 or subsection (a) of Code Section 7-1-708;

896 (2) The discharge of any employee for actual or suspected misrepresentations, dishonest
897 acts, or fraudulent acts; or

898 (3) Any knowledge or discovery of an administrative, civil, or criminal action initiated
899 by any government entity against the licensee; or any of the licensee's directors, officers,
900 partners, ultimate equitable owners, or any individual who directs the affairs of or
901 controls or establishes policy for the licensee."

902 **SECTION 35.**

903 Said chapter is further amended by revising subsection (a) and adding a new subsection in
904 Code Section 7-1-1001, relating to exemption for certain persons and entities, registration
905 requirements, and authorized actions of licensed mortgage lenders, as follows:

906 "(a) The following persons shall not be required to obtain a mortgage loan originator,
907 mortgage broker, or mortgage lender license and shall not be subject to the provisions of
908 this article but may be subject to registration requirements, if registration of such persons
909 is required by this article:

910 (1) Any lender authorized to engage in business as a bank, credit card bank, savings
911 institution, or credit union under the laws of the United States, any state or territory of the
912 United States, or the District of Columbia, the deposits of which are federally insured;

913 (2) Any wholly owned subsidiary of any lender described in paragraph (1) of this
914 subsection. Any subsidiary that violates any applicable law of this article may be subject
915 to a cease and desist order as provided for in Code Section 7-1-1018;

916 (2.1) Any wholly owned subsidiary of any bank holding company; provided, however,
917 that such subsidiary shall be subject to registration requirements in order to facilitate the
918 department's handling of consumer inquiries. Such requirements are contained in Code
919 Section 7-1-1003.3;

920 (3) Registered mortgage loan originators, when acting for an entity described in
921 paragraph (1) or (2) of this subsection. To qualify for this exemption, an individual shall
922 be registered with and maintain a unique identifier through registration with the
923 Nationwide Multistate Licensing System and Registry;

924 (4) Any individual who offers or negotiates terms of a residential mortgage loan with or
925 on behalf of an immediate family member of such individual. For purposes of this
926 exemption, the term 'immediate family member' means a spouse, child, sibling, parent,
927 grandparent, or grandchild. Immediate family members shall include stepparents,
928 stepchildren, stepsiblings, and adoptive relationships;

929 (5) An attorney licensed to practice law in Georgia who negotiates the terms of a
930 residential mortgage loan on behalf of a client as an ancillary matter to the attorney's
931 representation of the client, unless the attorney is compensated by a lender, a mortgage
932 broker, or other mortgage loan originator or by any agent of such lender, mortgage
933 broker, or other mortgage loan originator;

934 (6) A Georgia licensed real estate broker or real estate salesperson not actively engaged
935 in the business of negotiating mortgage loans or a Georgia licensed real estate salesperson
936 providing information to a lender or its agent related to an existing or potential short sale
937 transaction in which a separate fee is not received by such real estate broker or real estate
938 salesperson; provided, however, that such real estate broker or real estate salesperson who

939 directly or indirectly negotiates, places, or finds a mortgage for others shall not be exempt
940 from the provisions of this article;

941 (7) Any person performing any act relating to mortgage loans under order of any court;

942 (8) Any natural person or the estate of or trust created by a natural person making a
943 mortgage loan with his or her own funds for his or her own investment, including those
944 natural persons or the estates of or trusts created by such natural persons who make a
945 purchase money mortgage for financing sales of their own property;

946 (9) Any agency, division, or instrumentality of: the federal government of the United
947 States of America; the government of the State of Georgia; the government of any other
948 state of the United States; or any county or municipal government of the State of Georgia.

949 This includes, but is not limited to, the Georgia Housing and Finance Authority, the
950 Georgia Development Authority, the Federal National Mortgage Association (FNMA),
951 the Federal Home Loan Mortgage Corporation (FHLMC), the Government National
952 Mortgage Association (GNMA), the United States Department of Housing and Urban
953 Development (HUD), the Federal Housing Administration (FHA), the Department of
954 Veterans Affairs (VA), the Farmers Home Administration (FmHA), and the Farm Credit
955 Administration and its chartered agricultural credit associations;

956 (10) Any individual who offers or negotiates terms of a residential mortgage loan
957 secured by a dwelling that serves as the individual's residence;

958 (11) Any person who makes a mortgage loan to an employee of such person as an
959 employment benefit;

960 (12) Any licensee under Chapter 3 of this title, the 'Georgia Installment Loan Act,'
961 provided that any mortgage loan made by such licensee is for \$3,000.00 or less;

962 (13) Nonprofit corporations making mortgage loans to promote home ownership or
963 improvements for the disadvantaged;

964 (14) A natural person employed by a licensed or registered mortgage broker, a licensed
965 or registered mortgage lender, or any person exempted from the mortgage broker or

966 mortgage lender licensing requirements of this article when acting within the scope of
967 employment and under the supervision of the mortgage broker or mortgage lender or
968 exempted person as an employee and not as an independent contractor, except those
969 natural persons exempt from licensure as a mortgage broker or mortgage lender under
970 paragraph (17) of this subsection. To be exempt from licensure as a mortgage broker or
971 mortgage lender, a natural person shall be employed by only one such employer and shall
972 be at all times eligible for employment in compliance with the provisions and
973 prohibitions of Code Section 7-1-1004. Such natural person, who meets the definition
974 of mortgage loan originator provided in paragraph (22) of Code Section 7-1-1000, shall
975 be subject to mortgage loan originator licensing requirements. A natural person against
976 whom a cease and desist order has become final shall not qualify for this exemption while
977 under the employment time restrictions of subsection (o) of Code Section 7-1-1004 if
978 such order was based on a violation of Code Section 7-1-1002 or 7-1-1013 or whose
979 license was revoked within five years of the date such person was hired;

980 (15) Any person who purchases mortgage loans from a mortgage broker or mortgage
981 lender solely as an investment and who is not in the business of brokering, making,
982 purchasing, or servicing mortgage loans;

983 (16) Any natural person who makes five or fewer mortgage loans in any one calendar
984 year. A person other than a natural person who makes five or fewer mortgage loans in
985 any one calendar year shall not be exempt from the licensing requirements of this article;

986 (17)(A) ~~A natural person otherwise required to be licensed as a mortgage lender or~~
987 ~~mortgage broker,~~ who is under an exclusive written independent contractor agreement
988 with any person that is a ~~wholly owned subsidiary of a financial holding company or~~
989 ~~bank holding company, savings bank holding company, or thrift holding company, which~~
990 subsidiary licensed mortgage broker, so long as such licensed mortgage broker also meets
991 the following requirements, subject to the review and approval of the department:

- 992 (i) ~~The subsidiary has provided an undertaking of accountability supported by~~
993 ~~licensee continuously provides~~ a surety bond equal to the lesser of \$1 million or as
994 ~~required by Code Section 7-1-1003.2 in the amount of \$150,000.00 plus \$50,000.00~~
995 ~~per exempt natural person, not to exceed a maximum of \$2 million to cover its~~
996 ~~activities as well as the activities of~~ all of its natural persons exempted by this
997 paragraph, that includes full and direct financial responsibility for the mortgage
998 ~~broker activities of each such exempted person, and also provides for the education~~
999 ~~of the exempt persons, the handling of consumer complaints related to the exempt~~
1000 ~~persons, and the supervision of the mortgage broker activities of the exempt persons;~~
1001 (ii) The subsidiary licensee has applied for and been granted a mortgage broker or
1002 ~~mortgage lender~~ license, consistent with the provisions of this article and renewable
1003 annually; and
1004 (iii) The subsidiary licensee has paid applicable fees for this license, which license
1005 fees shall be ~~the lesser of one-half of the sum of the cost of the individual licenses~~
1006 mortgage broker license fees if each exempt natural person received a mortgage
1007 broker license; or \$100,000.00.
1008 (iv) The licensee has full and direct financial responsibility for the mortgage
1009 activities of such natural person and full and direct responsibility for the proper
1010 education of such natural person, the handling of consumer complaints related to such
1011 natural person, and the supervision of the mortgage activities of such natural person.
1012 The licensee shall supervise such natural person on an ongoing and regular basis and
1013 shall be accountable for the mortgage activities of such natural person;
1014 (v) The licensee or the parent company if the licensee is a wholly owned subsidiary:
1015 (I) Files reports under Section 13(a) or 15(d) of the Securities Exchange Act of
1016 1934;
1017 (II) Has a market capitalization in excess of \$4 billion at the time of the initial
1018 application for a mortgage broker license based on the number of outstanding shares

- 1019 at the end of the quarter as disclosed in the most recent Form 10-Q filed with the
1020 United States Securities and Exchange Commission; and
1021 (III) Has equity securities that are listed on the New York Stock Exchange, the
1022 National Association of Securities Dealers Automated Quotations, or other stock
1023 market approved by the department in writing;
1024 (vi) At the time of the initial application for a mortgage broker license, the licensee
1025 has never had a mortgage lender license or mortgage broker license revoked or
1026 suspended in Georgia or any other state;
1027 (vii) The licensee, the parent company if the licensee is a wholly owned subsidiary,
1028 or an affiliate of the licensee if both the affiliate and licensee are wholly owned
1029 subsidiaries of the same parent company, is licensed by the office of the
1030 Commissioner of Insurance as an insurance company or is registered with the
1031 Secretary of State as a broker-dealer;
1032 (viii) The licensee is licensed as a mortgage lender or mortgage broker in ten or more
1033 states; and
1034 (ix) At the time of the initial application for a mortgage broker license, the licensee
1035 has received at least a satisfactory evaluation in the most recent examination
1036 conducted by the majority of the states in which it has a mortgage broker or mortgage
1037 lender license and has adequately addressed with the department any unsatisfactory
1038 evaluations in the most recent examination conducted by any state in which it has a
1039 mortgage broker or mortgage lender license.
1040 (B) To maintain the exemption, a natural person shall:
1041 (i) Solicit, process, place, or negotiate a mortgage loan to be ~~made~~ brokered only by
1042 the ~~licensed subsidiary licensee~~ licensee or its affiliate; and
1043 (ii) Be at all times in compliance with this article, including the provisions and
1044 prohibitions of Code Section 7-1-1013, ~~and~~ the provisions and prohibitions applicable

1045 to employees under Code Section 7-1-1004, and the department's rules and
 1046 regulations;

1047 (iii) Be licensed as a mortgage loan originator in Georgia and work exclusively for
 1048 the licensee, the parent company if the licensee is a wholly owned subsidiary, or an
 1049 affiliate of the licensee if both the affiliate and licensee are wholly owned subsidiaries
 1050 of the same parent company; and

1051 (iv) Be licensed as an insurance agent with the office of the Commissioner of
 1052 Insurance or registered as a broker-dealer agent with the Secretary of State on behalf
 1053 of the licensee, the parent company of the licensee if the licensee is a wholly owned
 1054 subsidiary of the parent company, or an affiliate of the licensee if both the affiliate
 1055 and licensee are wholly owned subsidiaries of the same parent company.

1056 ~~(C) For purposes of this paragraph, the term 'financial holding company' means a~~
 1057 ~~financial holding company as defined in the Bank Holding Company Act of 1956, as~~
 1058 ~~amended.~~

1059 ~~(D) The commissioner shall provide by rule or regulation for the implementation of~~
 1060 ~~this paragraph; or~~

1061 (18)(A) An employee of a bona fide nonprofit corporation who acts as a mortgage loan
 1062 originator only with respect to his or her work duties with the bona fide nonprofit
 1063 corporation and who acts as a mortgage loan originator only with respect to mortgage
 1064 loans with terms that are favorable to the borrower shall be exempt from obtaining a
 1065 mortgage loan originator license. In order for a corporation to be considered a bona
 1066 fide nonprofit corporation under this paragraph, the department shall determine, under
 1067 criteria and pursuant to processes established by the department, that the nonprofit
 1068 corporation:

1069 (i) Has the status of a tax-exempt organization under Section 501(c)(3) of the Internal
 1070 Revenue Code of 1986;

1071 (ii) Promotes affordable housing;

1072 (iii) Conducts its activities in a manner that serves public or charitable purposes,
1073 rather than commercial purposes;

1074 (iv) Receives funding and revenue and charges fees in a manner that does not
1075 incentivize it or its employees to act other than in the best interests of its clients;

1076 (v) Compensates its employees in a manner that does not incentivize employees to
1077 act other than in the best interests of its clients;

1078 (vi) Provides or identifies for the borrower mortgage loans with terms favorable to
1079 the borrower and comparable to mortgage loans and housing assistance provided
1080 under government housing assistance programs. In order for mortgage loans to have
1081 terms that are favorable to the borrower, the department shall determine that the terms
1082 are consistent with loan origination in a public or charitable context, rather than in a
1083 commercial context; and

1084 (vii) Satisfies the exemption from licensure set forth in paragraph (13) of this
1085 subsection.

1086 (B) The department shall periodically examine the books and activities of an
1087 organization it has previously identified as a bona fide nonprofit corporation for
1088 purposes of this paragraph in order to determine if it continues to meet the criteria for
1089 such status under subparagraph (A) of this paragraph. In conducting such an
1090 examination, the department shall have all of the powers set forth in Code Section
1091 7-1-1009. In the event the nonprofit corporation no longer qualifies for such status,
1092 then the employee exemption from having a mortgage loan originator license shall no
1093 longer be applicable; or

1094 (19) Any person who purchases or holds closed mortgage loans for the sole purpose
1095 of securitization into a secondary market, provided that such person holds the individual
1096 loans for less than seven days."

1097 "(d) Any violation of this article or the rules and regulations of the department by a natural
1098 person exempted pursuant to paragraph (17) of subsection (a) of this Code section shall be

1099 deemed to be a violation by both the licensee and the exempt natural person for purposes
1100 of the enforcement provisions of this article."

1101 **SECTION 36.**

1102 Said chapter is further amended by revising subsection (a) of Code Section 7-1-1007, relating
1103 to licensee to give notice of certain actions brought against it by a creditor or borrower and
1104 notice to the department of cancellation of bond, as follows:

1105 "(a) A licensee shall give written notice to the department ~~by registered or certified mail~~
1106 ~~or statutory overnight delivery~~ of any action which may be brought against it by any
1107 creditor or borrower where such action is brought under this article, involves a claim
1108 against the bond filed with the department for the purposes of compliance with Code
1109 Section 7-1-1003.2 or 7-1-1004, or involves a claim for damages in excess of \$25,000.00
1110 for a mortgage broker or mortgage loan originator and \$250,000.00 for a lender and of any
1111 judgment which may be entered against it by any creditor or any borrower or prospective
1112 borrower, with details sufficient to identify the action or judgment, within 30 days after the
1113 commencement of any such action or the entry of any such judgment."

1114 **SECTION 37.**

1115 Chapter 3 of Title 7 of the Official Code of Georgia Annotated, relating to installment loans,
1116 is amended by revising paragraphs (2) and (6) of Code Section 7-3-3, relating to definitions,
1117 as follows:

1118 "(2) 'Covered employee' means any employee of a licensee engaged in any function
1119 related to making installment loans or servicing installment loans made by others,
1120 excluding loans made by affiliated entities."

1121 "(6) 'Installment lender' or 'lender' means any person that advertises, solicits, offers, or
1122 makes installment loans or services installment loans made by others, excluding loans
1123 made by affiliated entities."

SECTION 38.

1124
1125 Said chapter is further amended by revising Code Section 7-3-4, relating to licensing
1126 requirement and exemptions, as follows:

1127 "7-3-4.

1128 (a) No person shall engage in the business of making installment loans or acting as an
1129 installment lender in this state unless such person is licensed in accordance with this
1130 chapter or exempt from licensure as provided in subsection (b) of this Code section. No
1131 person within the operation of this chapter shall charge, contract for, or receive directly or
1132 indirectly on or in connection with any loan, any interest, charge, fee, compensation, or
1133 consideration which is greater than the rates for same provided in this chapter.

1134 (b) This chapter shall not apply to:

1135 (1) Businesses chartered or licensed under the authority of any law of this state or of the
1136 United States as banks, trust companies, savings and loan associations, savings banks, or
1137 credit unions or to the transactions of such businesses;

1138 (2) Banks or credit unions chartered under the authority of any state which have deposits
1139 that are federally insured or to the transactions of such businesses;

1140 (3) Pawnbrokers, as defined in Code Section 44-12-130, or to the transactions of
1141 pawnbrokers;

1142 (4) The University System of Georgia or its educational units, private colleges and
1143 universities in this state and associations thereof, or student loan transactions of such
1144 educational entities; or

1145 (5) An individual employed by a licensee or any person exempted from the licensing
1146 requirements of this chapter when acting within the scope of employment and under the
1147 supervision of the licensee or exempted person as an employee and not as an independent
1148 contractor;

1149 (6) Any agency, division, or instrumentality of the federal government of the United
1150 States of America; the government of the State of Georgia or the government of any other

1151 state; or any county or municipal government in the State of Georgia; and the transactions
 1152 of all such governmental entities;
 1153 (7) Retail installment transactions engaged in by retail installment sellers, as those terms
 1154 are defined in Code Section 10-1-31;
 1155 (8) Retail installment transactions engaged in by retail sellers, as those terms are defined
 1156 in Code Section 10-1-2; or
 1157 (9) Transactions in which a lender offers a consumer a line of credit of more than
 1158 \$3,000.00 but the consumer utilizes \$3,000.00 or less of such line of credit so long as
 1159 there are no restrictions in place that would limit the consumer's ability to utilize more
 1160 than \$3,000.00 of the line of credit at any one time."

1161 **SECTION 39.**

1162 Said chapter is further amended by revising the undesignated paragraph at the beginning of
 1163 Code Section 7-3-11, relating to maximum loan amount, period, and charges and deferments,
 1164 as follows:

1165 "Every authorized licensee location under this chapter may lend any sum of money not
 1166 exceeding to exceed \$3,000.00, with the term for any individual loan not to exceed for a
 1167 period of 36 months and 15 days or less and may charge, contract for, collect, and receive
 1168 interest and fees and may require the fulfillment of conditions on such loans as provided
 1169 in this Code section:"

1170 **SECTION 40.**

1171 Said chapter is further amended by repealing and reenacting Code Section 7-3-16, relating
 1172 to tax on interest, levy, and penalty for tax to charges, as follows:

1173 "7-3-16.

1174 (a) On and after July 1, 2022, in addition to all other fees, license fees, fines, or other
 1175 charges now or hereafter levied or assessed, there is imposed on each loan made pursuant

1176 to this chapter a fee of 0.125 percent of the gross loan amount. Such per loan fee shall
1177 become due on the making of any such loan, including, but not limited to, the closing of
1178 a loan, the renewal or refinancing of a loan, or a modification of a loan which results in the
1179 execution of a new or amended loan agreement.

1180 (b) Such per loan fee is levied and assessed against the person so licensed and shall be paid
1181 by such person and shall not be added in any manner as an additional fee or charge against
1182 the borrower. Such per loan fee shall be remitted to the department at the time and in the
1183 manner specified by rules and regulations of the department.

1184 (c) In the event any person fails or refuses to remit the fees required by this Code section
1185 within the time prescribed, the fees shall bear interest at the rate of 1 percent per month.
1186 Interest shall begin to accrue from the date the fees are due until the date the fees are paid.
1187 For purposes of this Code section, any period of less than one month shall be considered
1188 to be one month.

1189 (d) In the event any person fails or refuses to remit the per loans fees required by this Code
1190 section within the time prescribed, there shall be added to the fees a penalty equivalent to
1191 25 percent of the fees due, but in no case shall the penalty so added be less than \$5.00. In
1192 the event any person fraudulently remits the incorrect fees, there shall be added to the fees
1193 a penalty equivalent to 50 percent of the fees due, but in no case shall the penalty so added
1194 be less than \$5.00.

1195 (e) The 2022 revisions of Code Sections 7-3-16, 7-3-17, and 7-3-18 shall not affect the
1196 fees, taxes, and related interest and penalties owed pursuant to the earlier versions of such
1197 Code sections for any time prior to the effective date of this Act.

1198 (f) The department and its authorized examiners and employees shall have the right to
1199 inspect all records of any person licensed pursuant to this chapter, and the department is
1200 authorized to promulgate rules and regulations relative to the enforcement of this Code
1201 section."

SECTION 41.

1202
1203 Said chapter is further amended by repealing and reserving Code Section 7-3-17, relating to
1204 tax on interest, payment, inspection of records, and rules and regulations, as follows:

1205 "7-3-17.

1206 ~~The tax provided for in Code Section 7-3-16 shall be remitted to the department at the time~~
1207 ~~and in the manner specified by rules and regulations of the department. The department~~
1208 ~~and its authorized examiners and employees shall have the right to inspect all records of~~
1209 ~~any person so licensed, and the department is authorized to promulgate rules and~~
1210 ~~regulations relative to the enforcement of Code Section 7-3-16, this Code section, and Code~~
1211 ~~Section 7-3-18 Reserved.~~"

SECTION 42.

1212
1213 Said chapter is further amended by repealing and reserving Code Section 7-3-18, relating to
1214 tax on interest and penalties for late or fraudulent tax payments, as follows:

1215 "7-3-18.

1216 ~~(a) In the event any person fails or refuses to remit the tax required by Code Sections~~
1217 ~~7-3-16 and 7-3-17 within the time prescribed, the tax shall bear interest at the rate of 1~~
1218 ~~percent per month. Interest shall begin to accrue from the date the tax is due until the date~~
1219 ~~the tax is paid. For the purposes of this Code section, any period of less than one month~~
1220 ~~shall be considered to be one month.~~

1221 ~~(b) In the event any person fails or refuses to remit the tax required by Code Sections~~
1222 ~~7-3-16 and 7-3-17 within the time prescribed, there shall be added to the tax a penalty~~
1223 ~~equivalent to 25 percent of the tax but in no case shall the penalty so added be less than~~
1224 ~~\$5.00. In the event any person fraudulently remits the incorrect tax, there shall be added~~
1225 ~~to the tax a penalty equivalent to 50 percent of the tax but in no case shall the penalty so~~
1226 ~~added be less than \$5.00. The amounts so added as penalties shall be collected as a part~~
1227 ~~of the tax Reserved.~~"

1228 **SECTION 43.**

1229 Said chapter is further amended by revising subsection (c) of Code Section 7-3-21, relating
1230 to bonds required, as follows:

1231 "(c) Payments due under the bond shall include money owed to the department for fees;
1232 taxes and related interest and penalties under Code Sections Section 7-3-16, ~~7-3-17~~, and
1233 ~~7-3-18~~; and fines or penalties for noncompliance of the licensee with this chapter or rules,
1234 regulations, or orders issued pursuant to this chapter."

1235 **SECTION 44.**

1236 Said chapter is further amended by revising subsections (c) and (d) of Code Section 7-3-31,
1237 relating to required notifications to be provided by licensee, bond company requirement of
1238 notification, and method for providing notice, as follows:

1239 "(c) The corporate surety that issued a licensee a bond pursuant to Code Section 7-3-21
1240 shall send written notice to the department via registered or certified mail or statutory
1241 overnight delivery within ten days of paying any claim or judgment to any creditor or
1242 claimant with details sufficient to identify the claimant and the claim or judgment so paid.

1243 ~~(d) Any notice sent pursuant to this Code section shall be sent by registered or certified~~
1244 ~~mail or statutory overnight delivery and include sufficient details for the department to~~
1245 ~~identify any relevant creditor or claimant, claim, cause of action, judgment, payment, or~~
1246 ~~prohibited act."~~

1247 **SECTION 45.**

1248 Said chapter is further amended by revising paragraph (8) of subsection (b) of Code Section
1249 7-3-43, relating to suspension or revocation of licenses, as follows:

1250 "(8) Failed or refused to remit the tax fee required by Code Section 7-3-16 within the
1251 required time period."

1252 **SECTION 46.**

1253 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section
1254 7-3-45, relating to cease and desist orders, hearings, and reviews, as follows:

1255 "(1) Except as provided in paragraphs (2) and (3) of this subsection, a person has violated
1256 any law of this state or any rule, regulation, or order of the department. This includes,
1257 but is not limited to, a person engaging in any activity that would subject a licensee to
1258 suspension or revocation of its license under Code Section 7-3-43, whether or not such
1259 person is licensed. Such cease and desist order shall be final 20 days from the date of
1260 issuance unless the person to whom it is issued requests a hearing in writing within such
1261 20 day period;"

1262 **SECTION 47.**

1263 Chapter 6A of Title 7 of the Official Code of Georgia Annotated, relating to the "Georgia
1264 Fair Lending Act," is amended by revising subparagraph (a) of paragraph (17) of Code
1265 Section 7-6A-2, relating to definitions, as follows:

1266 "(A) Without regard to whether the loan transaction is or may be a 'residential
1267 mortgage transaction' as that term is defined in 12 C.F.R. Section 1026.2(a)(24), the
1268 annual percentage rate of the loan is such that it equals or exceeds that set out in Section
1269 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. Section
1270 ~~1602(aa)~~ 1602(bb), and the regulations adopted pursuant thereto by the Federal Reserve
1271 Board, including ~~Section~~ 12 C.F.R. Section 1026.32; or"

1272 **SECTION 48.**

1273 All laws and parts of laws in conflict with this Act are repealed.