

The Senate Committee on Banking and Financial Institutions offered the following substitute to SB 470:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated,
2 relating to licensing of mortgage lenders and mortgage brokers, so as to provide for a
3 definition; to remove agent and add covered employee to the list of persons for whom the
4 Department of Banking and Finance shall not issue or shall revoke a license because of a
5 felony conviction; to provide for related matters; to provide for an effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
10 licensing of mortgage lenders and mortgage brokers, is amended by revising Code Section
11 7-1-1000, relating to definitions, by adding a new paragraph to read as follows:

12 “(5.1) 'Covered employee' means any employee of a mortgage lender or mortgage broker
13 who is involved in residential mortgage loan related activities for property located in
14 Georgia and includes, but is not limited to, a mortgage loan originator, processor, or
15 underwriter, or other employee who has access to residential mortgage loan origination,
16 processing, or underwriting information.”

17 **SECTION 2.**

18 Said article is further amended by revising subsections (h) and (i) of Code Section 7-1-1004,
19 relating to investigation of applicant and its officers, audit, education, experience, and other
20 requirements relative to licensees and registrants, as follows:

21 "(h) The department shall not issue or may revoke a license or registration if it finds that
22 the mortgage loan originator, mortgage broker, or mortgage lender applicant or licensee,
23 or any person who is a director, officer, partner, ~~agent~~, covered employee, or ultimate
24 equitable owner of 10 percent or more of the mortgage broker or mortgage lender
25 applicant, registrant, or licensee or any individual who directs the affairs or establishes
26 policy for the mortgage broker or mortgage lender applicant, registrant, or licensee, has
27 been convicted of a felony in any jurisdiction or of a crime which, if committed within this
28 state, would constitute a felony under the laws of this state. Other than a mortgage loan
29 originator, for the purposes of this article, a person shall be deemed to have been convicted
30 of a crime if such person shall have pleaded guilty or nolo contendere to a charge thereof
31 before a court or federal magistrate or shall have been found guilty thereof by the decision
32 or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the
33 pronouncement of sentence or the suspension thereof, and regardless of whether first
34 offender treatment without adjudication of guilt pursuant to the charge was entered, or an
35 adjudication or sentence was otherwise withheld or not entered on the charge, unless and
36 until such plea of guilty, or such decision, judgment, or verdict, shall have been set aside,
37 reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or
38 both probation and sentence of a first offender have been successfully completed and
39 documented, or unless the person convicted of the crime shall have received a pardon
40 therefor from the President of the United States or the ~~governor~~ Governor or other
41 pardoning authority in the jurisdiction where the conviction occurred or shall have received
42 an official certification or pardon granted by the state's pardoning body in the jurisdiction
43 where the conviction occurred. For purposes of this article, a mortgage loan originator

44 shall be deemed to have been convicted of a crime if he or she has pleaded guilty to, been
45 found guilty of, or entered a first offender or nolo contendere plea to a felony in a domestic,
46 foreign, or military court; provided, however, that any pardon of a conviction shall not be
47 a conviction.

48 (i) The department shall be authorized to obtain conviction data with respect to any
49 mortgage loan originator, mortgage broker, or mortgage lender applicant or any person
50 who is a director, officer, partner, ~~agent~~, covered employee, or ultimate equitable owner
51 of 10 percent or more of the mortgage broker or mortgage lender applicant and any
52 individual who directs the affairs of the company or establishes policy. The department
53 may directly submit to the Georgia Crime Information Center two complete sets of
54 fingerprints of such applicant or such person, together with the required records search fees
55 and such other information as may be required. Fees for background checks that the
56 department administers shall be sent to the department by applicants and licensees together
57 with the fingerprints. Mortgage broker and mortgage lender applicants, licensees, and
58 registrants shall have the primary responsibility for obtaining background checks of
59 covered employees which are defined as employees who work in this state and also have
60 the authority to enter, delete, or verify any information on any mortgage loan application
61 form or document. The department shall, however, retain the right to obtain conviction
62 data on covered employees."

63 **SECTION 3.**

64 This Act shall become effective upon its approval by the Governor or upon its becoming law
65 without such approval.

66 **SECTION 4.**

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