

House Bill 1191

By: Representatives Buckner of the 95th, Barnes of the 97th and Dodson of the 94th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance,
2 so as to provide for a short title, legislative intent, and definitions; to create the Office of
3 Lending Compliance; to provide for administrative assignment; to provide for staff and
4 personnel; to provide for duties, rights, and powers; to require and permit certain reports; to
5 authorize the director to request certain investigations and provide for the conduct and results
6 of such investigations; to provide for related matters; to provide an effective date; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is
11 amended by adding at the end of said title a new chapter, to be designated Chapter 9, to read
12 as follows:

13 **"CHAPTER 9**
14 **7-9-1.**

15 (a) This chapter shall be known and may be cited as the 'Lending Compliance Act.'

16 (b) In keeping with this chapter's purpose of assisting, protecting, and restoring the
17 financial security of Georgia's citizens whose well-being is threatened, it is the intent of
18 the General Assembly that the mission of ensuring legal compliance in the lending of funds
19 in this state should have the greatest legislative and executive priority. The General
20 Assembly finds that the activities of lending institutions and the offering of financing have
21 a direct and immediate impact upon the housing industry, neighborhoods and communities,
22 homeowners and potential homeowners, and consumers of this state. The General
23 Assembly further finds that it is essential for the protection of the citizens of this state and
24 the stability of the state's economy to create the Office of Lending Compliance to provide

1 citizens with an avenue through which to seek information and relief from loans made in
2 violation of federal or state law.

3 7-9-2.

4 As used in this chapter, the term:

5 (1) 'Consumer' means one or more individuals who obtain or seek to obtain a loan,
6 including an applicant or applicants for a loan.

7 (2) 'Director' means the head of the Office of Lending Compliance established under
8 Code Section 7-9-3.

9 (3) 'Lending institution' or 'lender' means any individual, copartnership, association,
10 corporation, and any other legal and commercial entity providing loans.

11 (4) 'Loan' means any advance of money under a contract requiring repayment and any
12 and all renewals or refinancing thereof or any part thereof.

13 7-9-3.

14 (a) There is created the Office of Lending Compliance. The Governor, by executive order,
15 shall create a nominating committee which shall consider nominees for the position of the
16 director and shall make a recommendation to the Governor. Such person shall have
17 knowledge of the banking industry, lending institutions, and loan procedures and shall be
18 qualified by training and experience to perform the duties of the office as set forth in this
19 chapter.

20 (b) The director shall be appointed by the Governor from a list of at least three names
21 submitted by the nominating committee for a term of three years and until his or her
22 successor is appointed and qualified and may be reappointed. The salary of the director
23 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come
24 from funds appropriated for the purposes of the director.

25 (c) The Office of Lending Compliance shall be assigned to the Office of Planning and
26 Budget for administrative purposes only, as described in Code Section 50-4-3.

27 (d) The director may appoint such staff as may be deemed necessary to effectively fulfill
28 the purposes of this chapter, within the limitations of the funds available for the purposes
29 of the director. The duties of the staff may include the duties and powers of the director if
30 performed under the supervision of the director. The director and his or her staff shall
31 receive such reimbursement for travel and other expenses as is normally allowed to state
32 employees, from funds appropriated for the purposes of the director.

33 (e) The director shall have the authority to contract with experts in fields including but not
34 limited to finance, banking, and mortgage lending, as needed to support the work of the
35 director, utilizing funds appropriated for the purposes of the director.

1 (f) Notwithstanding any other provision of state law, the director shall act independently
2 of any state official, department, or agency in the performance of his or her duties.

3 7-9-4.

4 The director shall perform the following duties:

5 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made
6 by or on behalf of a consumer concerning any act, omission to act, practice, policy, or
7 procedure of a lending institution or agent thereof;

8 (2) Refer complaints involving loans made in violation of state or federal law to
9 appropriate regulatory and law enforcement agencies;

10 (3) Provide information on lending practices within the state informing consumers of
11 the applicable laws regarding loans and lending institutions and the legal and regulatory
12 remedies available to the consumer;

13 (4) Provide periodic reports on the work of the Office of Lending Compliance, including
14 but not limited to an annual written report for the Governor and the General Assembly
15 and other persons, agencies, and organizations deemed appropriate. Such reports shall
16 include recommendations for changes in policies and procedures to improve lender
17 compliance in the lending of funds in this state and shall be made expeditiously in order
18 to timely influence public policy;

19 (5) Establish policies and procedures necessary for the Office of Lending Compliance
20 to accomplish the purposes of this chapter including without limitation providing
21 consumers within the state a form of notice of availability of the Office of Lending
22 Compliance which shall include information describing the Office of Lending
23 Compliance and procedures for contacting that office; and

24 (6) Convene quarterly meetings with organizations, agencies, and individuals who work
25 in the area of financial lending to seek opportunities to collaborate and improve the status
26 of the housing industry, neighborhoods and communities, homeowners and potential
27 homeowners, and consumers in the state.

28 7-9-5.

29 The director shall have the following rights and powers:

30 (1) To communicate privately, by mail or orally, with any consumer or lending
31 institution;

32 (2) To conduct investigations of complaints by consumers regarding an illegal loan in
33 violation of state or federal law;

34 (3) To advise consumers of illegal lending practices and assist such consumers in
35 undertaking to seek legal or regulatory remedies;

1 (4) To apply for and accept grants, gifts, and bequests of funds from other states, federal
2 and interstate agencies, independent authorities, private firms, individuals, and
3 foundations for the purpose of carrying out the lawful responsibilities of the Office of
4 Lending Compliance;

5 (5) To engage in programs of public education and consumer advocacy with state
6 regulatory agencies concerning consumer interests and protection within the state; and

7 (6) To prepare and provide reports, studies, and data to regulatory agencies within the
8 state responsible for overseeing the protection of consumers within the state.

9 7-9-6.

10 (a) No person shall discriminate or retaliate in any manner against any consumer or any
11 other person because of the making of a complaint or providing of information in good
12 faith to the director or willfully interfere with the director in the performance of his or her
13 official duties.

14 (b) Any person violating subsection (a) of this Code section shall be guilty of a
15 misdemeanor.

16 7-9-7.

17 The director shall be authorized to request an investigation by the Georgia Bureau of
18 Investigation of any complaint of criminal misconduct involving loan activities in violation
19 of state or federal law."

20

21 **SECTION 2.**

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

24 **SECTION 3.**

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