

House Bill 359

By: Representative Scott of the 165th

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 brokers and mortgage lenders, so as to prohibit the charging
3 of interest and fees by a mortgage lender during the period after a request by an insurance
4 company for documentation relating to an insurance claim until such documentation is
5 provided by the mortgage lender; to provide for related matters; to repeal conflicting laws;
6 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 brokers and mortgage lenders, is amended by striking Code Section
11 7-1-1013, relating to prohibition of certain acts, and inserting in lieu thereof a new Code
12 section to read as follows:

13 "7-1-1013.

14 It is prohibited for any person transacting a mortgage business in or from this state,
15 including any person required to be licensed or registered under this article and any person
16 exempted from the licensing or registration requirements of this article under Code Section
17 7-1-1001, to:

18 (1) Misrepresent the material facts or make false statements or promises likely to
19 influence, persuade, or induce an applicant for a mortgage loan, a mortgagee, or a
20 mortgagor to take a mortgage loan, or pursue a course of misrepresentation to the
21 department or anyone through agents or otherwise;

22 (2) Misrepresent or conceal or cause another to misrepresent or conceal material factors,
23 terms, or conditions of a transaction to which a mortgage lender or broker is a party,
24 pertinent to an applicant or application for a mortgage loan or a mortgagor;

25 (3) Fail to disburse funds in accordance with a written commitment or agreement to
26 make a mortgage loan;

- 1 (4) Improperly refuse to issue a satisfaction of a mortgage loan;
- 2 (5) Fail to account for or deliver to any person any personal property obtained in
3 connection with a mortgage loan such as money, funds, deposit, check, draft, mortgage,
4 or other document or thing of value which has come into the possession of the mortgage
5 lender or broker and which is not the property of the mortgage lender or broker, or which
6 the mortgage lender or broker is not in law or at equity entitled to retain;
- 7 (6) Engage in any transaction, practice, or course of business which is not in good faith
8 or fair dealing, or which operates a fraud upon any person, in connection with the
9 attempted or actual making of, purchase of, or sale of any mortgage loan;
- 10 (7) Engage in any fraudulent home mortgage underwriting practices;
- 11 (8) Induce, require, or otherwise permit the applicant for a mortgage loan or mortgagor
12 to sign a security deed, note, loan application, or other pertinent financial disclosure
13 documents with any blank spaces to be filled in after it has been signed, except blank
14 spaces relating to recording or other incidental information not available at the time of
15 signing;
- 16 (9) Make, directly or indirectly, any residential mortgage loan with the intent to foreclose
17 on the borrower's property. For purposes of this paragraph, there is a presumption that
18 a person has made a residential mortgage loan with the intent to foreclose on the
19 borrower's property if the following circumstances can be demonstrated:
- 20 (A) Lack of substantial benefit to the borrower;
- 21 (B) Lack of probability of full payment of the loan by the borrower; and
- 22 (C) A significant proportion of similarly foreclosed loans by such person;
- 23 (10) Provide an extension of credit or collect a mortgage debt by extortionate means; ~~or~~
- 24 (11) Charge interest or fees to the mortgagor during the period beginning 14 days after
25 a request by an insurer for documentation relating to an insurance claim for loss or
26 damage to a residence or mobile home until such documentation is provided by the
27 mortgage lender to the insurer; or
- 28 (12) Purposely withhold, delete, destroy, or alter information requested by an examiner
29 of the department or make false statements or material misrepresentations to the
30 department during the course of an examination or on any application or renewal form
31 sent to the department."

32 SECTION 2.

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