

House Bill 701 (COMMITTEE SUBSTITUTE)

By: Representatives Stokes of the 92nd, Martin of the 47th, Dix of the 76th, Ragas of the 64th and Sims of the 167th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia
2 Annotated, known as the "Fair Business Practices Act of 1975," so as to change the definition
3 of a career consulting firm; to clarify the administrator's authority to issue orders; to allow
4 the administrator to take certain action in federal courts and administrative agencies; to
5 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
10 known as the "Fair Business Practices Act of 1975," is amended by striking in its entirety
11 paragraph (1.3) of subsection (a) of Code Section 10-1-392, relating to definitions, and
12 inserting in its place a new paragraph (1.3) to read as follows:

13 "(1.3) 'Career consulting firm' means any person providing services to an individual in
14 conjunction with a career search and consulting program for the individual, including, but
15 not limited to, counseling as to the individual's career potential, counseling as to
16 interview techniques, and the identification of prospective employers. A 'career
17 consulting firm' ~~does~~ shall not guarantee actual job placement as one of its services. A
18 'career consulting firm' shall not include any person who provides these services without
19 charging a fee to applicants for those services or any employment agent or agency
20 regulated under Chapter 10 of Title 34."

21 **SECTION 2.**

22 Said part is further amended by striking subsection (a) of Code Section 10-1-397, relating
23 to the administrator's authority, in its entirety and inserting in lieu thereof a new subsection
24 (a) to read as follows:

1 "(a) Whenever it may appear to the administrator that any person is using, has used, or is
 2 about to use any method, act, or practice declared by Code Section 10-1-393, 10-1-393.1,
 3 10-1-393.2, 10-1-393.3, or 10-1-393.4, 10-1-393.5, or 10-1-393.6 or by regulations made
 4 under Code Section 10-1-394 to be unlawful and that proceedings would be in the public
 5 interest, whether or not any person has actually been misled, he or she may:

6 (1) Subject to notice and opportunity for hearing in accordance with Code Section
 7 10-1-398, unless the right to notice is waived by the person against whom the sanction
 8 is imposed, take any or all of the following actions:

9 (A) Issue a cease and desist order prohibiting any unfair or deceptive act or practice
 10 against any person; or

11 (B) Issue an order against a person who willfully violates this part, imposing a civil
 12 penalty up to a maximum of \$2,000.00 per violation; or

13 (2) Without regard as to whether the administrator has issued any orders under this Code
 14 section, upon ~~Upon~~ a showing by the administrator in any superior court of competent
 15 jurisdiction that a person has violated or is about to violate this part, a rule promulgated
 16 under this part, or an order of the administrator, the court may enter or grant any or all of
 17 the following relief:

18 (A) A temporary restraining order or temporary or permanent injunction;

19 (B) A civil penalty up to a maximum of \$5,000.00 per violation of this part;

20 (C) A declaratory judgment;

21 (D) Restitution to any person or persons adversely affected by a defendant's actions
 22 in violation of this part;

23 (E) The appointment of a receiver, auditor, or conservator for the defendant or the
 24 defendant's assets; or

25 (F) Other relief as the court deems just and equitable."

26 SECTION 3.

27 Said part is further amended by adding a new Code Section 10-1-397.1 to follow Code
 28 Section 10-1-397, relating to the administrator's authority, to read as follows:

29 "10-1-397.1.

30 The administrator is authorized to initiate or intervene as a matter of right or otherwise
 31 appear in any federal court or administrative agency to implement the provisions of this
 32 article."

33 SECTION 4.

34 This Act shall become effective on July 1, 2001.

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SECTION 5.

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