

Senate Bill 53

By: Senators Cheeks of the 23rd, Starr of the 44th and Crotts of the 17th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6A of Title 7 of the Official Code of Georgia Annotated, the "Georgia  
2 Fair Lending Act," so as to provide for exclusions to the definition of creditor; to exclude  
3 certain fees from the definition of points and fees; to provide for liability of creditors for  
4 violations of the Act; to provide for violations of the Act by brokers; to provide for related  
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6A of Title 7 of the Official Code of Georgia Annotated, the "Georgia Fair Lending  
9 Act," is amended by striking paragraph (7) of Code Section 7-6A-2, relating to definitions,  
10 and inserting in its place the following:

11 "(7) 'Creditor' means a person who extends consumer credit that is subject to a finance  
12 charge or is payable by written agreement in more than four installments ~~or a person who~~  
13 ~~purchases or is assigned a home loan.~~ Creditor shall also mean any person brokering a  
14 home loan, which shall include any person who directly or indirectly solicits, processes,  
15 places, or negotiates home loans for others or offers to solicit, process, place, or negotiate  
16 home loans for others or who closes home loans which may be in the person's own name  
17 with funds provided by others and which loans are thereafter assigned to the person  
18 providing the funding of such loans, provided that creditor shall not include a person who  
19 is an attorney providing legal services in association with the closing of a home loan. A  
20 creditor shall not include: (A) a servicer; (B) an assignee; (C) a purchaser; or (D) any  
21 state or local housing finance agency or any other state or local governmental or  
22 quasi-governmental entity."

23 **SECTION 2.**

24 Said chapter is further amended by striking subparagraph (G) of paragraph (13) of Code  
25 Section 7-6A-2, relating to definitions, and inserting in its place the following:



1 assert a violation of this chapter against any creditor ~~or servicer~~ by way of offset in an  
2 original action, as a claim to enjoin foreclosure, as a defense or counterclaim to an action  
3 to collect amounts owed, or to preserve or obtain possession of the home secured by the  
4 home loan.

5 (d) It shall be a violation of this chapter for any person to attempt in bad faith to avoid the  
6 application of this chapter by dividing any loan transaction into separate parts or structuring  
7 a home loan transaction as an open-end loan for the purpose of evading the provisions of  
8 this chapter when the loan would have been a high-cost home loan if the loan had been  
9 structured as a closed-end loan or engaging in any other subterfuge with the intent of  
10 evading any provision of this chapter."

11 **SECTION 4.**

12 Said chapter is further amended by striking subsection (f) of Code Section 7-6A-7, relating  
13 to violation of chapter, and inserting in its place the following:

14 "(f) The brokering of a home loan by a broker registered or licensed or required to be  
15 registered or licensed as a broker under the laws of this state or any other jurisdiction that  
16 violates the provisions of this chapter shall constitute a violation of such provisions."

17 **SECTION 5.**

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