

Senate Bill 405

By: Senators Cheeks of the 23rd and Stephens of the 51st

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
 2 financial institutions, so as to provide for financial institutions to offer financial services to
 3 customers consistent with procedures of the Department of Banking and Finance; to
 4 authorize the department to enter into agreements with other regulatory authorities; to
 5 authorize banks to lease real or personal property; to authorize loan officers to serve as credit
 6 committees; to prohibit licensing of certain persons convicted of certain crimes; to increase
 7 the record-keeping time requirement; to change a certain definition; to require financial
 8 institutions and money service businesses to comply with federal law; to establish
 9 requirements for regulation for mortgage lenders and brokers; to provide for related matters;
 10 to repeal conflicting laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial
 14 institutions, is amended by striking subsection (a) of Code Section 7-1-72, relating to
 15 regulation of persons performing financial services for financial institutions, and inserting
 16 in its place the following:

17 "(a) Notwithstanding other provisions of law and consistent with the objectives of this
 18 chapter as set forth in Code Section 7-1-3 and subject to the ~~prior approval~~ procedures
 19 provided in regulations of the department, a financial institution may provide financial
 20 services to its customers either directly or through employment of duly licensed persons
 21 provided such financial institution or its licensed employee or agent has qualified under
 22 other laws otherwise applicable to other providers of such financial services."

23 **SECTION 2.**

24 Said chapter is further amended by striking subsection (a) of Code Section 7-1-78, relating
 25 to cooperative or reciprocal agreements with other state or federal regulatory authorities, and
 26 inserting in its place the following:

1 (4) Members may appeal a credit decision made by a loan officer to the credit committee
 2 or to the board if denied by the credit committee. Where there is no credit committee,
 3 appeal shall be made to the board."

4 "(f) Approval of loans by ~~either the credit committee or an authorized employee~~ shall be
 5 evidenced, prior to disbursement of the loan proceeds, by a writing signed by a committee
 6 member ~~or an authorized employee~~ stating that the committee ~~or an authorized employee~~
 7 has approved the loan. If the board appoints loan officers in lieu of a credit committee, it
 8 shall establish policies for approval of loans by those loan officers."

9 SECTION 6.

10 Said chapter is further amended by striking subsection (c) of Code Section 7-1-682, relating
 11 to qualifications of applicants for licenses to sell checks or money orders, investments
 12 required, and obtaining conviction data concerning the applicants, and inserting in its place
 13 the following:

14 "(c) The department shall not issue such license if it finds that the applicant or any person
 15 who is a director, officer, partner, agent, employee, or substantial stockholder of the
 16 applicant has been convicted of a felony involving moral turpitude in any jurisdiction or
 17 of a crime, which if committed within this state would constitute a felony involving moral
 18 turpitude under the laws of this state. For the purposes of this article, a person shall be
 19 deemed to have been convicted of a crime if such person shall have pleaded guilty to a
 20 charge thereof before a court or federal magistrate or shall have been found guilty thereof
 21 by the decision or judgment of a court or federal magistrate or by the verdict of a jury,
 22 irrespective of the pronouncement of sentence or the suspension thereof, unless such plea
 23 of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or
 24 otherwise abrogated by lawful judicial process and regardless of whether first offender
 25 treatment without adjudication of guilt pursuant to the charge was entered, unless and until
 26 such plea of guilty or such decision, judgment, or verdict shall have been set aside,
 27 reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or
 28 both probation and sentence of a first offender have been successfully completed and
 29 documented or unless the person convicted of the crime shall have received a pardon
 30 therefor from the President of the United States or the governor or other pardoning
 31 authority in the jurisdiction where the conviction was had, or shall have received a
 32 ~~certificate of good conduct~~ an official certification or pardon granted by the State Board
 33 of Pardons and Paroles ~~pursuant to the provisions of the executive law to remove the~~
 34 ~~disability under this article because of such conviction~~ which removes the legal disabilities
 35 resulting from such conviction and restores civil and political rights in this state. The term
 36 'substantial stockholder' as used in this subsection shall be deemed to refer to a person

1 owning or controlling 10 percent or more of the total outstanding stock of the corporation
2 in which such person is a stockholder."

3 **SECTION 7.**

4 Said chapter is further amended by striking the introductory language of subsection (a) of
5 Code Section 7-1-687.1, relating to maintenance and retention of books, accounts, and other
6 records, and inserting in its place the following:

7 "(a) Each licensee shall make, keep, and reserve the following books, accounts, and other
8 records for a period of ~~three~~ five years."

9 **SECTION 8.**

10 Said chapter is further amended by striking subsection (b) of Code Section 7-1-702, relating
11 to background investigations of applicants for licenses to cash checks, drafts, or money
12 orders, effect of past convictions, conviction data, license posting requirements, and term of
13 licenses, and inserting in its place the following:

14 "(b) The department shall not issue such a license if it finds that the applicant, or any
15 person who is a director, officer, partner, agent, employee, or substantial stockholder of the
16 applicant, has been convicted of a felony involving moral turpitude in any jurisdiction or
17 of a crime which, if committed within this state, would constitute a felony involving moral
18 turpitude under the laws of this state. For the purposes of this article, a person shall be
19 deemed to have been convicted of a crime if such person shall have pleaded guilty to a
20 charge thereof before a court or federal magistrate; or shall have been found guilty thereof
21 by the decision or judgment of a court or federal magistrate or by the verdict of a jury,
22 irrespective of the pronouncement of sentence or the suspension thereof, unless such plea
23 of guilty; or such decision, judgment, or verdict; shall have been set aside, reversed, or
24 otherwise abrogated by lawful judicial process and regardless of whether first offender
25 treatment without adjudication of guilt pursuant to the charge was entered, unless and until
26 such plea of guilty or such decision, judgment, or verdict shall have been set aside,
27 reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or
28 both probation and sentence of a first offender have been successfully completed and
29 documented or unless the person convicted of the crime shall have received a pardon
30 therefor from the President of the United States or the governor or other pardoning
31 authority in the jurisdiction where the conviction was had, or shall have received a
32 ~~certificate of good conduct~~ an official certification or pardon granted by the State Board
33 of Pardons and Paroles ~~pursuant to the provisions of the executive law to remove the~~
34 ~~disability under this article because of such conviction~~ which removes the legal disabilities
35 resulting from such conviction and restores civil and political rights in this state. The term

1 'substantial stockholder' as used in this subsection shall be deemed to refer to a person
 2 owning or controlling 10 percent or more of the total outstanding stock of the corporation
 3 in which such person is a stockholder."

4 SECTION 9.

5 Said chapter is further amended by striking subparagraph (F) of paragraph (6) of Code
 6 Section 7-1-911, relating to definitions relative to records and reports of currency
 7 transactions, and inserting in its place the following:

8 "(F) A licensee under Article 4 or Article 4A of this chapter and such other persons as
 9 may be engaged in the business of:

10 (i) Cashing checks for a fee; or

11 (ii) Performing transactions by wire or other electronic means to facilitate the
 12 movement or transfer of money."

13 SECTION 10.

14 Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section
 15 7-1-912, relating to records and reports of certain currency transactions, regulations
 16 governing currency transactions, commissioner's authority to examine or investigate under
 17 Code Section 7-1-64, prohibited acts, and definitions, and inserting in its place the
 18 following:

19 "~~(a)(1) Every financial institution shall keep a record of currency transactions in excess~~
 20 ~~of \$10,000.00 and shall comply with federal law as to their filing. Financial institutions~~
 21 ~~and other money service businesses are required by state law to comply with the filing,~~
 22 ~~reporting, and record-keeping requirements provided for in federal law.~~ The department
 23 may promulgate regulations that specify additional requirements for currency transaction
 24 reports, record keeping, and suspicious activity reports."

25 SECTION 11.

26 Said chapter is further amended by striking subsection (a) of Code Section 7-1-1003.2,
 27 relating to financial requirements for licensing and registration of mortgage lenders and
 28 mortgage brokers, and inserting in its place the following:

29 "(a) Each licensed mortgage broker must provide the department with a bond. The bond
 30 for a mortgage broker shall be in the principal sum of \$50,000.00 or such greater sum as
 31 the department may require and the bond shall meet the other requirements of subparagraph
 32 (c)(2)(B) of this Code section. In lieu of a bond, a mortgage broker may: provide the
 33 department with evidence from the United States Department of Housing and Urban
 34 Development that the broker is a loan correspondent under Title I, Title II, or Title I and

1 Title II for each year the broker is licensed by the department. The bond and the United
 2 States Department of Housing and Urban Development requirements are continuous in
 3 nature.

4 ~~(1) Provide the department with an audited financial statement that discloses that the~~
 5 ~~broker has a bona fide and verifiable tangible net worth of \$100,000.00; or~~

6 ~~(2) Provide the department with evidence from the United States Department of Housing~~
 7 ~~and Urban Development that the broker is a loan correspondent under Title I, Title II, or~~
 8 ~~Title I and Title II for each year the broker is licensed by the department. Such~~
 9 ~~requirement shall be continuous in nature."~~

10 SECTION 12.

11 Said chapter is further amended by striking Code Section 7-1-1003.3, relating to application
 12 for registration as a mortgage lender or mortgage broker, and inserting in its place the
 13 following:

14 "7-1-1003.3.

15 ~~(a)~~ An application to register as a mortgage lender or broker under this article shall be
 16 made annually in writing, under oath, on a form provided by the department, subject to
 17 requirements specified by rules and regulations of the department ~~and shall be renewed~~
 18 ~~each year by April 1.~~

19 ~~(b) The application shall include all of the items requested of applicants for licenses in~~
 20 ~~Code Section 7-1-1003."~~

21 SECTION 13.

22 Said chapter is further amended by striking subsection (i) of Code Section 7-1-1004, relating
 23 to the investigation of applicants for mortgage lender or mortgage broker licenses, and
 24 inserting in its place the following:

25 "(i) The department may not issue a license to and may revoke a license from an applicant
 26 or licensee if such person employs any other person against whom a final cease and desist
 27 order has been issued within the preceding three years, if such order was based on a
 28 violation of Code Section 7-1-1013 or based on the conducting of a mortgage business
 29 without a required license, or whose license has been revoked within three years of the date
 30 such person was hired. Each applicant and licensee shall, before hiring an employee,
 31 examine the department's public records to determine that such employee is not subject to
 32 the type of cease and desist order described in this subsection."

