

The Senate Banking and Financial Institutions Committee offered the following substitute to SB 82:

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 supplement definitions relating to financial institutions; to
3 define time parameters for meeting notices; to implement personnel policies; to promulgate
4 regulations promoting parity with federal financial institutions; to prohibit certain persons
5 from participating in financial institutions; to enumerate the department's powers as a
6 receiver; to allow Georgia and federal courts access to financial information; to lengthen the
7 time for closure of stock transfer books; to protect the shareholders during bank conversions,
8 mergers, and consolidations; to enumerate filings required to form a credit union; to require
9 notice to the department when articles are amended; to provide procedures for out-of-state
10 credit unions; to enumerate the powers of credit unions; to provide for expulsion of members;
11 to provide for dividends and interest payments; to provide for subsidiaries; to provide for
12 mergers of credit unions; to provide for conversion of credit unions; to update the powers of
13 central credit unions; to authorize third-party payment services; to update the financial
14 requirements for licensure of mortgage brokers; to update licensure requirements for
15 mortgage brokers; to provide for related matters; to provide an effective date; to repeal
16 conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

18 Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial
19 institutions, is amended by striking paragraph (32) in Code Section 7-1-4, relating to
20 definitions regarding financial institutions, and inserting a new paragraph (31.1) to read as
21 follows:
22

23 "(31.1) 'Savings bank' means a state chartered bank that has powers no greater than a
24 state bank as provided in this chapter but that may lend and invest in commercial loans
25 in an aggregate amount that does not exceed 50 percent of its total assets. Such bank may
26 elect, subject to department approval, or the department may require, that the savings

1 bank comply with selected provisions of the Home Owners' Loan Act of 1933 that in the
 2 judgment and discretion of the department would be consistent with the charter and
 3 purpose of the bank. For the purposes of this paragraph, the term 'commercial loan'
 4 means a loan for business, commercial, corporate, or agricultural purposes.

5 (32) ~~'Savings bank'~~ or ~~'state~~ State savings and loan association' means a bank which pays
 6 interest on substantially all of its depositors' funds and the majority of whose loans are
 7 secured by first liens on or other security interest in residential real property or upon the
 8 security of its deposits."

9 SECTION 2.

10 Said chapter is further amended by striking paragraph (1) of Code Section 7-1-6, relating to
 11 notice requirements, and inserting in its place the following:

12 "(1) Any notice required to be given under this chapter may be delivered in person by
 13 first-class mail, or by telegram, charges prepaid, to the last known address of the person
 14 or corporation or to the registered office of the corporation. If the notice is sent by mail
 15 or by telegram, it shall be deemed to have been given when deposited in the United
 16 States mail or with a telegraph office. If such notice is of a meeting, it shall specify the
 17 place, day, and hour of the meeting. Notice of a meeting of shareholders shall be given
 18 not less than ten nor more than ~~50~~ 60 days before the meeting. Notice of a special
 19 meeting shall specify the general nature of the business to be transacted."

20 SECTION 3.

21 Said chapter is further amended by striking subsection (a) of Code Section 7-1-35, relating
 22 to appointment of a senior deputy commissioner and other personnel, and inserting in its
 23 place the following:

24 "(a) The commissioner shall appoint from time to time, with the right to discharge at will,
 25 a senior deputy commissioner of banking and finance. The commissioner may appoint
 26 additional deputy commissioners as needed. All deputy commissioners shall also be ex
 27 officio examiners. The commissioner may appoint such additional examiners and
 28 assistants as he or she may need to discharge in a proper manner the duties imposed upon
 29 the commissioner by law, subject to any applicable state laws or rules ~~and or~~ regulations
 30 ~~of the state merit system~~ and within the limitations of the appropriation to the department
 31 as prescribed in this chapter. ~~Each deputy commissioner and not more than ten additional~~
 32 ~~persons designated by the commissioner shall be in the unclassified service. Further, all~~
 33 ~~persons in the positions of assistant deputy commissioner, supervisory examiner, and senior~~
 34 ~~financial examiner shall be in the unclassified service. All persons in the positions of~~
 35 ~~district director, assistant deputy commissioner, supervisory examiner, and senior financial~~

1 ~~examiner shall have had at least five years of experience as an examiner in a federal or state~~
 2 ~~agency supervising financial institutions. All other personnel of the department including~~
 3 ~~assistant financial examiners and financial examiners shall be governed by such rules of~~
 4 ~~position, classification, appointment, promotion, demotion, transfer, dismissal,~~
 5 ~~qualification, compensation, seniority privileges, tenure, and other employment standards~~
 6 ~~of the state merit system. As used in this Code section, the term 'state merit system' shall~~
 7 ~~mean that system established pursuant to Article 1 of Chapter 20 of Title 45. Hiring,~~
 8 ~~promotion, and other personnel policies of the department shall be consistent with~~
 9 ~~guidelines or directives of the state, shall be in writing, and shall be made available upon~~
 10 ~~request to employees of the department.~~"

11 SECTION 4.

12 Said chapter is further amended by striking paragraph (2) of subsection (b) and subsections
 13 (c), (d), and (e) of Code Section 7-1-61, relating to promulgation of rules and regulations by
 14 the department, and inserting in their place the following:

15 "(2) The authority of ~~national banks~~ any federally chartered bank, as the term 'bank' is
 16 defined in Code Section 7-1-621, operating pursuant to federal law, regulation, or
 17 authoritative pronouncement;"

18 "~~(d)~~(c) Rules and regulations promulgated by the department may provide for controls,
 19 registration, or restrictions reasonably necessary to:

20 (1) Prevent unfair or deceptive business practices which are prohibited under Code
 21 Section 10-1-393;

22 (2) Prevent deceptive or misleading business practices by financial services providers
 23 which may occur by way of alternate delivery systems for the provision of financial
 24 products and services such as the Internet or other telecommunication capabilities; or

25 (3) Prevent or control unfair or deceptive business practices which would operate to the
 26 detriment of any competing business or enterprise or to persons utilizing the services of
 27 any financial institution, its subsidiary, or affiliate.

28 ~~(e)~~(d) All rules and regulations shall be promulgated in accordance with Chapter 13 of
 29 Title 50, the 'Georgia Administrative Procedure Act,' including the requirements for
 30 hearing as stated in that chapter. Regulations issued under this or other provisions of this
 31 chapter may make appropriate distinctions between types of financial institutions and may
 32 be amended, modified, or repealed from time to time.

33 ~~(c)~~(e) ~~In the further exercise of the discretion permitted by this Code section and to~~ To
 34 provide parity with other federally insured financial institutions, the commissioner may,
 35 by specific order directed to an individual financial institution or category of financial

1 institutions, modify or amend the following qualifying or limiting requirements imposed
2 on financial institutions by this chapter:

- 3 (1) Collateral requirements and limits on the amount of obligations owing to it from any
4 one person or corporation;
- 5 (2) Loan to value or other limitations in ~~real-estate~~ lending;
- 6 (3) Limitations on the amount of investments in stock or other capital securities of a
7 corporation or other entity; ~~and~~
- 8 (4) Limitations on the amount of bank acceptances to be issued; and
- 9 (5) If Georgia law has been determined to be federally preempted, other limitations or
10 restrictions on financial institutions contained in this chapter.

11 No such order will be issued unless the commissioner determines that such activity will not
12 present undue safety and soundness risks to the financial institution or institutions involved.
13 In making such a determination, the commissioner shall consider the financial condition
14 and regulatory safety and soundness ratings of the institution or institutions affected and
15 the ability of management to administer and supervise the activity. Any such order
16 pursuant to this subsection will be available for public review."

17 SECTION 5.

18 Said chapter is further amended by striking Code Section 7-1-71, relating to removal of
19 officers, directors, and employees of financial institutions, and inserting in its place the
20 following:

21 "7-1-71.

22 (a) The department, by order of the commissioner, shall have the right to require the
23 immediate suspension from office of any director, officer, or employee of any financial
24 institution ~~who shall be found by it~~ and to prohibit any such person's participation in the
25 affairs of any financial institution if the department finds such person:

- 26 (1) To be dishonest, incompetent, or reckless in the management of the affairs of the
27 financial institution;
- 28 (2) To have persistently violated the laws of this state;
- 29 (3) To have violated the lawful orders, regulations, or conditions of a written agreement
30 of or with the department;
- 31 (4) To have been indicted for any crime involving moral turpitude or breach of trust;
- 32 (5) To have evidenced an inability to conduct his or her own financial affairs or the
33 affairs of a company in which such individual owns a majority interest or has
34 responsibility for financial matters, in a fiscally responsible, diligent, or lawful fashion;
- 35 or

1 (6) To have engaged in any unsafe or unsound practice in connection with any insured
 2 depository institution or to have demonstrated willful or continuing disregard for the
 3 safety and soundness of a financial institution.

4 (b) A prohibition order, which prohibits an individual from participating in any capacity
 5 in the affairs of a financial institution, may be issued by the commissioner in connection
 6 with a suspension order issued under the authority of this Code section. Such prohibition
 7 order may provide that if an officer, director, or employee has been removed from office
 8 temporarily or permanently at a financial institution, he or she may also be prohibited from
 9 participating in any manner in the conduct of the affairs of any financial institution during
 10 the time the prohibition order is in effect.

11 ~~(b)~~(c) The department shall serve written notice upon the party of its determination to
 12 suspend such person from office or prohibit such person from participating in the affairs
 13 of a financial institution pursuant to ~~subsection (a)~~ subsections (a) and (b) of this Code
 14 section. ~~The~~ A suspension order or a prohibition order shall be effective upon such service
 15 and shall specify whether the suspension is temporary, the duration and terms of the
 16 suspension if temporary, or if it is permanent. The prohibition order shall be consistent in
 17 duration with the suspension order.

18 ~~(c)~~(d) Any person suspended or prohibited under this Code section may request his or her
 19 reinstatement in writing delivered to the department within ten days of his or her
 20 suspension or prohibition. If such reinstatement is not requested, the director, officer, or
 21 employee shall be considered permanently removed and, if so ordered, permanently
 22 prohibited from participation in the affairs of any financial institution.

23 ~~(d)~~(e) Upon request for reinstatement, the department shall conduct an internal review of
 24 the matter during which such person has the opportunity to state his or her case to the
 25 commissioner. The department shall deliver the findings of the hearing to such person.
 26 If the person requests further review, the department may refer the matter to the state
 27 agency for administrative hearings under Chapter 13 of Title 50, the 'Georgia
 28 Administrative Procedure Act,' where a nonpublic hearing shall be held to review the
 29 department's decision. The final decision of the department shall be conclusive, except as
 30 it may be subject to judicial review under Code Section 7-1-90.

31 (f) Any order issued pursuant to this Code section shall also be delivered to the financial
 32 institution with which the party was associated at the time such order was issued."

33 SECTION 6.

34 Said chapter is further amended by striking subsection (c) of Code Section 7-1-151, relating
 35 to appointment of the department as a receiver, and inserting in its place the following:

1 procedure in conjunction with an ongoing civil action in a Georgia state or federal court
 2 of competent jurisdiction;"

3 "(c) Each customer or depositor to whom notice of an order, subpoena, or request for
 4 disclosure, examination, or production of records was lawfully given may, prior to the date
 5 specified therein for disclosure, examination, or production, file in the court issuing an
 6 order or subpoena for the records or in the Georgia or federal court where the civil matter
 7 is being heard or, in the absence of such a court, in the superior court of the county in
 8 which the financial institution is located a motion to quash the order, subpoena, or request
 9 or for a protective order and shall serve such motion on the party requesting disclosure and
 10 the financial institution as may be otherwise provided by law for similar motions. Failure
 11 to file and serve such motion to quash or for protection shall constitute consent for all
 12 purposes to disclosure, production, or examination made pursuant to this Code section."

13 SECTION 9.

14 Said chapter is further amended by striking subsections (a) and (b) of Code Section 7-1-433,
 15 relating to the closure of stock transfer books, and inserting in their place the following:

16 "(a) For the purpose of determining shareholders entitled to notice of or to vote at any
 17 meeting of shareholders or any adjournment thereof, or entitled to receive payment of any
 18 dividend, or in order to make a determination of shareholders for any other proper purpose,
 19 the board of directors of a bank or trust company may provide that the stock transfer books
 20 shall be closed for a stated period not to exceed, in any case, ~~50~~ 70 days. If the stock
 21 transfer books shall be closed for the purpose of determining shareholders entitled to notice
 22 of or to vote at a meeting of shareholders, such books shall be closed for at least ten days
 23 immediately preceding such meeting.

24 (b) In lieu of closing the stock transfer books, the bylaws or, in the absence of an
 25 applicable bylaw, the board of directors may fix in advance a date as the record date for
 26 any such determination of shareholders, such date in any case to be not more than ~~50~~ 70
 27 days and, in case of a meeting of shareholders, not less than ten days prior to the date on
 28 which the particular action requiring such determination of shareholders is to be taken."

29 SECTION 10.

30 Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section
 31 7-1-550, relating to conversions and mergers of state and national banks, and inserting in its
 32 place the following:

33 "(1) Compliance with the applicable laws of the United States, including any provisions
 34 thereof relating to approval of said conversion, merger, or consolidation by the
 35 shareholders and directors of the national bank and to dissenting rights of shareholders

1 in such national bank, and compliance with any other requirements prescribed by the
 2 department to protect the shareholders or members or the safety and soundness of the
 3 institution;".

4 SECTION 11.

5 Said chapter is further amended by inserting new subsections (d) through (g) into Code
 6 Section 7-1-630, relating to organization of credit unions, to read as follows:

7 "(d) The subscriber shall file with the department a certificate of the Secretary of State
 8 attesting that the name of the proposed credit union has been reserved as authorized by
 9 Code Section 7-1-131.

10 (e) The subscriber shall file with the department two copies of proposed bylaws setting
 11 forth the following:

12 (1) The date of the annual meeting, the manner of conducting the same, the number of
 13 members constituting a quorum and regulations as to voting, and the manner of
 14 notification of the meeting, which shall comply with Code Section 7-1-6, except that, if
 15 the credit union maintains an office and the board of directors so determines, notice of
 16 the annual meeting or of any special meeting may be given by posting such notice in a
 17 conspicuous place in the office of the credit union at least ten days prior to such meeting;

18 (2) The number of directors, which must be not less than five, all of whom must be
 19 members, and their powers and duties, together with the duties of the officers elected by
 20 the board of directors;

21 (3) The qualifications for membership of those coming within the initial common bond
 22 as required by this article;

23 (4) The conditions under which shares may be issued, paid for, transferred, and
 24 withdrawn; deposits received and withdrawn; loans made and repaid; and funds otherwise
 25 invested; and

26 (5) The charges which shall be made, if any, for failure to meet obligations punctually;
 27 whether or not the credit union shall have the power to borrow; the method of receipting
 28 for money; the manner of accumulating a reserve; the manner of determining and paying
 29 interest and dividends; and such other matters consistent with this article as may be
 30 requisite to the organization and operation of the proposed credit union.

31 (f) The subscriber shall pay such fee as shall be established by regulation of the
 32 department to defray the cost of the investigation required by Code Section 7-1-632,
 33 provided that the department shall not be required to set such fee if in its judgment the fee
 34 would discourage the organization of credit unions under this article.

35 (g) The subscriber shall select at least five qualified persons who agree to serve on the
 36 board of directors. A signed agreement to serve in these capacities until the first annual

1 meeting or until the election of their successors, whichever is later, shall be executed by
 2 those who so agree and filed with the department along with the proposed bylaws."

3 SECTION 12.

4 Said chapter is further amended by repealing Code Section 7-1-631, relating to documents
 5 to be filed when organizing a credit union, and designating said Code section as reserved as
 6 follows:

7 "7-1-631.

8 ~~The subscribers shall also:~~

9 ~~(1) File with the department a certificate of the Secretary of State attesting that the name~~
 10 ~~of the proposed credit union has been reserved as authorized by Code Section 7-1-131;~~

11 ~~(2) File with the department two copies of proposed bylaws setting forth the following:~~

12 ~~(A) The date of the annual meeting, the manner of conducting the same, the number~~
 13 ~~of members constituting a quorum and regulations as to voting, and the manner of~~
 14 ~~notification of the meeting, which shall comply with Code Section 7-1-6, except that,~~
 15 ~~if the credit union maintains an office and the board of directors so determines, notice~~
 16 ~~of the annual meeting or of any special meeting may be given by posting such notice~~
 17 ~~in a conspicuous place in the office of the credit union at least ten days prior to such~~
 18 ~~meeting;~~

19 ~~(B) The number of directors, not less than five, all of whom must be members, and~~
 20 ~~their powers and duties, together with the duties of the officers elected by the board of~~
 21 ~~directors;~~

22 ~~(C) The qualifications for membership of those coming within the defined common~~
 23 ~~bond as required by this article;~~

24 ~~(D) The conditions under which shares may be issued, paid for, transferred, and~~
 25 ~~withdrawn; deposits received and withdrawn; loans made and repaid; and funds~~
 26 ~~otherwise invested; and~~

27 ~~(E) The charges which shall be made, if any, for failure to meet obligations punctually;~~
 28 ~~whether or not the credit union shall have the power to borrow; the method of~~
 29 ~~receipting for money; the manner of accumulating a reserve; the manner of determining~~
 30 ~~and paying interest and dividends; and such other matters consistent with this article as~~
 31 ~~may be requisite to the organization and operation of the proposed credit union;~~

32 ~~(3) Pay such fee as shall be established by regulation of the department to defray the cost~~
 33 ~~of the investigation required by Code Section 7-1-632, provided that the department shall~~
 34 ~~not be required to set such fee if in its judgment the fee would discourage the~~
 35 ~~organization of credit unions under this article; and~~

1 (3) It may make loans to members ~~through~~ subject to approval by its credit committee
2 or authorized employees pursuant to Code Section 7-1-658;

3 (4) It may also invest, ~~through~~ on the authority of its board of directors or by employees
4 authorized by the board of directors, funds ~~not used in loans to members~~, in the following
5 manner:

6 (A) In obligations of the United States, including bonds and securities upon which
7 payment of principal and interest is fully guaranteed by the United States; obligations
8 issued by banks for cooperatives, federal land banks, federal intermediate credit banks,
9 federal home loan banks, the Federal Home Loan Bank Board, or any corporation
10 designated in Section 846 of Title 31 of the United States Code as a wholly owned
11 government corporation; or in obligations, participations, or other instruments of or
12 issued by or fully guaranteed as to principal and interest by the Federal National
13 Mortgage Association or the Government National Mortgage Association;

14 (B) In general and direct obligations of the State of Georgia, its counties, districts, and
15 municipalities which have been validated as provided by law, if no more than 25
16 percent of the shares and deposits of a credit union shall be invested in the obligations
17 of any one such obligor;

18 (C) In loans to other credit unions, provided the loans do not exceed 10 percent of the
19 shares, deposits, and surplus of the investing credit union;

20 (D) By depositing its funds in banks, building and loan associations, savings and loan
21 associations, and other credit unions; by purchasing certificates of deposit and savings
22 certificates which such financial institutions are authorized to issue; and by selling or
23 purchasing federal or correspondent (daily) funds or loan participations through such
24 financial institutions; subject to limitations prescribed in regulations issued by the
25 department; and

26 (E) In any other types of investments authorized by the department, including
27 commercial paper, provided such investments shall not, in the aggregate, exceed 10
28 percent of the shares, deposits, and surplus of the investing credit union. In lieu of the
29 foregoing limitation, any credit union may invest up to 15 percent of its equity capital
30 as defined by the department in authorized investments issued by any single obligor;

31 (5) It may borrow from any source, but the total of such borrowings shall at no time
32 exceed 50 percent of paid-in shares, deposits, and surplus. The department may,
33 notwithstanding the other provisions of this Code section, temporarily waive the
34 requirements of this paragraph to permit an individual credit union to borrow for
35 emergency purposes;

36 (6) It may undertake with the approval of the department other activities which are not
37 inconsistent with this chapter or regulations adopted pursuant thereto, including such

1 powers as are afforded to federally chartered credit unions, either directly, through a
 2 subsidiary corporation, or in cooperation with other credit unions; provided, however, no
 3 such approval shall be granted unless the commissioner determines the activities do not
 4 present undue safety and soundness risks to the credit union involved;

5 (7) It may organize and engage in business without having any stated amount of capital
 6 subscribed or paid in other than that derived from the subscribers' qualifying shares, may
 7 commence business with only such capital authorized and paid in as may be provided in
 8 its bylaws, and may provide for the payment and withdrawal thereof as and in the manner
 9 provided by its bylaws;

10 (8) It may purchase, hold, and convey real estate for the following purposes only:

11 (A) Such real estate as shall be necessary for the convenient transaction of its business,
 12 subject to the prior approval of the department;

13 (B) Such real estate as shall be conveyed to it in satisfaction of debt previously
 14 contracted in the course of its business; and

15 (C) Such real estate as it shall purchase at sales under judgments, decrees, or mortgage
 16 foreclosures pursuant to mortgages or security deeds held by it;

17 (9) No real estate acquired in the cases provided for by subparagraphs (B) and (C) of
 18 paragraph (8) of this Code section and no real estate which has ceased to be used as credit
 19 union premises shall be held for a longer period than five years, unless the time shall be
 20 extended by the department. Properties, other than real estate, which are acquired in
 21 satisfaction of debts previously contracted and which a credit union is not otherwise
 22 authorized to own shall be held for no longer than six months unless such time period is
 23 extended by the department. Disposition of such property may be financed by the credit
 24 union without the advance of additional funds irrespective of the purchasers' membership
 25 in the credit union and of ordinarily applicable collateral margin requirements;

26 (10) It may provide through an amendment to its bylaws which shall be approved by
 27 two-thirds of its membership present and voting as otherwise provided in this part for the
 28 elimination or limitation of the personal liability of a director to the members in their
 29 capacity as shareholders of the credit union to the same extent as a bank or trust company
 30 operating under the provisions of this chapter."

31 **SECTION 18.**

32 Said chapter is further amended by designating the existing text of Code Section 7-1-653,
 33 relating to expulsion or withdrawal of members of a credit union, as subsection (a) and
 34 inserting a new subsection (b) to read as follows:

1 the credit union under whose articles the merger is effected; and thereafter the articles of
2 the credit union so merging shall be void."

3 SECTION 24.

4 Said chapter is further amended by striking Code Section 7-1-668, relating to conversions
5 of state and federal credit unions, and inserting in its place the following:

6 "7-1-668.

7 (a) Any credit union operating in this state may convert into a federal chartered credit
8 union, and any federal credit union may convert into a credit union organized under this
9 chapter upon approval of the authority under whose supervision the converted credit union
10 will operate and upon compliance with applicable federal laws as to a converted federal
11 credit union and upon compliance with applicable state laws as to a converted credit union.

12 In the case of a federal credit union converting to a state credit union, such converting
13 credit union may keep its existing members at the time of conversion, but after conversion
14 eligibility for membership in the converted credit union must comply with state law. If
15 there are other areas of noncompliance with state law, the credit union must provide the
16 department with a plan to bring those areas into compliance with Georgia law within a
17 reasonable period, to be determined by the department.

18 (b) The procedure for obtaining such approval and effecting the conversions in the case
19 of a credit union shall be as follows:

20 (1) A meeting of the board of directors, either regular or special, shall be called for the
21 purpose of voting on converting from a federal credit union to a credit union or from a
22 credit union to a federal credit union. A majority of the board of directors shall adopt a
23 resolution approving the contemplated conversion;

24 (2) A meeting, either regular or special, of the shareholders shall then be called for
25 voting on the proposed conversion. Notice of said meeting shall be given in the manner
26 prescribed in Code Section 7-1-6 and shall include a statement indicating that the
27 proposed conversion will be considered at the meeting. Proof of giving of the notice shall
28 be by the affidavit of the president of the credit union. A majority of the members
29 present at this meeting shall then approve the proposed conversion;

30 (3) Within ten days after such approval of the conversion, the president or vice-president
31 and treasurer shall file a verified copy of the resolution adopted by the board of directors
32 with the state or federal authority under whose supervision the converting credit union
33 is to operate.

34 (c) Upon the written approval of the department for conversions to credit unions and with
35 the written approval of the ~~administrator of the~~ National Credit Union Administration for
36 conversions to federal credit unions, the converting credit union shall then become a credit

1 union under the laws of this state or the United States, as the case may be; and thereupon
 2 all assets shall become the property of the new credit union or federal credit union, as the
 3 case may be, subject to all existing liabilities, and every person who was a member of the
 4 converting credit union shall be a member in the new credit union or federal credit union.

5 (d) Conversions by state chartered credit unions to financial institutions other than credit
 6 unions shall be effected by approval of the department and compliance with any other
 7 applicable law. Procedures provided in subsection (b) of this Code section shall be
 8 followed for obtaining approval and effecting such conversions, provided that two thirds
 9 of the members voting shall be required to approve a proposed conversion. The department
 10 may prescribe other requirements in order to protect the rights of members or the funds
 11 invested."

12 SECTION 25.

13 Said chapter is further amended by striking subsections (a) and (e) of Code Section 7-1-669,
 14 relating to a central credit union, and inserting in their place the following:

15 "(a) A 'central credit union' means a credit union which is organized to serve a field of
 16 membership which consists primarily of other credit unions operating pursuant to this
 17 chapter, any other state credit union law, or the Federal Credit Union Act. A central credit
 18 union may be organized and operated under this chapter and subject to all provisions of this
 19 chapter which are not inconsistent with this Code section. Such credit union shall use the
 20 word 'central' in its name."

21 "(e) A central credit union may:

22 (1) Make loans to other credit unions, but loans to any one credit union shall not exceed;
 23 ~~10 percent of the shares, deposits, and surplus of the credit union borrower, without prior~~
 24 ~~approval of the department;~~

25 (A) For unsecured loans and lines of credit, excluding pass-through and guaranteed
 26 loans from the Central Liquidity Fund and the National Credit Union Share Insurance
 27 Fund, no more than 50 percent of capital; or

28 (B) For secured loans and lines of credit, excluding those secured by shares or
 29 marketable securities and member reverse repurchase transactions, no more than 100
 30 percent of capital.

31 For the purposes of this paragraph, the definition of capital shall be consistent with
 32 federal law and regulations. The department may utilize other definitions found in the
 33 National Credit Union Administration rules and regulations in interpreting this
 34 subsection;

35 (2) Make loans to other members as specified in Code Section 7-1-658;

36 ~~(2)~~(3) Purchase shares of and make deposits in other credit unions;

1 surety bond; but the licensee shall be entitled to receive all interest thereon and shall have
 2 the right, with the approval of the department, to substitute other assets approved by this
 3 Code section for those deposited and shall be required to do so on written order of the
 4 department made for good cause shown; provided, however, if the licensee substitutes
 5 assets more than once during the license period the department may charge a fee for the
 6 processing of such substitution to be prescribed by regulations of the department. In the
 7 event of the failure or insolvency of such licensee, the assets, any proceeds therefrom, and
 8 the funds deposited pursuant to this Code section shall be applied to the payment in full of
 9 claims arising out of transactions in this state for the sale or issuance of checks. This
 10 subsection shall apply to check sellers only and not to money transmitters."

11 SECTION 29.

12 Said chapter is further amended by striking paragraph (10) of Code Section 7-1-1000,
 13 relating to definitions applicable to mortgage lenders and brokers, and inserting in its place
 14 the following:

15 "(10) 'Misrepresent' means to make a false statement of a substantive fact ~~or to engage~~
 16 ~~in, with the intent to deceive or mislead.~~ Misrepresent may also mean to intentionally
 17 engage in any conduct which leads to a false belief which is material to the transaction."

18 SECTION 30.

19 Said chapter is further amended by striking paragraph (1) of subsection (b) of Code Section
 20 7-1-1003, relating to licensing mortgage lenders or mortgage brokers, and inserting in its
 21 place the following:

22 "(1) The legal name and address of the applicant and, if the applicant is a partnership,
 23 association, ~~or~~ corporation, or other business entity, of every member, officer, and
 24 director thereof;"

25 SECTION 31.

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

29 "7-1-1003.2.

30 (a) Each licensed mortgage broker must provide the department with a bond. The bond for
 31 a mortgage broker shall be in the principal sum of \$50,000.00 or such greater sum as the
 32 department may require and the bond shall meet the other requirements of ~~subparagraph~~
 33 ~~(c)(2)(B)~~ subsection (c) of this Code section. ~~In lieu of a bond, a mortgage broker may~~
 34 ~~provide the department with evidence from the United States Department of Housing and~~

1 ~~Urban Development that the broker is a loan correspondent under Title I, Title II, or Title~~
 2 ~~I and Title II for each year the broker is licensed by the department. The bond and the~~
 3 ~~United States Department of Housing and Urban Development requirements are continuous~~
 4 ~~in nature.~~

5 (b) Except as otherwise provided in subsection (c) of this Code section, the department
 6 shall not license or register any mortgage lender unless the applicant or registrant provides
 7 the department with a bond. The bond for a mortgage lender shall be in the principal sum
 8 of \$150,000.00 or such greater sum as the department may require and which bond shall
 9 meet the other requirements of subparagraph (c)(2)(B) subsection (c) of this Code section.
 10 ~~In lieu of bond a lender may provide the department with an audited financial statement~~
 11 ~~covering the most recent fiscal year preceding the date of the application or registration and~~
 12 ~~such other financial data as the department may require that disclose that the applicant or~~
 13 ~~registrant has a bona fide and verifiable tangible net worth of \$250,000.00 or such greater~~
 14 ~~amount as the department may reasonably require, which net worth must be continuously~~
 15 ~~maintained as a condition of licensure or registration.~~

16 (c) ~~The department may issue a mortgage lender's license to an applicant with a bona fide~~
 17 ~~and verifiable tangible net worth of less than \$250,000.00 but not less than \$100,000.00;~~
 18 ~~provided that such applicant satisfies the following requirements in support of an~~
 19 ~~application for a mortgage lender's license in addition to all other applicable requirements~~
 20 ~~for licensure under this article:~~

21 (1) ~~The applicant shall certify that such applicant transfers or assigns all mortgage loans~~
 22 ~~funded with such applicant's own funds, including, but not limited to, draws on a~~
 23 ~~warehouse line of credit to another mortgage lender prior to the due date of the first~~
 24 ~~payment by the borrower but in no event later than 45 days after the date of funding; and~~

25 (2) ~~The applicant shall submit the following to the department:~~

26 (A) ~~Audited financial statements covering the applicant's most recent fiscal year~~
 27 ~~preceding the date of the application and such other financial data as the department~~
 28 ~~may require that disclose that the applicant has a bona fide and verifiable tangible net~~
 29 ~~worth of \$100,000.00 or such greater amount as the department may reasonably~~
 30 ~~require;~~

31 (B) ~~A corporate surety bond in the principal amount of \$100,000.00, which~~

32 (c) Bond requirements:

33 (1) The bond requirements for mortgage brokers and lenders are continuous in nature and
 34 must be maintained at all times as a condition of licensure; and

35 (2) The corporate surety bond shall be for a term and in a form satisfactory to the
 36 department, shall be issued by a bonding company or insurance company authorized to
 37 do business in this state and approved by the department, and shall run to the State of

1 Georgia for the benefit of any person damaged by noncompliance of a licensee with this
 2 article, the 'Georgia Residential Mortgage Act,' or with any condition of such bond.
 3 Damages under the bond shall include moneys owed to the department for fees, fines, or
 4 penalties. Such bond shall be continuously maintained thereafter in full force. Such bond
 5 shall be conditioned upon the applicant or the licensee conducting his or her licensed
 6 business in conformity with this article and all applicable laws; ~~and,~~

7 ~~(C) Evidence of having received approval to participate as a mortgagee loan~~
 8 ~~correspondent in the mortgage insurance programs administered by the United States~~
 9 ~~Department of Housing and Urban Development.~~

10 (d) ~~An~~ As an alternative to a bond, an applicant or a licensee may supply an irrevocable
 11 letter of credit from a federally insured financial institution in form and terms acceptable
 12 and payable to the department ~~may be substituted for the bond requirement for a mortgage~~
 13 ~~broker or mortgage lender license.~~

14 (e) Any person including the department who may be damaged by noncompliance of a
 15 licensee with any condition of a bond or this article, the 'Georgia Residential Mortgage
 16 Act,' may proceed on such bond against the principal or surety thereon, or both, to recover
 17 damages.

18 ~~(f) The department may promulgate rules and regulations with respect to the definition of~~
 19 ~~net worth and the requirement for maintaining net worth as a condition of licensure or~~
 20 ~~registration.~~

21 ~~(g) Both the net worth requirement and the bond, wherever applicable, must be~~
 22 ~~continuously maintained as a condition of licensure or registration."~~

23 SECTION 32.

24 Said chapter is further amended by striking subsections (a), (d), and (f) of Code Section
 25 7-1-1004, relating to investigations of applicants for licensure, and inserting in their place
 26 the following:

27 "(a) Upon receipt of an application for license, the department shall conduct such
 28 investigation as it deems necessary to determine that the applicant and the individuals who
 29 direct the affairs or establish policy for the licensee applicant, including the officers,
 30 directors, or the equivalent, are of good character and ethical reputation; that the applicant
 31 and such persons meet the requirements of subsection (d) of this Code section; that the
 32 applicant and such persons demonstrate reasonable financial responsibility; that the
 33 applicant has reasonable policies and procedures to receive and process customer
 34 grievances and inquiries promptly and fairly; and that the applicant has and maintains a
 35 registered agent for service in this state."

1 “(d) The department may not issue or may revoke a license if it finds that the applicant or
2 licensee, or any person who is a director, officer, partner, agent, employee, or ultimate
3 equitable owner of 10 percent or more of the applicant or licensee or any individual who
4 directs the affairs or establishes policy for the applicant or licensee, has been convicted of
5 a felony involving moral turpitude in any jurisdiction or of a crime which, if committed
6 within this state, would constitute a felony involving moral turpitude under the laws of this
7 state. For the purposes of this article, a person shall be deemed to have been convicted of
8 a crime if such person shall have pleaded guilty to a charge thereof before a court or federal
9 magistrate or shall have been found guilty thereof by the decision or judgment of a court
10 or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of
11 sentence or the suspension thereof, and regardless of whether first offender treatment
12 without adjudication of guilt pursuant to the charge was entered, unless and until such plea
13 of guilty, or such decision, judgment, or verdict, shall have been set aside, reversed, or
14 otherwise abrogated by lawful judicial process or until probation, sentence, or both
15 probation and sentence of a first offender have been successfully completed and
16 documented or unless the person convicted of the crime shall have received a pardon
17 therefor from the President of the United States or the governor or other pardoning
18 authority in the jurisdiction where the conviction was had or shall have received an official
19 certification or pardon granted by the State Board of Pardons and Paroles which removes
20 the legal disabilities resulting from such conviction and restores civil and political rights
21 in this state.”

22 “(f) Every licensee and applicant shall be authorized and required to obtain background
23 checks on covered employees. Such background checks shall be handled by the Georgia
24 Crime Information Center pursuant to Code Section 35-3-34 and the rules and regulations
25 of the Georgia Crime Information Center. Licensees and applicants shall be responsible
26 for any applicable fees charged by the center. An applicant or licensee may employ a
27 person whose background must be checked and has 90 days from the initial date of hire to
28 obtain satisfactory background data. This provision does not apply to directors, officers,
29 partners, agents, or ultimate equitable owners of 10 percent or more or to persons who
30 direct the company’s affairs or establish policy, whose background must have been
31 investigated through the department before taking office, beginning employment, or
32 securing ownership. Upon receipt of information from the Georgia Crime Information
33 Center that is incomplete or that indicates an employee has a criminal record in any state
34 other than Georgia, the employer shall submit to the department two complete sets of
35 fingerprints of such person, together with the applicable fees and any other required
36 information. The department shall submit such fingerprints as provided in subsection (e)
37 of this Code section.”

SECTION 33.

Said chapter is further amended by striking subsection (a) of Code Section 7-1-1005, relating to renewals of licenses and registrations, and inserting in its place the following:

"(a) Except as otherwise specifically provided in this article, all licenses and registrations issued pursuant to this article shall expire on June 30 of each year and application for renewal shall be made annually on or before April 1 of each year; ~~provided, however, that licenses and registrations issued for the calendar year 2000 will expire on June 30, 2001.~~"

SECTION 34.

Said chapter is further amended by striking subsections (e) and (f) of Code Section 7-1-1006, relating to contents and posting of licenses, and inserting in their place the following:

"(e) Each licensee shall notify the department in writing of any change in the address of the principal place of business or of any additional location of business in Georgia, any change in registered agent or registered office, any change of principal officer, director, contact person for consumer complaints, or ultimate equitable owner of 10 percent or more of any corporation or other entity licensed under this article, or of any material change in the licensee's financial statement. Notice of a change in address ~~or an addition of a new location~~ of the main office or an approved branch location shall be submitted no later than 15 days before the change is made. Notice of other changes must be received by the department no later than 30 business days after the change is effective.

(f) No licensee shall open ~~an~~ a new additional office in Georgia without prior approval of the department. Applications for such additional office shall be made in writing on a form prescribed by the department and shall be accompanied by payment of a \$350.00 nonrefundable application fee. The application shall be approved unless the department finds that the applicant has not conducted business under this article efficiently, fairly, in the public interest, and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed by the department to the applicant within 30 days of the date the application is received by the department. ~~After approval, the applicant shall give written notice to the department within ten days of the commencement of business at the additional office.~~"

SECTION 35.

Said chapter is further amended by striking paragraphs (1), (6), and (11) of Code Section 7-1-1013, relating to prohibited acts of mortgage lenders, and inserting in their place the following:

"(1) Misrepresent the material facts, ~~or~~ make false statements or promises, or submit false statements or documents likely to influence, persuade, or induce an applicant for a

1 mortgage loan, a mortgagee, or a mortgagor to take a mortgage loan, or, through agents
 2 or otherwise, pursue a course of misrepresentation by use of fraudulent or unauthorized
 3 documents or other means to the department or anyone ~~through agents or otherwise;~~"

4 "(6) Engage in any transaction, practice, or course of business which is not in good faith
 5 or fair dealing, or which operates a fraud upon any person, in connection with the
 6 attempted or actual making of, purchase of, transfer of, or sale of any mortgage loan;"

7 "(11) Purposely withhold, delete, destroy, or alter information requested by an examiner
 8 of the department or make false statements or material misrepresentations to the
 9 department ~~during the course of an examination or on any application or renewal form~~
 10 ~~sent to the department."~~

11 SECTION 36.

12 Said chapter is further amended by adding a new subsection (h) and by striking paragraph
 13 (1) of subsection (a) and subsection (d) of Code Section 7-1-1017, relating to suspensions
 14 or revocations of licenses, and inserting in their place the following:

15 "(a)(1) The department may suspend or revoke an original or renewal license or
 16 registration on any ground on which it might refuse to issue an original license or
 17 registration or for a violation of any provision of this article or of Chapter 6A of this title
 18 or any rule or regulation issued under this article or under Chapter 6A of this title,
 19 including failure to provide fees on a timely basis, or for failure of the licensee or
 20 registrant to pay, within 30 days after it becomes final, a judgment recovered in any court
 21 within this state by a claimant or creditor in an action arising out of the licensee's or
 22 registrant's business in this state as a mortgage lender or mortgage broker or for violation
 23 of a final order previously issued by the department."

24 "(d) A decision of the department denying a license or registration application, original or
 25 renewal, shall be conclusive, except that it may be subject to judicial review under Code
 26 Section 7-1-90. A decision of the department suspending or revoking a license or
 27 registration shall be subject to judicial review in the same manner as a decision of the
 28 department to take possession of the assets and business of a bank under Code Section
 29 7-1-155."

30 "(h) Whenever the department initiates an administrative action against a current licensee,
 31 the department may pursue that action to its conclusion despite the fact that a licensee may
 32 withdraw its license or fail to renew it."

33 SECTION 37.

34 Said chapter is further amended by striking subsections (b) and (c) of Code Section 7-1-1018,
 35 relating to cease and desist orders, and inserting in their place the following:

