

Senate Bill 505

By: Senators Balfour of the 9th, Unterman of the 45th and Shafer of the 48th

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Code Section 7-1-1001 of the Official Code of Georgia Annotated, relating to  
2 exemptions for certain persons from the requirement of obtaining a mortgage broker or  
3 mortgage lender license, so as to exempt certain exclusive independent contractors of  
4 licensed mortgage brokers or lenders; to provide for related matters; to provide an effective  
5 date; to repeal conflicting laws; and for other purposes.

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

7 **SECTION 1.**

8 Code Section 7-1-1001 of the Official Code of Georgia Annotated, relating to exemptions  
9 for certain persons from the requirement of obtaining a mortgage broker or mortgage lender  
10 license, is amended by striking the word "or" at the end of paragraph (12); by striking the  
11 symbol "." and inserting in lieu thereof the symbol and word "; or" at the end of paragraph  
12 (13); and by adding a new paragraph (14) to read as follows:

13 "(14)(A) A natural person otherwise required to be licensed, who is under an exclusive  
14 written independent contractor agreement with any person that is a wholly owned  
15 subsidiary of a financial holding company or bank holding company, savings bank  
16 holding company, or thrift holding company, which subsidiary also meets the following  
17 requirements, subject to the review and approval of the department:

18 (i) The subsidiary has provided an undertaking of accountability supported by a  
19 surety bond equal to the lesser of \$1 million or \$50,000.00 per exempt person, to  
20 cover all of its persons exempted by this paragraph, that includes full and direct  
21 financial responsibility for the mortgage broker activities of each such exempted  
22 person, and also provides for the education of the exempt persons, the handling of  
23 consumer complaints related to the exempt persons, and the supervision of the  
24 mortgage broker activities of the exempt persons;

1 (ii) The subsidiary has applied for and been granted a mortgage broker or mortgage  
2 lender license, consistent with the provisions of this article and renewable annually;  
3 and

4 (iii) The subsidiary has paid applicable fees for this license, which license fees shall  
5 be the lesser of one-half of the sum of the cost of the individual licenses or  
6 \$100,000.00.

7 (B) To maintain the exemption, a natural person must:

8 (i) Solicit, process, place, or negotiate a mortgage loan to be made only by the  
9 licensed subsidiary or its affiliate; and

10 (ii) Be at all times in compliance with the provisions and prohibitions of Code  
11 Section 7-1-1013 and the provisions and prohibitions applicable to employees under  
12 Code Section 7-1-1004.

13 (C) For purposes of this paragraph, 'financial holding company' shall mean a financial  
14 holding company as defined in the Bank Holding Company Act of 1956, as amended.

15 (D) The commissioner shall provide by rule or regulation for the implementation of  
16 this paragraph."

17 **SECTION 2.**

18 This Act shall become effective on July 1, 2006.

19 **SECTION 3.**

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