

House Bill 663

By: Representatives Harbin of the 118<sup>th</sup>, Fludd of the 66<sup>th</sup>, Mosby of the 90<sup>th</sup>, Smith of the 113<sup>th</sup>, Brooks of the 63<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance,  
2 so as to enact the "Basic Credit Opportunity Act of 2007"; to provide for findings of the  
3 General Assembly; to provide for a short title; to provide for purposes; to provide for  
4 definitions; to provide for licensing of lenders by the Department of Banking and Finance;  
5 to provide for penalties for violations; to provide for fees payable to the department; to  
6 provide for requirements necessary for issuance of a license by the department; to provide  
7 for the form and contents of an application; to provide for revocation or suspension of a  
8 license; to provide for the operation of related businesses; to provide for amounts of loans  
9 and interest rates; to prohibit multiple loans in certain situations; to provide for enforcement  
10 of loan agreements; to provide for disclosure forms for the customer; to provide for reports  
11 to credit bureaus; to require maintenance of financial records by licensees; to provide for  
12 reports to be filed with the commissioner; to provide for desist orders; to provide for appeals  
13 from actions of the department; to provide for nonenforcement of credit opportunity loans;  
14 to provide for related matters; to provide for an effective date and applicability; to repeal  
15 conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is  
19 amended by adding a new chapter to read as follows:

20 "CHAPTER 6B

21 7-6B-1.

22 This chapter shall be known and may be cited as the 'Basic Credit Opportunity Act of  
23 2007.'

1 7-6B-2.

2 The General Assembly of Georgia recognizes, supports, and promotes:

3 (1) Customer education for unbanked and underbanked customers to educate them of the  
4 various options for customer credit and financial services that are available;

5 (2) Mainstream banking services for unbanked customers while providing services  
6 options to meet their individual financial needs;

7 (3) Accurate and understandable disclosure of agreement terms, conditions, and the cost  
8 of obtaining credit; and

9 (4) Ongoing activities to equitably provide mainstream financial services and credit  
10 products to financially underserved customers while providing a vehicle to bridge the gap  
11 of the financial empowerment divide.

12 7-6B-3.

13 The purpose of this chapter is to:

14 (1) Provide a vehicle for banking services and mainstream credit products to build and  
15 rebuild services to enable customers in all segments of the financial spectrum, especially  
16 the financially underserved and unbanked populations, to improve their credit ratings and  
17 qualify for mainstream financial services;

18 (2) Set forth a minimum set of credit services that a legal entity licensed pursuant to this  
19 chapter shall offer to customers or other lending institutions; and

20 (3) Recognize that oftentimes there is a high cost to the legal entity licensed pursuant to  
21 this chapter to serving this segment of the customer financial marketplace and therefore  
22 a higher risk-based interest rate shall be permitted to cover this higher risk when the  
23 credit services required by this chapter are offered.

24 7-6B-4.

25 As used in this chapter, the term:

26 (1) 'Amount of the extension of credit' means the aggregate of the loans, services, and  
27 charges authorized by this chapter.

28 (2) 'Commissioner' means the commissioner of banking and finance.

29 (3) 'Credit opportunity services' means the following set of services that shall be offered  
30 as a package to customers:

31 (A) Access to financial services through multiple delivery channels that are convenient  
32 to the customer, including direct marketing and neighborhood financial service centers;

33 (B) Periodic reporting of credit bureau data, as incurred, and without discrimination,  
34 on all data to major credit bureaus to assist customers in building or rebuilding their  
35 credit histories;

1 (C) Graduating customers to better interest rates and other terms based on positive  
2 payment histories;

3 (D) Financial literacy enhancement;

4 (E) Offering at least one service to the financially unbanked customer that  
5 demonstrably provides access to traditional banking services and for the development  
6 of a positive financial performance history, including the following products:

7 (i) Short-term loans;

8 (ii) Bank issued debit cards, prepaid and reloadable cards giving the customer access  
9 to automatic teller machines and retailers worldwide, for the purpose of building or  
10 rebuilding credit;

11 (iii) Check to card services, allowing the customer to load all or a portion of the  
12 proceeds from a cashed check onto a debit card;

13 (iv) Check-cashing services; or

14 (v) Other services as approved by the commissioner; or

15 (F) Offering at least one service to the customer that offers the opportunity to create  
16 a positive credit history that reasonably can improve individual creditworthiness  
17 allowing for traditional bank extensions of credit, including the following products:

18 (i) Opportunity loans; or

19 (ii) Other services as approved by the commissioner.

20 The following full-range banking services may be offered to all customers of a licensee:  
21 money transfer services; bill payment services; money transmitter services, where the  
22 applicant for a license is an agent for a money transfer service provider; and money  
23 orders.

24 (4) 'Creditable assets' means cash or bank deposits, loans, or extensions of credit made  
25 as a licensee pursuant to this article or any other amounts as the commissioner may  
26 approve, or any combination of two or more of these amounts.

27 (5) 'Customer' means any person who borrows money from any licensee or who pays or  
28 obligates himself or herself to pay any money or otherwise furnishes any valuable  
29 consideration to any licensee for any act of the licensee as a licensee.

30 (6) 'Department' means the Department of Banking and Finance.

31 (7) 'Deputy' means a deputy commissioner of banking and finance.

32 (8) 'License' means the certificate issued by the commissioner under the authority of this  
33 chapter to conduct credit opportunity services.

34 (9) 'Licensee' means a person to whom one or more licenses have been issued.

35 (10) 'Loans' or 'loan' means a loan made within this state by a licensee pursuant to this  
36 chapter.

37 (11) 'Person' includes any person, firm, partnership, association, or corporation.

## 1 7-6B-5.

2 (a) No person shall engage in the business of offering credit opportunity loans or services  
3 in amounts of \$3,000.00 or less and contract for, exact, or receive, directly or indirectly,  
4 on or in connection with any extension of credit, any charges whether for interest,  
5 compensation, consideration, or expense, or any other purpose whatsoever, which in the  
6 aggregate are greater than authorized by this chapter and without first having obtained a  
7 license from the commissioner. The term 'lending' as used in this Code section shall  
8 include, but shall not be limited to, endorsing or otherwise securing extensions of credit or  
9 contracts for the repayment of extensions of credit.

10 (b) The provisions of subsection (a) of this Code section shall apply to any person who  
11 seeks to avoid its application by any device, subterfuge, or pretense whatsoever.

12 (c) Any person not exempt from this chapter who fails to comply with or who otherwise  
13 violates any of the provisions of this chapter or any regulation of the department adopted  
14 pursuant to this chapter shall be guilty of a misdemeanor. Each violation shall be  
15 considered a separate offense. It shall be the duty of the commissioner to provide the  
16 district attorney of the court having jurisdiction of any offense under this chapter with facts  
17 and evidence in his or her actual or constructive possession and to testify as to those facts  
18 upon the trial of any person for any offense under this chapter.

19 (d) Any contract for the extension of credit, the making or collecting of which violates any  
20 provision of this chapter or regulation issued pursuant to this chapter, except as a result of  
21 accidental or bona fide error of computation shall be void, and the licensee or any other  
22 party in violation shall have no right to collect, receive, or retain any principal or charges  
23 whatsoever with respect to that extension of credit.

## 24 7-6B-6.

25 Each licensee, for the purpose of defraying necessary expenses of the commissioner and  
26 his or her agents, shall pay to the commissioner the fees prescribed in Code Section 7-6B-7  
27 at the times specified therein.

## 28 7-6B-7.

29 (a) No person shall engage in or offer to engage in the business regulated by this chapter  
30 unless and until a license has been issued by the commissioner, and the commissioner shall  
31 issue a license under this chapter if the commissioner finds all of the following:

32 (1) That authorizing the applicant to engage in the business will promote convenience  
33 and be an advantage to the community in which the applicant proposes to engage in  
34 business authorized by this chapter;

1 (2) That the financial responsibility, experience, character, and general fitness of the  
2 applicant merits the confidence of the public and warrants the belief that the business will  
3 be operated lawfully and fairly, within the purposes of this chapter; and

4 (3) That the applicant has, on a consolidated basis and computed in accordance with  
5 generally accepted accounting principles, a minimum net worth of not less than \$1  
6 million at the time of application for a license.

7 (b) Upon the receipt of an application, the commissioner shall investigate the facts. The  
8 commissioner shall approve or deny every application for a license within 120 days from  
9 the date a complete application is submitted. This period may be extended by the written  
10 consent of the applicant. The commissioner shall notify the applicant of the date when the  
11 application is deemed complete. In the absence of approval or denial of the application,  
12 or consent to the extension of the 120 day period, the application is deemed approved and  
13 the commissioner shall issue the license effective as of the first day after the 120 day or  
14 extended period has elapsed. If the commissioner reasonably determines from a  
15 preliminary investigation that the applicant does not satisfy the conditions set forth in  
16 subsection (a) of this Code section, the commissioner shall so notify the applicant in  
17 writing and offer specific findings of fact as to the provisions of this Code section that have  
18 not been met. The applicant shall then be entitled to an informal hearing on the decision  
19 that the applicant does not satisfy the conditions set forth in this Code section, provided  
20 that the applicant requests an informal hearing in writing within 30 days after the  
21 commissioner has caused the notification of failure to be mailed to the applicant. In the  
22 event of an informal hearing, to be held in the offices of the commissioner, the  
23 commissioner shall reconsider the application and, after the hearing, issue a written order  
24 granting or denying the application. At the time of making an application, the applicant  
25 shall pay the department the sum of \$2,500.00 as a fee for investigating the application,  
26 which shall be retained whether or not a license is granted to the applicant.

27 (c) Each licensee shall continue at all times to have available for the operation of the  
28 business on a consolidated basis and computed in accordance with generally accepted  
29 accounting principles a minimum net worth of not less than \$2 million. The requirements  
30 and standards of this subsection and paragraph (2) of subsection (a) of this Code section  
31 shall be maintained throughout the period of the license, and failure to maintain these  
32 requirements or standards shall be grounds for the revocation of a license under the  
33 provisions of Code Section 7-6B-10.

34 7-6B-8.

35 (a) The application for license shall be made on a form prepared and furnished by the  
36 commissioner and shall state all of the following:

- 1 (1) The fact that the applicant desires to engage in business under this chapter;  
 2 (2) Whether the applicant is an individual, partnership, association, or corporation;  
 3 (3) The name and address of the person who will manage and be in immediate control  
 4 of the business;  
 5 (4) The names and addresses of the owners of the business and their percentage of equity  
 6 in the business, unless the commissioner deems it not feasible to furnish the information  
 7 because of the number of stockholders involved. This paragraph shall not apply to  
 8 publicly held corporations and their operating subsidiaries;  
 9 (5) When the applicant proposes to commence doing business; and  
 10 (6) Any other information that the commissioner deems necessary.  
 11 (b) The statements made in this application shall be sworn to by the applicant or the  
 12 persons making the application on the applicant's behalf.

13 7-6B-9.

- 14 (a) A licensee may conduct and carry on its business only at the location or locations that  
 15 are approved by the commissioner, and no changes shall be made from one location to  
 16 another without the approval of the commissioner.  
 17 (b) The commissioner may issue more than one certificate to conduct business to the same  
 18 licensee for multiple places of business upon compliance with all the provisions of this  
 19 chapter governing issuance of a license.  
 20 (c) If any change occurs in the name and address of the licensee, the legal agent of a  
 21 licensed corporation, or in the membership of any licensed partnership, a full statement of  
 22 the change, sworn to as required by subsection (b) of Code Section 7-6B-8 for an original  
 23 application, shall be filed within 30 days with the commissioner.

24 7-6B-10.

- 25 (a) If the commissioner finds, after due notice and hearing, or opportunity for hearing, that  
 26 any licensee or an officer, agent, employee, or representative of a licensee has done any of  
 27 the following, the commissioner may issue an order revoking or suspending the right of  
 28 that licensee and that officer, agent, employee, or representative to do business in Georgia  
 29 as a licensee:  
 30 (1) Willfully violated any of the provisions of this chapter;  
 31 (2) Failed to comply with the rules, regulations, instructions, or orders issued by the  
 32 department;  
 33 (3) Failed or refused to make its reports to the commissioner;  
 34 (4) Failed to pay the fees for its examination and supervision; or  
 35 (5) Furnished false information to the commissioner or the department.

1 Upon receipt of an order revoking or suspending the right of that licensee to do business  
2 in Georgia from the commissioner, the licensee shall immediately surrender his or her  
3 license to the commissioner. Within five days after the entry of an order to cease business  
4 in Georgia, the commissioner shall place on file his or her findings of fact and mail or  
5 otherwise deliver a copy to the licensee. Any licensee who fails to make any extension of  
6 credits during any period of 90 consecutive days after being licensed shall surrender his or  
7 her license to the commissioner.

8 (b) Any licensee may surrender any license by delivering it to the commissioner with  
9 written notice of the surrender, but the surrender shall not affect the licensee's civil or  
10 criminal liability for acts committed prior to the surrender of the license.

11 (c) No revocation, suspension, or surrender of any license shall impair or affect the  
12 obligation of any preexisting lawful contract between the licensee and any obligor.

13 (d) The commissioner, in his or her discretion, may reinstate suspended licenses or issue  
14 new licenses to a person whose license or licenses have been revoked or surrendered if and  
15 when he or she determines no fact or condition exists which clearly would have justified  
16 the commissioner in refusing originally to issue the license under this chapter.

17 7-6B-11.

18 (a) A licensee may conduct the business of offering credit opportunity services under this  
19 chapter in any office, suite, room, or place of business in which any other financial  
20 business is solicited or transacted.

21 (b) The commissioner may authorize in writing the solicitation and transaction of other  
22 business in any office, suite, room, or place of business in which a licensee is conducting  
23 the business of providing credit opportunity services if the commissioner reasonably  
24 determines that the other business would not be contrary to the best interests of the  
25 customers intended to be served.

26 (c) The commissioner may require, consistent with the provisions of 12 C.F.R. Part 226  
27 (Regulation Z) of the federal Truth In Lending Act, for any extension of credit, the other  
28 business authorized under subsection (b) of this Code section to:

29 (1) Disclose the cost of customer credit of goods and services sold; and

30 (2) Provide the purchaser with a reasonable cancellation period for goods and services  
31 purchased.

32 (d) No licensee shall either:

33 (1) Make the purchase of goods and services sold under the authorization of  
34 subsection (b) of this Code section a condition of making available credit opportunity  
35 services; or

1 (2) Consider the customer's decision to purchase or not purchase goods and services sold  
2 under the authorization of subsection (b) of this Code section a factor in its approval or  
3 denial of credit opportunity services or in its determination of the amount of or terms of  
4 credit opportunity services for the customer.

5 (e) The licensee shall notify the customer in writing that the purchase of the goods and  
6 services offered under the authorization under subsection (b) of this Code section is  
7 voluntary and that the customer's decision whether or not to purchase the goods and  
8 services will not affect the licensee's decision to grant credit or the amount of or terms of  
9 the credit granted.

10 (f) If, at any time, the commissioner has reason to believe that the conduct of any other  
11 business authorized under subsection (b) of this Code section is contrary to the best  
12 interests of the borrowing public, the commissioner shall hold a hearing to determine  
13 whether or not to revoke the authority to conduct that business. The commissioner shall  
14 revoke the authority to conduct any other business if he or she finds that the conduct of any  
15 other business authorized under subsection (b) of this Code section is contrary to the best  
16 interests of the borrowing public.

17 (g) This Code section shall not be construed as authorizing the collection of any extension  
18 of credits or charges in violation of the prohibitions contained in Code Section 7-6B-12.

19 (h) The books, records, and accounts relating to credit opportunity loans shall be kept in  
20 the manner prescribed by the commissioner to delineate clearly the credit opportunity  
21 services business from any other business authorized by the commissioner.

22 7-6B-12.

23 (a) Every licensee under this chapter may make credit available through credit opportunity  
24 services in an amount not exceeding \$3,000.00 at an initial interest rate of up to 60 percent  
25 per annum. Interest shall be contracted for and collected at the single simple interest rate  
26 applied to the outstanding balance that would earn the same amount of interest as the above  
27 rate for payment according to schedule.

28 (b) In addition to the interest authorized in subsection (a) of this Code section, a licensee  
29 offering credit opportunity services under this chapter may collect from the customer a fee  
30 of up to \$25.00 for processing the credit opportunity services, provided that this charge  
31 may not be assessed more than twice in any 12 month period.

32 (c) Interest on credit opportunity loans made pursuant to this Code section shall not be  
33 paid, deducted, or received in advance. Interest shall not be compounded, but interest on  
34 extension of credits shall:

35 (1) Be computed and paid only as a percentage of the unpaid principal balance or portion  
36 of the unpaid principal balance; and

1 (2) Be computed on the basis of the number of days actually elapsed.

2 If, however, part or all of the consideration for a credit opportunity loan is the unpaid  
3 principal balance of a prior credit opportunity loan, then the principal amount payable  
4 under the new credit opportunity loan may include any unpaid interest on the prior credit  
5 opportunity loan which has accrued within 90 days before the making of the new credit  
6 opportunity loan. For the purpose of computing interest, a day shall equal 1/365th of a  
7 year. Any payment made on a credit opportunity loan shall be applied first to any accrued  
8 interest and then to principal, and any portion or all of the principal balance may be prepaid  
9 at any time without penalty.

10 (d) Initial minimum payment requirements shall be based on repayment of the credit  
11 opportunity loan in not less than 120 days.

12 (e) If a money judgment is obtained against any party on any extension of credit made  
13 under the provisions of this Code section, neither the judgment nor the extension of credit  
14 shall carry, from the date of the judgment, any interest in excess of 8 percent per annum.

15 (f) After the maturity date of any credit opportunity loan made under the provisions of this  
16 Code section and until that credit opportunity loan is paid in full by cash, new extension  
17 of credit, refinancing, or otherwise, no charges other than interest as agreed by the parties  
18 but not to exceed the maximum rate of 60 percent per annum shall be computed or  
19 collected from any party to the credit opportunity loan upon the unpaid principal balance  
20 of the credit opportunity loan.

21 7-6B-13.

22 A licensee may collect the fee for returned checks to the extent permitted by Code Section  
23 16-9-20. This Code section shall apply to any extension of credit made by any licensee  
24 under this chapter.

25 7-6B-14.

26 (a) The following fees may be assessed:

27 (1) A monthly maintenance fee not to exceed \$10.00; and

28 (2) A late fee not to exceed \$25.00 on each late payment.

29 (b) No licensee shall divide into separate parts any credit opportunity loan made for the  
30 purpose of or with the effect of obtaining charges in excess of those authorized by this  
31 chapter. Nothing in this subsection shall prohibit a licensee from offering a customer  
32 multiple credit opportunity services at the same time and charging the applicable interest  
33 and fees authorized by this chapter.

34 (c) All balances due to a licensee from any person as a customer or as an endorser,  
35 guarantor, or surety for any customer or otherwise shall be considered a part of any credit

1 opportunity loan being made by a licensee to that person for the purpose of computing  
2 interest or charges.

3 7-6B-15.

4 (a) A licensee shall not make credit opportunity loans in one office to any customer who  
5 already has an outstanding credit opportunity loan in another office operated by the same  
6 entity or by another licensee that is an affiliate, parent, subsidiary, or under the same  
7 ownership, management, or control, whether partial or complete.

8 (b) A licensee shall take every reasonable precaution to prevent granting credit opportunity  
9 loans in violation of subsection (a) of this Code section.

10 (c) A licensee may service credit opportunity loans and modify the terms of the loans  
11 within the limits authorized by Code Section 7-6B-16 at any office operated by that  
12 licensee regardless of where the credit opportunity loan was originated.

13 7-6B-16.

14 (a) A licensee may not take an assignment of earnings of the customer for payment or as  
15 security for payment of a credit opportunity loan. An assignment of earnings in violation  
16 of this Code section is unenforceable by the assignee of the earnings and is revocable by  
17 the customer.

18 (b) An agreement between a licensee and a customer pursuant to a credit opportunity loan  
19 under this chapter with respect to default by the customer is enforceable only to the extent  
20 that:

21 (1) The customer fails to make a payment as required by the agreement; or

22 (2) The prospect of payment, performance, or realization of collateral is significantly  
23 endangered or impaired; the burden of establishing the prospect of a significant  
24 endangerment or impairment shall be on the licensee.

25 (c) No licensee shall deny any credit opportunity loan or services or discriminate in the  
26 fixing of the amount, duration, application procedures, or other terms or conditions of any  
27 credit opportunity loan or services because of the race, color, religion, national origin, sex,  
28 or marital status of the applicant or any other person connected with the transaction.

29 (d) With respect to a credit opportunity loan or services made pursuant to the provisions  
30 of this chapter, the agreement shall not provide for payment by the customer of attorney's  
31 fees.

32 (e) No licensee shall make any credit opportunity loan within this state which shall in any  
33 way be secured by real property.

34 (f) No licensee shall engage in any unfair method of competition or unfair or deceptive  
35 trade practices in the conduct of making or providing any credit opportunity loans or

1 services to customers pursuant to this chapter or in collecting or attempting to collect any  
2 money alleged to be due and owing by a customer.

3 7-6B-17.

4 (a) At the time credit opportunity services are made available to a customer, the licensee  
5 shall deliver to the customer or, if there are two or more customers to one of them, a copy  
6 of a written statement, showing in clear and distinct terms all of the following:

7 (1) The name and address of the licensee and one of the primary obligors on the credit  
8 opportunity loan;

9 (2) The date of the credit contract;

10 (3) A schedule or description of required payments;

11 (4) All applicable interest rates; and

12 (5) Any financial literacy materials available to the customer.

13 (b) At each place of business in Georgia, the licensee shall make readily available to the  
14 customer, in a form prescribed by the commissioner, a full and accurate schedule of  
15 charges on all types of credit opportunity services currently being made available by the  
16 licensee.

17 (c) A copy of that schedule required by subsection (b) of this Code section shall be filed  
18 in the office of the commissioner.

19 (d) At each place of business in Georgia or by direct mail to the customer the licensee shall  
20 make readily available to the customer periodic activity statements for those credit  
21 opportunity services that require a statement under federal law.

22 (e) No licensee shall require the customer to agree to or execute any confession of  
23 judgment or power of attorney in favor of any licensee or in favor of any third person, and  
24 any confession of judgment or power of attorney taken in violation of this subsection shall  
25 be absolutely void.

26 7-6B-18.

27 (a) Periodically the licensee shall give to the person making payments a statement showing  
28 the amounts paid and the balance due on the credit services or loans.

29 (b) Upon payment for credit opportunity services or loans, and no less often than quarterly,  
30 the licensee shall report all customer credit activity which is routinely accepted by national  
31 credit bureaus.

32 (c) Upon payment of any credit services or loan in full, a licensee shall cancel and return  
33 to the customer, within a reasonable length of time, originals or copies of any instrument  
34 securing the credit services or loans which no longer secures any indebtedness of the  
35 customer to the licensee.

1 7-6B-19.

2 No licensee subject to this chapter shall advertise, display, distribute, telecast, or broadcast  
3 or cause or permit to be advertised, displayed, distributed, telecast, or broadcast in any  
4 manner whatsoever any false, misleading, or deceptive statement or representation with  
5 regard to the rates, terms, or conditions of credit opportunity services or loans. The  
6 commissioner may require that charges or rates of charge, if stated by a licensee, be stated  
7 fully and clearly in any manner that the commissioner deems necessary to prevent  
8 misunderstanding by prospective customers. The commissioner may permit or require  
9 licensees to refer in their advertising to the fact that their business is under state  
10 supervision, subject to any conditions required by the commissioner to prevent an  
11 erroneous impression as to the scope or degree of protection provided by this chapter.

12 7-6B-20.

13 (a) Each licensee shall maintain all financial books and records directly relating to any  
14 credit opportunity loans and services made or provided under this chapter reasonably  
15 required by the commissioner to be kept, and the commissioner, any deputy, or a duly  
16 authorized examiner or agent or employee may examine those records at any reasonable  
17 time to determine whether the licensee is complying with this chapter and the rules issued  
18 to implement this chapter. The required financial books and records may be maintained  
19 in any form authorized by the commissioner. The financial books and records of each  
20 licensed office shall be clearly segregated. When a licensee maintains its financial books  
21 and records outside of Georgia, the licensee shall make them available for examination at  
22 the place where they are maintained and shall pay for all reasonable and necessary  
23 expenses incurred by the commissioner in conducting any examination. Where the data  
24 processing for any licensee is performed by a person other than the licensee, the licensee  
25 shall provide to the commissioner a copy of a binding agreement between the licensee and  
26 the data processor which allows the commissioner, any deputy, or a duly authorized  
27 examiner or agent or employee to examine that particular data processor's activities  
28 pertaining to the licensee to the same extent as if the data processing services were being  
29 performed by the licensee on its own premises; and, when billed by the commissioner, the  
30 licensee shall reimburse the commissioner for all costs and expenses incurred by the  
31 commissioner in an examination under this subsection.

32 (b) Each licensee shall file annually with the commissioner on or before March 31 for the  
33 12 months' period ending the preceding December 31 reports on forms prescribed by the  
34 commissioner. These annual reports shall disclose in detail and under appropriate headings  
35 any changes from the information contained in the original license application and other  
36 information necessary to show that the licensee continues to be in compliance with this

1 chapter. Reports shall be verified by the oath or affirmation of the owner, manager,  
2 president, vice president, cashier, secretary, or treasurer of the licensee.

3 (c) If a licensee conducts another business or is affiliated with other licensees under this  
4 chapter or if any other situation exists under which allocations of expense are necessary,  
5 the licensee or licensees shall make that allocation according to appropriate and generally  
6 accepted accounting principles.

7 7-6B-21.

8 The department may issue all rules it deems necessary in implementing this article and in  
9 providing for the protection of the borrowing public and the efficient management of  
10 licensees under this chapter and to give all necessary instructions to these licensees for the  
11 purpose of interpreting this chapter. All licensees under this chapter, their officers, agents,  
12 and employees shall comply fully with all of the rules and instructions. When issued, any  
13 rule shall be forwarded by mail to each licensee at its licensed place of business at least 20  
14 days prior to the rule's effective date.

15 7-6B-22.

16 The commissioner may issue subpoenas and compel attendance of witnesses, administer  
17 oaths, conduct hearings, and transcribe testimony in making the investigations and  
18 conducting the hearings required by this chapter or in the other discharge of his or her  
19 duties and give any publicity to his or her investigations and findings as he or she may  
20 deem best for the public interest.

21 7-6B-23.

22 When the commissioner has reasonable cause to believe that any person is violating or is  
23 threatening to violate any provision of this chapter, he or she may in addition to all actions  
24 provided for in this chapter and without prejudice to those other actions enter an order  
25 requiring a person to desist or to refrain from a violation; and an action may be brought in  
26 the name of the commissioner to enjoin the person from engaging in or continuing the  
27 violation or from doing any act or acts in furtherance of the violation. In any action to  
28 desist, an order or judgment may be entered awarding any preliminary or final injunction  
29 as may be deemed proper. In addition to all other means provided by law for the  
30 enforcement of a restraining order or injunction, the court in which the action is brought  
31 may impound and appoint a receiver for the property and business of the defendant,  
32 including any books, papers, documents, and records that the court deems reasonably  
33 necessary to prevent violations of this chapter through or by means of the use of that  
34 property and business. The receiver, when appointed and qualified, shall have those

1 powers and duties as to custody, collection, administration, winding up, and liquidation of  
2 the property and business as shall from time to time be conferred upon him or her by the  
3 court.

4 7-6B-24.

5 Any person aggrieved by any rule, order, or act of the department may appeal to the  
6 commissioner for review upon giving notice in writing within 20 days after the rule, order,  
7 or act complained of is adopted, issued, or done. Any aggrieved party to a decision of the  
8 department shall be entitled to an appeal pursuant to Chapter 13 of Title 50, the 'Georgia  
9 Administrative Procedure Act.'

10 7-6B-25.

11 (a) No credit opportunity loan made after July 1, 2007, that is made outside this state in  
12 the amount or of the value of \$3,000.00 or less for which greater consideration or charges  
13 than are authorized by this chapter have been charged, contracted for, or received shall be  
14 enforced in this state. This prohibition shall not apply to credit opportunity loans in which  
15 contractual activities, including solicitation, discussion, negotiation, offer, acceptance,  
16 signing of documents, or delivery and receipt of funds, occur entirely outside Georgia.

17 (b) If any lender, not licensed in Georgia, makes credit opportunity loans outside this state  
18 in the amount or of the value of \$3,000.00 or less and comes into this state to solicit or  
19 otherwise conduct activities in regard to those credit opportunity loans, then that lender  
20 shall be subject to the requirements of this chapter.

21 (c) No lender licensed to do business under this chapter may collect or cause to be  
22 collected any credit opportunity loans made by a lender in another state that is not licensed  
23 in this state to a customer who was a legal resident of Georgia at the time the credit  
24 opportunity loan was made. The purchase of a credit opportunity loan account by a  
25 licensee shall not alter this prohibition."

## 26 SECTION 2.

27 This Act shall become effective on July 1, 2007, and apply to all loans executed on or after  
28 that date.

## 29 SECTION 3.

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