

The Senate Judiciary Committee offered the following substitute to SB 371:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 8 of Title 16 and Chapter 3 of Title 35 of the Official Code  
2 of Georgia Annotated, relating to residential mortgage fraud and the Georgia Bureau of  
3 Investigation, respectively, so as to provide the Georgia Bureau of Investigation with the  
4 authority to investigate certain offenses involving fraudulent real estate transactions; to  
5 provide the Georgia Bureau of Investigation subpoena power for such investigations; to  
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

8 Article 5 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to  
9 residential mortgage fraud, is amended by revising Code Section 16-8-104, relating to  
10 authority of district attorneys and the Attorney General to investigate and prosecute offenses  
11 involving residential mortgage fraud, as follows:  
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13 "16-8-104.

14 District attorneys and the Attorney General shall have the authority to conduct the criminal  
15 investigation and prosecution of all cases of residential mortgage fraud under this article  
16 or under any other provision of this title. Nothing in this Code section shall be construed  
17 to preclude otherwise authorized law enforcement agencies from conducting investigations  
18 of offenses related to residential mortgage fraud."

**SECTION 2.**

19 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia  
20 Bureau of Investigation, is amended by revising subsection (a) of Code Section 35-3-4,  
21 relating to powers and duties of the Georgia Bureau of Investigation, by striking "or" at the  
22 end of paragraph (10), by replacing the period with "; or" at the end of paragraph (11), and  
23 by adding a new paragraph to read as follows:  
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25 "(12) Identify and investigate violations of Article 5 of Chapter 8 of Title 16."

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**SECTION 3.**

Said chapter is further amended by adding a new Code section to read as follows:

"35-3-4.2.

(a) In any investigation of a violation of Article 5 of Chapter 8 of Title 16 or other criminal violations involving fraudulent real estate transactions, the director, assistant director, or deputy director for investigations shall be authorized to issue a subpoena, with the consent of the Attorney General, to compel the production of books, papers, documents, or other tangible things, including records and documents contained within, or generated by, a computer or any other electronic device.

(b) Upon the failure of a person without lawful excuse to obey a subpoena, the director, assistant director, or the deputy director for investigations, through the Attorney General or district attorney, may apply to a superior court having jurisdiction for an order compelling compliance. Such person may object to the subpoena on grounds that it fails to comply with this Code section or upon any constitutional or other legal right or privilege of such person. The court may issue an order modifying or setting aside such subpoena or directing compliance with the original subpoena. Failure to obey a subpoena issued under this Code section may be punished by the court as contempt of court."

**SECTION 4.**

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