

House Bill 239

By: Representatives Morris of the 155<sup>th</sup>, Harden of the 28<sup>th</sup>, and Nix of the 69<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to  
2 financial institutions, so as to provide for definitions; to provide the Department of Banking  
3 and Finance the power to require dissolution of a financial institution; to provide for the  
4 effect of failure to maintain five members on a board of directors; to provide for service on  
5 a credit committee by a director of a credit union in certain cases; to provide for the payment  
6 of a P.O.D. account to an incorporated entity; to provide for penalties for making false  
7 statements; to provide that certain attorneys must be licensed to practice law in Georgia; to  
8 change definitions relating to licensing of mortgage lenders and mortgage brokers; to provide  
9 for an effective date for licenses for mortgage loan originators; to change cross-references  
10 as necessary; to provide for surety bonds in certain situations; to provide for the  
11 administration of a nationwide system of licensing; to provide for confidentiality of certain  
12 information; to provide penalties for hiring persons with previous convictions in certain  
13 situations; to provide for renewal and expiration of licenses and registrations; to provide for  
14 ownership of related businesses; to provide for the investigation of applicants and  
15 educational experience; to provide for the continuation of actions; to provide for penalties  
16 per violation per day; to provide for related matters; to repeal conflicting laws; and for other  
17 purposes.

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

19 **SECTION 1.**

20 Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial  
21 institutions, is amended by revising paragraph (35) of Code Section 7-1-4, relating to  
22 definitions, as follows:

23 "(35) 'Statutory capital base' means:

24 ~~(A) The~~ the sum of the capital stock, ~~the~~ paid-in capital, ~~the~~ appropriated retained  
25 earnings, and ~~the~~ capital debt of a bank or trust company less any amount of good will,

26 core deposit intangibles, or other intangible assets related to the purchase, acquisition,  
 27 or merger of a bank charter; or accumulated deficit (negative retained earnings).  
 28 ~~(B) The amount of the net assets of such financial institution, whichever is the lower~~  
 29 ~~amount."~~

### 30 SECTION 2.

31 Said chapter is further amended by adding a new subsection to Code Section 7-1-113,  
 32 relating to voluntary dissolution prior commencement of business by a financial institution,  
 33 as follows:

34 "(c) If the department determines that a financial institution has not conducted any business  
 35 other than organizational business and, if articles of dissolution satisfying the requirements  
 36 of this chapter are not delivered in duplicate to the department together with the filing fee  
 37 as required by Code Section 7-1-862, the department may make written demand upon the  
 38 financial institution to immediately provide articles of dissolution or to provide cause why  
 39 such dissolution should not be pursued directly by the department. If the financial  
 40 institution fails to provide articles of dissolution as required within 60 days from the date  
 41 of demand by the department, the department may seek dissolution of the financial  
 42 institution in organization directly from the Secretary of State's office."

### 43 SECTION 3.

44 Said chapter is further amended by revising subsection (a) of Code Section 7-1-482, relating  
 45 to number, term, and compensation of directors, as follows:

46 "(a) The articles or bylaws of any bank or trust company may fix the number of directors  
 47 of its policy-making board at not less than five nor more than 25 and may provide that the  
 48 board may, within such limitation, increase or decrease the number of directors by not  
 49 more than two in any one year, provided that nothing in this subsection shall require a bank  
 50 with a board of directors of less than five on July 1, 1972, to increase its board to five  
 51 members. The failure of a bank or trust company to maintain at least five directors at any  
 52 time does not exculpate the remaining directors from their obligations and liabilities  
 53 associated with the actions and decisions made as directors of the financial institution, nor  
 54 does it in any way void any actions taken or decisions made by the board of directors  
 55 during any such time that there were less than five directors."

### 57 SECTION 4.

58 Said chapter is further amended by revising subsection (c) of Code Section 7-1-655, relating  
 59 to the operation of the board of directors of credit unions, as follows:

60 "(c) At the organizational meeting and at its first meeting after each annual meeting of the  
 61 members, the board of directors shall appoint a supervisory committee, credit committee,

62 ~~chairman~~ chairperson, president, secretary, and such other officers consistent with the  
 63 bylaws as the board deems desirable. No member of the supervisory committee may serve  
 64 as a member of the credit committee or as an officer, unless the board of directors functions  
 65 as the credit committee as provided for in subsection (f) of Code Section 7-1-658."

66 **SECTION 5.**

67 Said chapter is further amended by revising paragraphs (10) and (11) of Code Section  
 68 7-1-810, relating to definitions regarding multiple-party accounts, as follows:

69 "(10) 'P.O.D. account' means an account payable on request to one person during his or  
 70 her lifetime or to an incorporated entity and on his such person's death to one or more  
 71 P.O.D. payees or to one or more persons during their lifetimes or to an incorporated entity  
 72 and on the death of all of them or the dissolution of the incorporated entity to one or more  
 73 P.O.D. payees.

74 (11) 'P.O.D. payee' means a person or an incorporated entity designated on a P.O.D.  
 75 account as one to whom the account is payable on request after the death of one or more  
 76 persons."

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78 **SECTION 6.**

79 Said chapter is further amended by revising paragraph (5) and adding a new paragraph to  
 80 Code Section 7-1-842, relating to felonies of directors, officers, agents, and employees of  
 81 financial institutions, as follows:

82 "(5) Uses information obtained through his or her association with the financial  
 83 institution which he or she serves as a director, officer, agent, or employee, which is not  
 84 otherwise publicly available, with the intent to realize personal gain or to cause financial  
 85 harm to another party shall be guilty of a felony and, upon conviction, shall be punished  
 86 by a fine not to exceed \$10,000.00 or twice the amount of improper gain realized,  
 87 whichever is less, or by imprisonment and labor in the penitentiary for not less than one  
 88 year nor more than five years, or both; or

89 (6) Makes any false statement to the financial institution, the commissioner, or any  
 90 examiner, with intent to injure or defraud the financial institution, and every person who  
 91 with like intent aids or abets any officer, director, clerk, agent, or employee in making  
 92 any false statement to the financial institution, the commissioner, or any examiner, shall  
 93 be guilty of a felony and, upon conviction, shall be punished by imprisonment and labor  
 94 in the penitentiary for not less than one year nor more than ten years."

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**SECTION 7.**

96 Said chapter is further amended by revising paragraphs (20) and (23) of Code Section  
 97 7-1-1000, relating to definitions regarding licensing of mortgage lenders and mortgage  
 98 brokers, as follows:

99 "(20) 'Mortgage lender' means any person who directly or indirectly makes, originates,  
 100 underwrites, holds, or purchases mortgage loans or who services mortgage loans."

101 "(23) 'Nationwide Mortgage Licensing System and Registry' means a mortgage licensing  
 102 system developed and maintained by the Conference of State Bank Supervisors and the  
 103 American Association of Residential Mortgage Regulators for the licensing and  
 104 registration of licensed mortgage loan originators, mortgage loan brokers, and mortgage  
 105 loan lenders, or its successor."

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**SECTION 8.**

108 Said chapter is further amended by revising paragraph (5) of subsection (a) of Code Section  
 109 7-1-1001, relating to registration requirements and exemptions regarding licensing of  
 110 mortgage lenders and mortgage brokers, as follows:

111 "(5) ~~A licensed~~ An attorney licensed to practice law in Georgia who negotiates the terms  
 112 of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's  
 113 representation of the client, unless the attorney is compensated by a lender, a mortgage  
 114 broker, or other mortgage loan originator or by any agent of such lender, mortgage  
 115 broker, or other mortgage loan originator;"

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**SECTION 9.**

118 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
 119 7-1-1001.1, relating to licenses for mortgage loan originators, as follows:

120 "~~(a) In order to comply with the federal requirements contained in the federal Secure and~~  
 121 ~~Fair Enforcement for Mortgage Licensing Act of 2008, also known as the S.A.F.E.~~  
 122 ~~Mortgage Licensing Act of 2008, on and after January 1, 2010, or such later date approved~~  
 123 ~~by the Secretary of the United States Department of Housing and Urban Development,~~  
 124 ~~pursuant to the authority granted under Public Law 110-289, Section 1508(a) Effective~~  
 125 August 1, 2010, it shall be prohibited for any person to engage in the activities of a  
 126 mortgage loan originator without first obtaining and maintaining a mortgage loan originator  
 127 license as set forth in this article. All provisions within this article that relate to the  
 128 licensing requirements and associated duties and responsibilities of mortgage loan  
 129 originators shall be effective ~~on and after January 1, 2010, or such later date approved by~~  
 130 ~~the Secretary of the United States Department of Housing and Urban Development,~~

131 ~~pursuant to the authority granted under Public Law 110-289, Section 1508(a) as of August~~  
 132 ~~1, 2010.~~

133 (b) The department shall have the broad administrative authority to administer, interpret,  
 134 and enforce this article and the federal Secure and Fair Enforcement for Mortgage  
 135 Licensing Act of 2008, and promulgate rules or regulations implementing it, in order to  
 136 carry out the intentions of the federal ~~legislature~~ legislation."

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#### SECTION 10.

139 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section  
 140 7-1-1002, relating to transaction of business without a license, as follows:

141 "(3) In the case of an employee of a mortgage broker or mortgage lender, such person has  
 142 qualified to be relieved of the necessity for a license under the employee exemption in  
 143 paragraph ~~(11)~~(14) of subsection (a) of Code Section 7-1-1001;"

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#### SECTION 11.

146 Said chapter is further amended by revising subsection (c) of Code Section 7-1-1003.2,  
 147 relating to financial requirements for licensing and registration, as follows:

148 "(c) Each mortgage loan originator shall be covered by a the surety bond ~~in accordance~~  
 149 ~~with this Code section of his or her sponsoring licensed or registered mortgage broker or~~  
 150 lender. In the event that the mortgage loan originator is an employee of a licensed or  
 151 registered mortgage broker or lender or under an exclusive written independent contractor  
 152 agreement as described in paragraph (17) of Code Section 7-1-1001, the surety bond of  
 153 such licensed or registered mortgage broker or lender may be used in lieu of the mortgage  
 154 loan originator's surety bond requirement. ~~If the surety bond of the licensed or registered~~  
 155 ~~mortgage broker or lender is used in lieu of an individual mortgage loan originator's surety~~  
 156 ~~bond then that surety bond shall provide coverage for each covered mortgage loan~~  
 157 ~~originator in such amount as the department may require that reflects the dollar amount of~~  
 158 ~~loans originated as determined by the department."~~

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#### SECTION 12.

161 Said chapter is further amended by revising Code Section 7-1-1003.5, relating to the uniform  
 162 administration of an automated licensing system for mortgage loan originators, mortgage  
 163 brokers, and mortgage lenders, as follows:

164 "7-1-1003.5.

165 ~~(a) The General Assembly has determined that a uniform multistate administration of an~~  
 166 ~~automated licensing system for mortgage loan originators, mortgage brokers, and mortgage~~  
 167 ~~lenders is consistent with both the public interest and the purpose of this chapter, therefore,~~

168 for the sole purpose of participating in the establishment and implementation of a multistate  
 169 automated licensing system for mortgage loan originators, mortgage brokers, and mortgage  
 170 lenders, the department is authorized to:

171 (1) Participate in a ~~nation-wide residential mortgage licensing system established the~~  
 172 Nationwide Mortgage Licensing System and Registry in order to facilitate the sharing of  
 173 information and standardization of the licensing and application processes for mortgage  
 174 loan originators, mortgage brokers, and mortgage lenders by electronic or other means;

175 (2) Enter into operating agreements, information sharing agreements, interstate  
 176 cooperative agreements, and other contracts necessary for the department's participation  
 177 in the ~~nation-wide residential mortgage licensing system~~ Nationwide Mortgage Licensing  
 178 System and Registry;

179 (3) Ensure Request that the ~~nation-wide residential mortgage licensing system~~  
 180 Nationwide Mortgage Licensing System and Registry adopts an appropriate privacy, data  
 181 security, and security breach notification policy that is in full compliance with existing  
 182 state and federal law;

183 (4) Disclose or cause to be disclosed without liability via the Nationwide Mortgage  
 184 Licensing System and Registry applicant and licensee information, including, but not  
 185 limited to, violations of this article and enforcement actions, ~~via the nation-wide~~  
 186 ~~residential mortgage licensing system~~ to facilitate regulatory oversight of mortgage loan  
 187 originators, mortgage brokers, and mortgage lenders across state jurisdictional lines;

188 (5) Establish and adopt, by rule or regulation, requirements for participation by  
 189 applicants and licensees in the ~~nation-wide residential mortgage licensing system~~  
 190 Nationwide Mortgage Licensing System and Registry upon the department's ~~finding~~  
 191 determination that each new or amended requirement is consistent with both the public  
 192 interest and the purposes of this article; and

193 (6) Pay all fees received from licensees and applicants related to applications, licenses,  
 194 and renewals to the Office of the State Treasurer; provided, however, that the department  
 195 may net such fees to recover the cost of participation in the ~~nation-wide residential~~  
 196 ~~mortgage licensing system~~; and Nationwide Mortgage Licensing System and Registry.

197 ~~(7) Modify by rule the license renewal dates set forth in Code Section 7-1-1005 for~~  
 198 ~~mortgage brokers and mortgage lenders from a fiscal year to a calendar year, including~~  
 199 ~~providing for a one-time, six-month licensing period accompanied by a one-time reduced~~  
 200 ~~fee during the conversion year from a fiscal licensing year to a calendar licensing year.~~

201 (b) Irrespective of its participation in a ~~nation-wide residential mortgage licensing system~~  
 202 the Nationwide Mortgage Licensing System and Registry, the department retains full and  
 203 exclusive authority over determinations whether to grant, renew, suspend, or revoke

204 licenses issued to mortgage loan originators, mortgage brokers, and mortgage lenders under  
 205 this article. Nothing in this Code section shall be construed to reduce this authority."

206 **SECTION 13.**

207 Said chapter is further amended by revising Code Section 7-1-1003.6, relating to the  
 208 confidentiality of information, as follows:

209 "7-1-1003.6.

210 (a) Except as otherwise provided in the federal Secure and Fair Enforcement for Mortgage  
 211 Licensing Act of 2008, the requirements under any federal law or Georgia state law  
 212 regarding the privacy or confidentiality of any information or material provided to the  
 213 Nationwide Mortgage Licensing System and Registry and any privilege arising under  
 214 federal or state law, including the rules of any federal or state court, with respect to such  
 215 information or material, shall continue to apply to such information or material after the  
 216 information or material has been disclosed to the Nationwide Mortgage Licensing System  
 217 and Registry. Such information and material may be shared with all state and federal  
 218 regulatory ~~officials with mortgage industry oversight authority~~ agencies or law  
 219 enforcement authorities without the loss of privilege or the loss of confidentiality  
 220 protection provided by federal or state law.

221 (b) Information or material that is subject to privilege or confidentiality under  
 222 subsection (a) of this Code section shall not be subject to:

223 (1) Disclosure under any federal or state law governing the disclosure to the public of  
 224 information held by an officer or an agency of the federal government or the respective  
 225 state; or

226 (2) Subpoena or discovery, or admission into evidence, in any private civil action ~~or~~  
 227 ~~administrative process~~, unless with respect to any privilege held by the Nationwide  
 228 Mortgage Licensing System and Registry ~~with respect to~~ regarding such information or  
 229 material, the person to whom such information or material pertains waives, in whole or  
 230 in part, in the discretion of such person that privilege.

231 (c) This Code section shall not apply with respect to the information or material relating  
 232 to the employment history of, and publicly adjudicated disciplinary and enforcement  
 233 actions against, licensees that are included in the Nationwide Mortgage Licensing System  
 234 and Registry for access by the public."

235 **SECTION 14.**

236 Said chapter is further amended by revising subsection (c) of Code Section 7-1-1003.7,  
 237 relating to approval of educational courses by the department, as follows:

238 "(c) The initial application shall be filed with the department along with fees established  
 239 by rule, no portion of which shall be refunded or prorated. Upon receipt of an application,  
 240 the department shall conduct such investigation as it deems necessary to determine that the  
 241 applicant and the individuals who direct the affairs or establish policy for the applicant,  
 242 including the officers, directors, or the equivalent, are of good character and ethical  
 243 reputation; that the applicant and such persons meet the requirements of subsection ~~(d)~~(h)  
 244 of Code Section 7-1-1004; that the applicant and such persons demonstrate reasonable  
 245 financial responsibility; that the applicant has and maintains a registered agent for service  
 246 in this state; and that the applicant and such persons are qualified by education and  
 247 experience to present courses directly related to the mortgage brokering process."

248

### SECTION 15.

249 Said chapter is further amended by revising subsections (d), (e), (h), and (o) through (q), and  
 250 adding a new subsection in Code Section 7-1-1004, relating to the investigation of applicants  
 251 and educational experience by the department, as follows:

252 "(d) Upon receipt of an application for a mortgage loan originator license, the department  
 253 shall conduct such investigation as it deems necessary to determine that the mortgage loan  
 254 originator applicant:

255 (1) Has never had a mortgage loan originator license revoked in any governmental  
 256 jurisdiction, except that a subsequent formal vacation of such revocation shall not be  
 257 deemed a revocation;

258 (2) Has not been convicted of, or ~~pled~~ pleaded guilty or nolo contendere to, a felony in  
 259 a domestic, foreign, or military court; provided, however, that any pardon of a conviction  
 260 shall not be a conviction for purposes of this subsection;

261 (3) Has demonstrated financial responsibility, character, and general fitness such as to  
 262 command the confidence of the community and to warrant a determination that the  
 263 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes  
 264 of this article;

265 (4) Has completed the prelicensing education requirement described in subsection (e) of  
 266 this Code section; and

267 (5) Has passed a written test that meets the test requirement described in subsection (f)  
 268 of this Code section; ~~and~~.

269 ~~(6) Has met the surety bond requirement pursuant to subsection (c) of Code Section~~  
 270 ~~7-1-1003.2.~~

271 (e)(1) An individual shall complete at least 20 hours of prelicensing education courses  
 272 reviewed and approved by the Nationwide Mortgage Licensing System and Registry  
 273 based upon reasonable standards. Review and approval of a prelicensing education

274 course shall include review and approval of the course provider. The 20 hours of  
275 prelicensing education shall include at least:

276 (A) Three hours of federal law and regulations;

277 (B) Three hours of ethics, which shall include instruction on fraud, consumer  
278 protection, and fair lending issues; and

279 (C) Two hours of training related to lending standards for the nontraditional mortgage  
280 product marketplace.

281 (2) Nothing in this subsection shall preclude any prelicensing education course, as  
282 approved by the Nationwide Mortgage Licensing System and Registry, that is provided  
283 by the employer of the mortgage loan originator applicant or an entity which is affiliated  
284 with the applicant by an agency contract, or any subsidiary or affiliate of such employer  
285 or entity.

286 (3) Prelicensing education may be offered either in a classroom, online, or by any other  
287 means approved by the Nationwide Mortgage Licensing System and Registry.

288 (4) The prelicensing education requirements approved by the Nationwide Mortgage  
289 Licensing System and Registry in paragraph (1) of this subsection for any state shall be  
290 accepted as credit towards completion of prelicensing education requirements in Georgia.

291 (5) A person previously licensed under this article ~~subsequent to January 1, 2010,~~  
292 applying to be licensed again shall prove that he or she has completed all of the  
293 continuing education requirements for the year in which the license was last held."

294 "(h) The department shall not issue or may revoke a license or registration if it finds that  
295 the mortgage loan originator, mortgage broker, or mortgage lender applicant or licensee,  
296 or any person who is a director, officer, partner, agent, employee, or ultimate equitable  
297 owner of 10 percent or more of the mortgage broker or mortgage lender applicant,  
298 registrant, or licensee or any individual who directs the affairs or establishes policy for the  
299 mortgage broker or mortgage lender applicant, registrant, or licensee, has been convicted  
300 of a felony in any jurisdiction or of a crime which, if committed within this state, would  
301 constitute a felony under the laws of this state. For Other than a mortgage loan originator,  
302 for the purposes of this article, a person shall be deemed to have been convicted of a crime  
303 if such person shall have pleaded guilty or nolo contendere to a charge thereof before a  
304 court or federal magistrate or shall have been found guilty thereof by the decision or  
305 judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the  
306 pronouncement of sentence or the suspension thereof, and regardless of whether first  
307 offender treatment without adjudication of guilt pursuant to the charge was entered, or an  
308 adjudication or sentence was otherwise withheld or not entered on the charge, unless and  
309 until such plea of guilty, or such decision, judgment, or verdict, shall have been set aside,  
310 reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or

311 both probation and sentence of a first offender have been successfully completed and  
 312 documented, or unless the person convicted of the crime shall have received a pardon  
 313 therefor from the President of the United States or the governor or other pardoning  
 314 authority in the jurisdiction where the conviction occurred or shall have received an official  
 315 certification or pardon granted by the state's pardoning body in the jurisdiction where the  
 316 conviction occurred. ~~Any pardon of a conviction shall not be a conviction for purposes of~~  
 317 ~~this subsection.~~ For purposes of this article, a mortgage loan originator shall be deemed  
 318 to have been convicted of a crime if he or she has pleaded guilty to, been found guilty of,  
 319 or entered a first offender or nolo contendere plea to a felony in a domestic, foreign, or  
 320 military court; provided, however, that any pardon of a conviction shall not be a  
 321 conviction."

322 ~~"(o) The department shall not issue a license or registration to and may revoke a license~~  
 323 ~~or registration from a mortgage broker or mortgage lender applicant, licensee, or registrant~~  
 324 ~~if such person employs any other person against whom a final cease and desist order has~~  
 325 ~~been issued within the preceding five years if such order was based on a violation of Code~~  
 326 ~~Section 7-1-1013 or based on the conducting of a mortgage business; for a violation of~~  
 327 ~~Code Section 7-1-1002, subsection (h) of Code Section 7-1-1004, or Code Section~~  
 328 ~~7-1-1013; or whose license was revoked within five years of the date such person was~~  
 329 ~~hired. Each mortgage broker and mortgage lender applicant, licensee, and registrant shall,~~  
 330 ~~before hiring an employee, examine the department's public records to determine that such~~  
 331 ~~employee is not subject to the type of cease and desist order described in this subsection.~~  
 332 The department shall not issue a license or registration to and may revoke a license or  
 333 registration from a mortgage broker or mortgage lender applicant, licensee, or registrant  
 334 if such person:

335 (1) Has been the recipient of a final cease and desist order issued within the preceding  
 336 five years if such order was based on a violation of subsection (h) of this Code section  
 337 or Code Section 7-1-1002 or 7-1-1013;

338 (2) Employs any other person against whom a final cease and desist order has been  
 339 issued within the preceding five years if such order was based on a violation of  
 340 subsection (h) of this Code section or Code Section 7-1-1002 or 7-1-1013; or

341 (3) Has had his or her license revoked within five years of the date such person was hired  
 342 or employs any other person who has had his or her license revoked within five years of  
 343 the date such person was hired.

344 (p) Each mortgage broker and mortgage lender applicant, licensee, and registrant shall,  
 345 before hiring an employee, examine the department's public records to determine that such  
 346 employee is not subject to the type of cease and desist order described in subsection (o) of  
 347 this Code section.

348 ~~(p)~~(q) Within 90 days after receipt of a completed application and payment of licensing  
 349 fees prescribed by this article, the department shall either grant or deny the request for  
 350 license or registration.

351 ~~(q)~~(r) A person shall not be indemnified for any act covered by this article or for any fine  
 352 or penalty incurred pursuant to this article as a result of any violation of the law or  
 353 regulations contained in this article, due to the legal form, corporate structure, or choice of  
 354 organization of such person, including, but not limited to, a limited liability company."

355 **SECTION 16.**

356 Said chapter is further amended by revising Code Section 7-1-1005, relating to the renewal  
 357 and expiration of licenses and registrations, as follows:

358 "7-1-1005.

359 (a) Except as otherwise specifically provided in this article, all licenses and registrations  
 360 issued pursuant to this article shall expire on December 31 of each year, and application  
 361 for renewal shall be made annually on or before December 1 of each year.

362 ~~(b) Any licensee or registrant making proper application, including all supporting~~  
 363 ~~documents, demonstration that all necessary continuing education has been successfully~~  
 364 ~~completed, moneys owed to the department, and all applicable fees required by this article~~  
 365 ~~and any regulations promulgated by the department, for a license or registration renewal~~  
 366 ~~to operate during the following license year and filing the application prior to December~~  
 367 ~~1 shall be permitted to continue to operate pending final approval or disapproval of the~~  
 368 ~~application for the license or registration renewal for the following year if final approval~~  
 369 ~~or disapproval is not granted prior to January 1. Any licensee or registrant making proper~~  
 370 application on or before December 1 for the renewal of a license or registration for the  
 371 following calendar year shall be permitted to continue to operate pending final approval  
 372 or disapproval of the application if the application for the license or registration is not acted  
 373 upon prior to January 1. For purposes of this subsection, a 'proper application' shall include  
 374 a requirement that all documentation requesting a renewal has been completed, the  
 375 requisite continuing education has been successfully obtained, and payment has been made  
 376 of all outstanding fines and applicable fees required by this article.

377 (c) No investigation fee shall be payable in connection with the renewal application, but  
 378 an annual license or registration fee established by regulation of the department to defray  
 379 the cost of supervision shall be paid with each renewal application, which fee shall not be  
 380 refunded or prorated if the renewal application is approved.

381 (d) Any person holding a license or registration pursuant to this article who fails to file a  
 382 proper application for a license or registration renewal for the following license year;  
 383 ~~including the proper fee accompanying the application,~~ on or before December 1 and who

384 files an application after December 1 may be required to pay, in addition to the license or  
 385 registration fees, a fine in an amount to be established by regulations promulgated by the  
 386 department.

387 (e) The minimum standards for license renewal for mortgage loan originators shall  
 388 include:

389 (1) The mortgage loan originator continues to meet the minimum standards for license  
 390 issuance;

391 (2) The mortgage loan originator has satisfied the annual continuing education  
 392 requirements; ~~and~~

393 (3) The mortgage loan originator has paid all required fees for renewal of the license; and

394 (4) The mortgage loan originator is in compliance with any and all written orders issued  
 395 by the department.

396 ~~(f) The license of a mortgage loan originator failing to satisfy the minimum standards for~~  
 397 ~~license renewal shall expire.~~ The department may adopt procedures for the reinstatement  
 398 of expired licenses consistent with the standards established by the Nationwide Mortgage  
 399 Licensing System and Registry."

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#### SECTION 17.

401 Said chapter is further amended by revising Code Section 7-1-1008, relating to the  
 402 acquisition of shares or ownership of a mortgage broker or mortgage lender, as follows:

403 "7-1-1008.

404 (a) Except as provided in this Code section, no person shall acquire directly or indirectly  
 405 10 percent or more of the voting shares of a corporation or 10 percent or more of the  
 406 ownership of any other entity licensed or registered to conduct business as a mortgage  
 407 broker or mortgage lender under this article unless it first:

408 (1) Files an application with the department in such form as the department may  
 409 prescribe from time to time;

410 (2) Delivers such other information to the department as the department may require  
 411 concerning the financial responsibility, background, experience, and activities of the  
 412 applicant, its directors and officers, if a corporation, and its members, if applicable, and  
 413 of any proposed new directors, officers, or members of the licensee or registrant; and

414 (3) Pays such application fee as the department may prescribe.

415 (b) Upon the filing and investigation of an application, the department shall permit the  
 416 applicant to acquire the interest in the mortgage broker or mortgage lender licensee or  
 417 registrant if it finds that the applicant and its members, if applicable, its directors and  
 418 officers, if a corporation, and any proposed new directors and officers have the financial  
 419 responsibility, character, reputation, experience, and general fitness to warrant belief that

420 the business will be operated efficiently and fairly, in the public interest, and in accordance  
 421 with law. The department shall grant or deny the application within 60 days from the date  
 422 a completed application accompanied by the required fee is filed unless the period is  
 423 extended by order of the department reciting the reasons for the extension. If the  
 424 application is denied, the department shall notify the applicant of the denial and the reasons  
 425 for the denial.

426 (c) The provisions of this Code section shall not apply to:

427 (1) The acquisition of an interest in a licensee or registrant directly or indirectly,  
 428 including an acquisition by merger or consolidation by or with a person licensed or  
 429 registered by this article or a person exempt from this article under Code Section  
 430 7-1-1001;

431 (2) The acquisition of an interest in a mortgage broker or mortgage lender licensee or  
 432 registrant directly or indirectly, including an acquisition by merger or consolidation by  
 433 or with a person affiliated through common ownership with the licensee or registrant; or

434 (3) The acquisition of an interest in a mortgage broker or mortgage lender licensee or  
 435 registrant by a person by bequest, descent, or survivorship or by operation of law.

436 The person acquiring an interest in a mortgage broker or mortgage lender licensee or  
 437 registrant in a transaction which is exempt from filing an application by this subsection  
 438 shall send written notice to the department of such acquisition within 30 days of the closing  
 439 of such transaction."

#### 440 **SECTION 18.**

441 Said chapter is further amended by revising subsection (h) of Code Section 7-1-1017, relating  
 442 to the suspension or revocation of licenses and registrations by the department, as follows:

443 "(h) Whenever the department initiates an administrative action against a current licensee  
 444 or an applicant, the department may pursue that action to its conclusion despite the fact that  
 445 a licensee may withdraw its license or fail to renew it or an applicant may withdraw its  
 446 application."

#### 447 **SECTION 19.**

448 Said chapter is further amended by revising subsection (c) of Code Section 7-1-1018, relating  
 449 to cease and desist orders, as follows:

450 "(c) Any person who violates the terms of any order issued pursuant to this Code section  
 451 shall be liable for a civil penalty not to exceed \$1,000.00 per violation per day unless  
 452 otherwise agreed to by the department. ~~Each day during which the violation continues~~  
 453 ~~shall constitute a separate offense~~. In determining the amount of penalty, the department  
 454 shall take into account the appropriateness of the penalty relative to the size of the financial

455 resources of such person, the good faith efforts of such person to comply with the order,  
456 the gravity of the violation, the history of previous violations by such person, and such  
457 other factors or circumstances as shall have contributed to the violation. The department  
458 may at its discretion compromise, modify, or refund any penalty which is subject to  
459 imposition or has been imposed pursuant to this Code section. Any person assessed as  
460 provided in this subsection shall have the right to request a hearing into the matter within  
461 ten days after notification of the assessment has been served upon the person involved;  
462 otherwise, such penalty shall be final except as to judicial review as provided in Code  
463 Section 7-1-90."

464

**SECTION 20.**

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