

House Bill 237

By: Representatives Golick of the 34<sup>th</sup>, Morris of the 155<sup>th</sup>, Hatfield of the 177<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, and Setzler of the 35<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to residential mortgage fraud, so as revise the definition of "mortgage lending  
3 process"; to provide for investigative and subpoena powers of district attorneys and the  
4 Attorney General relative to residential mortgage fraud; to provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **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 paragraph (1) of Code Section 16-8-101,  
10 relating to definitions, as follows:

11 "(1) 'Mortgage lending process' means the process through which a person seeks or  
12 obtains a residential mortgage loan including, but not limited to, solicitation, application,  
13 or origination, negotiation of terms, third-party provider services, underwriting, signing  
14 and closing, and funding of the loan. Such term shall also include the execution of deeds  
15 under power of sale that are required to be recorded pursuant to Code Section 44-14-160  
16 and the execution of assignments that are required to be recorded pursuant to subsection  
17 (b) of Code Section 44-14-162. Documents involved in the mortgage lending process  
18 include, but are not limited to, uniform residential loan applications or other loan  
19 applications; appraisal reports; HUD-1 settlement statements; supporting personal  
20 documentation for loan applications such as W-2 forms, verifications of income and  
21 employment, bank statements, tax returns, and payroll stubs; and any required  
22 disclosures."

23 **SECTION 2.**

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

25 "16-8-107.

26 (a) In any investigation of a violation of this article or other criminal violations involving  
27 fraudulent real estate transactions, the Attorney General or any district attorney shall be  
28 authorized to issue a subpoena to compel the production of any books, papers, documents,  
29 or other tangible things, including records and documents contained within, or generated  
30 by, a computer or other electronic device.

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

38

### **SECTION 3.**

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