

The House Committee on Judiciary Non-civil offers the following substitute to HB 237:

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 change provisions relating to the offense of mortgage fraud; to provide for
4 investigative and subpoena powers of district attorneys and the Attorney General relative to
5 residential mortgage fraud; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to
10 residential mortgage fraud, is amended by revising paragraph (1) of Code Section 16-8-101,
11 relating to definitions, as follows:

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

24 **SECTION 2.**

25 Said article is further amended by revising the undesignated paragraph at the end of Code
26 Section 16-8-102, relating to the offense of residential mortgage fraud, as follows:

27 "An offense of residential mortgage fraud shall not be predicated solely upon information
28 lawfully disclosed under federal disclosure laws, regulations, and interpretations related to
29 the mortgage lending process nor upon truthful information contained in documents filed
30 with the official registrar of deeds of any county of this state for the stated purpose of
31 correcting scrivener's errors, mistakes, inadvertent misstatements, or omissions contained
32 in previously filed documents."

33 **SECTION 3.**

34 Said article is further amended by revising Code Section 16-8-104, relating to the authority
35 to investigate and prosecute for residential mortgage fraud, as follows:

36 "16-8-104.

37 (a) District attorneys and the Attorney General shall have the authority to conduct the
38 criminal investigation and prosecution of all cases of residential mortgage fraud under this
39 article or under any other provision of this title. Nothing in this Code section shall be
40 construed to preclude otherwise authorized law enforcement agencies from conducting
41 investigations of offenses related to residential mortgage fraud.

42 (b) In any investigation of a violation of this article, the Attorney General or any district
43 attorney shall be authorized to issue a subpoena to compel the production of any books,
44 papers, documents, or other tangible things, including records and documents contained
45 within, or generated by, a computer or other electronic device.

46 (c) Upon the failure of a person without lawful excuse to obey a subpoena, the Attorney
47 General or district attorney may apply to a superior court having jurisdiction for an order
48 compelling compliance. Such person may move to modify or quash the subpoena on any
49 legal or constitutional basis. The court may issue an order modifying or quashing such
50 subpoena or directing compliance with the original subpoena. Failure to obey a subpoena
51 issued pursuant to this Code section may be punished by the court as contempt of court."

52 **SECTION 4.**

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