

House Bill 239 (AS PASSED HOUSE AND SENATE)

By: Representatives Morris of the 155th, Harden of the 28th, and Nix of the 69th

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 that certain attorneys must be
7 licensed to practice law in Georgia; to change definitions relating to licensing of mortgage
8 lenders and mortgage brokers; to provide for an effective date for licenses for mortgage loan
9 originators; to change cross-references as necessary; to provide for surety bonds in certain
10 situations; to provide for the administration of a nationwide system of licensing; to provide
11 for confidentiality of certain information; to provide penalties for hiring persons with
12 previous convictions in certain situations; to provide for renewal and expiration of licenses
13 and registrations; to provide for ownership of related businesses; to provide for the
14 investigation of applicants and educational experience; to provide for the continuation of
15 actions; to provide for penalties per violation per day; to provide for related matters; to repeal
16 conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 SECTION 1.

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

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

23 ~~(A) The~~ the sum of the capital stock, ~~the~~ paid-in capital, ~~the~~ appropriated retained
24 earnings, and ~~the~~ capital debt of a bank or trust company less any amount of good will,
25 core deposit intangibles, or other intangible assets related to the purchase, acquisition,
26 or merger of a bank charter; or accumulated deficit (negative retained earnings).

27 ~~(B) The amount of the net assets of such financial institution, whichever is the lower~~
 28 ~~amount."~~

29 **SECTION 2.**

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

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

42 **SECTION 3.**

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

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

55 **SECTION 4.**

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

58 "(c) At the organizational meeting and at its first meeting after each annual meeting of the
 59 members, the board of directors shall appoint a supervisory committee, credit committee,
 60 chairman chairperson, president, secretary, and such other officers consistent with the

61 bylaws as the board deems desirable. No member of the supervisory committee may serve
 62 as a member of the credit committee or as an officer, unless the board of directors functions
 63 as the credit committee as provided for in subsection (f) of Code Section 7-1-658."

64 **SECTION 5.**

65 Said chapter is further amended by revising paragraphs (10) and (11) of Code Section
 66 7-1-810, relating to definitions regarding multiple-party accounts, as follows:

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

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

75 **SECTION 6.**

76 Said chapter is further amended by revising paragraphs (20) and (23) of Code Section
 77 7-1-1000, relating to definitions regarding licensing of mortgage lenders and mortgage
 78 brokers, as follows:

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

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

86 **SECTION 7.**

87 Said chapter is further amended by revising paragraph (5) of subsection (a) of Code Section
 88 7-1-1001, relating to registration requirements and exemptions regarding licensing of
 89 mortgage lenders and mortgage brokers, as follows:

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

95 **SECTION 8.**

96 Said chapter is further amended by revising subsections (a) and (b) of Code Section
97 7-1-1001.1, relating to licenses for mortgage loan originators, as follows:

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

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

115 **SECTION 9.**

116 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section
117 7-1-1002, relating to transaction of business without a license, as follows:

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

121 **SECTION 10.**

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

124 "(c) Each mortgage loan originator shall be covered by a the surety bond ~~in accordance~~
125 ~~with this Code section of his or her sponsoring licensed or registered mortgage broker or~~
126 ~~lender~~. In the event that the mortgage loan originator is an employee of a licensed or
127 registered mortgage broker or lender or under an exclusive written independent contractor
128 agreement as described in paragraph (17) of Code Section 7-1-1001, the surety bond of
129 such licensed or registered mortgage broker or lender may be used in lieu of the mortgage

130 loan originator's surety bond requirement. ~~If the surety bond of the licensed or registered~~
 131 ~~mortgage broker or lender is used in lieu of an individual mortgage loan originator's surety~~
 132 ~~bond then that surety bond shall provide coverage for each covered mortgage loan~~
 133 ~~originator in such amount as the department may require that reflects the dollar amount of~~
 134 ~~loans originated as determined by the department."~~

135 SECTION 11.

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

139 "7-1-1003.5.

140 (a) ~~The General Assembly has determined that a uniform multistate administration of an~~
 141 ~~automated licensing system for mortgage loan originators, mortgage brokers, and mortgage~~
 142 ~~lenders is consistent with both the public interest and the purpose of this chapter; therefore,~~
 143 ~~for the sole purpose of participating in the establishment and implementation of a multistate~~
 144 ~~automated licensing system for mortgage loan originators, mortgage brokers, and mortgage~~
 145 ~~lenders, the department is authorized to:~~

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

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

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

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

163 (5) Establish and adopt, by rule or regulation, requirements for participation by
 164 applicants and licensees in the ~~nation-wide residential mortgage licensing system~~
 165 Nationwide Mortgage Licensing System and Registry upon the department's finding

166 determination that each new or amended requirement is consistent with both the public
 167 interest and the purposes of this article; and
 168 (6) Pay all fees received from licensees and applicants related to applications, licenses,
 169 and renewals to the Office of the State Treasurer; provided, however, that the department
 170 may net such fees to recover the cost of participation in the ~~nation-wide residential~~
 171 ~~mortgage licensing system~~; and Nationwide Mortgage Licensing System and Registry.
 172 ~~(7) Modify by rule the license renewal dates set forth in Code Section 7-1-1005 for~~
 173 ~~mortgage brokers and mortgage lenders from a fiscal year to a calendar year, including~~
 174 ~~providing for a one-time, six-month licensing period accompanied by a one-time reduced~~
 175 ~~fee during the conversion year from a fiscal licensing year to a calendar licensing year.~~
 176 (b) Irrespective of its participation in a ~~nation-wide residential mortgage licensing system~~
 177 the Nationwide Mortgage Licensing System and Registry, the department retains full and
 178 exclusive authority over determinations whether to grant, renew, suspend, or revoke
 179 licenses issued to mortgage loan originators, mortgage brokers, and mortgage lenders under
 180 this article. Nothing in this Code section shall be construed to reduce this authority."

181 **SECTION 12.**

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

184 "7-1-1003.6.

185 (a) Except as otherwise provided in the federal Secure and Fair Enforcement for Mortgage
 186 Licensing Act of 2008, the requirements under any federal law or Georgia state law
 187 regarding the privacy or confidentiality of any information or material provided to the
 188 Nationwide Mortgage Licensing System and Registry and any privilege arising under
 189 federal or state law, including the rules of any federal or state court, with respect to such
 190 information or material, shall continue to apply to such information or material after the
 191 information or material has been disclosed to the Nationwide Mortgage Licensing System
 192 and Registry. Such information and material may be shared with all state and federal
 193 regulatory ~~officials with mortgage industry oversight authority~~ agencies or law
 194 enforcement authorities without the loss of privilege or the loss of confidentiality
 195 protection provided by federal or state law.

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

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

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

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

210 SECTION 13.

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

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

223 SECTION 14.

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

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

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

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

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

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

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

244 ~~(6) Has met the surety bond requirement pursuant to subsection (c) of Code Section~~
 245 ~~7-1-1003.2.~~

246 (e)(1) An individual shall complete at least 20 hours of prelicensing education courses
 247 reviewed and approved by the Nationwide Mortgage Licensing System and Registry
 248 based upon reasonable standards. Review and approval of a prelicensing education
 249 course shall include review and approval of the course provider. The 20 hours of
 250 prelicensing education shall include at least:

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

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

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

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

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

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

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

269 "(h) The department shall not issue or may revoke a license or registration if it finds that
 270 the mortgage loan originator, mortgage broker, or mortgage lender applicant or licensee,
 271 or any person who is a director, officer, partner, agent, employee, or ultimate equitable
 272 owner of 10 percent or more of the mortgage broker or mortgage lender applicant,

273 registrant, or licensee or any individual who directs the affairs or establishes policy for the
 274 mortgage broker or mortgage lender applicant, registrant, or licensee, has been convicted
 275 of a felony in any jurisdiction or of a crime which, if committed within this state, would
 276 constitute a felony under the laws of this state. For Other than a mortgage loan originator,
 277 for the purposes of this article, a person shall be deemed to have been convicted of a crime
 278 if such person shall have pleaded guilty or nolo contendere to a charge thereof before a
 279 court or federal magistrate or shall have been found guilty thereof by the decision or
 280 judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the
 281 pronouncement of sentence or the suspension thereof, and regardless of whether first
 282 offender treatment without adjudication of guilt pursuant to the charge was entered, or an
 283 adjudication or sentence was otherwise withheld or not entered on the charge, unless and
 284 until such plea of guilty, or such decision, judgment, or verdict, shall have been set aside,
 285 reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or
 286 both probation and sentence of a first offender have been successfully completed and
 287 documented, or unless the person convicted of the crime shall have received a pardon
 288 therefor from the President of the United States or the governor or other pardoning
 289 authority in the jurisdiction where the conviction occurred or shall have received an official
 290 certification or pardon granted by the state's pardoning body in the jurisdiction where the
 291 conviction occurred. Any pardon of a conviction shall not be a conviction for purposes of
 292 this subsection. For purposes of this article, a mortgage loan originator shall be deemed
 293 to have been convicted of a crime if he or she has pleaded guilty to, been found guilty of,
 294 or entered a first offender or nolo contendere plea to a felony in a domestic, foreign, or
 295 military court; provided, however, that any pardon of a conviction shall not be a
 296 conviction."
 297 ~~"(o) The department shall not issue a license or registration to and may revoke a license~~
 298 ~~or registration from a mortgage broker or mortgage lender applicant, licensee, or registrant~~
 299 ~~if such person employs any other person against whom a final cease and desist order has~~
 300 ~~been issued within the preceding five years if such order was based on a violation of Code~~
 301 ~~Section 7-1-1013 or based on the conducting of a mortgage business; for a violation of~~
 302 ~~Code Section 7-1-1002, subsection (h) of Code Section 7-1-1004, or Code Section~~
 303 ~~7-1-1013; or whose license was revoked within five years of the date such person was~~
 304 ~~hired. Each mortgage broker and mortgage lender applicant, licensee, and registrant shall,~~
 305 ~~before hiring an employee, examine the department's public records to determine that such~~
 306 ~~employee is not subject to the type of cease and desist order described in this subsection.~~
 307 The department shall not issue a license or registration to and may revoke a license or
 308 registration from a mortgage broker or mortgage lender applicant, licensee, or registrant
 309 if such person:

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

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

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

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

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

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

330 **SECTION 15.**

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

333 "7-1-1005.

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

337 ~~(b) Any licensee or registrant making proper application, including all supporting~~
 338 ~~documents, demonstration that all necessary continuing education has been successfully~~
 339 ~~completed, moneys owed to the department, and all applicable fees required by this article~~
 340 ~~and any regulations promulgated by the department, for a license or registration renewal~~
 341 ~~to operate during the following license year and filing the application prior to December~~
 342 ~~1 shall be permitted to continue to operate pending final approval or disapproval of the~~
 343 ~~application for the license or registration renewal for the following year if final approval~~
 344 ~~or disapproval is not granted prior to January 1. Any licensee or registrant making proper~~
 345 application on or before December 1 for the renewal of a license or registration for the

346 following calendar year shall be permitted to continue to operate pending final approval
 347 or disapproval of the application if the application for the license or registration is not acted
 348 upon prior to January 1. For purposes of this subsection, a 'proper application' shall include
 349 a requirement that all documentation requesting a renewal has been completed, the
 350 requisite continuing education has been successfully obtained, and payment has been made
 351 of all outstanding fines and applicable fees required by this article.

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

356 (d) Any person holding a license or registration pursuant to this article who fails to file a
 357 proper application for a license or registration renewal for the following license year;
 358 ~~including the proper fee accompanying the application,~~ on or before December 1 and who
 359 files an application after December 1 may be required to pay, in addition to the license or
 360 registration fees, a fine in an amount to be established by regulations promulgated by the
 361 department.

362 (e) The minimum standards for license renewal for mortgage loan originators shall
 363 include:

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

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

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

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

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

375 **SECTION 16.**

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

378 "7-1-1008.

379 (a) Except as provided in this Code section, no person shall acquire directly or indirectly
 380 10 percent or more of the voting shares of a corporation or 10 percent or more of the

381 ownership of any other entity licensed or registered to conduct business as a mortgage
382 broker or mortgage lender under this article unless it first:

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

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

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

390 (b) Upon the filing and investigation of an application, the department shall permit the
391 applicant to acquire the interest in the mortgage broker or mortgage lender licensee or
392 registrant if it finds that the applicant and its members, if applicable, its directors and
393 officers, if a corporation, and any proposed new directors and officers have the financial
394 responsibility, character, reputation, experience, and general fitness to warrant belief that
395 the business will be operated efficiently and fairly, in the public interest, and in accordance
396 with law. The department shall grant or deny the application within 60 days from the date
397 a completed application accompanied by the required fee is filed unless the period is
398 extended by order of the department reciting the reasons for the extension. If the
399 application is denied, the department shall notify the applicant of the denial and the reasons
400 for the denial.

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

402 (1) The acquisition of an interest in a licensee or registrant directly or indirectly,
403 including an acquisition by merger or consolidation by or with a person licensed or
404 registered by this article or a person exempt from this article under Code Section
405 7-1-1001;

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

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

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

415 **SECTION 17.**

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

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

422 **SECTION 18.**

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

425 "(c) Any person who violates the terms of any order issued pursuant to this Code section
 426 shall be liable for a civil penalty not to exceed \$1,000.00 per violation per day unless
 427 otherwise agreed to by the department. ~~Each day during which the violation continues~~
 428 ~~shall constitute a separate offense.~~ In determining the amount of penalty, the department
 429 shall take into account the appropriateness of the penalty relative to the size of the financial
 430 resources of such person, the good faith efforts of such person to comply with the order,
 431 the gravity of the violation, the history of previous violations by such person, and such
 432 other factors or circumstances as shall have contributed to the violation. The department
 433 may at its discretion compromise, modify, or refund any penalty which is subject to
 434 imposition or has been imposed pursuant to this Code section. Any person assessed as
 435 provided in this subsection shall have the right to request a hearing into the matter within
 436 ten days after notification of the assessment has been served upon the person involved;
 437 otherwise, such penalty shall be final except as to judicial review as provided in Code
 438 Section 7-1-90."

439 **SECTION 19.**

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