

Senate Bill 365

By: Senator Hamrick of the 30th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 3 of Chapter 19 of Title 15 of the Official Code of Georgia Annotated,
 2 relating to the regulation of the practice of law, so as to change provisions relating to the
 3 unauthorized practice of law; to provide for a civil action for damages; to amend Code
 4 Section 44-14-13 of the Official Code of Georgia Annotated, relating to disbursement of
 5 settlement proceeds, so as to change the definition of "settlement agent"; to change
 6 provisions relating to the applicability of the Code section and the availability of damages
 7 for violating the Code section; to provide for related matters; to repeal conflicting laws; and
 8 for other purposes.

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

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SECTION 1.

11 Article 3 of Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to the
 12 regulation of the practice of law, is amended by revising Code Section 15-19-51, relating to
 13 the unauthorized practice of law, as follows:

14 "15-19-51.

15 (a) It shall be unlawful for any person other than a duly licensed attorney at law:

16 (1) To practice or appear as an attorney at law for any person other than himself or
 17 herself in any court of this state or before any judicial body;

18 (2) To make it a business to practice as an attorney at law for any person other than
 19 himself or herself in any of such courts;

20 (3) To hold himself or herself out to the public or otherwise to any person as being
 21 entitled to practice law;

22 (4) To render or furnish legal services or advice;

23 (5) To furnish attorneys or counsel;

24 (6) To render legal services of any kind in actions or proceedings of any nature;

25 (7) To assume or use or advertise the title of 'lawyer,' 'attorney,' 'attorney at law,' or
 26 equivalent terms in any language in such manner as to convey the impression that he or

27 she is entitled to practice law or is entitled to furnish legal advice, services, or counsel;
 28 or
 29 (8) To advertise that either alone or together with, by, or through any person, whether
 30 a duly and regularly admitted attorney at law or not, he or she has, owns, conducts, or
 31 maintains an office for the practice of law or for furnishing legal advice, services, or
 32 counsel;
 33 (9) To prepare deeds of conveyance, facilitate the execution of deeds of conveyance, or
 34 supervise the recording of deeds of conveyance;
 35 (10) To supervise the closing of any real estate transaction; or
 36 (11) To collect and disburse the funds necessary to effectuate a real estate transaction.
 37 (b) Unless otherwise provided by law or by rules promulgated by the Supreme Court, it
 38 shall be unlawful for any corporation, voluntary association, or company to do or perform
 39 any of the acts recited in subsection (a) of this Code section."

40 SECTION 2.

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

42 "15-19-59.

43 Any person damaged by a person, firm, or corporation acting in violation of this article
 44 shall be entitled to maintain a civil action to recover actual damages and reasonable
 45 attorney's fees."

46 SECTION 3.

47 Code Section 44-14-13 of the Official Code of Georgia Annotated, relating to disbursement
 48 of settlement proceeds, is amended by revising paragraph (10) of subsection (a) and
 49 subsections (b) and (e) as follows:

50 "(10) 'Settlement agent' means the ~~person~~ lender or an active member of the State Bar of
 51 Georgia responsible for conducting the settlement and disbursement of the settlement
 52 proceeds ~~and includes any individual, corporation, partnership, or other entity conducting~~
 53 ~~the settlement and disbursement of the loan funds."~~

54 "(b) This Code section ~~applies~~ shall apply only to transactions involving purchase money
 55 loans made by a lender, or ~~loans made to refinance, directly or indirectly, a purchase~~
 56 ~~money loan made by another lender~~ refinance loans made by the current or a new lender,
 57 which loans will be secured by deeds to secure debt or mortgages on real estate within the
 58 State of Georgia containing not more than four residential dwelling units, whether or not
 59 such deeds to secure debt or mortgages have a first-priority status."

60 "(e) Any party violating this Code section shall be liable to any other party suffering a loss
 61 due to such violation for such other party's actual damages plus reasonable attorneys' fees.

62 In addition, any party violating this Code section shall pay to the ~~borrower~~ party suffering
63 the loss an amount of money equal to \$1,000.00 or double the amount of interest payable
64 on the loan for the first 60 days after the loan closing, whichever is greater."

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SECTION 4.

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