

The House Committee on Judiciary offers the following substitute to SB 365:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 44-14-13 of the Official Code of Georgia Annotated, relating to
2 disbursement of settlement proceeds, so as to change the definition of "settlement agent"; to
3 change provisions relating to the applicability of the Code section and the availability of
4 damages for violating the Code section; to provide for criminal penalties; to provide for
5 exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 44-14-13 of the Official Code of Georgia Annotated, relating to disbursement
9 of settlement proceeds, is amended by revising paragraph (10) of subsection (a) and
10 subsections (b) and (e) and by adding two new subsections (f) and (g) to read as follows:

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

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

21 "(e) Any party violating this Code section shall be liable to any other party suffering a loss
22 due to such violation for such other party's actual damages plus reasonable attorneys' fees.
23 In addition, any party violating this Code section shall pay to the ~~borrower~~ party suffering
24 the loss an amount of money equal to \$1,000.00 or double the amount of interest payable
25 on the loan for the first 60 days after the loan closing, whichever is greater.

26 (f) Any individual, corporation, partnership, or other entity conducting the settlement and
27 disbursement of loan funds, when he, she, or it is not the settlement agent, shall be guilty
28 of a misdemeanor.

29 (g) Nothing contained in this Code section shall prevent a real estate broker or real estate
30 salesperson from exercising the rights and providing the duties and services specified by
31 Chapter 40 of Title 43."

32 **SECTION 2.**

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