

House Bill 780 (COMMITTEE SUBSTITUTE)

By: Representative Williamson of the 115<sup>th</sup>

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 numerous changes to provisions applicable to the  
3 Department of Banking and Finance and financial institutions generally, banks and trust  
4 companies, credit unions, licensed sellers of payment instruments, those licensed to cash  
5 payment instruments, and mortgage lenders and mortgage brokers; to provide for power of  
6 the commissioner to issue orders relative to state chartered financial institutions to exercise  
7 rights and powers authorized by federal law but not authorized under state law; to provide  
8 for delivery method of required notices; to provide for the removal of officers, directors, or  
9 employees of financial institutions by the department; to provide for powers of banks; to  
10 provide for financial structure, management, merger, consolidations, and interstate  
11 acquisitions of banks and trust companies; to provide for a process by which state chartered  
12 banks and credit unions may exercise rights and powers authorized solely under federal law;  
13 to provide for operation and regulation of credit unions; to provide for the sale of payment  
14 instruments; to provide for the cashing of payment instruments; to provide for the licensing  
15 of mortgage lenders and mortgage brokers; 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 in Code Section 7-1-6, relating to notices and waivers of notices, by  
21 revising paragraph (1) as follows:

22 "(1) Any notice required to be given under this chapter may be delivered in person or by  
23 first-class mail or statutory overnight delivery to the last known address of the person or  
24 corporation or to the registered office of the corporation. If the notice is sent by  
25 first-class mail or statutory overnight delivery, it shall be deemed to have been given

26 when deposited in the United States mail or with a commercial firm regularly engaged  
27 in the business of document delivery;"

28 **SECTION 2.**

29 Said chapter is further amended in Code Section 7-1-61.1, relating to expansion of power for  
30 banks and credit unions and role of commissioner, by revising subsection (b) and adding a  
31 new subsection to read as follows:

32 "(b) To provide parity with financial institutions whose deposits are federally insured, the  
33 commissioner may, by specific order directed to ~~an individual bank or credit union or~~  
34 a category of banks or credit unions, grant any power conferred upon a financial institution,  
35 subject to the supervision of the federal government, to:

36 (1) State chartered banks and credit unions to enable such banks and credit unions to  
37 compete; and

38 (2) Subsidiaries of state chartered banks and credit unions to the same extent powers are  
39 granted to subsidiaries of national banks or federal credit unions to enable such  
40 subsidiaries of state chartered banks and credit unions to compete."

41 "(d) No later than ten days after the issuance of any order by the commissioner pursuant  
42 to this Code section, the commissioner shall provide a copy of such order to the  
43 chairpersons of the House Committee on Banks and Banking and Senate Banking and  
44 Financial Institutions Committee."

45 **SECTION 3.**

46 Said chapter is further amended in Code Section 7-1-71, relating to removal of officers,  
47 directors, or employees, by revising subsection (b) as follows:

48 "(b) A prohibition order, which prohibits an individual from participating in any capacity  
49 in the affairs of a financial institution, may be issued by the commissioner in connection  
50 with a suspension order issued under the authority of this Code section. Such prohibition  
51 order may provide that if an officer, director, or employee has been removed from office  
52 temporarily or permanently at a financial institution, he or she may also be prohibited from  
53 participating in any manner in the conduct of the affairs of any financial institution or any  
54 financial institution's affiliate regulated by the department during the time the prohibition  
55 order is in effect."

56 **SECTION 4.**

57 Said chapter is further amended in Code Section 7-1-243, relating to restrictions on banking  
58 and trust nomenclature, by revising subsection (a.1) as follows:

59 "(a.1) Except as provided in subsection (c) of this Code section, no person or corporation  
 60 except a credit union or a federal credit union or a subsidiary of such credit union or federal  
 61 credit union shall use the words 'credit union,' or any other similar name indicating that the  
 62 business done is that of a credit union upon any sign at its place of business or elsewhere,  
 63 or upon any of its letterheads, billheads, blank checks, blank notes, receipts, certificates,  
 64 circulars, advertisements, or any other written or printed matter."

65 **SECTION 5.**

66 Said chapter is further amended in Code Section 7-1-285, relating to limits on obligations of  
 67 one person or corporation, by revising paragraph (1) of subsection (c) as follows:

68 "(1) Obligations of and obligations guaranteed by:

69 (A) The United States;

70 (B) The State of Georgia or a public body thereof authorized to levy taxes; ~~or~~

71 (C) Any state of the United States or any public body thereof if the obligations or  
 72 guarantees are general obligations; or

73 (D) Any agency of this state as defined in subparagraph (a)(1)(A) of Code  
 74 Section 50-14-1;"

75 **SECTION 6.**

76 Said chapter is further amended by adding a new Code section to read as follows:

77 "7-1-296.

78 (a) For purposes of this Code section, the term 'federal power' means any banking or  
 79 corporate power, right, benefit, privilege, or immunity of a national bank, the deposits of  
 80 which are federally insured, that may be exercised by a national bank doing business in this  
 81 state pursuant to the National Bank Act, 12 U.S.C. Section 1, et seq.; any other federal  
 82 statute; or any regulation, ruling, circular, bulletin, order, or interpretation issued by the  
 83 Office of the Comptroller of the Currency and in effect on January 1, 2018.

84 (b) Notwithstanding any other provisions of law but subject to subsection (d) of this Code  
 85 section, a bank may exercise any federal power during the same period of time that a  
 86 national bank has been able to do so, subject to the same limitations and restrictions as are  
 87 applicable to national banks.

88 (c) Notwithstanding any other provisions of law but subject to subsection (d) of this Code  
 89 section, to the extent the National Bank Act, 12 U.S.C. Section 1, et seq., or any other  
 90 federal law or regulation precludes or preempts or has been determined to preclude or  
 91 preempt the application of any provision of law, rule, or regulation of this state as to any  
 92 national bank doing business in this state in effect on January 1, 2018, such federal  
 93 preclusion or preemption shall apply to a bank to the same extent and during the same

94 period of time that such law or regulation has been precluded or preempted as to a national  
95 bank.  
96 (d) In furtherance of the commissioner's statutory duties to regulate, supervise, and  
97 examine, a bank shall notify the commissioner in writing by certified or registered mail  
98 that, in accordance with subsection (b) or (c) of this Code section, it intends to exercise a  
99 federal power or to avail itself of any federal preclusion or preemption of any provision of  
100 law, rule, or regulation of this state. The notice to the commissioner shall include the  
101 specific federal authorization of the activity to be utilized, the proposed action to be  
102 undertaken by the bank, documentation indicating that the bank satisfies the prescribed  
103 federal standards, if any, to engage in the activity, and such other information as may be  
104 required by the department. Upon receipt of such notice, the commissioner shall determine  
105 whether the exercise of any federal power or the availing of any federal preclusion or  
106 preemption, or any part thereof, by the bank is inconsistent with the purposes of this  
107 chapter or raises safety and soundness concerns. In making such a determination, the  
108 commissioner shall consider the financial condition of the bank, the regulatory safety and  
109 soundness ratings of the bank, the ability of bank management to administer and supervise  
110 the activity, and the overall impact on the safety and soundness of state chartered banks.  
111 Based on such a determination, the commissioner may object to the exercise of the federal  
112 power, in whole or in part, or to the federal preclusion or preemption of the law, rule, or  
113 regulation of this state, in whole or in part, including objecting to a level or quantity above  
114 which a bank may be seeking to exercise a federal power or availing itself of any federal  
115 preclusion or preemption of law, rule, or regulation of this state. If the commissioner so  
116 objects, the commissioner shall deliver such objection in writing by certified or registered  
117 mail to the bank within 45 days of receipt of the notice; provided, however, that the  
118 commissioner may extend such period of review for an additional 45 days by providing the  
119 bank with written notice of such extension prior to the expiration of the initial notice  
120 period. If the commissioner sends such an objection, subsections (b) and (c) of this Code  
121 section shall not apply to the bank as to the federal power, preclusion, or preemption, or  
122 the part thereof, objected to by the commissioner. The objection by the commissioner of  
123 a bank's intent to exercise a federal power or avail itself of any federal preclusion or  
124 preemption shall not preclude such bank from providing a future notice to the department  
125 of its intent to exercise the same federal power or to avail itself of the same federal  
126 preclusion or preemption. Further, in the event a bank determines, after satisfying the  
127 notice provisions of this subsection, that it no longer wishes to exercise a federal power or  
128 avail itself of any federal preclusion or preemption, then such bank shall provide written  
129 notice of such fact to the commissioner by certified or registered mail.

130 (e) Notwithstanding the provisions of Code Section 7-1-70, the department shall publish  
 131 information stating the federal powers that are being exercised or federal preemptions or  
 132 preclusions that are being utilized by each bank. All other information related to the notices  
 133 or objections provided under subsection (d) of this Code section are governed by Code  
 134 Section 7-1-70.

135 (f) Notwithstanding any other provisions of law, a bank may exercise any power that was  
 136 the subject of any order or ruling declared by the commissioner on or before January 1,  
 137 2018, which has not been rescinded or withdrawn, issued under the current or former  
 138 provisions of Code Section 7-1-61, 7-1-61.1, or 7-6A-12. Such power may be exercised  
 139 as of the effective date declared by the commissioner in the order or ruling.

140 (g) Any federal power or activity authorized and exercised or conducted pursuant to this  
 141 Code section shall be independent from, and in addition to, any other powers granted to  
 142 banks under applicable laws of this state or rules or regulations promulgated thereunder.  
 143 The express and incidental powers granted to banks under the Official Code of Georgia  
 144 Annotated are not limited or otherwise restricted by this Code section.

145 (h) Nothing herein shall be construed as limiting the commissioner's authority conferred  
 146 by this chapter, including the powers granted under Code Sections 7-1-61 and 7-1-61.1."

147 **SECTION 7.**

148 Said chapter is further amended in Code Section 7-1-414, relating to purchase, redemption,  
 149 and convertibility of shares and debt securities, by revising subsection (c) as follows:

150 "(c) With the written approval of the department, and a resolution of the board of directors,  
 151 and a two-thirds affirmative vote of the shares entitled to vote, a bank or trust company  
 152 may acquire issued shares of its own common stock, which will then be considered treasury  
 153 shares. The department shall consider whether the acquisition has a legitimate corporate  
 154 purpose, whether any capital impairment would result, and whether the price of the shares  
 155 reflects fair market value."

156 **SECTION 8.**

157 Said chapter is further amended in Code Section 7-1-484, relating to oath of directors of  
 158 banks and trust companies and liability of persons who have not subscribed to such oath, by  
 159 adding a new subsection to read as follows:

160 "(c) The oath shall not modify in any manner the legal duties of or the standard of care for  
 161 directors in the exercise of such duties."

162 **SECTION 9.**

163 Said chapter is further amended in Code Section 7-1-493, relating to actions against directors  
164 and officers of banks and trust companies, by revising subsections (a) and (e) as follows:

165 "(a) An action may be brought by any of the persons named in subsection (b) of this Code  
166 section against one or more directors or officers of a bank or trust company to procure for  
167 the benefit of the bank or trust company a judgment for the following relief:

168 (1) To compel the defendant to account for his or her official conduct, or to decree any  
169 other relief called for by his or her official conduct, in the following cases:

170 (A) The neglect of, failure to perform, or other violation of his or her duties in the  
171 management of the bank or trust company or in the disposition of corporate assets  
172 committed to his or her charge;

173 (B) The acquisition by himself or herself, transfer to others, loss, or waste of corporate  
174 assets due to any neglect of, failure to perform, or other violation of his or her duties;

175 (C) The appropriation, in violation of his or her duties, of any business opportunity of  
176 the bank or trust company;

177 (2) To enjoin a proposed unlawful conveyance, assignment, or transfer of corporate  
178 assets or other unlawful corporate transaction, where there is sufficient evidence that it  
179 will be made;

180 (3) To set aside an unlawful conveyance, assignment, or transfer of corporate assets,  
181 where the transferee knew of its unlawfulness and is made a party to the action."

182 "(e) Notwithstanding the foregoing, a bank or trust company may provide ~~through an~~  
183 ~~amendment to~~ in its articles of incorporation for the elimination or limitation of the  
184 personal liability of a director to the bank or trust company or its shareholders ~~of the bank~~  
185 ~~or trust company~~ to the same extent as a business corporation incorporated under the  
186 provisions of Chapter 2 of Title 14, ~~provided that such an amendment to the articles of~~  
187 ~~incorporation must be adopted by the affirmative vote of two-thirds of the total shares~~  
188 ~~outstanding."~~

189 **SECTION 10.**

190 Said chapter is further amended in Code Section 7-1-531, relating to requirements for  
191 merger, share exchange, or consolidation plan of state banks and trust companies and  
192 modification of plan, by revising paragraphs (2) and (3) of subsection (a) as follows:

193 "(2) Adoption of the plan by each party thereto shall require the affirmative vote of at  
194 least:

195 (A) A majority of the directors; and

196 (B) Unless the article or bylaws require a greater vote, the ~~The~~ shareholders entitled  
197 to cast ~~two-thirds~~ a majority of the votes which all shareholders are entitled to cast

198 thereon and, if any class of shares is entitled to vote thereon as a class, the holders of  
 199 ~~at least two-thirds~~ a majority of the outstanding shares of such class, at a meeting of  
 200 shareholders; provided, however, that approval from the shareholders of the surviving  
 201 bank or trust company is not required if the conditions set forth in subsection (h) of  
 202 Code Section 14-2-1103 are satisfied.

203 (3) Whenever a meeting of shareholders is called for the purpose of taking action on a  
 204 plan, the ~~The~~ notice for such meeting shall include a copy or summary of the plan and a  
 205 full statement of the rights and remedies of dissenting shareholders, the method of  
 206 exercising them, and the limitations on such rights and remedies."

#### 207 **SECTION 11.**

208 Said chapter is further amended in Code Section 7-1-590, relating to definitions relative to  
 209 representative offices and registration of banks and trust companies, by revising paragraph  
 210 (4) as follows:

211 "(4) 'Representative office' is an office established by a bank, a bank holding company, or  
 212 an agent or subsidiary of either for the purpose of conducting business activities other than  
 213 a banking business. It shall not be considered to be a branch office or main office."

#### 214 **SECTION 12.**

215 Said chapter is further amended in Code Section 7-1-625, relating to provisions applicable  
 216 to, and qualifications of, bank holding companies in this state, reciprocal agreements, and  
 217 confidentiality reports, by revising subsection (b) as follows:

218 "(b) Any bank holding company that has a bank subsidiary with banking offices in Georgia  
 219 that is not otherwise organized under the laws of this state or qualified to do business in this  
 220 state shall qualify to do business in this state as a foreign corporation ~~and shall advise the~~  
 221 ~~department of the location of its initial registered office within this state and the name of~~  
 222 ~~its initial registered agent at such location.~~ Such bank holding company shall agree to be  
 223 bound by all the provisions of Code Sections 7-1-605 through 7-1-612 and by the  
 224 provisions of this part. Any bank holding company having a Georgia bank subsidiary shall  
 225 promptly advise the department of any changes in its registered office and agent."

#### 226 **SECTION 13.**

227 Said chapter is further amended in Code Section 7-1-650, relating to powers of credit unions,  
 228 by revising paragraphs (11) and (12) and adding a new paragraph to read as follows:

229 "(11) Dispose of property held pursuant to paragraphs (9) and (10) of this subsection  
 230 through financing by the credit union without the advance of additional funds irrespective

231 of the purchasers' membership in the credit union and of ordinarily applicable collateral  
 232 margin requirements; and

233 (12) Provide, ~~through an amendment to its bylaws~~ in its articles of incorporation  
 234 approved by ~~two-thirds~~ a majority of its membership present and voting, for the  
 235 elimination or limitation of personal liability of a director to the credit union or its  
 236 members in their capacity as shareholders of the credit union to the same extent as a bank  
 237 or trust company operating under the provisions of this chapter; and

238 (13) Subject to any rules and regulations enacted by the department and in compliance  
 239 with federal law and applicable provisions regarding insurable interests in Chapter 24 of  
 240 Title 33, purchase, hold, or fund insurance on the life of any of its directors, officers, or  
 241 employees, or any other person whose death might cause financial loss to the credit  
 242 union, or, pursuant to any contract lawfully obligating the credit union as guarantor or  
 243 surety, on the life of the principal obligor."

244 **SECTION 14.**

245 Said chapter is further amended in Code Section 7-1-655, relating to a credit union's board  
 246 of directors, credit and supervisory committees, officers, oaths of officials, removal from  
 247 office, suspension of member, filling of vacancies, notification to department of change in  
 248 president or chief executive officer, by revising subsection (f) as follows:

249 "(f) All members of the board and all officers and committee members shall be sworn to  
 250 perform faithfully the duties of their several offices in accordance with this chapter and the  
 251 bylaws or as otherwise lawfully established. The oaths shall be subscribed in writing and  
 252 a copy thereof shall be retained in the minutes of the meetings of the board. The oaths shall  
 253 not modify in any manner the legal duties of or the standard of care for members and  
 254 officers in the exercise of such duties."

255 **SECTION 15.**

256 Said chapter is further amended in Code Section 7-1-656, relating to duties of directors of  
 257 credit unions, meetings, prohibited activities, eligibility to vote, and applicability of Code  
 258 Section 7-1-490, by adding a new subsection to read as follows:

259 "(f) The board of directors may appoint an individual as an honorary director or director  
 260 emeritus or member of an advisory board. An individual so appointed may be  
 261 compensated but shall not vote at any meeting of the board of directors or be counted in  
 262 determining a quorum and shall not have any responsibility for or be subject to any liability  
 263 imposed upon a director or otherwise be deemed a director."



264 **SECTION 16.**

265 Said chapter is further amended in Code Section 7-1-658, relating to loans of a credit union,  
 266 by revising subsection (c) as follows:

267 "(c) Loans may be made to officers, directors, and committee members of the credit union  
 268 under the same general terms and conditions as to other members of the credit union;  
 269 provided, however, that no officer, director, committee member, or employee shall  
 270 participate in approving any loan in which he or she has a direct or indirect financial  
 271 interest. The approval of all loans to officers, directors, ~~and~~committee members,~~and~~  
 272 ~~employees~~ of the credit union shall be reported to the board of directors at its next  
 273 meeting."

274 **SECTION 17.**

275 Said chapter is further amended by adding a new Code section to read as follows:

276 "7-1-671.

277 (a) For purposes of this Code section, the term 'federal power' means any banking or  
 278 corporate power, right, benefit, privilege, or immunity of a federal credit union, the  
 279 deposits of which are federally insured, that may be exercised by a federal credit union  
 280 doing business in this state pursuant to the Federal Credit Union Act, 12 U.S.C. Section  
 281 1751, et seq.; any other federal statute; or any regulation, ruling, circular, bulletin, order,  
 282 or interpretation issued by the National Credit Union Administration and in effect on  
 283 January 1, 2018.

284 (b) Notwithstanding any other provisions of law but subject to subsection (d) of this Code  
 285 section, a credit union may exercise any federal power during the same period of time that  
 286 a federal credit union has been able to do so, subject to the same limitations and restrictions  
 287 as are applicable to federal credit unions.

288 (c) Notwithstanding any other provisions of law but subject to subsection (d) of this Code  
 289 section, to the extent the Federal Credit Union Act, 12 U.S.C. Section 1751, et seq., or any  
 290 other federal law or regulation precludes or preempts or has been determined to preclude  
 291 or preempt the application of any provision of law, rule, or regulation of this state as to any  
 292 federal credit union doing business in this state in effect on January 1, 2018, such federal  
 293 preclusion or preemption shall apply to a credit union to the same extent and during the  
 294 same period of time that such law or regulation has been precluded or preempted as to a  
 295 federal credit union.

296 (d) In furtherance of the commissioner's statutory duties to regulate, supervise, and  
 297 examine, a credit union shall notify the commissioner in writing by certified or registered  
 298 mail that, in accordance with subsection (b) or (c) of this Code section, it intends to  
 299 exercise a federal power or to avail itself of any federal preclusion or preemption of any

300 provision of law, rule, or regulation of this state. The notice to the commissioner shall  
301 include the specific federal authorization of the activity to be utilized, the proposed action  
302 to be undertaken by the credit union, documentation indicating that the credit union  
303 satisfies the prescribed federal standards, if any, to engage in the activity, and such other  
304 information as may be required by the department. Upon receipt of such notice, the  
305 commissioner shall determine whether the exercise of any federal power or the availing of  
306 any federal preclusion or preemption, or any part thereof, by the credit union is inconsistent  
307 with the purposes of this chapter or raises safety and soundness concerns. In making such  
308 a determination, the commissioner shall consider the financial condition of the credit union,  
309 the regulatory safety and soundness ratings of the credit union, the ability of credit union  
310 management to administer and supervise the activity, and the overall impact on the safety  
311 and soundness of state chartered credit unions. Based on such a determination, the  
312 commissioner may object to the exercise of the federal power, in whole or in part, or to the  
313 federal preclusion or preemption of the law, rule, or regulation of this state, in whole or in  
314 part, including objecting to a level or quantity above which a credit union may be seeking  
315 to exercise a federal power or availing itself of any federal preclusion or preemption of law,  
316 rule, or regulation of this state. If the commissioner so objects, the commissioner shall  
317 deliver such objection in writing by certified or registered mail to the credit union within  
318 45 days of receipt of the notice; provided, however, that the commissioner may extend such  
319 period of review for an additional 45 days by providing the credit union with written notice  
320 of such extension prior to the expiration of the initial notice period. If the commissioner  
321 sends such an objection, subsections (b) and (c) of this Code section shall not apply to the  
322 credit union as to the federal power, preclusion, or preemption, or the part thereof, objected  
323 to by the commissioner. The objection by the commissioner of a credit union's intent to  
324 exercise a federal power or avail itself of any federal preclusion or preemption shall not  
325 preclude such credit union from providing a future notice to the department of its intent to  
326 exercise the same federal power or to avail itself of the same federal preclusion or  
327 preemption. Further, in the event a credit union determines, after satisfying the notice  
328 provisions of this subsection, that it no longer wishes to exercise a federal power or avail  
329 itself of any federal preclusion or preemption, then such credit union shall provide written  
330 notice of such fact to the commissioner by certified or registered mail.

331 (e) Notwithstanding the provisions of Code Section 7-1-70, the department shall publish  
332 information stating the federal powers that are being exercised or federal preclusions or  
333 preemptions that are being utilized by each credit union. All other information related to  
334 the notices or objections provided under subsection (d) of this Code section are governed  
335 by Code Section 7-1-70.

336 (f) Notwithstanding any other provisions of law, a credit union may exercise any power  
 337 that was the subject of any order or ruling declared by the commissioner on or before  
 338 January 1, 2018, which has not been rescinded or withdrawn, issued under the current or  
 339 former provisions of Code Section 7-1-61, 7-1-61.1, or 7-6A-12. Such power may be  
 340 exercised as of the effective date declared by the commissioner in the order or ruling.

341 (g) Any federal power or activity authorized and exercised or conducted pursuant to this  
 342 Code section shall be independent from, and in addition to, any other powers granted to  
 343 credit unions under applicable laws of this state or rules or regulations promulgated  
 344 thereunder. The express and incidental powers granted to credit unions under the Official  
 345 Code of Georgia Annotated are not limited or otherwise restricted by this Code section.

346 (h) Nothing herein shall be construed as limiting the commissioner's authority conferred  
 347 by this chapter, including the powers granted under Code Sections 7-1-61 and 7-1-61.1."

### 348 **SECTION 18.**

349 Said chapter is further amended in Code Section 7-1-687, relating to notice of action against  
 350 licensee by creditor or claimant and other notification requirements relative to the sale of  
 351 payment instruments, by revising subsection (a) and adding a new subsection to read as  
 352 follows:

353 "(a) A licensee shall give written notice to the department by registered or certified mail  
 354 of any action which may be brought against it by any creditor or claimant where such  
 355 action relates to the activities authorized under this article or involves a claim against the  
 356 bond filed with the department under Code Section 7-1-683.2. The notice shall provide  
 357 details sufficient to identify the action and shall be sent within 30 days after the  
 358 commencement of any such action. The licensee shall also give notice to the department  
 359 by registered or certified mail within 30 days of the entry of any judgment ~~which may be~~  
 360 entered against the licensee."

361 "(e) Unless prior approval of a change in executive officer is required under Code  
 362 Section 7-1-688 and notwithstanding subsection (e) of Code Section 7-1-684 requiring a  
 363 criminal background check prior to the initial date of hire, a licensee shall notify the  
 364 department in writing of any change of executive officer in such a manner that the notice  
 365 is received by the department no later than ten business days after the effective date of the  
 366 change. In the event of such change, the licensee shall initiate a criminal background check  
 367 no later than ten business days after the effective date of the change."

368

**SECTION 19.**

369 Said chapter is further amended by revising Code Section 7-1-688, relating to approval  
 370 required of new ultimate equitable owner, other change of control, or executive officer of  
 371 licensee and denial of application relative to sellers of payment instruments, as follows:

372 "7-1-688.

373 (a) Except as provided in this Code section, no person shall become an ultimate equitable  
 374 owner of any licensee through acquisition or other change in control or become an  
 375 executive officer of a licensee as a result of such acquisition or other change in control  
 376 unless the person has first received written approval for such acquisition, change in control,  
 377 or designation as an executive officer from the department. In order to obtain such  
 378 approval, such person shall:

379 (1) File an application with the department in such form as the department may prescribe  
 380 from time to time;

381 (2) Provide such other information as the department may require concerning the  
 382 financial responsibility, background, experience, and activities of the applicant, its  
 383 directors and executive officers, if a corporation, and its members, if applicable, and of  
 384 any proposed new directors, executive officers, members, or ultimate equitable owners  
 385 of the licensee; and

386 (3) Pay such application fee as the department may prescribe.

387 (b) The department may prescribe additional requirements for approval of such  
 388 acquisition, change in control, or designation as an executive officer as a result of such  
 389 acquisition or other change in control through rules and regulations.

390 (c) If the application is denied, the department shall notify the applicant of the denial and  
 391 the reasons for the denial."

392

**SECTION 20.**

393 Said chapter is further amended in Code Section 7-1-689, relating to record-keeping  
 394 requirements, investigations and examinations by department, department subpoena power,  
 395 confidentiality requirements, and limitations on civil liability relative to sellers of payment  
 396 instruments, by revising subsection (l) as follows:

397 "(l) Examinations and investigations conducted under this article and information obtained  
 398 by the department in the course of its duties under this article are confidential, except as  
 399 provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition  
 400 to the exceptions set forth in subsection (b) of Code Section 7-1-70, the department is  
 401 authorized to share information obtained under this article with other state and federal  
 402 regulatory agencies or law enforcement authorities. In the case of such sharing, the  
 403 safeguards to confidentiality already in place within such agencies or authorities shall be

404 deemed adequate. The commissioner or an examiner specifically designated may disclose  
 405 such information as is necessary to conduct a civil or administrative investigation or  
 406 proceeding. Information contained in the records of the department that is not confidential  
 407 and may be made available to the public either on the department's website, ~~or~~ upon receipt  
 408 by the department of a written request, or in the Nation-wide Multistate Licensing System  
 409 and Registry shall include:

- 410 (1) The name, business address, and telephone, facsimile, and license numbers of a  
 411 licensee;
- 412 (2) The names and titles of the principal officers;
- 413 (3) The name of the owner or owners thereof;
- 414 (4) The business address of a licensee's registered agent for service;
- 415 (5) The name, business address, telephone number, and facsimile number of all locations  
 416 of a licensee;
- 417 (6) The name, business address, telephone number, and facsimile number of all  
 418 authorized agents;
- 419 (7) The terms of or a copy of any bond filed by a licensee;
- 420 (8) Information concerning any violation of this article, any rule or regulation, or order  
 421 issued under this article, provided that the information is derived from a final order of the  
 422 department; and
- 423 (9) Imposition of an administrative fine or penalty under this article."

424 **SECTION 21.**

425 Said chapter is further amended in Code Section 7-1-705, relating to written notice of claims  
 426 against licensee for cashing of payment instruments, judgments, or other misconduct by  
 427 employees, directors, or others, by adding a new subsection to read as follows:

428 "(c) Unless prior approval of a change in executive officer is required under Code  
 429 Section 7-1-705.1 and notwithstanding subsection (e) of Code Section 7-1-703 requiring  
 430 a criminal background check prior to the initial date of hire, a licensee shall notify the  
 431 department in writing of any change of executive officer in such a manner that the notice  
 432 is received by the department no later than ten business days after the effective date of the  
 433 change. In the event of such change, the licensee shall initiate a criminal background check  
 434 no later than ten business days after the effective date of the change."

435 **SECTION 22.**

436 Said chapter is further amended by revising Code Section 7-1-705.1, relating to required  
 437 approval for change of control or ultimate equitable owner, additional requirements, and

438 denial and notification of reasons relative to licensees for the cashing of payment  
439 instruments, as follows:

440 "7-1-705.1.

441 (a) Except as provided in this Code section, no person shall become an ultimate equitable  
442 owner of any licensee through acquisition or other change in control or become an  
443 executive officer of a licensee as a result of such acquisition or other change in control  
444 unless the person has first received written approval for such acquisition, change in control,  
445 or designation as an executive officer from the department. In order to obtain such  
446 approval, such person shall:

447 (1) File an application with the department in such form as the department may prescribe  
448 from time to time;

449 (2) Provide such other information as the department may require concerning the  
450 financial responsibility, background, experience, and activities of the applicant, its  
451 directors and executive officers, if a corporation, and its members, if applicable, and of  
452 any proposed new directors, executive officers, members, or ultimate equitable owners  
453 of the licensee; and

454 (3) Pay such application fee as the department may prescribe.

455 (b) The department may prescribe additional requirements for approval of such  
456 acquisition, change in control, or designation as an executive officer as a result of such  
457 acquisition or other change in control through rules and regulations.

458 (c) If the application is denied, the department shall notify the applicant of the denial and  
459 the reasons for the denial."

460 **SECTION 23.**

461 Said chapter is further amended in Code Section 7-1-706, relating to record-keeping  
462 obligations, investigations and examinations by the department, examination fees,  
463 administration of oaths and issuing of subpoenas, confidentiality, and civil liability relative  
464 to licensees for the cashing of payment instruments, by revising subsection (l) as follows:

465 "(l) Examinations and investigations conducted under this article and information obtained  
466 by the department in the course of its duties under this article are confidential, except as  
467 provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition  
468 to the exceptions set forth in subsection (b) of Code Section 7-1-70, the department is  
469 authorized to share information obtained under this article with other state and federal  
470 regulatory agencies or law enforcement authorities. In the case of such sharing, the  
471 safeguards to confidentiality already in place within such agencies or authorities shall be  
472 deemed adequate. The commissioner or an examiner specifically designated may disclose  
473 such information as is necessary to conduct a civil or administrative investigation or

474 proceeding. Information contained in the records of the department that is not confidential  
 475 and may be made available to the public either on the department's website, ~~or~~ upon receipt  
 476 by the department of a written request, or in the Nation-wide Multistate Licensing System  
 477 and Registry shall include:

- 478 (1) The name, business address, and telephone, facsimile, and license numbers of a  
 479 licensee;
- 480 (2) The names and titles of the principal officers;
- 481 (3) The name of the owner or owners thereof;
- 482 (4) The business address of a licensee's registered agent for service;
- 483 (5) The name, business address, telephone number, and facsimile number of all locations  
 484 of a licensee;
- 485 (6) The terms of or a copy of any bond filed by a licensee;
- 486 (7) Information concerning any violation of this article, any rule or regulation, or order  
 487 issued under this article, provided that the information is derived from a final order of the  
 488 department; and
- 489 (8) Imposition of an administrative fine or penalty under this article."

490 **SECTION 24.**

491 Said chapter is further amended in Code Section 7-1-1000, relating to definitions relative to  
 492 mortgage lenders and mortgage brokers, by revising paragraph (32) as follows:

493 "(32) 'Service a mortgage loan' means the collection or remittance ~~for another~~ or the right  
 494 to collect or remit ~~for another~~ of payments of principal, interest, trust items such as  
 495 insurance and taxes, and any other payments pursuant to a mortgage loan."

496 **SECTION 25.**

497 Said chapter is further amended in Code Section 7-1-1009, relating to maintenance of books,  
 498 accounts, and records, investigation of licensees and registrants by the department,  
 499 confidentiality, and exemptions from civil liability relative to mortgage lenders and mortgage  
 500 brokers, by revising subsection (g) as follows:

501 "(g) Examinations and investigations conducted under this article and information obtained  
 502 by the department in the course of its duties under this article are confidential, except as  
 503 provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition  
 504 to the exceptions set forth in subsection (b) of Code Section 7-1-70 and in paragraphs (3)  
 505 and (4) of subsection (d) of this Code section, the department is authorized to share  
 506 information obtained under this article with other state and federal regulatory agencies or  
 507 law enforcement authorities. In the case of such sharing, the safeguards to confidentiality  
 508 already in place within such agencies or authorities shall be deemed adequate. The

509 commissioner or an examiner specifically designated may disclose such limited  
510 information as is necessary to conduct a civil or administrative investigation or proceeding.  
511 Information contained in the records of the department which is not confidential and may  
512 be made available to the public either on the department's website, ~~or~~ upon receipt by the  
513 department of a written request, or in the Nation-wide Multistate Licensing System and  
514 Registry shall include:  
515 (1) For mortgage brokers and mortgage lenders, the name, business address, and  
516 telephone, facsimile, and license numbers of a licensee or registrant;  
517 (2) For mortgage brokers and mortgage lenders, the names and titles of the principal  
518 officers;  
519 (3) For mortgage brokers and mortgage lenders, the name of the owner or owners  
520 thereof;  
521 (4) For mortgage brokers and mortgage lenders, the business address of a licensee's or  
522 registrant's agent for service; and  
523 (5) The terms of or a copy of any bond filed by a licensee or registrant."

524 **SECTION 26.**

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