

The House Committee on Banks and Banking offers the following substitute to HB 212:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated,
2 relating to licensing of mortgage lenders and mortgage brokers, so as to exempt retailers and
3 retail brokers of manufactured homes, mobile homes, or residential industrialized buildings
4 from the requirement to obtain a license as a mortgage broker under certain circumstances;
5 to revise the definition of "mortgage broker"; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
10 licensing of mortgage lenders and mortgage brokers, is amended in Code Section 7-1-1000,
11 relating to definitions relative to the licensing of mortgage lenders and mortgage brokers, by
12 revising paragraph (19) as follows:

13 "(19)(A) 'Mortgage broker' means any person who directly or indirectly solicits,
14 processes, places, or negotiates mortgage loans for others; ~~or~~ offers to solicit, process,
15 place, or negotiate mortgage loans for others; ~~or who~~ closes mortgage loans which may
16 be in the mortgage broker's own name with funds provided by others, and which loans
17 are assigned ~~within 24 hours of the funding of the loans~~ to the mortgage lenders
18 providing the funding of such loans within 24 hours of the funding.

19 (B) The term does not include a retailer or retail broker of a manufactured or mobile
20 home as defined in Code Section 8-2-131 or a residential industrialized building as
21 defined in Code Section 8-2-111:

22 (i) Whose residential mortgage loan activities are limited to compiling and
23 transmitting residential mortgage loan applications along with related supporting
24 documentation to mortgage lenders who are licensed or exempt from the licensing
25 provisions of this article or communicating with residential mortgage loan applicants

26 as necessary to obtain additional documents that complete the residential mortgage
27 loan application to those licensed or exempt mortgage lenders; and
28 (ii) Who does not receive any payment or fee from any person for assisting the
29 applicant to apply for or obtain financing to purchase the manufactured home, mobile
30 home, or residential industrialized building.

31 (C) The term does not include an employee of a retailer or retail broker of a
32 manufactured or mobile home as defined in Code Section 8-2-131 or a residential
33 industrialized building as defined in Code Section 8-2-111 who:

34 (i) Satisfies the requirements set forth in paragraph (B) of this paragraph;
35 (ii) Is acting within the scope of employment and under the supervision of the retailer
36 or retail broker as an employee and not as an independent contractor;
37 (iii) Is employed by only one such retailer or retail broker and shall be at all times
38 eligible for employment in compliance with the provisions and prohibitions of Code
39 Section 7-1-1004;
40 (iv) Has not been issued a cease and desist order in the past five years if such order
41 was based on a violation of Code Section 7-1-1002 or 7-1-1013; and
42 (v) Has not had a mortgage lender, mortgage broker, or mortgage loan originator
43 license revoked within the past five years."

44

SECTION 2.

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