

Senate Bill 462

By: Senators Kennedy of the 18th, Gooch of the 51st, Dugan of the 30th, Jones of the 25th and Mullis of the 53rd

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance,
 2 so as to transfer duties, powers, responsibilities, and other authority relative to industrial
 3 loans from the Industrial Loan Commissioner to the Department of Banking and Finance; to
 4 change the name of such loans to installment loans; to revise a short title; to provide for
 5 definitions; to provide for procedures, conditions, and limitations relative to issuing
 6 installment loans; to provide for exemptions; to provide for powers and duties relative to the
 7 department; to provide for procedures and conditions for and limitations on licensing of
 8 installment lenders; to provide penalties for violations; to amend the Official Code of
 9 Georgia Annotated so as to conform cross-references; to provide for a purpose; to provide
 10 for related matters; to provide for applicability; to provide for an effective date; to repeal
 11 conflicting laws; and for other purposes.

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

13 **SECTION 1.**

14 The General Assembly finds and declares that installment lending vitally affects the general
 15 economy of Georgia and the public interest and welfare of its citizens; therefore, it is the
 16 policy of Georgia and the purpose of this chapter to protect the interest of borrowers and
 17 provide for sound, efficient, and responsive regulation of installment lenders.

18 **SECTION 2.**

19 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is
 20 amended by revising Chapter 3, relating to industrial loans, as follows:

21 "CHAPTER 3

22 ARTICLE 1

23 7-3-1.

24 This chapter shall be known and may be cited as the 'Georgia ~~Industrial~~ Installment Loan
25 Act.'

26 7-3-2.

27 ~~The purpose of this chapter is to authorize and provide regulation of the business of making~~
28 ~~loans of \$3,000.00 or less and to bring within the regulation of this chapter and within its~~
29 ~~provisions all loans of \$3,000.00 or less, whether or not made by a person organized or~~
30 ~~operating under the provisions and authority of some other statute, except those persons~~
31 ~~and loans expressly exempted by the terms of this chapter. Even though authorized by~~
32 ~~other statutes of force, such loans and the persons making them, unless expressly~~
33 ~~exempted, shall be within the operation of this chapter in accordance with its terms.~~

34 (a) The powers, functions, and duties of the office of the Commissioner of Insurance
35 relative to this chapter are transferred to the Department of Banking and Finance effective
36 July 1, 2020. All action taken by the office of the Commissioner of Insurance prior to that
37 date shall be considered valid, and the department shall, as of July 1, 2020, assume all
38 ongoing and continuing obligations pursuant to this chapter. All personnel, supplies,
39 records, materials, furniture, furnishings, books, equipment, motor vehicles, and services
40 of the office of the Commissioner of Insurance utilized pursuant to the authority granted
41 under this chapter shall be transferred to the department on July 1, 2020. Any action or
42 investigation pending pursuant to this chapter shall remain in full force and effect and any
43 powers relating to such action or investigation shall be transferred to the department on
44 July 1, 2020.

45 (b) All rules, orders, and actions adopted by the Commissioner of Insurance pursuant to
46 this chapter shall remain in full force and effect as rules, orders, and actions of the
47 department unless amended, repealed, or superseded by rule, order, or action of the
48 department.

49 (c) All property, real and personal, funds, accounts receivable, contracts, liabilities, and
50 obligations of the office of the Commissioner of Insurance for effectuating this chapter
51 shall become the property, funds, accounts receivable, contracts, liabilities, and obligations
52 of the department on July 1, 2020. Appropriations to the Commissioner of Insurance for
53 functions transferred to the department pursuant to this Code section shall be transferred
54 as provided in Code Section 45-12-90.

55 7-3-3.

56 As used in this chapter, the term:

57 ~~(1) 'Commissioner' means the Industrial Loan Commissioner.~~

58 (1) 'Control' or 'controlling' means the direct or indirect possession of power to direct or
 59 cause the direction of management and policies of a person.

60 (2) 'Covered employee' means any employee of a licensee engaged in any function
 61 related to making installment loans.

62 (3) 'Department' means the Department of Banking and Finance.

63 (4) 'Executive officer' means an individual who performs significant managerial,
 64 supervisory, or policy-making functions on behalf of a person, including, but not limited
 65 to, the vice presidents, chief executive officer, president, chief financial officer, chief
 66 operating officer, secretary, and treasurer.

67 (5) 'Individual' means a natural person.

68 (6) 'Installment lender' or 'lender' means any person that advertises, solicits, offers, or
 69 makes installment loans.

70 (7) 'Installment loan' or 'loan' means a contract or agreement to make a loan to an
 71 individual in an amount of \$3,000.00 or less, including the renewal or refinancing of any
 72 such loan.

73 ~~(2)(8)~~ 'License' means a single license an authorization issued by the department or
 74 required to be obtained under this chapter to engage in the business of making installment
 75 loans.

76 ~~(3)(9)~~ 'Licensee' means a person to whom one or more licenses a license under this
 77 chapter have has been issued.

78 ~~(4) 'Loan' means any advance of money in an amount of \$3,000.00 or less under a~~
 79 ~~contract requiring repayment and any and all renewals or refinancing thereof or any part~~
 80 ~~thereof.~~

81 (10) 'Nationwide Multistate Licensing System and Registry' means a licensing system
 82 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 certain persons engaged in nondepository activities.

85 (11) 'Owner' means a person that:

86 (A) Owns, directly or indirectly, 10 percent or more interest in a corporation or any
 87 other form of business organization;

88 (B) Owns, directly or indirectly, 10 percent or more of the voting shares of any
 89 corporation or any other form of business organization; or

90 (C) Exerts control, directly or indirectly, over a corporation or any other form of
 91 business organization, regardless of whether such person owns or controls such interest

92 through one or more individuals or one or more proxies, powers of attorney, nominees,
 93 corporations, associations, limited liability companies, partnerships, trusts, joint stock
 94 companies, other entities or devices, or any combination thereof.

95 ~~(5)(12)~~ 'Person' means ~~individuals, copartnerships, associations, corporations, and all~~
 96 ~~other legal and commercial entities~~ any individual, sole proprietorship, corporation,
 97 limited liability company, partnership, trust, or any other group of individuals, however
 98 organized.

99 (13) 'Unique identifier' means a number or other identifier assigned by protocols
 100 established by the Nationwide Multistate Licensing System and Registry.

101 ~~7-3-4.~~

102 ~~This chapter shall apply to all persons, as defined in Code Section 7-3-3, unless expressly~~
 103 ~~exempted in this chapter, engaged in the business of making loans in amounts of \$3,000.00~~
 104 ~~or less. On and after May 3, 1955, no person within the operation of this chapter shall~~
 105 ~~charge, contract for, or receive, directly or indirectly, on or in connection with any loan,~~
 106 ~~any interest, charges, fees, compensation, or consideration which is greater than the rates~~
 107 ~~for same provided in this chapter or engage in the business of making such loans of~~
 108 ~~\$3,000.00 or less without a license from the Commissioner as provided in this chapter.~~
 109 ~~Persons engaged in the business of making loans of \$3,000.00 or less who are not~~
 110 ~~exempted from the operation of this chapter may engage in such business and may make~~
 111 ~~such loans lawfully under this chapter provided they comply with this chapter.~~

112 ~~7-3-5.~~

113 ~~A loan and brokerage transaction or any other transaction by which money is paid or~~
 114 ~~agreed to be paid others by the borrower in order to obtain the loan shall be subject in all~~
 115 ~~respects to this chapter, if it involves a transaction of \$3,000.00 or less and is not otherwise~~
 116 ~~specifically exempted by the terms of this chapter; and the interest and money paid or~~
 117 ~~agreed to be paid others by the borrower in order to obtain the loan shall not exceed the~~
 118 ~~charges authorized by this chapter, and the application of Code Section 7-4-8 is modified~~
 119 ~~accordingly.~~

120 ~~7-3-6.~~ 7-3-4.

121 (a) No person shall engage in the business of making installment loans in this state unless
 122 such person is licensed in accordance with this chapter or exempt from licensure as
 123 provided in subsection (b) of this Code section. No person within the operation of this
 124 chapter shall charge, contract for, or receive directly or indirectly on or in connection with

125 any loan, any interest, charge, fee, compensation, or consideration which is greater than the
 126 rates for same provided in this chapter.

127 ~~(b) This chapter shall not apply to businesses organized or operating under the authority~~
 128 ~~of any law of this state or of the United States relating to:~~

129 (1) Businesses chartered or licensed under the authority of any law of this state or of the
 130 United States as banks, trust companies, real estate loan or mortgage companies, federal
 131 savings and loan associations, savings banks, or credit unions, and pawnbrokers or to the
 132 transactions of such businesses; ~~which businesses are expressly excluded from regulation~~
 133 ~~under this chapter and exempted from the operation of its provisions. This chapter also~~
 134 ~~shall not apply to the~~

135 (2) Banks or credit unions chartered under the authority of any state which have deposits
 136 that are federally insured or to the transactions of such businesses;

137 (3) Pawnbrokers, as defined in Code Section 44-12-130, or to the transactions of
 138 pawnbrokers;

139 (4) The University System of Georgia or its educational units, to private colleges and
 140 universities in this state and associations thereof, or to student loan transactions of such
 141 educational entities; ~~which educational entities and student loan transactions thereof are~~
 142 ~~expressly excluded from regulation under this chapter and exempted from the operation~~
 143 ~~of its provisions. It is expressly provided that no bank, trust company, national bank,~~
 144 ~~insurance company, or real estate loan or mortgage company authorized to do business~~
 145 ~~in this state shall be required to obtain a license under this chapter nor shall the University~~
 146 ~~System of Georgia or its educational units or private colleges and universities in this state~~
 147 ~~and associations thereof be required to obtain a license under this chapter. It is further~~
 148 ~~provided that persons making loans and charging interest thereon at a rate of not more~~
 149 ~~than 8 percent simple interest per annum shall not be subject to this chapter or required~~
 150 ~~to obtain a license under this chapter.; or~~

151 (5) An individual employed by a licensee or any person exempted from the licensing
 152 requirements of this chapter when acting within the scope of employment and under the
 153 supervision of the licensee or exempted person as an employee and not as an independent
 154 contractor.

155 ~~7-3-7.~~

156 ~~(a) There is created the office of Industrial Loan Commissioner, and the Commissioner of~~
 157 ~~Insurance of the State of Georgia is designated and constituted the Industrial Loan~~
 158 ~~Commissioner under this chapter and is invested with all of the powers and authority~~
 159 ~~provided for such Commissioner. In addition to those powers specifically enumerated, it~~
 160 ~~shall be his duty and authority to supervise generally and to exercise regulatory powers~~

161 ~~over the making of loans of \$3,000.00 or less in the State of Georgia by persons governed~~
162 ~~and regulated by this chapter.~~

163 ~~(b) The Commissioner is granted power and authority to make all rules and regulations not~~
164 ~~inconsistent with this chapter which in his judgment shall be necessary and appropriate to~~
165 ~~accomplish the purposes and objectives of this chapter, including, without limitation, the~~
166 ~~power and authority to make such rules and regulations regulating and controlling the~~
167 ~~manner in which loans of \$3,000.00 or less may be made under this chapter. Such rules~~
168 ~~and regulations shall be promulgated pursuant to public hearing after notice of such hearing~~
169 ~~is advertised at least once in one newspaper in Atlanta, Georgia, having general state-wide~~
170 ~~circulation not less than ten days prior to such hearing. In addition, such rules and~~
171 ~~regulations shall be promulgated in accordance with Chapter 13 of Title 50, the 'Georgia~~
172 ~~Administrative Procedure Act.' Such rules and regulations so promulgated by the~~
173 ~~Commissioner in his discretion, consistent with the terms of this chapter and other~~
174 ~~applicable statutes, shall have the full force and effect of law. The Commissioner shall~~
175 ~~have authority to designate and employ and compensate agents and employees in the~~
176 ~~manner other agents and employees are employed by his department to assist him in the~~
177 ~~discharge of his duties under this chapter, and the Commissioner is authorized and~~
178 ~~empowered to delegate to an assistant or deputy authority to act in his place and stead in~~
179 ~~his absence or disability.~~

180 ~~(c) The Commissioner is authorized to provide for training programs and seminars at such~~
181 ~~places, at such times, and in such manner as he shall deem advisable. Such programs and~~
182 ~~seminars shall be for the purpose of acquainting licensees and employees thereof with this~~
183 ~~chapter, with the rules and regulations promulgated thereunder, and with such other matters~~
184 ~~relative to the business authorized to be carried on by a licensee under this chapter as the~~
185 ~~Commissioner shall deem necessary.~~

186 ~~7-3-8.~~

187 ~~All persons engaged in the business of making loans of \$3,000.00 or less in the State of~~
188 ~~Georgia, unless expressly exempted therefrom, shall be required to obtain a license under~~
189 ~~this chapter. Application for license shall be made to the Commissioner in writing, under~~
190 ~~oath, on forms prescribed by the Commissioner and shall give the location from which the~~
191 ~~business is to be conducted and shall give the names of the persons connected with the~~
192 ~~business together with any other information required by the Commissioner. The~~
193 ~~application shall be accompanied by a fee of \$250.00 to cover the cost of investigation of~~
194 ~~the applicant and by a license fee of \$500.00. Said license shall expire on the last day of~~
195 ~~the calendar year in which granted, subject to renewal pursuant to Code Section 7-3-10.~~
196 ~~The Commissioner shall collect fees and costs as provided in this chapter and shall issue~~

197 his receipt for all sums collected by him and periodically, not less than once in each quarter
198 of each year, at such times as may be convenient, shall pay into the state treasury all sums
199 collected by him.

200 ~~7-3-9:~~

201 ~~(a) Upon the filing of the application and the payment of the fees provided in Code Section~~
202 ~~7-3-8, the Commissioner shall cause an investigation to be made. Notwithstanding any~~
203 ~~provision of Chapter 13 of Title 50, entitled the 'Georgia Administrative Procedure Act,'~~
204 ~~to the contrary, if the Commissioner has any doubt of the applicant meeting the standards~~
205 ~~of subsection (b) of this Code section, he shall issue a proposed order to be effective upon~~
206 ~~a later date without a hearing, unless any person subject to the order requests a hearing~~
207 ~~within ten days after receipt of the proposed order. Failure to make the request shall~~
208 ~~constitute a waiver of the right to a hearing pursuant to this Code section. The proposed~~
209 ~~order issued by the Commissioner shall contain or shall be accompanied by a notice of~~
210 ~~opportunity for a hearing which shall clearly explain that the hearing must be requested~~
211 ~~within ten days of receipt of the proposed order and notice. The proposed order and notice~~
212 ~~shall be served in person by the Commissioner or his agent or by registered or certified~~
213 ~~mail or statutory overnight delivery, return receipt requested. The Commissioner or such~~
214 ~~person as he designates shall hear evidence at such hearing and the hearing shall be~~
215 ~~conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative~~
216 ~~Procedure Act.' The cost of such hearing and of recording and transcribing the evidence~~
217 ~~may, in the discretion of the Commissioner, be charged to the person seeking such license.~~

218 ~~(b) If the Commissioner shall find that:~~

219 ~~(1) The financial responsibility, character, and general fitness of the applicant are such~~
220 ~~as to command the confidence of the public and to warrant a belief that the business will~~
221 ~~not be operated unfairly or unlawfully contrary to the purposes of this chapter; and~~

222 ~~(2) Allowing the applicant to engage in business will promote the convenience and~~
223 ~~advantage of the community in which the licensed office is to be located;~~

224 ~~the Commissioner shall grant such application and issue to the applicant a license which~~
225 ~~shall be authority to engage in the business of making loans pursuant to said license in~~
226 ~~accordance with this chapter.~~

227 ~~(c) Any demand for a hearing pursuant to this Code section shall specify in what respects~~
228 ~~such person is aggrieved and the grounds to be relied upon as a basis for the relief to be~~
229 ~~demanding at the hearing. Unless postponed by mutual consent, the hearing shall be held~~
230 ~~within 30 days after receipt by the Commissioner of the demand for a hearing.~~

231 ~~(d) In the event any person shall purchase substantially all the assets used in a particular~~
232 ~~office of any existing licensee, the purchaser shall file an application for license; but, if the~~

~~233 licensee selling such assets shall surrender his license for such location to the
234 Commissioner, the purchaser shall not be required, in order to obtain a license, to show that
235 the convenience and advantage of the community in which the licensed office will be
236 located will be promoted by the establishment or continuance of the proposed business of
237 making loans.~~

~~238 (e) The Commissioner shall grant or deny an application for a license made under this
239 chapter within 60 days from the date of the filing of such application.~~

~~240 7-3-10:~~

~~241 (a) No more than one place of business shall be maintained under the same license, but the
242 Commissioner may issue more than one license to the same licensee.~~

~~243 (b) Each such license issued shall be conspicuously displayed in the place of business for
244 which granted and shall remain in full force and effect until surrendered, revoked, or
245 suspended as provided by this chapter.~~

~~246 (c) Every licensee shall, on or before December 20 of each year, pay to the Commissioner
247 the sum of \$500.00 for each license held by him as an annual license fee for the succeeding
248 calendar year.~~

~~249 (d) If a licensee wishes to move his office within the county, he shall give the
250 Commissioner written notice thereof, which notice shall specify the address or location to
251 which the licensee desires to move and shall also set out, in such form as the Commissioner
252 may require, facts and circumstances which it is contended will show that the removal to
253 the new location will promote the convenience and advantage of that community.
254 Thereafter, the Commissioner shall handle this request in the same manner in which he
255 handles a new application under Code Section 7-3-9, insofar as that Code section is
256 applicable.~~

~~257 7-3-11:~~

~~258 In the event a licensee does not begin the operation of business under such license within
259 a period of 120 days from the date of the issuance of such license or in the event a licensee,
260 after having begun the operation of business under the license, remains inactive in such
261 business for a period of 120 days, such license shall be subject to suspension or revocation
262 by the Commissioner after notice and hearing under the procedure provided in Code
263 Section 7-3-24 for the revocation or suspension of licenses. Any order or decision of the
264 Commissioner on such matter shall be subject to review as provided in Code
265 Section 7-3-24.~~

266 ~~7-3-12.~~

267 ~~(a) Each licensee shall keep and use in his business sufficient books and records to enable~~
 268 ~~the Commissioner to determine whether or not the licensee is complying with this chapter~~
 269 ~~or any other Act under which such licensee is operating, and such licensee shall preserve~~
 270 ~~such record for at least four years after making the final entry thereon. The renewal or~~
 271 ~~refinancing of a loan shall not constitute a final entry.~~

272 ~~(b) The Commissioner may, under rules and regulations promulgated by him under the~~
 273 ~~procedure provided in Code Section 7-3-7, require annual reports from licensees to~~
 274 ~~facilitate the performance of his duties and to regulate effectively the making of loans~~
 275 ~~under this chapter.~~

276

ARTICLE 2

277 ~~7-3-13~~ 7-3-10.

278 No person shall advertise, display, distribute, or broadcast in any manner whatsoever any
 279 false, misleading, or deceptive statement or representation with regard to the rates, terms,
 280 or conditions for loans subject to this chapter.

281 ~~7-3-14~~ 7-3-11.

282 Every licensee under this chapter may ~~loan~~ lend any sum of money not exceeding
 283 \$3,000.00 for a period of 36 months and 15 days or less and may charge, contract for,
 284 collect, and receive interest and fees and may require the fulfillment of conditions on such
 285 loans as provided in this Code section:

286 (1) **Interest.** A licensee may charge, contract for, receive, and collect interest at a rate
 287 not to exceed 10 percent per annum of the face amount of the contract, whether repayable
 288 in one single payment or repayable in monthly or other periodic installments. On loan
 289 contracts repayable in 18 months or less, the interest may be discounted in advance; and,
 290 on contracts repayable over a greater period, the interest shall be added to the principal
 291 amount of the loan. On all contracts, interest or discount shall be computed
 292 proportionately on equal calendar months;

293 (2) **Loan fee.** In addition thereto, a licensee may charge, contract for, receive, or collect
 294 at the time the loan is made a fee in an amount not greater than 8 percent of the first
 295 \$600.00 of the face amount of the contract plus 4 percent of the excess; provided,
 296 however, that such fee shall not be charged or collected on that part of a loan which is
 297 used to pay or apply on a prior loan or installment of a prior loan from the same licensee
 298 to the same borrower made within the immediately preceding six-month period; provided,
 299 however, if the loan balance is \$300.00 or less, the said period shall be two months, not

300 six months; provided, further, that nothing contained in this paragraph and paragraph (1)
 301 of this Code section shall be construed to permit charges, interest, or fees of any nature
 302 whatsoever in the aggregate in excess of the charges, interest, and fees which would
 303 constitute a violation of Code Section 7-4-18 and this chapter shall in no way affect Code
 304 Section 7-4-18. If a borrower prepays his or her entire loan to a licensee and within the
 305 following 15 days ~~makes~~ obtains a new loan ~~with~~ from that licensee and if this is done
 306 within the six-month period or the two-month period above described, as may be
 307 applicable, the fee may be charged only on the excess by which the face amount of the
 308 new contract exceeds the amount which the borrower repaid to that licensee within the
 309 said 15 day period;

310 (3) **Insurance premiums.** A licensee may charge and collect from the borrower
 311 premiums actually paid or to be paid for insurance obtained for the borrower. A licensee
 312 may accept as security on any loan or advance made under this chapter any one or any
 313 combination of the following:

314 (A) Insurance on tangible property against substantial risks or loss;

315 (B) Reasonable insurance on the life and health of the principal party; or

316 (C) Reasonable insurance against accident of the principal party;

317 provided, however, that any such insurance shall be reasonably related to the type and
 318 value of the property insured and to the amount and term of the loan and shall be obtained
 319 from an insurance company authorized to conduct such business in the State of Georgia
 320 and at rates lawfully filed by such company with the Commissioner of Insurance and
 321 through a regular insurance agent licensed by the Commissioner of Insurance; provided,
 322 further, that the amount of life, health, or accident insurance required as security for loans
 323 made under this chapter shall not exceed the amount of the loan, including charges, to be
 324 secured; and the premiums on such insurance required of the principal party obligated
 325 shall be limited to premiums reasonably based upon reliable actuarial experience and
 326 sound insurance practice; and the Commissioner of Insurance is authorized and directed
 327 to promulgate rules and regulations to effectuate this provision related to insurance
 328 obtained by the borrower in accordance with the spirit and intent thereof. It shall be the
 329 duty of the Commissioner of Insurance ~~from time to time under the foregoing direction,~~
 330 ~~after public hearing in the manner provided in subsection (b) of Code Section 7-3-7,~~ to
 331 determine and promulgate by rule and regulation the rates and maximum premiums
 332 permissible to be charged for life, health, and accident insurance required as security for
 333 a loan made under this chapter and to make regulations incident thereto necessary to
 334 effectuate the same; such premiums, when thus established and as changed from time to
 335 time in the manner aforesaid, shall be the maximum effective and permissible charges
 336 under this paragraph. Premiums paid or to be paid pursuant to the authority of this

337 paragraph shall not constitute interest. The insurance company in turn may pay to the
 338 party writing the insurance policy sold in connection with the loan a fee or commission
 339 in an amount which is reasonable in relationship to the transaction and in no event in
 340 excess of the amount of fee or commission customarily paid within the industry where
 341 comparable insurance is sold in a transaction not involving credit, as determined by the
 342 Commissioner of Insurance;

343 (4) **Late charge.** A licensee may charge and collect from the borrower a late or
 344 delinquent charge of \$10.00 or an amount equal to 5¢ for each \$1.00 of any installment
 345 which is not paid within five days from the date such payment is due, whichever is
 346 greater, provided that this late or delinquent charge shall not be collected more than once
 347 for the same default; and

348 (5) **Maintenance charge.** In addition thereto, a licensee may contract for, charge,
 349 receive, and collect a maintenance charge of \$3.00 for each month in the term of the loan
 350 contract on each loan made, whether repayable in one single payment or repayable in
 351 weekly, monthly, or other periodic installments. Refunds of unearned maintenance
 352 charges shall be made in accordance with the method prescribed in Code Section ~~7-3-17~~
 353 7-3-14, and such maintenance charges will be subject to paragraph (4) of this Code
 354 section. Nothing contained in Code Section 7-4-18, as now or hereafter amended, shall
 355 be construed to apply to this paragraph; and loans made in conformity with this paragraph
 356 shall in no way constitute a violation of Code Section 7-4-18, as now or hereafter
 357 amended.

358 ~~7-3-15~~ 7-3-12.

359 No licensee shall charge, contract for, or receive any other or further amount in connection
 360 with any loans authorized by this chapter in addition to those provided in Code Section
 361 ~~7-3-14~~ 7-3-11, except the actual lawful fees paid to a public official or agency of the state
 362 for filing, recording, or, on loans over \$100.00, the amount of the lawful premiums, no
 363 greater than such fees, actually paid for insurance against the risk of nonrecording or
 364 releasing any instrument securing the loan; the court costs and attorney fees authorized by
 365 law incurred in the collection of any contract in default; and the actual and reasonable
 366 expenses of repossessing, storing, and selling any collateral pledged as security for any
 367 contract in default. No licensee shall divide into separate parts any contract for the purpose
 368 or with the effect of obtaining charges in excess of those authorized by this chapter.

369 ~~7-3-16~~ 7-3-13.

370 ~~No loan shall be made by any licensee for the purpose of paying all or any part of the~~
 371 ~~amount owed on~~ If a licensee purchases or receives by transfer or assignment any note, bill

372 of sale to secure debt, title retention contract, conditional sales contract, or any other
 373 similar contract ~~which has been purchased by or assigned or transferred to such licensee~~
 374 ~~for a period of at least 90 days from the date of such purchase or transfer~~ that would
 375 otherwise be governed by this chapter, the licensee shall comply with the provisions of this
 376 chapter when making a loan for the purpose of paying off all or any part of such
 377 instrument.

378 ~~7-3-17~~ 7-3-14.

379 Notwithstanding the provisions of any contract to the contrary, a borrower may at any time
 380 prepay all or any part of the unpaid balance to become payable under any installment
 381 ~~contract~~ loan. If the borrower ~~pays the time balance~~ prepays the loan in full before
 382 maturity, the licensee shall refund to ~~him~~ the borrower a portion of the prepaid interest,
 383 calculated in complete even months (odd days omitted), as follows: ~~The~~ the amount of the
 384 refund shall represent at least as great a proportion of the total interest as the sum of the
 385 periodical time balance after the date of prepayment bears to the sum of all periodical time
 386 balances under the schedule of payments in the original contract. Where the amount of the
 387 refund due to anticipation of payment is less than \$1.00, no refund need be made. If the
 388 borrower has been required to purchase insurance coverage other than insurance coverage
 389 in a blanket policy when ~~he~~ the borrower has paid no acquisition cost, ~~he~~ the borrower shall
 390 have the option to continue such insurance in force for the balance of the policy period,
 391 with all rights transferred to the borrower or his or her assigns, in which event no refund
 392 of insurance premiums shall be made ~~to him~~.

393 ~~7-3-18~~ 7-3-15.

394 In addition to any applicable disclosure requirements, at the time the installment ~~At the~~
 395 ~~time the~~ loan is made, each licensee under this chapter shall deliver to the borrower or, if
 396 there are ~~two or more~~ multiple borrowers, to one of ~~them~~ the borrowers a copy of the loan
 397 contract or a written itemized statement in the English language showing in clear terms the
 398 date and amount of the loan, a schedule of the payments or a description thereof, the type
 399 of security for the loan, the licensee's name, unique identifier, ~~and~~ business address, the
 400 actual amount of cash advanced to or on behalf of the borrower, the amount of each class
 401 of insurance carried and the premiums paid thereon, and the amount of interest and fees.
 402 Each licensee shall give a receipt for every cash payment made.

403 ~~7-3-19~~ 7-3-16.

404 (a) In addition to all other taxes, fees, license fees, finer, or other charges now or hereafter
 405 levied or assessed, there is levied a tax of 3 percent on the total amount of interest on any

406 loan collected by any ~~person licensed under this chapter~~ licensee from any borrower to
 407 whom such licensee has made a an installment loan.

408 (b) Said tax is levied and assessed against the person so licensed and shall be paid by such
 409 person and shall not be added in any manner as an additional fee or charge against the
 410 borrower. Any person licensed under this chapter who adds such tax in any manner as an
 411 additional fee or charge against the borrower shall be liable for the recovery of triple the
 412 amount of such charge by action against the lender in any court of competent jurisdiction.

413 (c) As used in this Code section, the term 'interest collected' means the gross amount of
 414 interest charged and collected on loan contracts, less any amount of unearned interest
 415 refunded to borrowers and such interest on such portion of ~~uncollectable~~ uncollectible
 416 accounts that are charged off as bad debts by the licensee; except that, for those licensees
 417 whose records are kept on an accrual basis, the 3 percent tax levied in subsection (a) of this
 418 Code section shall be remitted on such portion of the interest as accrues during the taxable
 419 month period.

420 ~~7-3-20~~ 7-3-17.

421 The tax provided for in Code Section ~~7-3-19~~ 7-3-16 shall be remitted to the ~~Commissioner~~
 422 ~~on or before the twentieth day of each month for the preceding calendar month~~ department
 423 at the time and in the manner specified by rules and regulations of the department. The
 424 ~~Commissioner~~ department and ~~his~~ its authorized ~~agents~~ examiners and employees shall
 425 have the right to inspect all records of any person so licensed, and the ~~Commissioner~~
 426 department is authorized to promulgate rules and regulations relative to the enforcement
 427 of Code Section ~~7-3-19~~ 7-3-16, this Code section, and Code Section ~~7-3-21~~ 7-3-18.

428 ~~7-3-21~~ 7-3-18.

429 (a) In the event any person fails or refuses to remit the tax required by Code Sections
 430 7-3-16 and 7-3-17 within the time prescribed, the tax shall bear interest at the rate of
 431 1 percent per month. Interest shall begin to accrue from the date the tax is due until the
 432 date the tax is paid. For the purposes of this Code section, any period of less than one
 433 month shall be considered to be one month.

434 (b) In the event any person fails or refuses to remit the tax required by Code Sections
 435 ~~7-3-19 and 7-3-20~~ 7-3-16 and 7-3-17 within the time prescribed, there shall be added to the
 436 tax a penalty equivalent to 25 percent of the tax but in no case shall the penalty so added
 437 be less than \$5.00. In the event any person fraudulently remits the incorrect tax, there shall
 438 be added to the tax a penalty equivalent to 50 percent of the tax but in no case shall the
 439 penalty so added be less than \$5.00. The amounts so added as penalties shall be collected
 440 as a part of the tax.

441

ARTICLE 3442 7-3-20.443 (a) Each applicant for an original or renewal license shall:444 (1) Submit an application in writing, under oath, and in such form as the department may
445 prescribe;446 (2) Furnish to the Nationwide Multistate Licensing System and Registry the following
447 information:448 (A) The legal name and principal business address of the person applying for the
449 license;450 (B) The names and the residence and business addresses of each director, owner, and
451 executive officer of the applicant;452 (C) The address of each location where the applicant will engage in the business of
453 making installment loans in this state;454 (D) Any name, subject to approval by the department, under which the applicant will
455 engage in the business of making installment loans in this state; and456 (E) The name and address of the initial registered agent and registered office for
457 service of process in this state;458 (3) Submit such other data, financial statements, and pertinent information as the
459 department may require with respect to the applicant or its directors, owners, or executive
460 officers; and461 (4) Pay a nonrefundable supervision fee established by rules and regulations of the
462 department.463 (b) A person applying for an original license shall pay a nonrefundable investigation fee
464 established by rules and regulations of the department.465 7-3-21.466 (a) An applicant shall provide with its application a corporate surety bond issued by a
467 bonding company or insurance company authorized to do business in this state and
468 approved by the department.469 (b) The bond shall:470 (1) Be in a form satisfactory to the department;471 (2) Be in the aggregate amount of \$25,000.00 for the primary location to be operated by
472 a licensee plus \$5,000.00 for each additional location to be operated by such licensee,
473 provided that no licensee shall be required to have a bond that exceeds a total amount of
474 \$100,000.00;

475 (3) Run to the State of Georgia for the benefit of the department or any claimant against
 476 a licensee arising out of the licensee's business of making installment loans;

477 (4) Require a licensee to pay any and all money for the benefit of any person damaged
 478 by noncompliance of the licensee with this chapter, with rules, regulations, or orders
 479 issued by the department pursuant to this chapter, or with any condition of the bond; and

480 (5) Require a licensee to pay any and all money that may become due and owing to any
 481 creditor of or claimant against the licensee arising out of the licensee's business of making
 482 installment loans.

483 (c) Payments due under the bond shall include money owed to the department for fees,
 484 taxes and related interest and penalties under Code Sections 7-3-16, 7-3-17, and 7-3-18,
 485 and fines or penalties for noncompliance of the licensee with this chapter or rules,
 486 regulations, or orders issued pursuant to this chapter.

487 (d) Claimants or creditors against the licensee may bring an action directly on the bond.

488 (e) In no event shall the aggregate liability of the surety exceed the principal sum of the
 489 face amount of the bond.

490 (f) In the event that the principal sum of the bond is reduced by one or more recoveries or
 491 payments thereon, a licensee shall:

492 (1) Provide a new or additional bond so that the total or aggregate principal sum of such
 493 bond or bonds equals the sum required under subsection (b) of this Code section; or

494 (2) Provide an endorsement duly executed by the corporate surety reinstating the bond
 495 to the required principal sum thereof.

496 (g) A bond shall not be canceled by either the licensee or the corporate surety except upon
 497 notice to the department electronically through the Nationwide Multistate Licensing
 498 System and Registry, and such cancellation shall be effective no sooner than 30 days after
 499 receipt by the department of such notice and only with respect to any breach of condition
 500 occurring after the effective date of such cancellation.

501 7-3-22.

502 (a) The department shall conduct an investigation of every applicant for licensure to
 503 determine the financial responsibility, experience, character, general fitness, and eligibility
 504 for licensure of such applicant. The department may issue the applicant a license if the
 505 department determines to its general satisfaction that:

506 (1) The applicant is financially sound and responsible and able to engage in the business
 507 of making installment loans in an honest, fair, and efficient manner and with the
 508 confidence and trust of the community;

509 (2) Approval of the application will promote the convenience and advantage of the
 510 community in which the applicant proposes to operate; and

511 (3) All conditions for licensure set forth in this chapter and in the rules and regulations
512 of the department have been satisfied.

513 (b) No license shall be transferable or assignable.

514 (c) Each license shall expire on December 31 of each year, and application for renewal
515 shall be made annually on or before December 1 of each year.

516 7-3-23.

517 (a) The department is authorized to:

518 (1) Participate in the Nationwide Multistate Licensing System and Registry to facilitate
519 the sharing of information and standardization of the licensing and application processes
520 for persons subject to this chapter;

521 (2) Enter into operating agreements, information sharing agreements, interstate
522 cooperative agreements, and other contracts necessary for the department's participation
523 in the Nationwide Multistate Licensing System and Registry;

524 (3) Disclose or cause to be disclosed without liability, via the Nationwide Multistate
525 Licensing System and Registry, applicant and licensee information, including, but not
526 limited to, violations of this chapter and enforcement actions, to facilitate regulatory
527 oversight;

528 (4) Request that the Nationwide Multistate Licensing System and Registry adopt an
529 appropriate privacy, data security, and security breach notification policy that is in full
530 compliance with existing state and federal law; and

531 (5) Establish and adopt, by rule and regulation, requirements for participation by
532 applicants and licensees in the Nationwide Multistate Licensing System and Registry,
533 upon the department's determination that each requirement is consistent with both the
534 public interest and the purposes of this chapter.

535 (b) The department shall enact rules and regulations establishing a process whereby
536 licensees may challenge information entered by the department into the Nationwide
537 Multistate Licensing System and Registry.

538 (c) Regardless of its participation in the Nationwide Multistate Licensing System and
539 Registry, the department shall retain full and exclusive authority over determinations of
540 whether to grant, renew, suspend, or revoke licenses issued under this chapter. Nothing in
541 this Code section shall be construed to reduce or otherwise limit such authority.

542 (d) Information disclosed through the Nationwide Multistate Licensing System and
543 Registry is deemed to be disclosed directly to the department and subject to Code
544 Section 7-1-70. Such information shall not be disclosed to the public and shall remain
545 privileged and confidential pursuant to Code Section 7-1-70.

546 (e) Applicants and licensees shall be required to pay the charges associated with their
 547 utilization of the Nationwide Multistate Licensing System and Registry.

548 ~~7-3-22:~~

549 ~~(a) For the purpose of discovering violations of this chapter, the Commissioner or his duly~~
 550 ~~authorized representative may from time to time examine the books, accounts, papers, and~~
 551 ~~records of:~~

552 ~~(1) Any licensee;~~

553 ~~(2) Any person who advertises for, solicits, or holds himself out as willing to make loans~~
 554 ~~in amounts of \$3,000.00 or less; or~~

555 ~~(3) Any person whom the Commissioner has reason to believe is violating or is about to~~
 556 ~~violate the provisions of this chapter.~~

557 ~~(b) The Commissioner may subpoena witnesses, books, accounts, papers, and records;~~
 558 ~~administer oaths, hold hearings, and take testimony under oath in conducting examinations~~
 559 ~~and hearings authorized under this chapter.~~

560 ~~(c) The cost of any such examination, investigation, or hearing, in the discretion of the~~
 561 ~~Commissioner, may be charged to the licensee or person examined subject to review by the~~
 562 ~~superior court under Code Section 7-3-27. The examinations, investigations, or hearings~~
 563 ~~provided for in this Code section may be conducted at the state capitol or, in the discretion~~
 564 ~~of the Commissioner, in the county wherein the business of the licensee is located or where~~
 565 ~~the person required to have a license under this chapter is engaging in the business of~~
 566 ~~making loans or elsewhere, upon the consent of the parties involved.~~

567 ~~7-3-23:~~

568 ~~In the event the Commissioner shall find cause to believe that any person is violating this~~
 569 ~~chapter or the rules and regulations promulgated by the Commissioner pursuant to this~~
 570 ~~chapter, he shall make such investigation and have such hearings, before him or such~~
 571 ~~person as he designates, as will permit him to determine the facts and then may issue a~~
 572 ~~cease and desist order if he so determines. If such cease and desist order is thereafter~~
 573 ~~violated by the person against whom it is issued, such violation shall constitute a public~~
 574 ~~nuisance; and the Commissioner is authorized to seek, and the superior courts shall grant,~~
 575 ~~injunctions against such person's further violating this chapter or the lawful rules and~~
 576 ~~regulations promulgated by the Commissioner pursuant to this chapter. Such action for~~
 577 ~~injunction may be maintained notwithstanding the existence of other legal remedies or the~~
 578 ~~pendency or successful completion of a criminal prosecution as for a misdemeanor.~~

579 ~~7-3-24.~~

580 ~~(a) The Commissioner, upon ten days' written notice in the form of a show cause order to~~
 581 ~~the licensee stating his contemplated action and in general the ground therefor and after~~
 582 ~~giving the licensee a reasonable opportunity to be heard, subject to the right to review~~
 583 ~~provided in Code Section 7-3-27, may by order in writing suspend or revoke any license~~
 584 ~~issued under this chapter if the Commissioner shall find that:~~

585 ~~(1) The licensee has failed to pay the annual license fee or any fee required under this~~
 586 ~~chapter; or~~

587 ~~(2) The licensee has violated any provision of this chapter or any rule or regulation~~
 588 ~~promulgated by the Commissioner under this chapter or has violated the terms of any~~
 589 ~~cease or desist order entered by the Commissioner under Code Section 7-3-23.~~

590 ~~(b) Any such suspension or revocation shall not become final pending and subject to the~~
 591 ~~right of review provided in Code Section 7-3-27, but the court shall have and is granted~~
 592 ~~power to enter such order as justice shall require pending hearing of such appeal. The court~~
 593 ~~upon such appeal may tax the cost, including the cost of the hearing before the~~
 594 ~~Commissioner, against the losing party.~~

595 ~~(c) No suspension, revocation, relinquishment, or expiration of any license shall invalidate,~~
 596 ~~impair, or affect the legality or obligations of any preexisting contracts or prevent the~~
 597 ~~enforcement and collection thereof.~~

598 ARTICLE 4

599 7-3-30.

600 (a) Each licensee shall:

601 (1) Conspicuously post a copy of its license in each location where the licensee engages
 602 in installment lending;

603 (2) Submit to the Nationwide Multistate Licensing System and Registry timely reports
 604 of condition, which shall be in such form and shall contain such information as the
 605 department may require;

606 (3) Clearly label all advertisements and any other documents required by rules and
 607 regulations of the department with its unique identifier;

608 (4) Make, keep, and use in its business such books, accounts, and records as the
 609 department may require; and

610 (5) Make available to the department, upon request, any books, accounts, records, files,
 611 documents, evidence, or other information relating to the business of making installment
 612 loans.

613 (b) Each licensee shall preserve any books, accounts, and records required to be made,
614 kept, or used pursuant to this Code section or rules and regulations of the department for
615 five years or such greater period of time as prescribed by rules and regulations of the
616 department to the licensee.

617 (c) A licensee may maintain any books, accounts, and records required to be made, kept,
618 or used pursuant to this Code section:

619 (1) In photographic, electronic, or other similar form; and

620 (2) At a location outside of this state so long as such records are transmitted to a location
621 designated by the department within ten days of the date of a written request by the
622 department.

623 7-3-31.

624 (a) A licensee shall send written notice to the department within ten days of the following:

625 (1) Any knowledge or discovery that any of the licensee's owners, executive officers,
626 directors, trustees, agents, or covered employees has been convicted of a felony as
627 described in subsection (a) of Code Section 7-3-42;

628 (2) Any knowledge or discovery that any of the licensee's owners, executive officers,
629 directors, trustees, agents, or covered employees has committed fraud, engaged in
630 dishonest activities, or made any misrepresentation;

631 (3) The discharge of a covered employee for actual or suspected misrepresentations,
632 dishonest acts, or fraudulent acts;

633 (4) Any knowledge or discovery of an administrative, civil, or criminal action initiated
634 by any governmental entity against the licensee;

635 (5) Any knowledge or discovery of a criminal action initiated by any governmental entity
636 for misrepresentations, dishonest acts, or fraudulent acts against any owner, executive
637 officer, director, trustee, agent, or covered employee of a licensee; and

638 (6) The filing of a petition by or against the licensee under the United States Bankruptcy
639 Code, 11 U.S.C. Sections 101 through 110, for bankruptcy reorganization or the filing of
640 a petition by or against the licensee for receivership or the making of a general
641 assignment for the benefit of its creditors.

642 (b) A licensee shall send written notice to the department within 30 days of the following:

643 (1) The commencement of any action brought against it relating to its business of
644 installment lending in Georgia;

645 (2) The commencement of any action by any creditor or claimant relating to its business
646 of installment lending in Georgia or involving a claim against the bond filed with the
647 department pursuant to Code Section 7-3-21;

- 648 (3) The entry of any judgment against the licensee related to its business of installment
649 lending in Georgia; and
- 650 (4) Any change in the address of its principal place of business or registered agent for
651 service in Georgia.
- 652 (c) The corporate surety that issued a licensee a bond pursuant to Code Section 7-3-21
653 shall send written notice to the department within ten days of paying any claim or judgment
654 to any creditor or claimant.
- 655 (d) Any notice sent pursuant to this Code section shall be sent by registered or certified
656 mail or statutory overnight delivery and include sufficient details for the department to
657 identify any relevant creditor or claimant, claim, cause of action, judgment, payment, or
658 prohibited act.
- 659 7-3-32.
- 660 (a) A licensee shall not engage in the business of installment lending at a location in this
661 state unless the licensee has first received written approval from the department.
662 Applications or renewals for such additional locations shall be made in writing on a form
663 prescribed by the department and accompanied by a nonrefundable fee in an amount
664 established by rules and regulations of the department.
- 665 (b) Each manager of a licensee's location in Georgia shall be approved in writing by the
666 department. A licensee may allow an individual to begin working as a new location
667 manager prior to such approval, provided that the licensee submits an application for
668 approval within 15 days of the new location manager beginning work as a location
669 manager. If the department denies approval of such new location manager, the licensee
670 shall immediately remove the individual upon notice of such denial.
- 671 (c) No person shall become an owner of any licensee through acquisition or other change
672 in control or become an executive officer of a licensee unless the person has first received
673 written approval from the department. To apply for such approval, the person shall:
- 674 (1) Submit an application to the department in such form as the department may
675 prescribe;
- 676 (2) Provide such other information as the department may require concerning the
677 financial responsibility, background, experience, and activities of the applicant or its
678 directors, owners, and executive officers; and
- 679 (3) Pay a nonrefundable application fee as prescribed by rule and regulation of the
680 department.
- 681 (d) The department may prescribe by rule and regulation additional requirements for
682 approval of an application submitted pursuant to this Code section.

683 (e) The department shall approve an application properly submitted pursuant to this Code
 684 section if it finds that the applicant and its directors, owners, and executive officers have
 685 the financial responsibility, character, reputation, experience, and general fitness to warrant
 686 a belief that the business will be operated efficiently and fairly, in the public interest, and
 687 in accordance with the law.

688 (f) This Code section shall not apply to:

689 (1) The acquisition of an interest in a licensee by merger or consolidation with a person
 690 licensed pursuant to this article or a person exempt from the licensure requirements of
 691 this article under Code Section 7-3-4;

692 (2) The acquisition of an interest in a licensee by merger or consolidation with a person
 693 affiliated through common ownership with the licensee; or

694 (3) The acquisition of an interest in a licensee by a person by bequest, descent, or
 695 survivorship or by operation of law.

696 (g) Any person acquiring an interest in a licensee in a transaction which is exempt
 697 pursuant to subsection (f) of this Code section shall send written notice to the department
 698 of such acquisition within 30 days of the closing of such transaction.

699 ~~7-3-25~~ 7-3-33.

700 ~~(a) Any license shall be subject to suspension or revocation, after notice and hearing as~~
 701 ~~provided for in Code Section 7-3-24, in the event~~ No licensee or employee or agent thereof
 702 shall willfully use any unreasonable collection tactics shall be willfully used by the licensee
 703 ~~or any employee or agent thereof.~~ Unreasonable collection tactics shall include, but not be
 704 limited to, any conduct by the licensee or any employee or agent thereof which:

705 (1) Causes the borrower or any member of his or her family to suffer bodily injury or
 706 physical harm;

707 (2) Constitutes a willful or intentional trespass by force of the borrower's home or ~~his~~
 708 personal property without process of law;

709 (3) Holds up the borrower to public ridicule or unreasonably degrades ~~him~~ the borrower
 710 in the presence of ~~his~~ neighbors or business associates;

711 (4) Involves use of printed material which simulates or resembles a summons, warrant,
 712 or other legal process; or

713 (5) Although otherwise lawful, occurs at an unreasonable hour of the night. Attempts
 714 to make collections by means of personal visits, telephone calls, and the like shall be
 715 deemed to occur at an unreasonable hour of the night if they occur between the hours of
 716 10:00 P.M. and 5:00 A.M.

717 ~~(b) Any order or decision of the Commissioner on the matter of suspension or revocation~~
 718 ~~shall be subject to review as provided for in Code Section 7-3-27.~~

719 ~~7-3-26.~~

720 ~~In addition to all other penalties provided for under this chapter, the Commissioner shall~~
 721 ~~have authority to place any licensee on probation for a period of time not to exceed one~~
 722 ~~year for each and every act or violation of this chapter or of the rules and regulations of the~~
 723 ~~Commissioner and may subject such licensee to a monetary penalty of up to \$1,000.00 for~~
 724 ~~each and every act or violation of this chapter or of the rules and regulations of the~~
 725 ~~Commissioner. If the licensee knew or reasonably should have known he was in violation~~
 726 ~~of this chapter or the rules and regulations of the Commissioner, the monetary penalty~~
 727 ~~provided for in this Code section may be increased to an amount up to \$5,000.00 for each~~
 728 ~~and every act or violation.~~

729 ~~7-3-27.~~

730 ~~The decision of the Commissioner in granting or refusing to grant a license and in revoking~~
 731 ~~or suspending such license and in any other order or decision authorized in this chapter~~
 732 ~~shall be final, conclusive, and binding as to all determinations of fact made by him; but any~~
 733 ~~applicant or licensee who deems himself aggrieved may have such decision reviewed under~~
 734 ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' for the review of~~
 735 ~~contested cases.~~

736 ARTICLE 5

737 7-3-40.

738 (a) The department is authorized to investigate and examine the affairs, businesses,
 739 premises, and records of any applicant, licensee, or any other installment lender as often
 740 as it deems necessary to carry out the purposes of this chapter, regardless of whether such
 741 applicant, licensee, or other installment lender acts or claims to act under any other
 742 licensing or registration requirement of this state. The department may conduct such
 743 investigation outside of this state if it deems necessary.

744 (b) The department may conduct an investigation or examination pursuant to this Code
 745 section at least once every 60 months; provided, however, that the department may alter
 746 the frequency or scope of investigations or examinations through rules and regulations or
 747 waive an investigation or examination if it determines that, based on records submitted to
 748 the department and the past history of operations in this state, such investigation or
 749 examination is unnecessary.

750 (c) A licensee or other installment lender shall pay a fee as prescribed by rule or regulation
 751 of the department to cover the cost of an investigation or examination.

752 (d) In carrying out an investigation or examination pursuant to this Code section, the
753 department shall be authorized to:

754 (1) Conduct an on-site examination of any applicant, licensee, or other installment lender
755 at any location without prior notice;

756 (2) Access, receive, and use any books, accounts, records, files, documents, evidence,
757 or other information, including, but not limited to:

758 (A) Criminal, civil, and administrative history information, including information
759 related to charges that did not result in a conviction;

760 (B) Personal history and experience information, including, but not limited to,
761 independent credit reports obtained from a consumer reporting agency described in the
762 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a; and

763 (C) Any other documents, information, or evidence the department deems relevant to
764 the investigation or examination, regardless of the location, possession, control, or
765 custody of such documents, information, or evidence;

766 (3) Enter into agreements or relationships with other government officials or regulatory
767 authorities to improve efficiencies and reduce regulatory burden by sharing resources,
768 documents, records, information, or evidence or by utilizing standardized or uniform
769 methods or procedures;

770 (4) Accept and rely on investigation or examination reports made by other government
771 officials or regulatory authorities within or outside this state, provided that such reports
772 provide information necessary to fulfill the responsibilities of the department under this
773 chapter;

774 (5) Accept and incorporate in any report of the department audit reports or portions of
775 audit reports made by an independent certified public accountant on behalf of an
776 applicant or licensee;

777 (6) Require or permit any person to file a statement in writing as to all the facts and
778 circumstances concerning any matter to be investigated pursuant to this chapter;

779 (7) Request any financial data relevant to the business of making installment loans;

780 (8) Administer oaths, call any party to testify under oath, and require the attendance of
781 witnesses;

782 (9) Require the production of books, accounts, records, files, documents, and papers;

783 (10) Take the depositions of witnesses; and

784 (11) Issue subpoenas for any witness or for the production of documentary evidence.

785 (e) Each licensee or person subject to this chapter shall make available to the department,
786 upon request, any books, accounts, records, files, documents, evidence, or other
787 information relating to the activities of engaging in the business of making installment
788 loans.

789 (f) No licensee or person subject to investigation or examination under this chapter shall
790 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts,
791 records, files, documents, evidence, or other information.

792 7-3-41.

793 (a) A subpoena issued pursuant to Code Section 7-3-40 may be served by:

794 (1) Registered or certified mail or statutory overnight delivery, return receipt requested,
795 to the addressee's business or personal mailing address;

796 (2) Examiners appointed by the department; or

797 (3) The sheriff of the county where such witness resides or is found or where the person
798 in custody of any books, accounts, records, files, documents, or papers resides or is
799 found.

800 (b) The department may issue and apply to enforce subpoenas in this state at the request
801 of any governmental agency, department, organization, or entity regulating the making of
802 installment loans in another state if the activities constituting the alleged violation for
803 which the information is sought would be a violation of this chapter if the alleged activities
804 had occurred in this state.

805 (c) If any person refuses to obey a subpoena issued under this chapter, a superior court of
806 appropriate jurisdiction, upon application by the department, may issue to the person an
807 order requiring such person to appear before the court to show cause why such person
808 should not be held in contempt for refusal to obey the subpoena. Failure to obey a
809 subpoena may be punished as contempt by the court.

810 7-3-42.

811 (a) The department shall not issue a license and may revoke a license if it finds that the
812 applicant or licensee or any director, trustee, agent, owner, executive officer, or covered
813 employee of the applicant or licensee has been convicted of a felony in any jurisdiction or
814 of a crime which, if committed within this state, would constitute a felony under the laws
815 of this state. For the purposes of this article, a person shall be deemed to have been
816 convicted of a crime if such person shall have pleaded guilty or nolo contendere to a charge
817 thereof before a court or federal magistrate or shall have been found guilty thereof by the
818 decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective
819 of the pronouncement of sentence or the suspension thereof and regardless of whether first
820 offender treatment without adjudication of guilt pursuant to the charge was entered or an
821 adjudication or sentence was otherwise withheld or not entered on that charge, unless and
822 until such plea of guilty or nolo contendere or such decision, judgment, or verdict shall
823 have been set aside, reversed, or otherwise abrogated by lawful judicial process or until

824 probation, sentence, or both probation and sentence of a first offender without adjudication
825 of guilt have been successfully completed and documented or unless the person convicted
826 of the crime shall have received a pardon therefor from the President of the United States
827 or the governor or other pardoning authority in the jurisdiction where the conviction
828 occurred.

829 (b) The department shall be authorized to obtain criminal history record checks with
830 respect to any applicant or licensee, any owner of the applicant or licensee, and any
831 individual who is a director, trustee, executive officer, agent, or covered employee of the
832 applicant or licensee. Such criminal history record checks may be requested by the
833 department through the Georgia Crime Information Center and the Federal Bureau of
834 Investigation, and the department shall have the authority to receive the results of such
835 checks. Fees required for a criminal history record check by the Georgia Crime
836 Information Center or the Federal Bureau of Investigation shall be paid by the applicant or
837 licensee.

838 (c) Upon receipt of fingerprints, fees, and other required information, the Georgia Crime
839 Information Center shall promptly transmit one set of fingerprints to the Federal Bureau
840 of Investigation for a search of bureau records and an appropriate report and shall retain
841 the other set and promptly conduct a search of its own records and records to which it has
842 access. The Georgia Crime Information Center shall notify the department in writing of
843 any finding or if there are no such findings.

844 (d) All criminal history record checks received by the department or by the applicant or
845 licensee shall be used by the party requesting such records for the exclusive purpose of
846 carrying out the responsibilities of this article, shall not be a public record, shall be
847 confidential and privileged, and shall not be disclosed to any other person or agency except
848 to any person or agency which otherwise has a legal right to inspect such records. All such
849 records received by the requesting party shall be maintained in conformity with the
850 requirements of the Georgia Crime Information Center and the Federal Bureau of
851 Investigation.

852 (e) Every applicant and licensee shall be authorized and required to obtain and maintain
853 the results of criminal history record checks on covered employees. Such checks shall be
854 handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and
855 the rules and regulations of the Georgia Crime Information Center. Applicants and
856 licensees shall be responsible for any applicable fees charged by the Georgia Crime
857 Information Center. An applicant or licensee may only employ an individual whose
858 criminal history has been checked and has been found to be in compliance with all lawful
859 requirements prior to the initial date of hire. This provision shall not apply to directors,
860 owners, or executive officers of applicants or licensees, whose backgrounds shall have

861 been investigated through the department before taking office, beginning employment, or
 862 securing ownership.

863 (f) Upon request by the department, an applicant or licensee shall take all steps necessary
 864 to have an international criminal history record check performed on any directors, owners,
 865 executive officers, and covered employees of applicants and licensees. The results of such
 866 international criminal history record check shall be provided to the department.

867 (g) Applicants and licensees shall have the primary responsibility for obtaining criminal
 868 history record checks on covered employees. The department shall be entitled to review
 869 the files of any applicant or licensee to determine whether the required record checks have
 870 been run and whether all covered employees are qualified. The department shall be
 871 authorized to discuss the status of covered employee criminal history record checks with
 872 applicants and licensees. Notwithstanding any other provisions of this article, the
 873 department shall retain the right to obtain criminal history record checks on covered
 874 employees of applicants and licensees.

875 7-3-43.

876 (a) The department may suspend or revoke a license if it finds that any ground exists
 877 which would require or warrant the denial of an application for the issuance or renewal of
 878 a license.

879 (b) The department may deny an application or suspend or revoke a license upon a finding
 880 that an applicant or a licensee has:

881 (1) Committed any fraud, engaged in any dishonest activities, or made any
 882 misrepresentation;

883 (2) Violated any provision of this chapter, any rule, regulation, or order issued by the
 884 department pursuant to this chapter, or any other law in the course of its business of
 885 making installment loans;

886 (3) Made a false statement or failed to give a true reply in an application;

887 (4) Demonstrated incompetency or untrustworthiness to act as an installment lender;

888 (5) Failed to pay within 30 days after it became final a judgment recovered in any court
 889 in an action arising out of the licensee's business of making installment loans;

890 (6) Purposely withheld, deleted, destroyed, or altered information requested by the
 891 department or made misrepresentations to the department;

892 (7) Operated in an unsafe or unsound manner; or

893 (8) Failed or refused to remit the tax required by Code Section 7-3-16 within the required
 894 time period.

895 (c) The department shall not issue a license and shall revoke a license if it determines that
 896 the applicant or licensee is not financially sound or responsible or not able to engage in the

897 business of making installment loans in an honest, fair, and efficient manner and with the
898 confidence and trust of the community.

899 (d) The department shall not issue a license and may suspend or revoke a license if an
900 applicant or licensee was subject to, or employs any person subject to, a final cease and
901 desist order or license revocation under this chapter within the preceding five years. Each
902 applicant or licensee shall, before hiring an employee, examine the Nationwide Multistate
903 Licensing System and Registry to determine that such employee is not subject to a cease
904 and desist order or license revocation.

905 (e) The department shall not issue a license and may suspend or revoke a license if it finds
906 that any owner, director, trustee, or executive officer of the applicant or licensee has been
907 in one or more of those roles for a licensee whose application has been denied or revoked
908 or suspended within the preceding five years.

909 7-3-44.

910 (a) Notice of the department's intention to enter an order denying an application or
911 suspending or revoking a license shall be sent to the applicant or licensee in writing by
912 registered or certified mail or statutory overnight delivery addressed to the principal
913 business address of such applicant or licensee. If a person refuses to accept service of such
914 notice, the notice shall be served by the department under any other method of lawful
915 service, and the person shall be liable to the department for a sum equal to the actual costs
916 incurred to serve the notice. Such liability shall be paid upon notice and demand by the
917 department and shall be assessed and collected in the same manner as other fees or fines
918 administered by the department.

919 (b) Within 20 days of the date of the notice issued pursuant to subsection (a) of this Code
920 section, the applicant or licensee may request in writing a hearing to contest the order. If
921 no such hearing is requested, the department shall enter a final order stating the grounds
922 for the denial, suspension, or revocation. Such final order shall be effective on the date of
923 issuance, and the department shall promptly mail a copy thereof to the principal business
924 address of such applicant or licensee.

925 (c) A decision by the department denying an application for licensure or an order of the
926 department suspending or revoking a license shall be subject to review in accordance with
927 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that judicial
928 review shall be available solely in the superior court of the county of domicile of the
929 department.

930 (d) The department may pursue any administrative action initiated under this chapter
931 against an applicant or licensee to its conclusion, regardless of whether the applicant or

932 licensee withdraws its application or whether a licensee does not renew or surrenders its
933 license.

934 (e) The suspension, revocation, or expiration of a license shall not alter, ameliorate, or void
935 the duties, defenses, and liabilities of either a borrower or a licensee under any existing
936 agreement or contract entered into by the licensee prior to such suspension, revocation, or
937 expiration.

938 7-3-45.

939 (a) The department may issue an order requiring a person to cease and desist immediately
940 from unauthorized activities whenever it shall appear to the department that:

941 (1) Except as provided in paragraphs (2) and (3) of this subsection, a person has violated
942 any law of this state or any rule, regulation, or order of the department. Such cease and
943 desist order shall be final 20 days from the date of issuance unless the person to whom
944 it is issued requests a hearing in writing within such 20 day period;

945 (2) A person without a license is engaging in or has engaged in activities requiring
946 licensure under this chapter. Such cease and desist order shall be final 30 days from the
947 date of issuance without the opportunity for an administrative hearing. If such person
948 obtains a license or submits to the department evidence of licensure or exemption from
949 licensure within the 30 day period, the department shall rescind the order; or

950 (3) A licensee has received a notice of bond cancellation under Code Section 7-3-21.
951 Such cease and desist order shall be final 20 days from the date of issuance without the
952 opportunity for an administrative hearing. If the required bond is reinstated or replaced
953 and documentation evidencing such is submitted to the department within the 20 day
954 period, the department shall rescind the order. In the event such cease and desist order
955 becomes final, the license shall expire.

956 (b) Any cease and desist order authorized by this Code section shall be in writing, sent by
957 registered or certified mail or statutory overnight delivery, and addressed to the person's
958 business address or, if the person is an individual, to either the business address or the
959 individual's personal address. Any cease and desist order sent to the person's address that
960 is returned to the department as 'refused' or 'unclaimed' shall be deemed as received and
961 lawfully served.

962 (c) Any hearing authorized under paragraph (1) of subsection (a) of this Code section shall
963 be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
964 Procedure Act.'

965 (d) Judicial review of a final decision of the department issued pursuant to paragraph (1)
966 of subsection (a) of this Code section shall be in accordance with Chapter 13 of Title 50,

967 the 'Georgia Administrative Procedure Act,' except that judicial review shall be available
968 solely in the superior court of the county of domicile of the department.

969 (e) Judicial review of a final decision of the department issued pursuant to paragraph (2)
970 or (3) of subsection (a) of this Code section shall be in accordance with Code Section
971 7-1-90, except that judicial review shall be available solely in the superior court of the
972 county of domicile of the department.

973 7-3-46.

974 (a) Whenever a person fails to comply with the terms of a final order or decision of the
975 department issued pursuant to this chapter, the department may, through the Attorney
976 General, petition any superior court of this state having jurisdiction over one or more
977 defendants for an order directing such person to obey the order of the department within
978 a period of time as shall be fixed by the court. Upon the filing of such petition, the court
979 shall allow a motion to show cause why it should not be granted. After a hearing upon the
980 merits or after failure of such person to appear when ordered, the court shall grant the
981 petition of the department upon a finding that the order of the department was properly
982 issued.

983 (b) Any person who violates the terms of any final order or decision issued pursuant to this
984 chapter shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation
985 continues shall constitute a separate offense. In determining the amount of the penalty, the
986 department shall take into account the appropriateness of the penalty relative to the size of
987 the financial resources of such person, the good faith efforts of such person to comply with
988 the order, the gravity of the violation, the history of previous violations by such person, and
989 such other factors or circumstances that contributed to the violation. The department may
990 reduce any penalty which is subject to imposition or has been imposed pursuant to this
991 Code section. Such penalty shall be final except as to judicial review as provided in Code
992 Section 7-1-90, except that judicial review shall be available solely in the superior court
993 of the county of domicile of the department.

994 (c) The department may bring an appropriate civil action to enforce any provision of this
995 chapter or any rule, regulation, decision, or order issued pursuant to this chapter, whether
996 by injunction or otherwise, in the superior court of this state having jurisdiction over one
997 or more of the defendants.

998 (d) The department may prescribe by rule and regulation administrative fines for violations
999 of this chapter or of rules, regulations, decisions, or orders issued pursuant to this chapter.

1000 7-3-47.

1001 (a) Except as provided in this Code section, information obtained by the department
 1002 pursuant to this chapter, which shall include any information disclosed through the
 1003 Nationwide Multistate Licensing System and Registry, is confidential as provided in Code
 1004 Section 7-1-70.

1005 (b) In addition to the exceptions set forth in subsection (b) of Code Section 7-1-70, the
 1006 department is authorized to share information obtained under this chapter with other
 1007 regulatory or law enforcement authorities. In the case of such sharing, the safeguards to
 1008 confidentiality already in place within such agencies or authorities shall be deemed
 1009 adequate. A designated employee or agent of the department may disclose such
 1010 information as is necessary to conduct a civil or administrative investigation or proceeding
 1011 related to the business of making installment loans.

1012 (c) The department is authorized to make the following information available to the public
 1013 on the department's website, upon receipt by the department of a written request, or in the
 1014 Nationwide Multistate Licensing System and Registry:

1015 (1) The name, business address, telephone number, facsimile number, and unique
 1016 identifier of a licensee;

1017 (2) The names and titles of the executive officers of a licensee;

1018 (3) The names of the owners of a licensee;

1019 (4) The name, business address, telephone number, and facsimile number of all locations
 1020 of a licensee;

1021 (5) The terms of or a copy of any bond filed by a licensee;

1022 (6) Information concerning any violation of this chapter or any rule, regulation, or order
 1023 issued pursuant to this chapter, provided that such information is derived from a final
 1024 order of the department;

1025 (7) The imposition of an administrative fine or penalty under this chapter; and

1026 (8) The address of a licensee's registered agent for service of process in this state.

1027 7-3-48.

1028 (a) Except in the case of malice, fraud, or bad faith, no person shall be subject to civil
 1029 liability arising out of furnishing the department with information required pursuant to this
 1030 chapter. No civil cause of action of any nature shall arise against such person:

1031 (1) For any information relating to suspected prohibited conduct furnished to or received
 1032 from law enforcement officials, their agents, or employees or furnished to or received
 1033 from other regulatory authorities;

1034 (2) For any information furnished to or received from other persons subject to the
 1035 provisions of this chapter; or

1036 (3) For any information furnished in complaints filed with the department.
 1037 (b) Neither the department nor its employees or agents shall be subject to civil liability,
 1038 and no civil cause of action of any nature shall exist against the department or its
 1039 employees or agents arising out of the performance of activities or duties pursuant to this
 1040 chapter or by publication of any report of activities under this Code section.

1041 ~~7-3-28~~ 7-3-49.

1042 Nothing in this chapter shall be construed as repealing Code Section 7-4-4.

1043 ~~7-3-29~~ 7-3-50.

1044 (a) Any person, including the executive officers, directors, trustees, owners, agents, and
 1045 employees of such person, that willfully engages in the business of making installment
 1046 loans without a license or an exemption pursuant to Code Section 7-3-4 shall be guilty of
 1047 a felony and punished as provided in Code Section 7-1-845.

1048 ~~(b) Any person who shall make loans under this chapter without first obtaining a license~~
 1049 ~~or who shall make~~ makes a false statement under oath in an application for a license under
 1050 this chapter or who ~~shall do business~~ engages in the business of making installment loans
 1051 while the license of such person under this chapter is suspended ~~or revoked~~ shall be guilty
 1052 of a misdemeanor; ~~and any.~~

1053 (c) Any contract made under this chapter by such a person guilty of a felony or
 1054 misdemeanor under subsection (a) or (b) of this Code section shall be null and void.

1055 ~~(b)(d) Except as otherwise provided in this chapter, any duly licensed~~ Any installment
 1056 lender who fails to comply with this chapter in connection with a loan under this chapter
 1057 shall be liable to the borrower or borrowers thereon for a single penalty in an amount equal
 1058 to twice the amount of all interest and loan fees charged to said borrower or borrowers on
 1059 the most recent loan made by the lender to said borrower or borrowers; provided, however,
 1060 that the liability under this subsection shall not be less than \$100.00.

1061 ~~(c)(e) A lender duly licensed under this chapter has~~ licensee shall have no liability under
 1062 subsection ~~(b)~~ (d) of this Code section if, within 15 days after discovering an error or
 1063 violation and prior to the institution of an action under this Code section or the receipt of
 1064 written notice of the error or violation, the lender notifies the person concerned of the error
 1065 or violation and makes ~~whatever~~ any necessary adjustments in the appropriate account ~~are~~
 1066 ~~necessary~~ to ensure that such person will not be required to pay charges in excess of those
 1067 permitted by this chapter.

1068 ~~(d)(f) A lender may~~ licensee shall not be held liable in any action brought under this Code
 1069 ~~section~~ for a violation of this chapter if the ~~lender~~ licensee shows by a preponderance of
 1070 the evidence that the violation was not intentional and resulted from a bona fide clerical or

1071 typographical error, notwithstanding the maintenance of procedures reasonably adopted to
 1072 avoid any such error, and makes any necessary adjustments in the appropriate account to
 1073 ensure that no borrower will be required to pay charges in excess of those permitted by this
 1074 chapter.

1075 ~~(e)~~(g) A claim of violation of this chapter against a ~~duly licensed lender~~ licensee may be
 1076 asserted in an individual action only and may not be the subject of a class action under
 1077 Code Section 9-11-23 or any other provision of law. A claim of violation of this chapter
 1078 against an unlicensed lender may be asserted in a class action under Code Section 9-11-23
 1079 or any other provision of law.

1080 ~~(f)~~(h) If a contract is made in good faith in conformity with an interpretation of this chapter
 1081 by the appellate courts of this state or in a rule or regulation ~~officially~~ promulgated by the
 1082 ~~Commissioner after public hearings,~~ department, no provision in this Code section
 1083 imposing any penalty shall apply, notwithstanding that, after such contract is made, such
 1084 rule or regulation is amended, rescinded, or determined by judicial or other authority to be
 1085 invalid for any reason.

1086 ~~(g)~~(i) Any ~~lender duly licensed under this chapter~~ installment lender who shall knowingly
 1087 and willfully with intent to defraud a borrower make a contract in violation of this chapter
 1088 shall be guilty of a misdemeanor, and the contract so made shall be null and void.

1089 ~~(h) No person may, more than one year after April 9, 1980, assert or contend offensively~~
 1090 ~~or defensively in any court that a contract predating April 9, 1980, is null and void or is~~
 1091 ~~illegal, void, invalid, or not good consideration for a renewal or refinanced contract. This~~
 1092 ~~subsection is a statute of repose and limitation, barring such remedies, and only such~~
 1093 ~~remedies, as of that date; provided, however, that after that date a borrower or borrowers~~
 1094 ~~on a contract predating April 9, 1980, shall be entitled to the appropriate penalty provided~~
 1095 ~~under subsections (a) through (g) of this Code section, but such right to said penalty shall~~
 1096 ~~not in any way adversely affect the validity of any renewal or refinanced contract.~~

1097 7-3-51.

1098 Without limiting the power conferred by Chapter 1 of this title, the department may make
 1099 reasonable rules and regulations, not inconsistent with law, for the interpretation and
 1100 enforcement of this chapter.

1101 7-3-52.

1102 Every license in force and effect under the former provisions of this chapter on June 30,
 1103 2020, shall remain in full force and effect on July 1, 2020, and all such existing licensees
 1104 shall be required to renew their licenses pursuant to Code Sections 7-3-20 and 7-3-22."

1105 **SECTION 3.**

1106 Said title is further amended in Code Section 7-1-845, relating to miscellaneous felonies
 1107 relative to financial institutions, by striking "or" at the end of subparagraph (a)(3)(F) and
 1108 adding a new subparagraph to read as follows:

1109 "(H) Making installment loans unless licensed by the department or exempt from
 1110 licensing requirements pursuant to Code Section 7-3-4; or"

1111 **SECTION 4.**

1112 Said title is further amended by revising Code Section 7-4-19, relating to civil action to
 1113 enforce chapter relative to interest and usury, as follows:

1114 "7-4-19.

1115 The Department of Banking and Finance ~~or the Industrial Loan Commissioner~~ may bring
 1116 an appropriate civil action to enforce any provision of this chapter whether by injunction
 1117 or otherwise in any superior court of this state having jurisdiction over one or more
 1118 defendants. ~~In the case of a loan made pursuant to this chapter by a licensee under~~
 1119 ~~Chapter 3 of this title, relating to industrial loans, such action shall be brought by the~~
 1120 ~~Industrial Loan Commissioner. In the case of any other loan, the action shall be brought~~
 1121 ~~by the Department of Banking and Finance."~~

1122 **SECTION 5.**

1123 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 1124 amended by revising Code Section 16-17-1, relating to "payday lending" defined, legislative
 1125 findings, prohibited activity, and no impairment of agencies with concurrent jurisdiction, as
 1126 follows:

1127 "16-17-1.

1128 (a) Without limiting in any manner the scope of this chapter, 'payday lending' as used in
 1129 this chapter encompasses all transactions in which funds are advanced to be repaid at a later
 1130 date, notwithstanding the fact that the transaction contains one or more other elements and
 1131 a 'payday lender' shall be one who engages in such transactions. This definition of 'payday
 1132 lending' expressly incorporates the exceptions and examples contained in subsections (a)
 1133 and (b) of Code Section 16-17-2.

1134 (b) Despite the fact that the Attorney General of the State of Georgia has opined in Official
 1135 Opinion 2002-3 entered on June 27, 2002, that payday lending is in violation of Georgia
 1136 law and despite the fact that ~~the Industrial Loan Commissioner has issued~~ cease and desist
 1137 orders against various payday lenders in the State of Georgia have been issued, the General
 1138 Assembly has determined that payday lending continues in the State of Georgia and that

1139 there are not sufficient deterrents in the State of Georgia to cause this illegal activity to
1140 cease.

1141 (c) The General Assembly has determined that various payday lenders have created certain
1142 schemes and methods in order to attempt to disguise these transactions or to cause these
1143 transactions to appear to be 'loans' made by a national or state bank chartered in another
1144 state in which this type of lending is unregulated, even though the majority of the revenues
1145 in this lending method are paid to the payday lender. The General Assembly has further
1146 determined that payday lending, despite the illegality of such activity, continues to grow
1147 in the State of Georgia and is having an adverse effect upon military personnel, the elderly,
1148 the economically disadvantaged, and other citizens of the State of Georgia. The General
1149 Assembly has further determined that substantial criminal and civil penalties over and
1150 above those currently existing under state law are necessary in order to prohibit this activity
1151 in the State of Georgia and to cause the cessation of this activity once and for all. The
1152 General Assembly further declares that these types of loans are currently illegal and are in
1153 violation of Code Section 7-4-2. The General Assembly declares that the use of agency or
1154 partnership agreements between in-state entities and out-of-state banks, whereby the
1155 in-state agent holds a predominant economic interest in the revenues generated by payday
1156 loans made to Georgia residents, is a scheme or contrivance by which the agent seeks to
1157 circumvent Chapter 3 of Title 7, the 'Georgia ~~Industrial~~ Installment Loan Act,' and the
1158 usury statutes of this state.

1159 (d) Payday lending involves relatively small loans and does not encompass loans that
1160 involve interstate commerce. Certain payday lenders have attempted to use forum selection
1161 clauses contained in payday loan documents in order to avoid the courts of the State of
1162 Georgia, and the General Assembly has determined that such practices are unconscionable
1163 and should be prohibited.

1164 (e) Without limiting in any manner the scope of this chapter, the General Assembly
1165 declares that it is the general intent of this chapter to reiterate that in the State of Georgia
1166 the practice of engaging in activities commonly referred to as payday lending, deferred
1167 presentment services, or advance cash services and other similar activities are currently
1168 illegal and to strengthen the penalties for those engaging in such activities.

1169 (f) This chapter in no way impairs or restricts the authority granted to the commissioner
1170 of banking and finance, ~~the Industrial Loan Commissioner~~, or any other regulatory
1171 authority with concurrent jurisdiction over the matters stated in this chapter."

1172 **SECTION 6.**

1173 Chapter 14 of the Title 45 of the Official Code of Georgia Annotated, relating to the
1174 Commissioner of Insurance, is amended by revising Code Section 45-14-3, relating to duties
1175 as Safety Fire Commissioner and Industrial Loan Commissioner, as follows:

1176 "45-14-3.

1177 The Commissioner of Insurance shall be the Safety Fire Commissioner ~~and the Industrial~~
1178 ~~Loan Commissioner.~~"

1179 **SECTION 7.**

1180 Said chapter is further amended by revising Code Section 45-14-5, relating to seal, as
1181 follows:

1182 "45-14-5.

1183 The Commissioner of Insurance; and Safety Fire Commissioner, ~~and Industrial Loan~~
1184 ~~Commissioner~~ shall have an official seal for each office of such design as he or she shall
1185 select with the approval of the Governor."

1186 **SECTION 8.**

1187 The Official Code of Georgia Annotated is amended by replacing "industrial loan" with
1188 "installment loan" and "industrial loans" with "installment loans" wherever the former
1189 phrases occur in:

1190 (1) Code Section 10-1-2, relating to definitions and construction relative to retail installment
1191 and home solicitation sales.

1192 (2) Code Section 10-1-31, relating to definitions and construction relative to motor vehicle
1193 sales financing.

1194 (3) Code Section 10-1-33.1, relating to advancement of money for satisfaction of lease, lien,
1195 or security interest in motor vehicle.

1196 (4) Code Section 10-1-42, relating to advancement of money to satisfy lease, lien, or security
1197 interest in motor vehicle and inclusion in gross capitalized cost.

1198 (5) Code Section 10-5-2, relating to definitions relative to Georgia uniform securities.

1199 (6) Code Section 13-1-14, relating to collection of closing fees for contracts for the advance
1200 of money or the extension of credit, refund of closing fees in certain instances, and limited
1201 application.

1202 (7) Code Section 13-1-15, relating to when a convenience fee is appropriate.

1203 **SECTION 9.**

1204 The Official Code of Georgia Annotated is amended by replacing "Georgia Industrial Loan
1205 Act" with "Georgia Installment Loan Act" wherever the former phrase occurs in:

1206 (1) Code Section 7-1-1001, relating to registration requirements for mortgage lenders and
1207 brokers and exemptions for certain persons and entities.

1208 (2) Code Section 7-4-2, relating to legal rate of interest, maximum rate of interest generally,
1209 and certain items not considered interest.

1210 (3) Code Section 16-17-2, relating prohibition on loans of less than \$3,000.00, exceptions,
1211 and penalty for violations.

1212 (4) Code Section 18-5-3, relating to exemption for debt adjustment by certain individuals
1213 or entities.

1214 **SECTION 10.**

1215 This Act shall apply to all installment loan agreements entered into on and after July 1, 2020.

1216 **SECTION 11.**

1217 This Act shall become effective upon its approval by the Governor or upon its becoming law
1218 without such approval.

1219 **SECTION 12.**

1220 All laws and parts of laws in conflict with this Act are repealed.