

Senate Bill 470

By: Senators Robertson of the 29th, Albers of the 56th, Brass of the 28th, Strickland of the 17th and Kirkpatrick of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated,
2 relating to licensing of mortgage lenders and mortgage brokers, so as to provide for different
3 categories of felony convictions for purposes of investigations of mortgage loan originator
4 applicants; to repeal certain provisions for denial or revocation of a license or registration due
5 to certain felony convictions; to provide for related matters; to provide for an effective date;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
10 licensing of mortgage lenders and mortgage brokers, is amended by revising subsection (d)
11 and by repealing and reserving subsection (h) of Code Section 7-1-1004, relating to
12 investigation of applicant and its officers, audit, education, experience, and other
13 requirements relative to licensees and registrants, as follows:

14 "(d) Upon receipt of an application for a mortgage loan originator license, the department
15 shall conduct such investigation as it deems necessary to determine that the mortgage loan
16 originator applicant:

(1) Has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation;

(2)(A) Has not been convicted of, or pleaded guilty or nolo contendere to, a felony in a domestic, foreign, or military court; ~~provided, however, that any:~~

(i) During the seven-year period immediately preceding the date of such application;

or

(ii) At any time preceding the date of such application if such felony involved an act of fraud or dishonesty, a breach of trust, or money laundering.

(B) Any pardon of a conviction shall not be a conviction for purposes of this subsection;

(3) Has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this article;

(4) Has completed the prelicensing education requirement described in subsection (e) of this Code section; and

(5) Has passed a written test that meets the test requirement described in subsection (f) of this Code section."

~~"(h) The department shall not issue or may revoke a license or registration if it finds that the mortgage loan originator, mortgage broker, or mortgage lender applicant or licensee, or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the mortgage broker or mortgage lender applicant, registrant, or licensee or any individual who directs the affairs or establishes policy for the mortgage broker or mortgage lender applicant, registrant, or licensee, has been convicted of a felony in any jurisdiction or of a crime which, if committed within this state, would constitute a felony under the laws of this state. Other than a mortgage loan originator, for~~

~~the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty or nolo contendere to a charge thereof before a court or federal magistrate or shall have been found guilty thereof by the decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, and regardless of whether first offender treatment without adjudication of guilt pursuant to the charge was entered, or an adjudication or sentence was otherwise withheld or not entered on the charge, unless and until such plea of guilty, or such decision, judgment, or verdict, shall have been set aside, reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or both probation and sentence of a first offender have been successfully completed and documented, or unless the person convicted of the crime shall have received a pardon therefor from the President of the United States or the governor or other pardoning authority in the jurisdiction where the conviction occurred or shall have received an official certification or pardon granted by the state's pardoning body in the jurisdiction where the conviction occurred. For purposes of this article, a mortgage loan originator shall be deemed to have been convicted of a crime if he or she has pleaded guilty to, been found guilty of, or entered a first offender or nolo contendere plea to a felony in a domestic, foreign, or military court, provided, however, that any pardon of a conviction shall not be a conviction. Reserved."~~

SECTION 2.

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

SECTION 3.

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