

House Bill 1040

By: Representatives Hilton of the 48th, Williams of the 148th, Barrett of the 24th, McCollum of the 30th, Chastain of the 7th, and others

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 prohibit unfair or
3 deceptive practices in consumer transactions related to mortgage trigger leads; to provide for
4 a definition; to provide for related matters; to provide for an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
9 licensing of mortgage lenders and mortgage brokers, is amended by adding a new Code
10 section to read as follows:

11 "7-1-1013.1.

12 (a) For purposes of this Code section, the term 'mortgage trigger lead' means a consumer
13 report obtained pursuant to Section 604(c)(1)(B) of the federal Fair Credit Reporting Act,
14 15 U.S.C. Section 1681b, where the issuance of the report is triggered by an inquiry made
15 with a consumer reporting agency in response to an application for credit. Such term shall
16 not include a consumer report on an applicant obtained by a mortgage lender or broker with

17 which the applicant has initially applied for credit or which holds or services an existing
18 extension of credit of the applicant who is the subject of the report.

19 (b) When using a mortgage trigger lead to solicit a consumer who has applied for a loan
20 with another mortgage lender or broker, no person shall engage in unfair or deceptive acts
21 or practices as declared in Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business
22 Practices Act of 1975'; provided, further, that, without limitation, it is an unfair or
23 deceptive practice to:

24 (1) Fail to state in the initial solicitation that the person is not affiliated with the
25 mortgage lender or broker with which the consumer initially applied;

26 (2) Fail in the initial solicitation to conform to state and federal law relating to
27 prescreened solicitations using consumer reports, including the requirement to make a
28 firm offer of credit to the consumer;

29 (3) Use information regarding consumers who have opted out of the prescreened offers
30 of credit or who have placed their contact information on the federal do-not-call registry;

31 or

32 (4) Solicit a consumer with an offer of certain rates, terms, and costs with the knowledge
33 that the rates, terms, or costs will be subsequently changed to the detriment of the
34 consumer."

35 **SECTION 2.**

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

38 **SECTION 3.**

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