

House Bill 945

By: Representatives Williamson of the 112th, Williams of the 148th, and Chastain of the 7th

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 provide for holds on accounts of eligible adults for suspected financial exploitation;
3 to provide for procedures for placing and lifting such holds; to provide for notice to the
4 account holder or trusted contact of the hold; to provide for the shortening or extension of
5 a hold; to provide for training to place holds; to require financial institutions to retain records
6 of holds; to provide for administrative, criminal, and civil immunity; to prohibit entities not
7 registered as a merchant acquirer limited purpose bank from identifying as such; to provide
8 for the applicability of certain chapters relative to certain entities; to provide for procedures
9 to notify the department of mergers; to provide for department objections to mergers; to no
10 longer require independent credit reports to be obtained from a consumer reporting agency
11 as defined in the federal Fair Credit Reporting Act; to provide for regulation of virtual
12 currency kiosk owners and operators; to require virtual currency kiosk operators to provide
13 disclosures to customers; to provide procedures for refunds of virtual currency transactions;
14 to provide for fees; to provide for daily transaction limits; to provide for a department created
15 formula for bona fide discount points; to provide for licensing exemptions for certain
16 financial institutions whose deposits are federally insured; to provide for procedures for
17 merchant acquirer limited purpose banks to amend their articles; to provide for department
18 investigations related to litigation finance applicants; to provide for renewal of litigation

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19 finance registration; to provide for procedures for cease and desist orders for unregistered
20 persons providing litigation finance; to provide for judicial hearings to review department
21 decisions regarding litigation finance; to provide for registrant disclosures; to provide for
22 definitions; to make conforming changes; to provide for construction; to provide for related
23 matters; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 SECTION 1.

26 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is
27 amended in Article 1 of Chapter 1, relating to Department of Banking and Finance and
28 financial institutions generally, by revising paragraph (21) of Code Section 7-1-4, relating
29 to definitions, and adding new paragraphs to read as follows:

30 "(17.1) 'Disabled adult' means a natural person 18 years of age or older who:

31 (A) Is mentally or physically incapacitated as defined in Code Section 16-5-100;

32 (B) Has Alzheimer's disease as defined in Code Section 16-5-100; or

33 (C) Has dementia as defined in Code Section 16-5-100.

34 (17.2) 'Elderly adult' means a natural person 65 years of age or older.

35 (17.3) 'Eligible adult' means a disabled adult or an elderly adult."

36 "(20.1) 'Financial exploitation' means the wrongful or unauthorized taking, withholding,
37 appropriation, or use of money, assets, or property of an eligible adult; or any act or
38 omission by a person, including through the use of a power of attorney, guardianship, or
39 conservatorship of an eligible adult, with the intent to:

40 (A) Obtain control over an eligible adult's money, assets, or property through
41 deception, intimidation, or undue influence to deprive the eligible adult of the
42 ownership, use, benefit, or possession of such money, assets, or property; or

43 (B) Divert the eligible adult's money, assets, or property to deprive the eligible adult
44 of the ownership, use, benefit, or possession of such money, assets, or property.

45 (21) 'Financial institution' means:

46 (A) A bank;

47 (B) A trust company;

48 (C) Reserved;

49 (D) A credit union;

50 (E) A corporation licensed to engage in the business of money transmission in this state
51 on April 1, 1975, or so licensed pursuant to Article 4 of this chapter;

52 (F) Business development corporations existing on April 1, 1975, pursuant to the
53 former 'Georgia Business Development Corporation Act of 1972,' approved
54 April 3, 1972 (Ga. L. 1972, p. 798), or organized pursuant to Article 6 of this chapter;

55 ~~(G) An international bank agency doing business in this state on April 1, 1975, or~~
56 ~~pursuant to the former 'International Bank Agency Act,' approved April 6, 1972 (Ga.~~
57 ~~L. 1972, p. 1140), or authorized to do business in this state pursuant to Article 5 of this~~
58 ~~chapter~~ Reserved;

59 (H) In addition, as the context requires, a national bank, savings and loan association,
60 or federal credit union for the purpose of the following provisions:

61 (i) Code Section 7-1-2, relating to findings of the General Assembly;

62 (ii) Code Section 7-1-8, relating to ~~supplementary principles of law~~ applicability of
63 common law;

64 (iii) Code Section 7-1-37, relating to ~~restrictions on officials and personnel prohibited~~
65 transactions for department officials and personnel;

66 (iv) Code Section 7-1-70, relating to disclosure of information;

67 (v) Code Section 7-1-90, relating to judicial review of department actions;

68 (vi) Code Sections 7-1-111 and 7-1-112, relating to emergency closings and business
69 restrictions, respectively;

- 70 (vii) Paragraph (3) of subsection (a) of Code Section 7-1-394, relating to criteria to
 71 be considered in approving new banks;
- 72 (viii) Code Section 7-1-840, relating to criminal prosecutions; and
- 73 (ix) Code Section 7-1-841, relating to application of Title 16 provisions;
- 74 (I) A bank holding company as defined in Code Section 7-1-605 for the purposes of
 75 Code Sections 7-1-61, 7-1-71, and 7-1-91;
- 76 (J) Banks chartered by states other than Georgia for the purposes of paragraph (10) of
 77 Code Section 7-1-261, relating to agency relationships;
- 78 (K) Federal credit unions for the purposes of Part 6 of Article 2 of this chapter, relating
 79 to deposits, safe-deposit agreements, and money received for transmission, and
 80 Article 8 of this chapter, relating to multiple-party accounts; and
- 81 (L) Banks and credit unions chartered by states other than Georgia, national banks,
 82 federal credit unions, and federal savings and loan associations for the purposes of
 83 Part 15 of this article and paragraph (1) of Code Section 7-1-650, provided that such
 84 institutions have federal deposit insurance."
- 85 "(41)(A) 'Trusted contact' means a natural person 18 years of age or older who the
 86 account owner has expressly identified and recorded in a financial institution's books
 87 and records as the person who may be contacted about either the account or the account
 88 owner to:
- 89 (i) Address possible financial exploitation or to confirm the specifics of the account
 90 owner's current contact information or health status;
- 91 (ii) Determine the identity of any conservator, executor, trustee, or individual or
 92 entity granted power of attorney over the account holder; or
- 93 (iii) Address any other concern reasonably related to the administration of the
 94 account.
- 95 (B) Such term may include a joint account owner or an individual or entity who has
 96 been granted a power of attorney."

97 **SECTION 2.**

98 Said title is further amended in said article by adding a new part to read as follows:

99 "Part 15100 7-1-239.11.

101 (a) A financial institution may permit any customer or member of the financial institution
102 who is an eligible adult to designate, upon each account owned wholly or partially by such
103 eligible adult, at least one trusted contact in addition to a co-owner, beneficiary, or
104 fiduciary on the account.

105 (b) For each such designation, the eligible adult shall provide the trusted contact's name,
106 mailing address, and any other contact information that the financial institution may use
107 to contact the trusted contact.

108 (c) A financial institution may permit a customer or member to designate such trusted
109 contact prior to the customer or member becoming an eligible adult but may not contact
110 such trusted contact until the customer or member becomes an eligible adult.

111 (d) The financial institution shall maintain such trusted contact in a record associated with
112 each account to which the designation applies.

113 (e) A financial institution may establish reasonable procedures to confirm the identity of
114 the trusted contact.

115 (f) A financial institution shall not require a person designated as a trusted contact to
116 consent as a precondition of being recorded as a trusted contact on any account.

117 (g) Absent a requirement in the account agreement to the contrary, when contacting a
118 trusted contact pursuant to this part, the financial institution may choose to only disclose
119 the fact that financial exploitation is suspected.

120 7-1-239.12.

121 (a) If a financial institution has reasonable cause to suspect that a transaction may involve,
122 facilitate, result in, or contribute to financial exploitation, the financial institution may but
123 is not required to place a hold on the execution of a financial transaction on an account:

124 (1) Of an eligible adult;

125 (2) On which the eligible adult is a beneficiary; or

126 (3) Of a person suspected of perpetrating the financial exploitation.

127 (b) A financial institution may place a hold on the execution of a financial transaction as
128 described in subsection (a) of this Code section if the Department of Human Services or
129 a law enforcement agency provides information to the financial institution demonstrating
130 reasonable cause to suspect that a transaction may involve, facilitate, result in, or contribute
131 to financial exploitation.

132 7-1-239.13.

133 A financial institution that places a hold on an account pursuant to Code
134 Section 7-1-239.12 shall:

135 (1) Notify in writing all parties authorized to transact business on the account and any
136 trusted contact on the account no later than three business days after the date the hold is
137 placed, unless the financial institution reasonably believes that these persons have
138 engaged in, are engaging in, have attempted to engage in, or will attempt to engage in the
139 suspected financial exploitation of the eligible adult. Such notice may be provided
140 electronically and shall include any reason for a delay; and

141 (2) Initiate a review of the facts and circumstances that caused the financial institution
142 to suspect financial exploitation.

143 7-1-239.14.

144 (a) Any hold placed on any account pursuant to this part expires on the fifteenth business
145 day after the date the hold was placed.

146 (b) The financial institution may extend the hold for up to an additional 15 business days
147 if the financial institution's review of the available facts or circumstances continues to
148 support the reasonable belief that a transaction may involve, facilitate, result in, or
149 contribute to financial exploitation.

150 (c) The length of such hold may be shortened or extended at any time by any court of
151 competent jurisdiction.

152 (d) Nothing in this Code section prevents a financial institution from terminating a hold
153 after communication with parties authorized to transact business on the account or trusted
154 contacts or after the review of available facts and circumstances.

155 7-1-239.15.

156 Before placing a hold in accordance with this part, a financial institution shall:

157 (1) Develop training policies or programs reasonably designed to educate employees
158 who perform or approve transactions on issues pertaining to financial exploitation;

159 (2) Conduct such training policies or programs for employees and maintain a written
160 record of all such training; and

161 (3) Develop, maintain, and enforce written procedures regarding the manner in which
162 suspected financial exploitation is reviewed internally.

163 7-1-239.16.

164 (a) A financial institution shall create and maintain a record of all holds placed pursuant
165 to this part.

166 (b) For each hold, such records shall include the:

167 (1) Account holder's information;

168 (2) Date the hold was first placed;

169 (3) Facts and circumstances that caused the employee to suspect financial exploitation;
170 and

171 (4) Resolution of the hold.

172 7-1-239.17.

173 (a) Absent a reasonable belief of financial exploitation, this part does not otherwise alter
174 a financial institution's obligations to all parties authorized to transact business on an
175 account.

176 (b) When a financial institution exercises its discretion to place a hold on a transaction
177 pursuant to this part, the payment order for the transaction shall not be deemed as received
178 until the financial institution has removed the hold and the transaction has been submitted
179 for processing.

180 7-1-239.18.

181 (a) A financial institution acting in good faith and exercising reasonable care to comply
182 with this part is immune from any administrative, criminal, or civil liability that might
183 otherwise arise from the financial institution's action, inaction, delay in a disbursement,
184 hold, or other transaction in accordance with this part. This immunity from liability
185 extends to the officers, directors, and employees of the financial institution.

186 (b) Absent the financial institution's employees having actual knowledge of financial
187 exploitation and acting with malicious purpose, the financial institution and its officers,
188 directors, and employees are immune from administrative, criminal, and civil liability for
189 failure to exercise its discretion to place a hold under this part.

190 (c) This Code section does not alter, extend, supersede, or diminish any immunity
191 otherwise granted to financial institutions.

192 7-1-239.19.

193 This part does not create new rights or impose new obligations or new duties on a financial
194 institution under other applicable law."

195 **SECTION 3.**

196 Said title is further amended in Article 2 of Chapter 1, relating to banks and trust companies,
197 by revising paragraph (1) of subsection (c) of Code Section 7-1-243, relating to restrictions
198 on banking and trust nomenclature, and adding a new subsection to read as follows:

199 "(a.2) Except as provided in subsection (c) of this Code section, no person or corporation,
200 except a merchant acquirer limited purpose bank as defined in Code Section 7-9-2, shall
201 use the term 'MALPB' or any other similar term indicating that the business done is that of
202 a merchant acquirer limited purpose bank on any sign at its place of business or elsewhere,
203 or on any of its letterheads, blank checks, blank notes, receipts, certificates, circulars,
204 advertisements, or any other written or printed matter."

205 "(1) Prevent the use of the ~~words~~ terms 'banks,' 'banker,' 'banking,' 'banker's,' 'trust,'
206 'MALPB,' or any similar ~~word~~ term in a context clearly not purporting to refer to a
207 banking or a trust business or to a business primarily engaged in merchant acquiring
208 activities as defined in Code Section 7-9-2, the lending of money, underwriting or sale
209 of securities, acting as a financial planner, financial service provider, investment or trust
210 adviser, or acting as a loan broker;"

211 **SECTION 4.**

212 Said title is further amended in said article by adding a new Code section to read as follows:

213 "7-1-390.2.

214 (a) To the extent the provisions of Chapter 2 of Title 14 are consistent with and not in
215 conflict with the other provisions of this chapter and the rules and regulations of the

216 department, such provisions shall apply to banks and trust companies chartered by the
 217 department pursuant to this chapter and not organized as limited liability companies.

218 (b) To the extent the provisions of Chapter 11 of Title 14 are consistent with and not in
 219 conflict with the other provisions of this chapter and the rules and regulations of the
 220 department, such provisions shall apply to banks and trust companies chartered by the
 221 department pursuant to this chapter and organized as limited liability companies."

222 **SECTION 5.**

223 Said title is further amended in said article by revising subsections (b) and (c) of Code
 224 Section 7-1-534, relating to approval or disapproval by department and resulting bank or trust
 225 company not chartered by department, as follows:

226 "(b) Except as provided in subsection (c) of this Code section, within ~~Within~~ 90 days after
 227 receipt of the articles of merger, share exchange, or consolidation, the notice ~~of merger or~~
 228 ~~share exchange, merger, share exchange, or consolidation,~~ and the filings required by Code
 229 Section 7-1-533, or within an additional period of not more than 30 days after an
 230 amendment to the application is received within the initial 90 day period, the department
 231 shall, in its discretion, approve or disapprove the articles on the basis of its investigation
 232 and the criteria set forth in subsection (a) of this Code section. Except as provided in Code
 233 Section 7-1-535, the department shall give the Secretary of State written notice of its
 234 approval with a copy of the articles of merger, share exchange, or consolidation and a copy
 235 of the notice of ~~merger or share exchange~~ merger, share exchange, or consolidation
 236 attached. The department shall also give the parties to the plan written notice of its
 237 decision and, in the event of disapproval, a statement in general of the reasons for its
 238 decision. The decision of the department shall be conclusive, except that it may be subject
 239 to judicial review as provided in Code Section 7-1-90.

240 ~~(c)~~ (1) If a merger or consolidation would result in a bank or trust company that would not
 241 be chartered by the department, prior to the consummation of the merger or consolidation,

242 the bank or trust company shall: notify the department upon filing an application with the
243 appropriate federal or state financial regulator. The notification requirements of this
244 subsection shall be satisfied by furnishing the department with a copy of the application or
245 applications filed with the applicable bank supervisory agencies seeking approval for the
246 proposed transaction and such other information as the department requests. The parties
247 to such transaction shall also file with the department a certificate of approval of the
248 acquisition by the appropriate supervisory agencies prior to consummation of the
249 transaction. The department may, for good cause shown, object to the transaction by letter
250 to the proposed resulting bank or trust company, the Georgia bank or trust company, and
251 to the appropriate federal or state financial regulator before consummation of the
252 transaction. In the event of such objection, the acquisition cannot be consummated without
253 the parties obtaining the approval of the department. Unless the department has objected
254 to the transaction, the department shall forward to the Secretary of State written
255 confirmation that the requirements of this subsection have been satisfied.

256 (A) ~~Notify the department of the proposed merger or consolidation;~~

257 (B) ~~Provide such evidence of the adoption of the plan of merger or consolidation as the~~
258 ~~department may request;~~

259 (C) ~~Notify the department of any abandonment or disapproval of the plan of merger~~
260 ~~or consolidation; and~~

261 (D) ~~File with the department and the Secretary of State a certificate of the approval of~~
262 ~~the merger or consolidation by the appropriate regulator.~~

263 (2) ~~Upon receipt of written confirmation from the department that the requirements of~~
264 ~~this subsection have been satisfied, each party to the merger or consolidation, except the~~
265 ~~resulting bank or trust company, shall cease to exist as a separate entity, as provided in~~
266 ~~subsection (e) of Code Section 7-1-536, and its articles shall automatically terminate."~~

267 **SECTION 6.**

268 Said title is further amended in Article 3 of Chapter 1, relating to credit unions, by adding
269 a new Code section to read as follows:

270 "7-1-632.1.

271 To the extent the provisions of Chapter 3 of Title 14 are consistent with and not in conflict
272 with the other provisions of this chapter and the rules and regulations of the department,
273 such provisions shall apply to credit unions chartered by the department pursuant to this
274 chapter."

275 **SECTION 7.**

276 Said title is further amended in Article 4 of Chapter 1, relating to money transmission, by
277 designating Code Sections 7-1-680 through 7-1-698 as Part 1.

278 **SECTION 8.**

279 Said title is further amended in said article by revising subparagraph (A) of paragraph (14)
280 of Code Section 7-1-680, relating to definitions regarding money transmission, as follows:

281 "(A) Receiving money or monetary value for transmission or transmitting money or
282 monetary value within the United States or to locations abroad by any and all means,
283 including, but not limited to:

284 (i) An order;

285 (ii) A wire;

286 (iii) A facsimile; ~~and~~

287 (iv) An electronic transfer; and

288 (v) A virtual currency kiosk as defined in Code Section 7-1-699;"

289 **SECTION 9.**

290 Said title is further amended in said article by revising subparagraph (f)(1)(B) of Code
291 Section 7-1-689, relating to record keeping, investigation and examination requirements and
292 powers, and limitations on civil liability, as follows:

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

296 **SECTION 10.**

297 Said title is further amended in said article by repealing and reserving Code Section 7-1-698,
298 relating to continuing effectiveness of existing licenses.

299 **SECTION 11.**

300 Said title is further amended in said article by adding a new part to read as follows:

301 "Part 2

302 7-1-699.

303 As used in this part, the term:

304 (1) 'Existing customer' means a consumer who:

305 (A) Is engaging in a virtual currency transaction at a virtual currency kiosk in this state;

306 and

307 (B) Has been registered as a customer of such operator for more than 72 hours.

308 (2) 'New customer' means a consumer who:

309 (A) Is engaging in a virtual currency transaction at a virtual currency kiosk in this state;

310 and

311 (B) Has been registered as a customer of such operator for less than 72 hours.

312 (3) 'New customer time period' means the first 72 hours after a consumer becomes a new
313 customer of a virtual currency kiosk.

314 (4)(A) 'Operator' means a person who performs money transmission through a virtual
315 kiosk by:

316 (i) Facilitating the exchange of fiat currency for virtual currency, virtual currency for
317 fiat currency, or virtual currency for other virtual currency; or

318 (ii) Directly or indirectly transmitting virtual currency

319 (B) An operator may:

320 (i) Be an owner; or

321 (ii) Enter into a contract with the owner to perform money transmission or initiate
322 money transmission at the location of the virtual currency kiosk.

323 (5) 'Owner' means a person who owns a virtual currency kiosk.

324 (6) 'Virtual currency address' means an alphanumeric identifier representing a destination
325 for a transfer of virtual currency that is associated with a virtual currency wallet.

326 (7) 'Virtual currency kiosk' means an electronic terminal acting as a mechanical agent
327 of the operator to enable the operator to:

328 (A) Facilitate the exchange of fiat currency for virtual currency, virtual currency for
329 fiat currency, or virtual currency for other virtual currency; or

330 (B) Directly or indirectly transmit virtual currency.

331 (8) 'Virtual currency wallet' means a software application or other mechanism providing
332 a means for holding, storing, and transferring virtual currency.

333 7-1-699.1.

334 (a) The operator shall, in establishing a relationship with a customer and prior to initiating
335 an initial virtual currency transaction at a virtual currency kiosk for, or on behalf of or with,
336 the customer, disclose in clear, conspicuous, and legible writing in the English language

337 and if applicable, in the language selected by the customer at the beginning of the
338 relationship or transaction, the following:

339 (1) A disclosure, which shall be acknowledged by the customer, provided separately
340 from the disclosures provided pursuant to paragraphs (2) through (7) of this subsection,
341 written prominently and in bold type stating the following: 'WARNING: LOSSES DUE
342 TO FRAUDULENT OR ACCIDENTAL TRANSACTIONS MAY NOT BE
343 RECOVERABLE AND TRANSACTIONS IN VIRTUAL CURRENCY ARE
344 IRREVERSIBLE.');

345 (2) Virtual currency is not backed or insured by the government, and accounts and value
346 balances are not subject to the Federal Deposit Insurance Corporation, National Credit
347 Union Administration, or Securities Investor Protection Corporation protections;

348 (3) Some virtual currency transactions shall be deemed complete when recorded on a
349 public ledger, which may not be the date or time when the customer initiated the virtual
350 currency transaction;

351 (4) The value of virtual currency may be derived from the continued willingness of
352 market participants to exchange fiat currency for virtual currency, which may result in
353 the permanent and total loss of the value of a particular currency if the market for that
354 virtual currency disappears;

355 (5) The volatility and unpredictability of the price of virtual currency relative to fiat
356 currency may result in a significant loss over a short period of time;

357 (6) Any bond maintained by the operator for the benefit of the customers of such
358 operator may not be sufficient to cover all losses incurred by such customers;

359 (7) Virtual currency transactions are irreversible and are frequently used by persons
360 seeking to defraud customers, including, but not limited to, a person impersonating a
361 customer's loved ones, threatening jail time, stating that a customer's identity has been
362 stolen, insisting that a customer withdraw money from the customer's bank account and

363 purchase cryptocurrency, alleging a customer's personal computer has been hacked, or
364 perpetuating or conducting a romance scam; and

365 (8) Such other disclosures the department requires by rule.

366 (b) Nothing in this Code section shall be construed to prohibit operators from providing
367 additional disclosures to customers.

368 7-1-699.2.

369 The operator shall, when opening an account for a new customer and prior to initiating an
370 initial virtual currency transaction at a virtual currency kiosk for, on behalf of, or with such
371 customer, disclose in clear, conspicuous, and legible writing in the English language, and,
372 if applicable, in the language selected by the customer at the beginning of the relationship
373 or transaction, using not less than 24 point sans-serif font, all relevant terms and conditions
374 associated with the products, services, and activities of the operator and virtual currency
375 generally, including, but not limited to, the following:

376 (1) The customer's liability for unauthorized virtual currency transactions;

377 (2) The customer's right to stop payment of a preauthorized virtual currency transaction
378 and the procedure used to initiate a stop-payment order, if applicable;

379 (3) Under what circumstances the operator will, absent a court or government order,
380 disclose information concerning the customer's account to third parties;

381 (4) The requirement that the operator communicate to the customer what customer
382 information might be disclosed to third parties;

383 (5) The customer's right to receive a receipt for a virtual currency transaction at the time
384 of the transaction; and

385 (6) Upon any change in the rules or policies of the operator, the customer's right to
386 consent to such changed rules or policies prior to performing any transaction after such
387 change.

388 7-1-699.3.

389 The operator shall, prior to each virtual currency transaction initiated at a virtual currency
390 kiosk for, on behalf of, or with a customer, disclose to such customer in clear, conspicuous,
391 and legible writing in the English language, and, if applicable, in the language selected by
392 the customer at the beginning of the relationship or transaction, using not less than 24 point
393 sans-serif font, the terms and conditions of the virtual currency transaction, including, but
394 not limited to, the following:

395 (1) The amount of the transaction;

396 (2) Any fees, expenses, and charges borne by the customer, including, but not limited to,
397 any applicable exchange rates;

398 (3) The type and nature of the virtual currency transaction;

399 (4) A warning that, once executed, the virtual currency transaction is irreversible, if
400 applicable;

401 (5) A daily virtual currency transaction limit in accordance with this part; and

402 (6) The difference in the sale price of the virtual currency compared with the current
403 market price.

404 7-1-699.4.

405 The operator shall ensure that if the information contained in the disclosures required by
406 Code Sections 7-1-699.1 and 7-1-699.2 changes, any existing customer initiating a virtual
407 currency transaction after the date of any change to the disclosure information shall be
408 provided with the updated disclosure information and acknowledge the same prior to
409 completing such virtual currency transaction.

410 7-1-699.5.

411 The operator shall ensure that each customer acknowledges the receipt of all disclosures
412 required under this part. Acknowledgment of such disclosures shall not impact the rights
413 of the customer, including, but not limited to, the ability to obtain a refund from an
414 operator.

415 7-1-699.6.

416 (a) The operator shall, upon completion of any virtual currency transaction initiated at a
417 virtual currency kiosk, provide the customer with a receipt containing the following
418 information:

419 (1) The name of and contact information for the operator, including, but not limited to,
420 the operator's business address and a customer service telephone number established by
421 the operator to answer questions and register complaints;

422 (2) The name of and contact information for the owner, including, but not limited to, the
423 owner's business address and a telephone number if the virtual currency kiosk is owned
424 by a person other than the operator;

425 (3) The name of the customer;

426 (4) The type, value, date, and precise time of such virtual currency transaction and each
427 virtual currency address;

428 (5) The amount of such virtual currency transaction expressed in United States currency;

429 (6) The full unique transaction hash or identification number;

430 (7) The public virtual currency address of the customer;

431 (8) The unique identifier;

432 (9) Any fee charged, including, but not limited to, any fee charged directly or indirectly
433 by the operator, the owner, or a third party involved in the virtual currency transaction;

434 (10) The exchange rate, if applicable;

435 (11) Any tax collected by the operator for the virtual currency transaction;

436 (12) A statement of the liability of the operator for nondelivery or delayed delivery;

437 (13) A statement of the refund policy of the operator;

438 (14) The email address of the department and a statement disclosing that the operator's
439 customers may contact the department with questions or complaints about the operator's
440 virtual currency kiosk services; and

441 (15) Any additional information the department may require.

442 (b) The receipt required by subsection (a) of this Code section:

443 (1) Shall be provided in retainable form in the English language and, if applicable, the
444 language selected by the customer at the beginning of the relationship or virtual currency
445 transaction; and

446 (2) May be provided electronically if the customer requests or agrees to receive an
447 electronic receipt.

448 7-1-699.7.

449 The total amount of any fee, commission, spread, or other charges related to a transaction
450 initiated at a virtual currency kiosk shall not exceed 18 percent of the amount of the fiat
451 currency exchanged or transmitted.

452 7-1-699.8.

453 (a) There is established an aggregated maximum daily transaction limit of \$2,500.00 for
454 each new customer for transactions initiated at a virtual currency kiosk.

455 (b) There is established an aggregated maximum daily transaction limit of \$10,000.00 for
456 each existing customer for transactions initiated at a virtual currency kiosk.

457 7-1-699.9.

458 (a) An operator shall issue a refund to:

459 (1) A new customer for the full amount of all transactions initiated at a virtual currency
460 kiosk within the new customer time period upon request of the new customer. In order
461 to receive a refund under this paragraph, a new customer shall:

462 (A) Have been defrauded, fraudulently induced, or otherwise deceived to engage in the
463 virtual currency transactions; and

464 (B) Contact the operator and a government or law enforcement agency to inform them
465 of the complained of activity within five days of the last transaction to occur during the
466 new customer time period.

467 (2) A new or existing customer for the full amount of fees initiated at a virtual currency
468 kiosk if the customer has been defrauded, fraudulently induced, or otherwise deceived to
469 engage in the virtual currency transactions.

470 (b) If the conditions of paragraphs (1) and (2) of subsection (a) of this Code section have
471 been satisfied, the operator shall issue such refund to the customer within 72 hours of the
472 request.

473 7-1-699.10.

474 Each operator shall:

475 (1) Obtain a copy or scan of a government issued identification card that identifies each
476 customer of such operator;

477 (2) Maintain restrictions that prevent more than one customer of such operator from
478 using the same virtual currency wallet;

479 (3) Be able to prevent designated virtual currency wallets from being used at any virtual
480 currency kiosk owned or operated by such operator;

481 (4) Regularly use an established third party that specializes in performing blockchain
482 analyses to preemptively perform such analyses to identify and prevent high risk or
483 sanctioned virtual currency wallets from being used by customers at virtual currency
484 kiosks operated by such operator;

- 485 (5) Define in the operator's policies and procedures a risk based method of monitoring
486 customers of such operator on a post-transaction basis;
- 487 (6)(A) Offer during the hours of operation of the virtual currency kiosks timely live
488 customer support by telephone from a telephone number prominently displayed at or
489 on such virtual currency kiosks. During such communication, which shall be recorded
490 and maintained by the operator for not less than five years, the operator shall:
- 491 (i) Positively identify the customer;
492 (ii) Reconfirm any attestations made by the customer at a virtual currency kiosk
493 operated by the operator;
494 (iii) Discuss the transaction; and
495 (iv) Discuss types of fraudulent schemes relating to virtual currency;
- 496 (B) Such customer support shall also be available for law enforcement to contact the
497 operator;
- 498 (7) Designate and employ a chief compliance officer who shall:
- 499 (A) Be qualified to coordinate and monitor a compliance program to ensure
500 compliance with this part and all other applicable federal and state laws, rules, and
501 regulations;
- 502 (B) Be employed on a full-time basis by such operator; and
- 503 (C) Not own more than 20 percent of the virtual currency kiosk operator that employs
504 the chief compliance officer;
- 505 (8) Use covered employees to fulfill the operator's compliance responsibilities under
506 federal and state laws, rules, and regulations; and
- 507 (9) Report to the department the locations of each of the operator's virtual currency
508 kiosks in this state in a form prescribed by the department. Such report shall include, but
509 shall not be limited to, the:
- 510 (A) Address of the location of the virtual currency kiosk;
511 (B) Name of the business as displayed at the location of the virtual currency kiosk;

- 512 (C) Name of the business that signed the lease or other contract with the virtual
 513 currency kiosk for the subject location; and
 514 (D) Owner of the virtual currency kiosk at such location, if not owned by the operator.

515 7-1-699.11.

516 Nothing in this part shall be construed to waive, change, or otherwise modify other
 517 requirements imposed on operators of virtual currency kiosks throughout this title."

518 **SECTION 12.**

519 Said title is further amended in Article 4A of Chapter 1, relating to cashing of payment
 520 instruments, by revising subparagraph (f)(1)(B) of Code Section 7-1-706, relating to record
 521 keeping, investigation and examination requirements and powers, and limitation on civil
 522 liability, as follows:

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

526 **SECTION 13.**

527 Said title is further amended in Article 13 of Chapter 1, relating to licensing of mortgage
 528 lenders and mortgage brokers, by revising paragraph (5.3) of Code Section 7-1-1000, relating
 529 to definitions, as follows:

530 "(5.3) 'Covered servicer' means a mortgage lender with a servicing portfolio of 2,000 or
 531 more residential mortgage loans serviced or subserviced for others ~~loans~~ as reported in
 532 the mortgage lender's aggregate Mortgage Call Report data as of the most recent calendar
 533 year end, excluding whole loans owned, reverse mortgages that are serviced or
 534 subserviced for others, and loans being interim serviced prior to sale."

535 **SECTION 14.**

536 Said title is further amended in said article by revising subparagraph (k)(2)(A) of Code
537 Section 7-1-1004, relating to investigation of applicant, requirements for applicant, and
538 denial and revocation of license, as follows:

539 "(A) An independent credit report ~~obtained from a consumer reporting agency~~
540 ~~described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section~~
541 ~~1681a(p); and"~~

542 **SECTION 15.**

543 Said title is further amended in said article by revising paragraph (1) of subsection (c) of
544 Code Section 7-1-1008, relating to prohibited acquisitions of shares without prior approval,
545 as follows:

546 "(1) The acquisition of an interest in a licensee directly or indirectly, including an
547 acquisition by merger or consolidation by or with a person licensed as a mortgage lender
548 or mortgage broker by this article or a person exempt as a mortgage lender or mortgage
549 broker from this article under Code Section 7-1-1001;"

550 **SECTION 16.**

551 Said title is further amended in said article by revising paragraphs (1) and (2) of
552 subsection (b) of Code Section 7-1-1011, relating to annual fees, as follows:

553 "(1) As used in this subsection, the term 'collecting agent' means the person listed as the
554 secured party on a security deed or other loan document that establishes a lien on the
555 residential ~~real~~ property taken as collateral at the time of the closing of the mortgage loan
556 transaction.

557 (2) There shall be imposed on the closing of every mortgage loan subject to regulation
558 under this article which, as defined in Code Section 7-1-1000, includes all mortgage loans
559 made on residential property, whether or not closed by a mortgage broker or mortgage

560 lender licensee, a fee of \$10.00. The fee shall be paid by the borrower to the collecting
561 agent at the time of closing of the mortgage loan transaction. The collecting agent shall
562 remit the fee to the department at the time and in the manner specified by regulation of
563 the department. Revenue collected by the department pursuant to this subsection shall
564 be deposited in the general fund of the state."

565 **SECTION 17.**

566 Said title is further amended in Article 14 of Chapter 1, relating to foreign banking
567 institutions, by revising Code Section 7-1-1132, relating to location and authority of offices
568 and relocation, as follows:

569 "7-1-1132.

570 A Georgia state representative office may engage in the activities authorized by this article
571 at each location registered with the department as a representative office. A Georgia state
572 representative office may change its location in this state by filing a notification with the
573 department containing the street address and mailing address of the new location no less
574 than 30 days in advance of relocation. The department may require an application for such
575 relocation if the notification raises ~~supervisor~~ supervisory concerns. All relocations shall
576 include a notice to customers posted in a conspicuous place of the affected location as well
577 as on the bank's website at least 30 days before relocating."

578 **SECTION 18.**

579 Said title is further amended in Article 1 of Chapter 3, relating to general provisions
580 regarding installment loans, by revising paragraphs (1), (2), (3), and (6) of subsection (b) of
581 Code Section 7-3-4, relating to licensing requirement and exemptions, as follows:

582 "(1) Any state or federally chartered bank, trust company, credit union, savings and loan
583 association, savings bank, or industrial bank, provided that each such bank, trust
584 company, credit union, savings and loan association, savings bank, or industrial bank has

585 ~~deposits that are federally insured Businesses chartered or licensed under the authority~~
 586 ~~of any law of this state or of the United States as banks, trust companies, savings and loan~~
 587 ~~associations, savings banks, or credit unions or to the transactions of such businesses;~~
 588 (2) ~~Banks or credit unions chartered under the authority of any state which have deposits~~
 589 ~~that are federally insured or to the transactions of such businesses~~ A wholly owned
 590 subsidiary of a state or federally chartered bank, trust company, credit union, savings and
 591 loan association, savings bank, or industrial bank, provided that each such bank, trust
 592 company, credit union, savings and loan association, savings bank, or industrial bank has
 593 deposits that are federally insured;
 594 (3) ~~Pawnbrokers, as defined in Code Section 44-12-130, or to the transactions of~~
 595 ~~pawnbrokers;"~~
 596 "(6) Any agency, division, or instrumentality of the federal government of the United
 597 States of America; the government of the State of Georgia or the government of any other
 598 state; or any county or municipal government in the State of Georgia;~~and the transactions~~
 599 ~~of all such governmental entities;"~~

600 **SECTION 19.**

601 Said title is further amended in Article 5 of Chapter 3, relating to regulation by the
 602 department, by revising subparagraph (d)(2)(B) of Code Section 7-3-40, relating to
 603 investigations and examinations, payment of fees, and cooperation by licensee, as follows:
 604 "(B) Personal history and experience information, including, but not limited to,
 605 independent credit reports ~~obtained from a consumer reporting agency described in the~~
 606 ~~federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a; and"~~

607

SECTION 20.

608 Said title is further amended in Chapter 6A, the "Georgia Fair Lending Act," by revising
609 paragraph (4) of Code Section 7-6A-2, relating to definitions, as follows:

610 "(4) 'Bona fide discount points' means loan discount points knowingly paid by the
611 borrower for the express purpose of reducing, and which in fact do result in a bona fide
612 reduction of, the interest rate applicable to the home loan; provided, however, that the
613 undiscounted interest rate for the home loan does not exceed by more than one percentage
614 point the average prime offer rate as defined in 12 C.F.R. 1026.35 that applies to a
615 comparable transaction, as published by the United States Consumer Financial Protection
616 Bureau as of the last date the discounted interest rate for the transaction is set before
617 consummation or such other formula adopted or referenced by the department pursuant
618 to regulation."

619

SECTION 21.

620 Said title is further amended in Chapter 9, relating to Georgia merchant acquirer limited
621 purpose bank, by revising Code Section 7-9-3, relating to chartering of merchant acquirer
622 limited purpose banks and regulation limited, as follows:

623 "7-9-3.

624 (a) A corporation that performs merchant acquiring activities or settlement activities in this
625 state may elect to obtain a charter from the department. Those corporations chartered by
626 the department shall be subject to the provisions of this chapter and any rules and
627 regulations adopted by the department for purposes of regulating chartered merchant
628 acquirer limited purpose banks. The department shall have no authority to regulate a
629 corporation performing merchant acquiring activities or settlement activities that has not
630 been chartered by the department.

631 (b) To the extent the provisions of Chapter 2 of Title 14 are consistent with and not in
632 conflict with the other provisions of this chapter and the rules and regulations of the

633 department, such provisions shall apply to corporations chartered by the department
634 pursuant to this chapter and not organized as limited liability companies.

635 (c) To the extent the provisions of Chapter 11 of Title 14 are consistent with and not in
636 conflict with the other provisions of this chapter and the rules and regulations of the
637 department, such provisions shall apply to corporations chartered by the department
638 pursuant to this chapter and organized as limited liability companies."

639 **SECTION 22.**

640 Said title is further amended in said chapter by adding a new Code section to read as follows:

641 "7-9-10.1.

642 (a) A merchant acquirer limited purpose bank may, in the manner provided in this Code
643 section, amend its articles at any time in order to make any change which would be
644 authorized for inclusion in original articles under this chapter, including without limitation
645 an amendment to:

646 (1) Adopt a new name permitted to be used under this chapter;

647 (2) Renew the term for which it is to exist or to provide for perpetual duration;

648 (3) Change, add to, or diminish the statement of its purpose or purposes;

649 (4) Increase or diminish the aggregate number of shares which it has authority to issue
650 or to reclassify the shares by changing the number, par value, designations, preferences,
651 redemption provisions, or relative, participating, optional, or other special rights of the
652 shares or the qualifications, limitations, or restrictions of such rights, either with or
653 without an increase or decrease in the number of shares;

654 (5) Restate the articles in their entirety; or

655 (6) Change its main office location to a new location.

656 (b) Articles restated in their entirety shall state the street address and county of the current,
657 instead of the original, main office of the merchant acquirer limited purpose bank.

658 (c) Articles need not be amended for the addition or change of a registered agent or the
659 change of a registered office. The merchant acquirer limited purpose bank shall, however,
660 notify in writing the department and the Secretary of State of such changes.

661 (d) The articles of amendment shall be filed with the department together with the fee
662 required by Code Section 7-1-862. The filing of articles of amendment shall constitute an
663 application for a certificate of amendment. If the articles of amendment involve a change
664 in the name of a merchant acquirer limited purpose bank, it shall reserve the proposed new
665 name under the procedures of Code Section 7-1-131.

666 (e) Upon receipt of the articles of amendment, the department shall conduct such
667 investigation as it may deem necessary to determine:

668 (1) That the articles of amendment and supporting items satisfy the requirements of this
669 chapter;

670 (2) Where the amendment would grant new powers or status to a merchant acquirer
671 limited purpose bank, that the criteria for granting such powers or status as an original
672 matter have been satisfied;

673 (3) Where the amendment decreases the capital stock of the institution, that the
674 remaining capital stock will be adequate to support its anticipated business;

675 (4) Where the amendment provides for a change to a new location, that the criteria for
676 establishing a new office at the new location have been satisfied; and

677 (5) That the interests of the shareholders and the public will not be impaired by the
678 amendment.

679 (f) Within 60 days after the receipt of the articles of amendment the department shall
680 approve or disapprove the articles of amendment on the basis of its investigation and
681 criteria set forth in subsection (e) of this Code section. If the department approves the
682 articles of amendment, it shall deliver its written approval to the Secretary of State with a
683 copy of the amendment attached and notify the merchant acquirer limited purpose bank of
684 its action. If the department disapproves the articles of amendment, it shall give written

685 notice to the merchant acquirer limited purpose bank and furnish it a statement generally
686 setting out the unfavorable factors influencing the department's decision. The decision of
687 the department shall be conclusive, except that it may be subject to judicial review as
688 provided in Code Section 7-1-90.

689 (g) If all fees and charges required by law have been paid and, in the case of a change of
690 name, if the proposed new name of the merchant acquirer limited purpose bank continues
691 to be reserved or is available on the records of the Secretary of State, upon the receipt by
692 the Secretary of State of the written approval of the department, the Secretary of State shall
693 immediately issue to the merchant acquirer limited purpose bank a certificate of
694 amendment and shall retain a copy thereof along with the approved articles of amendment
695 and the written approval of the department.

696 (h) As of the issuance of the certificate of amendment by the Secretary of State, each
697 amendment shall become effective and the articles shall be deemed to be amended
698 accordingly.

699 (i) The certificate of amendment shall be conclusive evidence of the performance of all
700 conditions required by this chapter for amendment of articles, except as against the state.

701 (j) No amendment shall affect any existing cause of action in favor of or against the
702 merchant acquirer limited purpose bank, any pending action in which the merchant acquirer
703 limited purpose bank is a party or existing rights of persons other than shareholders. If the
704 amendment changes the name of the merchant acquirer limited purpose bank, no action by
705 or against the institution shall be abated for that reason."

706 **SECTION 23.**

707 Said title is further amended in Chapter 10, relating to litigation financing, by revising Code
708 Section 7-10-1, relating to definitions, and adding new paragraphs to read as follows:

709 "7-10-1.

710 As used in this chapter, the term:

- 711 (1) 'Affiliate' or 'affiliated' means a person that directly, or indirectly through one or more
712 intermediaries, controls, is controlled by, or is under common control with another
713 person.
- 714 (2) 'Commissioner' means the commissioner of banking and finance.
- 715 (3) 'Consumer' means any individual who resides, is present, or is domiciled in this state
716 or who is or has standing to become a plaintiff, claimant, or complainant in a civil action,
717 administrative proceeding, legal claim, or other legal proceeding or in pursuit of any
718 claim or cause of action in this state.
- 719 (4) 'Department' means the Department of Banking and Finance.
- 720 (5) 'Entity' means any domestic or foreign corporation, partnership, limited partnership,
721 limited liability company, trust, fund, plan, or any other business, enterprise, association,
722 or organization of any kind or nature.
- 723 (6) 'Financial institution' means:
- 724 (A) A state or federally chartered bank whose deposits are federally insured;
725 (B) A trust company;
726 (C) A state or federal savings and loan association whose deposits are federally
727 insured;
728 (D) A state or federally chartered credit union whose deposits are federally insured;
729 (E) A foreign bank branch or foreign bank agency authorized to do business in this
730 state pursuant to Article 14 of Chapter 1 of Title 7; or
731 (F) A bank holding company.
- 732 (7) 'Foreign person' means an individual or an entity that is not:
- 733 (A) A citizen of the United States;
734 (B) An alien lawfully admitted for permanent residence in the United States;
735 (C) An unincorporated association with a majority of members who are citizens of the
736 United States or aliens lawfully admitted for permanent residence in the United States;
737 or

738 (D) A corporation that is incorporated in the United States.

739 ~~(7)~~(8) 'Foreign principal' means:

740 (A) The government or a government official of any country other than the United
741 States;

742 (B) A political subdivision or political party of a country other than the United States;
743 or

744 (C) A partnership, association, corporation, organization, or other combination of
745 persons organized under the laws of or having its principal place of business in a
746 country other than the United States whose shares or other ownership interest is owned
747 by the government or a government official of a country other than the United States
748 or is owned by a political subdivision or political party of a country other than the
749 United States.

750 ~~(8)~~(9) 'Legal representative' means any attorney, group of attorneys, or law firm duly
751 licensed and authorized to practice law and to represent a consumer in a civil action,
752 administrative proceeding, legal claim, or other legal proceeding seeking to recover
753 damages in this state.

754 ~~(9)~~(10) 'Litigation financier' means any person engaged in or formed, created, or
755 established for the purpose of engaging in any kind of business or economic activity that
756 involves providing litigation financing in exchange for consideration of any kind.

757 ~~(10)~~(11)(A) ~~'Litigation financing agreement' or 'litigation financing'~~ 'Litigation
758 financing' or 'litigation financing agreement' means an agreement in which a litigation
759 financier agrees to provide financing to a consumer or entity that is or has standing to
760 become a party to a civil action, administrative proceeding, legal claim, or other legal
761 proceeding seeking to recover monetary damages, or to counsel for such consumer or
762 entity, in exchange for a right to receive payment, which right is contingent in any
763 respect on the outcome of such action, claim, or proceedings by settlement, judgment,
764 or otherwise, or on the outcome of any matter within a portfolio that includes such

765 action, claim, or proceedings and involves the same legal representative or affiliated
766 representative.

767 (B) Such term shall not include:

768 (i) An agreement wherein a legal representative consents to provide legal services on
769 a contingency fee basis or to advance his or her client's legal costs, and where such
770 services or costs are provided by the legal representative in accordance with the
771 Georgia Rules of Professional Conduct maintained and enforced by the State Bar of
772 Georgia;

773 (ii) A preexisting contractual obligation to indemnify or defend a party to a civil
774 action, administrative proceeding, legal claim, or other legal proceeding seeking to
775 recover monetary damages, or any other legal proceeding;

776 (iii) Any obligation of a health insurer to pay any sums for healthcare for an injured
777 person under the terms of a health insurance plan or agreement;

778 (iv) Any obligation to repay a financial institution, ~~as such term is defined in Code~~
779 ~~Section 10-5A-1~~, for loans made directly to a party to a civil action, administrative
780 proceeding, legal claim, or other legal proceeding seeking to recover monetary
781 damages, or such party's legal representative, provided that such repayment of such
782 loan is not contingent upon the outcome of such action, claim, or proceedings, or on
783 the outcome of any matter within a portfolio that includes such action, claim, or
784 proceedings, and involves the same legal representative or affiliated legal
785 representative;

786 (v) Funding provided to a nonprofit organization that is funded by private donations,
787 represents one or more clients on a ~~pro-bono~~ pro bono, no-cost basis, and seeks only
788 injunctive relief on behalf of its clients; provided, however, that the provisions of this
789 division shall not be construed to prohibit or otherwise affect any award of costs or
790 attorney's fees to such nonprofit organization seeking only injunctive relief on behalf

791 of a client that such nonprofit organization represents on a ~~pro-bono~~ pro bono, no-cost
792 basis, or to such client; or

793 (vi) Banks, institutional investors, and persons that provide financing to a litigation
794 financier but do not engage in the business of litigation financing; provided, however,
795 that this exclusion shall not apply to banks, institutional investors, and persons
796 affiliated with a litigation financier.

797 ~~(11)~~(12) 'Litigation financing contract' or 'contract' means a written contract
798 memorializing the terms and conditions of a litigation financing agreement.

799 (12.1) 'Nationwide Multistate Licensing System and Registry' means a licensing system
800 developed and maintained by the Conference of State Bank Supervisors and the
801 American Association of Residential Mortgage Regulators for the licensing and
802 registration of certain persons engaged in nondepository activities.

803 (13) 'Person' means an individual or entity.

804 ~~(12)~~(14) 'Sovereign wealth fund' means an investment fund owned or controlled by a
805 foreign principal or an agent of such foreign principal.

806 (15) 'Unique identifier' means a number or other identifier assigned by protocols
807 established by the Nationwide Multistate Licensing System and Registry."

808 **SECTION 24.**

809 Said title is further amended in said chapter by redesignating subsections (f), (g), and (h) of
810 Code Section 7-10-2, relating to registration requirements and regulation by department, as
811 subsections (g), (i), and (j), respectively, and by adding new subsections to read as follows:

812 "(f) The department shall conduct an investigation of every applicant for registration to
813 determine if all conditions for registration set forth in this chapter and the rules and
814 regulations of the department have been satisfied."

815 "(h) Except as specifically provided in this chapter, all registrations issued pursuant to this
816 chapter shall expire on December 31 of each year and each application for renewal shall

817 be made annually on or before December 1 of each year. A registration may be renewed
818 by the filing of an application substantially conforming to the requirements of
819 subsection (c) or (d) of this Code section and Code Section 7-10-2.1 as specifically
820 modified in the department's rules and regulations. An annual registration fee established
821 by rule or regulation of the department to defray the cost of supervision shall be paid with
822 each renewal application and shall not be refunded or prorated."

823 **SECTION 25.**

824 Said title is further amended in said chapter by adding a new Code section to read as follows:

825 "7-10-2.1.

826 (a) Each applicant for registration under this chapter shall:

827 (1) Submit an application in writing, which is made under oath and in such form as the
828 department may prescribe;

829 (2) Furnish to the Nationwide Multistate Licensing System and Registry the following
830 information:

831 (A) The legal name and principal office address of the person applying for the
832 registration;

833 (B) The name, residence, and business address of each director, officer, partner, or
834 owner; and

835 (C) The location where its initial registered office will be located in this state, if any;
836 and

837 (3) Submit such other data, financial statements, and pertinent information as the
838 department may require with respect to the applicant, a director, officer, partner, or
839 owner.

840 (b) The application for registration shall be filed together with:

841 (1) A fee established by the department through rule or regulation which shall not be
842 refundable;

843 (2) Items required by other provisions of this chapter including, but limited to, Code
844 Sections 7-10-2 and 7-10-3; and
845 (3) Other information as may be required by the department.
846 (c) The department shall enact rules and regulations regarding the time frame by which all
847 persons shall submit an application for registration through the Nationwide Multistate
848 Licensing System and Registry."

849 **SECTION 26.**

850 Said title is further amended in said chapter by redesignating subsections (a) through (d) of
851 Code Section 7-10-3, relating to denial of registration and procedures, as subsections (c)
852 through (f), respectively, by revising the introductory language of subsection (c), and by
853 adding new subsections to read as follows:

854 "(a) For the purposes of this Code section, the term 'conviction data' means a record of
855 finding, verdict, or plea of guilty or plea of nolo contendere with regard to any crime,
856 regardless of whether an appeal of the conviction has been sought.

857 (b) The department shall be authorized to obtain conviction data with respect to any
858 applicant or registrant and any person who is a director, officer, partner, or owner of any
859 applicant or registrant. Criminal history record checks may be requested by the department
860 through the Georgia Crime Information Center and the Federal Bureau of Investigation.
861 The department shall have the authority to receive the results of such checks. In
862 connection with an application under this chapter, the department may use the Nationwide
863 Multistate Licensing System and Registry as a channeling agent for the submission of
864 fingerprints to the Federal Bureau of Investigation and any governmental agency or entity
865 authorized to receive such information for a state, national, and international criminal
866 history background check and the receipt of such checks by the department. Fees required
867 for a criminal history record check by the Georgia Crime Information Center or the Federal
868 Bureau of Investigation shall be paid by the applicant or registrant.

869 (c) The department may deny a registration to act as a litigation financier or deny a
870 registered litigation financier's amended registration pursuant to subsection (f)(g) of Code
871 Section 7-10-2 if the department finds that:"

872 **SECTION 27.**

873 Said title is further amended in said chapter by adding a new Code section to read as follows:

874 "7-10-3.1.

875 (a) The department may issue an order requiring a person to cease and desist immediately
876 from unauthorized activities whenever it shall appear to the department that a person not
877 registered under this chapter is engaging in or has engaged in activities requiring
878 registration under this chapter. Such cease and desist order shall be final 30 days from the
879 date of issuance and there shall be no opportunity for an administrative hearing. If the
880 proper registration or evidence of exemption is obtained within the 30 day period, the cease
881 and desist order shall be rescinded by the department.

882 (b) The cease and desist order shall be in writing, sent by registered or certified mail or
883 statutory overnight delivery, and addressed to the person's business address and, if the
884 person is an individual, to the individual's personal address. Any cease and desist order
885 sent to a person at its business address and, if an individual, his or her personal address that
886 is returned to the department as refused or unclaimed shall be deemed received and
887 lawfully served.

888 (c) Whenever a person fails to comply with the terms of a final order or decision of the
889 department issued pursuant to this chapter, the department may, through the attorney
890 general and upon three days' notice to such person, petition the principal court for an order
891 directing such person to obey the order of the department within the period of time as shall
892 be fixed by the court. Upon the filing of such petition, the court shall allow a motion to
893 show cause why it should not be granted. After a hearing on the merits or after failure of

894 such person to appear when ordered, the court shall grant the petition of the department
895 upon a finding that the order of the department was properly issued.

896 (d) Any person who violates the terms of any final order or decision pursuant to this
897 chapter shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation
898 continues shall constitute a separate offense. In determining the amount of the penalty, the
899 department shall take into account the appropriateness of the penalty relative to the size of
900 the financial resources of such person, the good faith efforts of such person to comply with
901 the order, the gravity of the violation, the history of previous violations by such person, and
902 other factors or circumstances that have contributed to the violation. The department may
903 at its discretion compromise, modify, or refund any penalty which is subject to imposition
904 or has been imposed pursuant to this Code section. Any person assessed as provided in this
905 subsection shall have the right to request a hearing into the matter within ten days after the
906 notification of the assessment has been served, otherwise the penalty shall be final except
907 as to judicial review as provided in Code Section 7-1-90.

908 (e) Judicial review of any final order or decision of the department entered pursuant to this
909 chapter shall be available solely in the superior court of the county of domicile of the
910 department.

911 (f) In addition to any other administrative penalties authorized by this chapter, the
912 department may prescribe administrative fines for violations of this chapter and any rules
913 and regulations promulgated by the department pursuant to this chapter."

914 **SECTION 28.**

915 Said title is further amended in said chapter by adding a new subsection to Code
916 Section 7-10-6, relating to contract requirements, disclosures, and representation by counsel,
917 to read as follows:

918 "(g) In addition to any applicable disclosure requirements, a litigation financing agreement
919 shall clearly display the registrant's name, unique identifier, and business address."

920 **SECTION 29.**

921 Said title is amended in said chapter by revising Code Section 7-10-10, relating to use of
922 nation-wide multistate licensing system and registry, as follows:

923 "7-10-10.

924 (a) The department is authorized to:

925 (1) Participate in the ~~nation-wide multistate licensing system and registry~~ Nationwide
926 Multistate Licensing System and Registry in order to facilitate the sharing of information
927 and standardization of the registration processes for litigation financiers by electronic or
928 other means;

929 (2) Enter into operating agreements, information sharing agreements, interstate
930 cooperative agreements, and other contracts necessary for the department's participation
931 in the ~~nation-wide multistate licensing system and registry~~ Nationwide Multistate
932 Licensing System and Registry;

933 (3) Request that the ~~nation-wide multistate licensing system and registry~~ Nationwide
934 Multistate Licensing System and Registry adopt an appropriate privacy, data security, and
935 security breach notification policy that is in full compliance with existing state and
936 federal law;

937 (4) Disclose or cause to be disclosed without liability via the ~~nation-wide multistate~~
938 ~~licensing system and registry~~ Nationwide Multistate Licensing System and Registry
939 registration information, including, but not limited to, violations of this chapter and
940 enforcement actions;

941 (5) Establish and adopt, by rule or regulation, requirements for participation by
942 registrants in the ~~nation-wide multistate licensing system and registry~~ Nationwide
943 Multistate Licensing System and Registry upon the department's determination that each
944 new or amended requirement is consistent with both the public interest and the purposes
945 of this chapter; and

- 946 (6) Pay all fees received from applicants and registrants related to registrations to the
947 Office of the State Treasurer; provided, however, that the department may net such fees
948 to recover the cost of participation in the ~~nation-wide multistate licensing system and~~
949 ~~registry~~ Nationwide Multistate Licensing System and Registry.
- 950 (b) Irrespective of its participation in the ~~nation-wide multistate licensing system and~~
951 ~~registry~~ Nationwide Multistate Licensing System and Registry, the department retains full
952 and exclusive authority over determinations whether to grant registrations to litigation
953 financiers under this chapter. Nothing in this Code section shall be construed to reduce this
954 authority.
- 955 (c) Applicants and registrants shall be required to pay any charges associated with their
956 utilization of the ~~nation-wide multistate licensing system and registry~~ Nationwide
957 Multistate Licensing System and Registry."

958

SECTION 30.

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