

House Bill 1254

By: Representatives Reeves of the 99<sup>th</sup>, Hatchett of the 155<sup>th</sup>, Wade of the 9<sup>th</sup>, Prince of the 132<sup>nd</sup>, Seabaugh of the 34<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend various titles of the Official Code of Georgia Annotated, so as to move the  
2 regulation of various professions from individual boards to the Secretary of State; to amend  
3 Chapter 14 of Title 10 of the Official Code of Georgia Annotated, relating to cemetery and  
4 funeral services, so as to transfer duties of the State Board of Cemeterians to the Secretary  
5 of State; to eliminate the State Board of Cemeterians; to provide the Secretary of State the  
6 authority to issue registrations under said chapter; to provide the Secretary of State necessary  
7 powers to carry out provisions and promulgate rules and regulations; to create the  
8 Cemeterians Advisory Group; to establish membership, terms, meetings, and duties of the  
9 advisory group; to establish a business continuity and succession plan for cemetery owners;  
10 to revise regulations regarding preneed dealers and transfers of cemetery ownership; to  
11 amend Title 43 of the Official Code of Georgia Annotated, relating to professions and  
12 businesses, so as to repeal Chapter 8B, the "Georgia Cemeterians Board Act"; to amend Code  
13 Section 53-2-27 of the Official Code of Georgia Annotated, relating to DNA testing for  
14 kinship, procedure, costs, conduct of tests, enforcement, and use of results, so as to provide  
15 for a conforming change; to amend Title 43 of the Official Code of Georgia Annotated,  
16 relating to professions and businesses, so as to dissolve the Georgia Auctioneers  
17 Commission; to provide for licensure of auctioneers to be transferred to the Secretary of  
18 State; to provide for application for such a licensure; to provide for the refusal to grant such

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19 a license; to provide for the suspension, revocation, or refusal to renew such a license; to  
20 provide exceptions; to provide for reciprocity; to prohibit certain activities; to provide a civil  
21 penalty; to provide for a misdemeanor; to provide for the dissolution of the auctioneers  
22 education, research, and recovery fund; to transfer the operation of such fund to the Secretary  
23 of State; to provide for the operation of the fund prior to its dissolution; to amend Title 43  
24 and Code Section 12-8-107 of the Official Code of Georgia Annotated, relating to  
25 professions and businesses and submission of voluntary investigation and remediation plan,  
26 enrollment, proof of assurance, termination, and compliance status, respectively, so as to  
27 repeal and reenact provisions relating to geologists; to provide for the registration of  
28 geologists by the Secretary of State; to provide for application for such a registration; to  
29 provide for the refusal to grant such a registration; to provide for the suspension, revocation,  
30 or refusal to renew such a registration; to abolish the State Board of Registration for  
31 Professional Geologists; to provide exceptions; to provide for reciprocity; to provide for the  
32 use of seals by geologists; to prohibit certain activities; to provide a civil penalty; to provide  
33 for a misdemeanor; to amend Title 43 of the Official Code of Georgia Annotated, relating  
34 to professions and businesses, so as to eliminate the State Board of Hearing Aid Dealers and  
35 Dispensers; to provide the Secretary of State the authority and powers to issue licenses and  
36 permits for the dispensing of prescription hearing aids; to provide for rules and regulations;  
37 to require licensing and permits relative to the practice of dispensing prescription hearing  
38 aids; to remove dealers as a required entity to be licensed; to provide for qualifications of  
39 licensure and apprentice permits; to provide for refusal to issue a license or permit; to  
40 provide for violations and penalties; to provide for duration of license and renewal; to  
41 provide for furnishing a bill of sale or receipt to persons supplied with prescription hearing  
42 aids; to provide for exemptions; to provide for construction; to provide for a short title; to  
43 provide for purpose and intent; to amend Code Section 43-10A-5 of the Official Code of  
44 Georgia Annotated, relating to powers and duties of the board, quorum, and meetings  
45 regarding professional counselors, social workers, and marriage and family therapists, so as

46 to correct a reference; to make conforming changes; to provide for related matters; to repeal  
47 conflicting laws; and for other purposes.

48 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

49 **PART I**  
50 **SECTION 1-1.**

51 Chapter 14 of Title 10 of the Official Code of Georgia Annotated, relating to cemetery and  
52 funeral services, is amended by revising paragraphs (2), (9), and (34) of Code  
53 Section 10-14-3, relating to definitions, as follows:

54 ~~"(2) 'Boards' mean the State Board of Cemeterians as described and authorized in~~  
55 ~~Chapter 8B of Title 43 and the State Board of Funeral Service as described and~~  
56 ~~authorized in Chapter 18 of Title 43. Reserved."~~

57 ~~"(9) 'Cemetery company' means any entity that owns or controls cemetery lands or~~  
58 ~~property. 'Cemetery owner' or 'cemetery owner' means every person registered under this~~  
59 ~~chapter as the legal owner of a cemetery and authorized to employ, appoint, or direct~~  
60 ~~individuals to offer for sale or to sell cemetery burial rights, mausoleum interment rights,~~  
61 ~~columbarium interment rights, grave spaces, and burial or funeral services."~~

62 "(34) 'Salesperson' or 'sales agent' means an individual employed or appointed or  
63 authorized by a cemetery, cemetery ~~company~~ owner, or preneed dealer to sell grave  
64 spaces, burial rights, burial or funeral merchandise, burial or funeral services, or any  
65 other right or thing of value in connection with the final disposition of human remains.  
66 The owner of a cemetery, the executive officers, and general partners of a cemetery  
67 ~~company~~ shall not be deemed to be salespersons within the meaning of this definition  
68 unless they are paid a commission for the sale of said property, lots, rights, burial or  
69 funeral merchandise, or burial or funeral services.

70 (35) 'Secretary of State' means the Secretary of State of the State of Georgia or his or her  
 71 designee."

72 **SECTION 1-2.**

73 Said chapter is further amended by revising Code Section 10-14-3.1, relating to authority of  
 74 boards, as follows:

75 "10-14-3.1.

76 As provided in this Code section, the ~~boards may~~ Secretary of State and the State Board  
 77 of Funeral Service shall have all administrative powers and other powers necessary to carry  
 78 out the provisions of this chapter, including the authority to promulgate rules and  
 79 regulations, and the Secretary of State may delegate to the ~~boards~~ division director, as  
 80 defined in Code Section 43-1-1, all such duties otherwise entrusted to the Secretary of  
 81 State; provided, however, that the Secretary of State shall have sole authority over matters  
 82 relating to the regulation of funds, trust funds, and escrow accounts and accounting and  
 83 investigations concerning such matters but may delegate authority ~~to the appropriate board~~  
 84 for the review of such investigations and the determination as to disciplinary matters,  
 85 necessary sanctions, and the enforcement of such decisions and sanctions. The State Board  
 86 of Funeral Service shall have authority to promulgate rules and regulations and may be  
 87 delegated the authority to make disciplinary and sanctioning decisions relating to funeral  
 88 services or funeral merchandise. ~~The State Board of Cemeterians~~ Secretary of State shall  
 89 have authority to promulgate rules and regulations and ~~may be delegated~~ the authority to  
 90 make disciplinary and sanctioning decisions relating to burial services or burial  
 91 merchandise. ~~The Secretary of State may delegate to each board according to such duties~~  
 92 ~~and responsibilities of the boards."~~

93 **SECTION 1-3.**

94 Said chapter is further amended by adding a new Code section to read as follows:

95 "10-14-3.2.  
96 (a) There is created within the office of the Secretary of State a Cemeterians Advisory  
97 Group which shall consist of five members.  
98 (b) The Secretary of State shall appoint all members of the advisory group who shall  
99 provide the Secretary of State with expertise and assistance in carrying out his or her duties  
100 pursuant to this chapter. Four members of the advisory group shall be registered cemetery  
101 owners, preneed dealers, or burial or funeral merchandise dealers in this state. One  
102 member shall be a consumer. The remaining members shall consist of persons familiar  
103 with the operations of cemeteries.  
104 (c) Members shall serve terms of four years and shall not be compensated.  
105 (d) Members may serve consecutive terms at the will of the Secretary of State. Any  
106 vacancy shall be filled in the same manner as the regular appointments.  
107 (e) The advisory group shall meet at least once per year or as otherwise called by the  
108 Secretary of State.  
109 (f) The Secretary of State may consult with the advisory group prior to setting or changing  
110 fees in this chapter and regarding regulation of cemetery care and maintenance matters,  
111 disciplinary actions taken, appeals, and denials or revocations of registrations.  
112 (g) The advisory group may facilitate the development of materials that the Secretary of  
113 State may utilize to educate the public and industry concerning the requirements regarding  
114 maintaining a cemetery.  
115 (h) The Secretary of State may seek the advice of the advisory group on matters necessary  
116 to carry out the Secretary of State's responsibilities under this chapter; provided, however,  
117 that such advice shall be advisory only and shall not limit or supersede the authority of the  
118 Secretary under this chapter."

119 **SECTION 1-4.**

120 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code  
121 Section 10-14-4, relating to registration of cemetery owners, preneed dealers, burial or  
122 funeral merchandise dealers, exemptions, and nonperpetual care cemeteries, as follows:

123 "(2) Every person desiring to be a registered preneed dealer, other than a person already  
124 licensed by the Board of Funeral Service as a funeral services director in full and  
125 continuous charge or an owner of a cemetery ~~licensed by the State Board of Cemeterians~~  
126 ~~as a cemeterian~~ registered under this chapter, shall file with the Secretary of State a  
127 registration application in a form prescribed by the Secretary of State, executed and duly  
128 verified under oath by the applicant, if the applicant is an individual, or by an executive  
129 officer or general partner, if the applicant is a corporation or partnership, or by an  
130 individual of similar authority, if the applicant is some other entity, and containing the  
131 following information:

132 (A) The name of the applicant;

133 (B) The location, mailing address, and telephone number of the applicant's principal  
134 business location in Georgia and the same information for other locations where  
135 business is conducted, together with any trade names associated with each location;

136 (C) All locations of the records of the applicant which relate to preneed sales in  
137 Georgia;

138 (D) If the applicant is not a natural person, the names of the president, secretary, and  
139 registered agent if the applicant is a corporation, of each general partner if the applicant  
140 is a partnership, or of individuals of similar authority, if the applicant is some other  
141 entity and their respective addresses and telephone numbers; the name and address of  
142 each person who owns 10 percent or more of any class of ownership interest in the  
143 applicant and the percentage of such interest; and the date of formation and the  
144 jurisdiction of organization of the applicant;

- 145 (E) A certified copy of a certificate of existence or certificate of authority issued in  
146 accordance with Code Section 14-2-128 if the applicant is a corporation;
- 147 (F) A description of any judgment or pending litigation to which the applicant or any  
148 affiliate of the applicant is a party and which involves the operation of the applicant's  
149 preneed business in Georgia or which could materially affect the business or assets of  
150 the applicant;
- 151 (G) Whether the applicant or any affiliate of the applicant owns any other entities in  
152 Georgia regulated by this chapter and, if so, the location, mailing address, telephone  
153 number, and type of registration of such other entities;
- 154 (H) A consent to service of process meeting the requirements of Code  
155 Section 10-14-24 for actions brought by the State of Georgia;
- 156 (I) A list of each individual employed, appointed, or authorized by the applicant to  
157 offer for sale or to sell any grave lots, burial rights, burial or funeral merchandise, or  
158 burial services on behalf of the applicant;
- 159 (J) A balance sheet of the applicant dated as of the end of the most recent fiscal year  
160 and in no event dated more than 15 months prior to the date of filing, which the  
161 Secretary of State shall treat as confidential and not open to public inspection;
- 162 (K) The name, address, location, and telephone number of the preneed trust or escrow  
163 account depository or depositories, the names of the accounts, and the account  
164 numbers;
- 165 (L) An executed copy of the trust or escrow agreement required by Code  
166 Section 10-14-7 or 10-14-7.1;
- 167 (M) The name, address, and telephone number of the trust or escrow agent;
- 168 (N) Such other information and documents as the Secretary of State may require by  
169 rule; and
- 170 (O) A filing fee of \$250.00.

171 The provisions of this paragraph notwithstanding, a person licensed by the Board of  
172 Funeral Service as a funeral services director in full and continuous charge or an owner  
173 of a cemetery ~~licensed by the State Board of Cemeterians as a cemeterian~~ registered  
174 under this chapter shall not be required to separately register as a preneed dealer,  
175 provided that the requirements of subparagraphs (A) through (N) of this paragraph are  
176 satisfied."

177 **SECTION 1-5.**

178 Said chapter is further amended by adding a new Code section to read as follows:

179 "10-14-4.1.

180 (a) Every cemetery owner registered under this chapter shall establish, implement, and  
181 maintain written procedures constituting a business continuity and succession plan. The  
182 plan shall be appropriate to the size and structure of the cemetery owner's operations, the  
183 nature of the cemetery's services, the number of cemetery locations, and whether preneed  
184 sales or perpetual care activities are conducted. Such plan shall be reasonably designed to  
185 enable the cemetery to meet its existing obligations to customers. The business continuity  
186 plan shall be made available to the Secretary of State.

187 (b) The business continuity and succession plan shall, at a minimum, provide for:

188 (1) The protection, backup, and recovery of cemetery records, including burial rights,  
189 ownership records, lot sales and plats, interment and disinterment records, preneed  
190 contracts and trust or escrow documents, perpetual care trust fund records, cemetery rules  
191 and regulations, and all financial books and records required under this chapter;

192 (2) Alternate means of communication with lot owners, purchasers, preneed contract  
193 holders, funeral establishments, key personnel, employees, contractors, vendors, service  
194 providers, including trustees, escrow agents, and depositories, and the Secretary of State,  
195 as well as procedures for providing timely notice of a significant business interruption,  
196 the death or unavailability of key personnel, the inability to perform interments or

197 inurnments, interruptions in access to cemetery property, or any other cessation or  
198 disruption of operations;

199 (3) Temporary or permanent relocation of cemetery operations in the event of a loss of  
200 the principal place of business or essential cemetery facilities;

201 (4) The assignment of duties to qualified responsible persons to ensure continuity of  
202 cemetery operations in the event of the death, incapacity, or unavailability of key  
203 personnel, including procedures for conducting scheduled interments or inurnments,  
204 responding to lot owners and families, complying with trust or escrow deposit  
205 requirements, and safeguarding cemetery property and records; and

206 (5) Procedures designed to minimize service disruptions and prevent harm to lot owners,  
207 preneed contract holders, families, and the public in the event of a sudden or significant  
208 business interruption, including continuity of grounds maintenance, perpetual care,  
209 interment and inurnment services, trust or escrow administration, and the security and  
210 integrity of cemetery property.

211 (c) The Secretary of State shall require a registered cemetery owner to provide such  
212 additional information, documentation, or assurances as the Secretary of State considers  
213 necessary or appropriate for the protection of purchasers and trust beneficiaries, consistent  
214 with the Secretary of State's investigative and supervisory authority under this chapter and  
215 under Chapter 5 of this title, the 'Georgia Uniform Securities Act of 2008.'

216 (d) The Secretary of State shall promulgate such rules and regulations as are necessary to  
217 implement and enforce the provisions of this Code section."

218 **SECTION 1-6.**

219 Said chapter is further amended by revising subsection (a) of Code Section 10-14-5, relating  
220 to registration of preneed sales agents and retention of employee applications by registered  
221 cemeteries, as follows:

222 "(a) All individuals who offer preneed contracts to the public, or who execute preneed  
 223 contracts on behalf of any entity required to be registered as a preneed dealer, and all  
 224 individuals who offer, sell, or sign contracts for the preneed sale of burial rights shall be  
 225 registered with the Secretary of State as preneed sales agents, pursuant to this Code section,  
 226 unless such individuals are exempted under this chapter or individually own a controlling  
 227 interest in a preneed dealer registered under this chapter. For purposes of this chapter, any  
 228 person licensed by or registered with the Board of Funeral Service as a funeral services  
 229 director in full and continuous charge or an owner of a cemetery licensed by the State  
 230 ~~Board of Cemeterians~~ registered under this chapter as a cemeterian shall be deemed a  
 231 registered preneed dealer; and regulated pursuant to the rules governing same, by virtue  
 232 thereof."

233

#### SECTION 1-7.

234 Said chapter is further amended by revising subsections (b), (e), and (j) of Code  
 235 Section 10-14-6, relating to perpetual care trust funds, as follows:

236 "(b)(1) Each cemetery ~~or cemetery company~~ required to be registered by this chapter  
 237 shall establish and maintain an irrevocable trust fund for each cemetery owned.

238 (2) For trust funds established on or after July 1, 2000, the initial deposit to said  
 239 irrevocable trust fund shall be the sum of \$10,000.00 and the deposit of said sum shall be  
 240 made before selling or contracting to sell any burial right. No such initial deposit shall  
 241 be required with respect to any cemetery for which there is an existing perpetual care  
 242 account on July 1, 2000. The trust fund shall apply to sales or contracts for sale of lots,  
 243 grave spaces, niches, mausoleums, columbaria, urns, or crypts in which perpetual care  
 244 has been promised or guaranteed.

245 (3) The initial corpus of the trust fund and all subsequent required deposits shall be  
 246 deposited in a state bank, state savings and loan institution, savings bank, national bank,  
 247 or federal savings and loan institution, whose deposits are insured by the Federal Deposit

248 Insurance Corporation or other governmental agency, or a state or federally chartered  
249 credit union insured under 12 U.S.C. Section 1781 of the Federal Credit Union Act, or  
250 other depository or trustee which is approved by the Secretary of State or which meets  
251 the standards contained in the rules and regulations promulgated by the Secretary of  
252 State.

253 (4) Each perpetual care trust fund established on or after July 1, 2000, shall be named  
254 'The \_\_\_\_\_ Cemetery \_\_\_\_\_ Perpetual Care Trust Fund' with the first  
255 blank being filled by the name of the cemetery and the second blank being filled by the  
256 month and year of the establishment of such trust fund. If a cemetery has a perpetual care  
257 trust fund existing on July 1, 2000, and the perpetual care trust fund agreement permits,  
258 the cemetery may make additional deposits to such a trust fund on the condition that the  
259 entire corpus of the trust fund, any income earned by the trust fund, and any subsequent  
260 deposits to the trust fund are thereafter governed by the provisions of this chapter, the  
261 'Georgia Cemetery and Funeral Services Act of 2000,' as it existed on July 1, 2000,  
262 except for the amount of the initial deposit to the trust fund. If a cemetery owner or  
263 ~~company~~ cemetery elects to establish a new perpetual care trust fund subject to the  
264 provisions of this chapter, the 'Georgia Cemetery and Funeral Services Act of 2000,' as  
265 it existed on July 1, 2000, any perpetual care trust fund which existed on July 1, 2000, is  
266 subject to the provisions of law in effect on the date of its establishment, and deposits for  
267 sales transacted on or after July 1, 2000, shall be deposited in the trust fund established  
268 on or after July 1, 2000. If a cemetery existing on July 1, 2000, has an existing perpetual  
269 care trust fund which complies with provisions of law in effect on the date of its  
270 establishment, a new trust fund created in compliance with this chapter shall not require  
271 an initial deposit."

272 "(e)(1) The income earned by the trust fund shall be retained by the trust fund. At such  
273 time as either:

274 (A) The cemetery owner is not ~~licensed~~ registered and has not been ~~licensed~~ registered  
 275 for 90 or more consecutive days to sell burial rights;

276 (B) The cemetery is under the management of a receiver; or

277 (C) Less than 50 percent of available lots are unsold,  
 278 then 95 percent of the income from the trust fund shall be paid to the owner or receiver  
 279 exclusively for covering the costs of care and maintenance of the cemetery, including  
 280 reasonable administrative expenses incurred in connection therewith. The income of the  
 281 trust fund shall be paid to the owner or receiver at intervals agreed upon by the recipient  
 282 and the trustee, but in no case shall the income be paid more often than monthly.

283 (2) Subject to the limitations set forth in paragraph (1) of this subsection, a cemetery  
 284 owner or receiver may request a trustee to distribute income following the unitrust  
 285 distribution method provisions outlined in Code Section 53-12-362. The cemetery owner  
 286 or receiver may select the unitrust distribution method by delivering written instructions  
 287 to the trustee no later than 60 days prior to when the conversion shall take place. Such  
 288 notification shall also be provided to the Secretary of State. The unitrust distribution  
 289 method and the distribution rate selected shall remain in effect unless the cemetery ~~or~~  
 290 ~~cemetery company~~ notifies the trustee and the Secretary of State of its desire to effect a  
 291 change.

292 (3) Disbursements from the trust in accordance with this subsection shall be made on a  
 293 monthly, quarterly, semiannual, or annual basis, as agreed upon by the cemetery ~~or~~  
 294 ~~cemetery company~~ and the trustee.

295 (4) The Secretary of State may limit or prohibit any distribution based on the unitrust  
 296 distribution method provisions in situations where investment returns and distribution  
 297 practices have not resulted in sufficient protection of the perpetual care trust fund's trust  
 298 principal based upon a ~~three~~ three-year to five-year analysis."

299 "(j) Upon a finding by a court of competent jurisdiction of failure to deposit or maintain  
 300 funds in the trust account as required by this chapter or of fraud, theft, or misconduct by

301 the owners of the cemetery or the officers or directors of a cemetery ~~company~~ which has  
 302 wasted or depleted such funds, the cemetery owners or the officers or directors of a  
 303 cemetery ~~company~~ may be held jointly and severally liable for any deficiencies in the trust  
 304 account as required in this chapter."

305 **SECTION 1-8.**

306 Said chapter is further amended by revising subsection (i) of Code Section 10-14-7, relating  
 307 to preneed escrow accounts or trust funds, as follows:

308 "(i) Trust funds shall not be invested in or loaned to any business venture controlled by the  
 309 preneed dealer, a person who owns a controlling interest of a ~~cemetery owner~~ preneed  
 310 dealer that is not a natural person, any cemetery or cemetery controlled by such persons,  
 311 or an affiliate of any of these persons or entities."

312 **SECTION 1-9.**

313 Said chapter is further amended by revising subsection (c) of Code Section 10-14-9, relating  
 314 to amendment of registration applications, audit of registrant records, and transfer of  
 315 ownership in cemeteries or preneed dealers, as follows:

316 "(c)(1) When ~~any~~ a cemetery or preneed dealer registered under Code Section 10-14-4  
 317 ~~is sold or the~~ transfers ownership ~~is otherwise transferred~~ of a cemetery or preneed  
 318 business, or a controlling interest is sold or transferred, the vendor or the transferor of  
 319 such cemetery, preneed dealer, or interest shall remain liable for any funds that should  
 320 have been deposited prior to the date of such sale or transfer in the perpetual care trust  
 321 fund or the preneed escrow account, or both.

322 ~~(1)(2)~~ (2) Prior to such sale or transfer, the vendor or transferor shall notify the Secretary of  
 323 State of the proposed transfer and submit to the Secretary of State any document or  
 324 record the Secretary of State may require in order to demonstrate that said vendor or  
 325 transferor is not indebted to the perpetual care trust fund or the preneed escrow account,

326 or both. After the transfer of ownership or control and the presentation of proof of  
327 currency of the perpetual care trust fund or the preneed escrow account, or both, by the  
328 vendor or transferor, the Secretary of State may require the presentation of proof of the  
329 continued current status of the perpetual care trust fund or the preneed escrow account,  
330 or both, by the vendee or transferee. The Secretary of State is authorized to recover from  
331 such vendor, transferor, vendee, or transferee, for the benefit of the perpetual care trust  
332 fund or the preneed escrow account, or both, all sums which the vendor, transferor,  
333 vendee, or transferee has not properly accounted for and paid into the trust fund.  
334 ~~(2)~~(3) When the vendee or transferee has complied with the provisions of this subsection,  
335 he or she shall submit to the Secretary of State an application for registration and  
336 appropriate fees pursuant to Code Section 10-14-4. The Secretary of State shall then  
337 issue a certificate of registration to said vendee or transferee."

338 **SECTION 1-10.**

339 Said chapter is further amended by revising subsection (d) of Code Section 10-14-19, relating  
340 to enforcement of chapter and civil penalties, as follows:

341 "(d) In any civil proceeding brought under this Code section, if the Secretary of State shall  
342 establish that a perpetual care trust fund or preneed escrow account has not been  
343 established and maintained as required, the assets of the cemetery owner, cemetery  
344 ~~company~~, or preneed dealer may be seized and sold by the state under orders of the court  
345 to the extent necessary to provide said perpetual care trust fund or preneed escrow account  
346 and set up the same. In addition, where the registration has been revoked, the whole  
347 ~~company cemetery~~ property may be ordered sold after the perpetual care trust fund and  
348 preneed escrow account have been established so that the purchaser of the cemetery may  
349 continue to operate the same and maintain it under the terms of this chapter."

350 **SECTION 1-11.**

351 Said chapter is further amended by replacing "cemetery company" and "cemetery company's"  
352 with "cemetery" and "cemetery's" wherever each such former term appears in:

- 353 (1) Code Section 10-14-12, relating to separate accounts and records, owner acting as  
354 trustee, removal of trustee, removal of trustee or escrow agent, and financial reports;  
355 (2) Code Section 10-14-17, relating to prohibited acts and fees; and  
356 (3) Code Section 10-14-29, relating to construction of mausoleums and columbariums  
357 and preconstruction trust funds.

358 **SECTION 1-12.**

359 Said chapter is further amended in Code Section 10-14-23, relating to administrative appeal  
360 of orders issued by Secretary of State, by revising subsection (a) as follows:

361 "(a) Where the Secretary of State has issued any order forbidding the sale of burial lots,  
362 burial rights, burial merchandise, or burial services under any provision of this chapter, he  
363 or she shall promptly send to the ~~cemetery owner, cemetery company,~~ burial or funeral  
364 merchandise dealer, or preneed dealer and to the persons who have filed such application  
365 for registration a notice of opportunity for hearing. Before entering an order refusing to  
366 register any person or entity and after the entering of any order for revocation or  
367 suspension, the Secretary of State shall promptly send to such person or entity a notice of  
368 opportunity for hearing. Hearings shall be conducted by the Secretary of State pursuant to  
369 this Code section."

370 **SECTION 1-13.**

371 Title 43 of the Official Code of Georgia Annotated, relating to professions and business, is  
372 amended by repealing Chapter 8B, relating to cemetarians.

373 **SECTION 1-14.**

374 Code Section 53-2-27 of the Official Code of Georgia Annotated, relating to DNA testing  
375 for kinship, procedure, costs, conduct of tests, enforcement, and use of results, is amended  
376 by revising paragraph (1) of subsection (d) as follows:

377 "(d)(1) The costs of obtaining and testing of DNA samples, including the costs of  
378 disinterment and reinterment of the remains of the decedent, if necessary, as well as the  
379 costs of providing the report, shall be assessed against and paid by the moving party, and  
380 the court may award such costs as part of its final decree; provided, however, that the  
381 court may, in its discretion after all parties in interest have been given reasonable  
382 opportunity to be heard, cast all or part of such costs against one or more parties in  
383 interest upon entering a finding of fact that any such party has asserted in bad faith a  
384 position with respect to the kinship in controversy in a proceeding under this article or  
385 has failed unreasonably to cooperate with an order for DNA testing entered pursuant to  
386 this Code section. The costs of disinterment may include a reasonable fee for services  
387 provided by a cemetery ~~company~~ in connection therewith, subject to the limitation upon  
388 such charges imposed by subsection (d) of Code Section 10-14-17."

389 **PART II**

390 **SECTION 2-1.**

391 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
392 is amended by repealing Chapter 6, relating to auctioneers, and enacting a new Chapter 6 to  
393 read as follows:

394

"CHAPTER 6395 43-6-1.396 As used in this chapter, the term:

397 (1) 'Absolute auction' means that ownership and title of real or personal property offered  
398 at auction shall be conveyed to the high bidder without reservation and without any  
399 competing bids of any type by the owner or an agent of the owner of the property.

400 (2) 'Auction business' or 'business of auctioning' means the performing of any of the acts  
401 of an auctioneer, including bid calling for a fee, commission, or any other valuable  
402 consideration or with the intention or expectation of receiving the same by means of or  
403 by process of an auction or sale at auction or offering, negotiating, or attempting to  
404 negotiate a listing contract for the sale, purchase, or exchange of goods, chattels,  
405 merchandise, real or personal property, or any other commodity which lawfully may be  
406 kept or offered for sale.

407 (3) 'Auction with reserve' means that the seller reserves the right to refuse any and all  
408 bids.

409 (4) 'Auctioneer' means any person, licensed under this chapter, who, for a fee,  
410 commission, or any other valuable consideration or with the intention or expectation of  
411 receiving the same by means of or by process of an auction or sale at auction, whether  
412 conducted in person, online, electronically, or through an internet-based platform, offers,  
413 negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of  
414 goods, chattels, merchandise, real or personal property, or any other commodity which  
415 lawfully may be kept or offered for sale.

416 (5) 'Goods' means any chattel, goods, merchandise, real or personal property, or  
417 commodities of any form or type which lawfully may be kept or offered for sale.

418 (6) 'Person or persons' means an individual.

419 (7) 'Ringperson' means any person employed directly by an auctioneer or auction  
420 company responsible for a sale who assists the auctioneer in the conduct of an auction,  
421 provided that such person shall not be permitted to call or chant a bid or negotiate a  
422 listing contract.

423 (8) 'Secretary of State' means the Secretary of State of the State of Georgia or his or her  
424 designee.

425 43-6-2.

426 In carrying out the duties and responsibilities under this chapter, the Secretary of State may  
427 seek the advice and counsel of industry representatives, stakeholders, or subject matter  
428 experts as he or she deems appropriate to provide expertise and assistance in the  
429 administration and enforcement of this chapter.

430 43-6-3.

431 The Secretary of State shall have the power to regulate the issuance of licenses, to revoke  
432 or suspend licenses issued under this chapter, and to censure licensees for any violation of  
433 this chapter.

434 43-6-4.

435 (a) It shall be unlawful for any person, directly or indirectly, to engage in, conduct,  
436 advertise, hold himself or herself out as engaging in or conducting the business of, or act  
437 in the capacity of, an auctioneer within this state without first obtaining a license as an  
438 auctioneer as provided in this chapter, unless he or she is exempted from obtaining a  
439 license under Code Section 43-6-15.

440 (b) It shall be unlawful for any licensed auctioneer to act in such capacity in the sale of real  
441 property unless such auctioneer is also licensed as a real estate broker, associate broker, or  
442 salesperson under Chapter 40 of this title; provided, however, that any auctioneer who was

443 licensed as such by this state prior to July 1, 1978, and who, prior to December 31, 1984,  
444 submits proof to the commission that he or she has been auctioning real property for five  
445 years or more immediately prior to the date of application shall not be required to meet the  
446 provisions of this subsection, but such person shall not thereby be construed to be a real  
447 estate broker, associate broker, or salesperson under Chapter 40 of this title.

448 43-6-5.

449 (a) Any person desiring to act as an auctioneer shall file an application for licensure with  
450 the Secretary of State. The application shall be completed and submitted upon a form and  
451 in such manner as prescribed by the Secretary of State and shall be accompanied by the  
452 applicable fees and evidence satisfactory to the Secretary of State that the applicant meets  
453 the requirements for licensure under this chapter.

454 (b) To be eligible for licensure as an auctioneer, an applicant shall:

455 (1) Be at least 18 years of age;

456 (2) Have obtained a high school diploma or its equivalent, as determined by the  
457 Secretary of State;

458 (3) Have successfully completed an auctioneer education program approved pursuant to  
459 this chapter;

460 (4) Successfully pass an examination approved or administered by the Secretary of State  
461 to determine the applicant's knowledge and competency to practice as an auctioneer in  
462 this state;

463 (5) Maintain an escrow or trustee account for the receipt, holding, or disbursement of  
464 funds belonging to others and provide information identifying such account, together with  
465 authorization permitting examination of the account by the Secretary of State or his or her  
466 designee; and

467 (6) Provide at least one secure and verifiable document, as defined in Code Section  
468 50-36-2, establishing the applicant's identity, and submits an affidavit verifying lawful

469 presence in the United States pursuant to Code Section 50-36-1, together with any  
470 required immigration documentation for noncitizen applicants.

471 (c) An application for a license under this Code section shall constitute express consent  
472 and authorization for the Secretary of State to perform a criminal background check  
473 conducted by the Georgia Crime Information Center and the Federal Bureau of  
474 Investigation. Each applicant who submits an application to the Secretary of State for  
475 licensure agrees to provide any and all information necessary to run a criminal background  
476 check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be  
477 responsible for all fees associated with the performance of such background check.

478 (d) The Secretary of State shall have the authority to approve auctioneer education  
479 programs and schools that are accredited by a recognized accrediting body or otherwise  
480 deemed eligible by the Secretary of State to meet the education requirements of this  
481 chapter. The Secretary of State may establish standards, criteria, and procedures by rule for  
482 such approval or eligibility determinations.

483 43-6-6.

484 (a) All licenses issued under this chapter shall be renewable biennially at such time as may  
485 be designated by the division director, as defined in Code Section 43-1-1, and shall expire  
486 as provided in Code Section 43-1-4. Applications for renewal shall be filed with the  
487 Secretary of State prior to the expiration date and shall be accompanied by the renewal fee  
488 prescribed by the Secretary of State, and proof, in a form acceptable to the Secretary of  
489 State, that the licensee has completed continuing education as required in Code Section  
490 43-6-7.

491 (b) Each licensee shall be responsible for the timely renewal of his or her license and shall  
492 notify the Secretary of State, in a manner prescribed by the Secretary of State, of any  
493 change in mailing address or contact information.

494 (c) Failure to renew a license shall result in forfeiture of the license, which shall have no  
495 force or effect unless and until reinstated in accordance with this Code section.

496 (1) A forfeited license may be reinstated within one year of the expiration date upon  
497 submission of an application and payment of all required renewal and restoration fees,  
498 in such manner as prescribed by the Secretary of State.

499 (2) A license that has been forfeited for more than one year but less than two years may  
500 be reinstated at the discretion of the Secretary of State upon submission of an application,  
501 payment of the required fees, and compliance with any continuing education  
502 requirements established pursuant to this chapter.

503 (d) Failure to restore a forfeited license within two years of the expiration date shall result  
504 in automatic termination of the license, and the Secretary of State may require the  
505 individual to reapply for licensure as a new applicant.

506 43-6-7.

507 (a) The Secretary of State shall be authorized to require persons seeking renewal of an  
508 auctioneer's license under this chapter to complete approved continuing education of not  
509 more than eight hours biennially.

510 (b) The Secretary of State shall be authorized to waive the continuing education  
511 requirement in cases of hardship, disability, or illness or under such other circumstances  
512 as the Secretary of State deems appropriate.

513 (c) The Secretary of State shall be authorized to promulgate rules and regulations to  
514 implement and ensure compliance with the requirements of this Code section.

515 43-6-8.

516 (a) Any resident of another state who holds a current license as an auctioneer under the  
517 laws of any other state having requirements similar to those in this chapter may, at the  
518 discretion of the Secretary of State, be issued a license to practice as an auctioneer in this

519 state without written examination upon the payment of the fees as required by the Secretary  
520 of State.

521 (b) Any resident of another state which does not have a law regulating the licensing of  
522 auctioneers but who holds a current and valid license in a state which has a reciprocal  
523 licensing agreement with Georgia may, at the discretion of the Secretary of State, be issued  
524 a license to practice as an auctioneer in this state without examination upon the payment  
525 of a fee as required by the Secretary of State.

526 (c) By applying for or engaging in the business of auctioning in this state pursuant to this  
527 Code section, a nonresident auctioneer shall be deemed to have appointed the Secretary of  
528 State as the auctioneer's lawful agent for service of process in any civil action or legal  
529 proceeding arising out of or related to the auctioneer's business of auctioning in this state.  
530 Service of process upon the Secretary of State pursuant to this subsection shall be of the  
531 same legal force and effect as personal service upon the auctioneer. Upon receipt of such  
532 process, the Secretary of State shall forward a copy thereof to the auctioneer at the  
533 auctioneer's last known address on file with the Secretary of State.

534 43-6-9.

535 (a) Every licensed auctioneer shall maintain an active escrow or trustee account at a  
536 financial institution for the receipt, holding, and disbursement of funds belonging to others  
537 arising from auction activities.

538 (b) All auction proceeds received by an auctioneer shall be deposited into an escrow or  
539 trustee account not later than 48 hours or the next business day after receipt, unless  
540 settlement is made within 24 hours.

541 (c) Funds belonging to others shall not be commingled with the auctioneer's personal funds  
542 or with any general operating account and shall be held in the escrow or trustee account  
543 until properly disbursed to the appropriate parties.

544 (d) Every licensed auctioneer shall provide to the Secretary of State information  
545 identifying the escrow or trustee account, including the name of the financial institution  
546 and the account number, together with authorization permitting examination of such  
547 account by the Secretary of State or his or her designee.

548 (e) Every licensed auctioneer shall notify the Secretary of State of any change in the name  
549 or location of the escrow or trustee account or any other material change affecting  
550 compliance with this Code section, in such manner as prescribed by the Secretary of State.

551 (f) The Secretary of State may adopt rules governing escrow or trustee account  
552 requirements, reporting, recordkeeping, and examination as necessary to administer and  
553 enforce this Code section.

554 43-6-10.

555 The Secretary of State shall prepare and deliver a pocket card certifying that the person  
556 whose name appears thereon is a licensed auctioneer, as the case may be, stating the period  
557 of time for which fees have been paid.

558 (b) A Georgia auctioneer's license identification card, or an electronic or digital version  
559 thereof approved by the Secretary of State, shall be carried on the auctioneer's person when  
560 participating in the business of auctioning in any capacity.

561 (c) Should the auctioneer change his or her place of business, he or she shall notify the  
562 Secretary of State in writing within ten days of such change, and thereupon a new pocket  
563 card shall be granted to the auctioneer.

564 43-6-11.

565 (a) Where an applicant has been convicted of forgery, embezzlement, obtaining money  
566 under false pretenses, larceny, extortion, conspiracy to defraud, or other like offense or  
567 offenses or has been convicted of any other crime in a court of competent jurisdiction of  
568 this or any other state, district, or territory of the United States or of a foreign country, such

569 untrustworthiness of the applicant and the conviction, in itself, may be a sufficient ground  
570 for refusal of a license.

571 (b) Where an applicant has made a false statement of material fact on his or her  
572 application, such false statement, in itself, may be sufficient ground for refusal of a license.

573 (c) Grounds for suspension or revocation of a license, as provided for by this chapter, shall  
574 also be grounds for refusal to grant a license.

575 43-6-12.

576 The refusal to grant a license as provided in this chapter shall not be considered to be a  
577 contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative  
578 Procedure Act,' and notice and hearing as provided in such chapter shall not be required  
579 in connection with such refusal. Notice of refusal to grant a license shall be sent by  
580 registered mail or statutory overnight delivery or personal service setting forth the  
581 particular reasons for the refusal. The written notice shall be sent to the applicant's address  
582 of record with the Secretary of State, and the applicant shall be allowed to appear before  
583 the Secretary of State, or their designee, if the applicant requests to do so in writing.

584 43-6-13.

585 The Secretary of State shall have the authority to investigate the actions of any auctioneer  
586 and shall have power to censure such licensee or to revoke or suspend any license issued  
587 under this chapter whenever such license has been obtained by false or fraudulent  
588 representation or the licensee has been found guilty of any unfair trade practices, including,  
589 but not limited to:

590 (1) Making any substantial misrepresentation while describing any property, real or  
591 personal; using any false, deceptive, misleading, or untruthful advertising; or making any  
592 statements, whether in person or through advertising, which may create false or  
593 unjustified expectations of the services to be performed;

- 594 (2) Engaging in a continued and flagrant course of misrepresentation, making false  
595 promises through an agent, or advertising an auction to be an absolute auction while  
596 conducting the auction with reserve or otherwise inconsistently with such representation;  
597 (3) Failing to account for or remit, within 30 days unless otherwise provided by contract,  
598 any money belonging to others that comes into his or her possession, commingling funds  
599 of others with his or her own, or failing to keep such funds of others in an escrow or  
600 trustee account;  
601 (4) Conviction by a court of competent jurisdiction in this state or any other state of a  
602 felony or a crime involving moral turpitude;  
603 (5) Violation of this chapter, any rule or regulation, or code of ethics promulgated by the  
604 Secretary of State;  
605 (6) Engaging in conduct demonstrating bad faith, dishonesty, fraud, incompetence, or  
606 untruthfulness in connection with the business of auctioning;  
607 (7) Having had any license to practice a business or profession revoked, suspended,  
608 annulled, or sanctioned, or otherwise having had any disciplinary action taken by any  
609 other licensing authority in this or any other state; or  
610 (8) Knowingly making any misleading, false, or deceptive statement on any application  
611 for a licensure or renewal under this chapter.  
612 (b) The Secretary of State may discipline, suspend, revoke, or refuse to renew a license  
613 only after proper notice and an opportunity for a hearing.  
614 (c) Except as otherwise provided, the provisions of Chapter 13 of Title 50, the 'Georgia  
615 Administrative Procedure Act,' shall be applicable to the provisions of this chapter and to  
616 the Secretary of State in carrying out the provisions of this chapter.

617 43-6-14.

618 Whenever, in the judgment of the Secretary of State, any person has engaged in any acts  
619 or practices which constitute a violation of this chapter, the Attorney General may bring

620 an action in the name of the state in the superior court of the county in which venue is  
621 proper, to abate and temporarily and permanently to enjoin such acts and practices and to  
622 enforce compliance with this chapter. The plaintiff shall not be required to give any bond.

623 43-6-15.

624 Except as otherwise provided in this chapter, this chapter shall not apply to:

625 (1) Any person acting as a receiver, trustee in bankruptcy, administrator, executor, or any  
626 such person acting under order of any court;

627 (2) Any nonprofit organization conducting an auction where the funds are to be used in  
628 a way as to benefit persons with physical or mental disabilities or disorders or for  
629 research related to cures or prevention of such disabilities or disorders, nor shall this  
630 chapter apply to any auction conducted by a nonprofit organization where the funds are  
631 to be used for the preservation of wildlife or its habitats whether conducted by a licensed  
632 auctioneer or nonlicensed auctioneer;

633 (3) Any person acting as an auctioneer in the auction of livestock, forest products, or  
634 farm products in an auction facility which is licensed and bonded under the provisions  
635 of Article 3 of Chapter 6 of Title 4 or in an auction facility which is licensed under Code  
636 Section 10-4-101 or to any youth livestock auction, sponsored by a 4-H Club or the  
637 Future Farmers of America;

638 (4) Any students of approved auctioneering schools during the term of their course of  
639 study;

640 (5) Any person conducting a public sale of personal property pursuant to the provisions  
641 of Code Section 10-4-213; or

642 (6) Ringpersons as defined in Code Section 43-6-1.

643 43-6-16.

644 Any person acting as an auctioneer as provided in this chapter without a license and any  
645 person who violates this chapter shall be guilty of a misdemeanor and, upon conviction  
646 thereof, shall be punished by a fine not to exceed \$1,000.00, by imprisonment for a term  
647 not to exceed 90 days, or both.

648 43-6-17.

649 Nothing in this chapter shall prohibit any lawful regulation or licensing of auctioneers by  
650 any municipality, county, or other political subdivision of this state; provided, however,  
651 that no such political subdivision shall license any auctioneer required to be licensed by  
652 this chapter unless such auctioneer has been approved for licensure by the Secretary of  
653 State as required in this chapter.

654 43-6-18.

655 (a) Effective July 1, 2026, the Georgia Auctioneers Commission shall stand dissolved.  
656 Notwithstanding such dissolution, the auctioneers education, research, and recovery fund  
657 established pursuant to the former provisions of Code Section 43-6-22.1 as such provisions  
658 existed prior to July 1, 2026, shall remain in existence solely for the purpose of  
659 administering, defending, and paying claims arising from acts, representations,  
660 transactions, or conduct of a licensee and to fund continuing education for auctioneers.

661 (b) On and after July 1, 2026, the Secretary of State shall serve as the successor  
662 administrator to the Georgia Auctioneers Commission for all matters arising under this  
663 Code section, including the receipt of notices, the defense of actions, the processing of  
664 claims, and the payment of court ordered damages from the fund. Any person, except  
665 bonding companies when they are not principals in an auction transaction, aggrieved by an  
666 act, representation, transaction, or conduct of an individual licensed under this chapter  
667 which is in violation of the current or former provisions of this chapter or of the rules and

668 regulations promulgated pursuant to such, may recover, by order of any court having  
669 competent jurisdiction, actual or compensatory damages, not including interests and costs  
670 sustained by the act, representation, transaction, or conduct, provided that nothing shall be  
671 construed to obligate the fund for more than \$10,000.00 per transaction regardless of the  
672 number of persons aggrieved or parcels of real estate or lots of personal property involved  
673 in such transaction. In addition:

674 (1) The liability of the fund for the acts of an individual licensed under this chapter,  
675 when acting as such, is terminated upon the issuance of court orders authorizing  
676 payments from the fund for judgments, or any unsatisfied portion of judgments, in an  
677 aggregate amount of \$20,000.00 on behalf of such licensee;

678 (2) A licensee acting as a principal or agent in an auction transaction has no claim  
679 against the fund;

680 (3) No person who establishes a proper claim or claims under this Code section shall  
681 ever obtain more than \$10,000.00 from the fund; and

682 (4) The fund shall not pay out for any wrongdoing by an auction company if the  
683 wrongdoing occurred on or after July 1, 2026.

684 (c)(1) No action for a judgment which subsequently results in an order for collection  
685 from the fund shall be started later than two years from the accrual of the cause of action  
686 thereon. When any aggrieved person commences action for a judgment which may result  
687 in collection from the fund, the aggrieved person shall notify the Secretary of State in  
688 writing, by certified mail or statutory overnight delivery, return receipt requested, to this  
689 effect at the time of the commencement of such action. The Secretary of State shall have  
690 the right to intervene in and defend any such action.

691 (2) When any aggrieved person recovers a valid judgment in any court of competent  
692 jurisdiction against any individual licensed under the provisions of this chapter for any  
693 act, representation, transaction, or conduct which is in violation of this chapter or of the  
694 regulations promulgated pursuant to this chapter, or which is in violation of Chapter 47

695 of this title or of the regulations promulgated pursuant to Chapter 47 of this title, which  
696 act occurred on or after January 1, 1992, the aggrieved person may, upon termination of  
697 all proceedings, including reviews and appeals in connection with the judgment, file a  
698 verified claim in the court in which the judgment was entered and, upon ten days' written  
699 notice to the Secretary of State, may apply to the court for an order directing payment out  
700 of the fund of the amount unpaid upon the judgment, subject to the limitations stated in  
701 this Code section.

702 (3) The court shall proceed upon such application in a summary manner and, upon the  
703 hearing thereof, the aggrieved person shall be required to show:

704 (A) That he or she is not a spouse of the judgment debtor or the personal representative  
705 of such spouse;

706 (B) That he or she has complied with all the requirements of this Code section;

707 (C) That he or she has obtained a judgment, as set out in paragraph (2) of this  
708 subsection, stating the amount thereof and the amount owing thereon at the date of the  
709 application; and that, in such action, he or she had joined any and all bonding  
710 companies which issued corporate surety bonds to the judgment debtors as principals  
711 and all other necessary parties;

712 (D) That he or she has caused to be issued a writ of execution upon such judgment and  
713 the officer executing the same has made a return showing that no personal or real  
714 property of the judgment debtor liable to be levied upon in satisfaction of the judgment  
715 could be found or that the amount realized on the sale of them as were found, under  
716 such execution, was insufficient to satisfy the judgment, stating the amount so realized  
717 and the balance remaining due to the judgment after application thereon of the amount  
718 realized;

719 (E) That he or she has caused the judgment debtor to make discovery under oath  
720 concerning his or her property in accordance with Chapter 11 of Title 9, the 'Georgia  
721 Civil Practice Act';

722 (F) That he or she has made all reasonable searches and inquiries to ascertain whether  
723 the judgment debtor is possessed of real or personal property or other assets liable to  
724 be sold or applied in satisfaction of the judgment;

725 (G) That by such search he or she has discovered no personal or real property or other  
726 assets liable to be sold or applied or that he or she has discovered certain of them,  
727 describing them, owned by the judgment debtor and liable to be so applied and that he  
728 or she has taken all necessary action and proceedings for the realization thereof and that  
729 the amount thereby realized was insufficient to satisfy the judgment, stating the amount  
730 so realized and the balance remaining due on the judgment after application of the  
731 amount realized; and

732 (H) That the following items, if any, as recovered by him or her have been applied to  
733 the actual or compensatory damages awarded by the court:

734 (i) Any amount recovered from the judgment debtor or debtors;

735 (ii) Any amount recovered from the bonding company or companies; or

736 (iii) Any amount recovered in out-of-court settlements as to particular defendants.

737 (4) Whenever the aggrieved person satisfies the court that it is not practical to comply  
738 with one or more of the requirements enumerated in subparagraphs (D), (E), (F), (G), or  
739 (H) of paragraph (3) of this subsection and that the aggrieved person has taken all  
740 reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and  
741 has been unable to collect the same, the court may, in its discretion, dispense with the  
742 necessity for complying with such requirements.

743 (5) The court shall make an order directed to the Secretary of State requiring payment  
744 from the fund of whatever sum it shall find to be payable upon the claim, pursuant to the  
745 provisions of and in accordance with the limitations contained in this Code section, if the  
746 court is satisfied, upon the hearing, of the truth of all matters required to be shown by the  
747 aggrieved person by paragraph (3) of this subsection and is satisfied that the aggrieved

748 person has fully pursued and exhausted all remedies available to him or her for  
749 recovering the amount awarded by the judgment of the court.

750 (6) If, at any time, the money deposited in the fund is insufficient to satisfy any duly  
751 authorized claim or portion thereof, the Secretary of State, as successor administrator to  
752 the Georgia Auctioneers Commission, shall satisfy such unpaid claims or portions thereof  
753 in the order that such claims or portions thereof were originally filed, plus accumulated  
754 interest at the rate of 4 percent per annum. In no event shall the state, the Secretary of  
755 State, the former Georgia Auctioneers Commission, or any member or employee thereof  
756 be liable to any person for any deficiency in payment under this Code section.

757 (d)(1) On and after July 1, 2026, the fund shall continue to be held in trust for the  
758 payment of claims, and the Secretary of State shall administer only the balance existing  
759 on such date and any earnings thereon.

760 (2) On December 31 of each year, the fund balance shall be assessed and, if the balance  
761 is below \$10,000.00, any remaining moneys shall be transferred to the general fund of  
762 the state treasury, and the fund shall stand abolished. Until such date, such moneys may  
763 be invested in any investments which are legal for domestic insurance companies under  
764 Articles 1 and 3 of Chapter 11 of Title 33, and the interest from these investments shall  
765 be deposited to the credit of the fund. Revenue generated by the annual compounding  
766 interest from the date of the fund's inception may be dispensed by the Secretary of State  
767 or his or her designee to fund continuing education for auctioneers.

768 (e) It shall be unlawful for any person or his or her agent to file with the commission any  
769 notice, statement, or other document required under this Code section which is false,  
770 untrue, or contains any material misstatement of fact and shall, upon conviction, be  
771 punishable as a misdemeanor.

772 (f) When the Secretary of State receives notice, as provided in subsection (c) of this Code  
773 section, the Secretary of State may enter an appearance, file an answer, appear at the court  
774 hearing, defend the action, or take whatever other action he or she may deem appropriate

775 on behalf of and in the name of the defendant and take recourse through any appropriate  
776 method of review on behalf of and in the name of the defendant.  
777 (g) When, upon the order of the court, the Secretary of State has paid from the fund any  
778 sum to the judgment creditor, the Secretary of State shall be subrogated to all of the rights  
779 of the judgment creditor. The judgment creditor shall assign all its right, title, and interest  
780 in the judgment to the Secretary of State before any payment is made from the fund, and  
781 any amount and interest so recovered by the Secretary of State on the judgment shall be  
782 deposited in the fund. If the total amount collected on the judgment by the Secretary of  
783 State exceeds the amount paid from the fund to the original judgment creditor plus interest  
784 and the cost of collection, the Secretary of State may elect to pay any overage collected to  
785 the original judgment creditor or reassign the remaining interest in the judgment to the  
786 original judgment creditor. The payment or reassignment to the original judgment creditor  
787 shall not subject the fund to further liability for payment to the original judgment creditor  
788 based on that transaction or judgment. Any costs incurred by the Secretary of State's  
789 attempt to collect assigned judgments shall be paid from the fund.  
790 (h) The failure of an aggrieved person to comply with all of the provisions of this Code  
791 section shall constitute a waiver of any rights under this Code section."

792 **SECTION 2-2.**

793 Said title is further amended in Code Section 43-47-10, relating to investigation of licensees  
794 by board, suspension or revocation of license, and other sanctions, by revising  
795 division (1)(P)(iii) as follows:

796 "(iii) A violation of this subparagraph shall also be grounds for suspension or censure  
797 of a license under Code Section ~~43-6-18~~ 43-6-13, and any auction violating this  
798 subparagraph may be required by the board to surrender its master tag;"

799

**PART III**

800

**SECTION 3-1.**

801 Said title is further amended by repealing Chapter 19, relating to geologists, and enacting a  
802 new Chapter 19 to read as follows:

803

"CHAPTER 19804 43-19-1.

805 This chapter shall be known and may be cited as the 'Registration of Professional  
806 Geologists Act.'

807 43-19-2.

808 As used in this chapter, the term:

809 (1) 'Geologist' means a person registered under this chapter to engage in the practice of  
810 geology.

811 (2) 'Geology' means that science which treats of the earth in general; investigation of the  
812 earth's crust and the rocks and other materials which compose it; and the applied science  
813 of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases, and  
814 other materials for the benefit of mankind.

815 (3) 'Public practice of geology' means the performance of geological service or work  
816 such as consultation, investigation, surveys, evaluation, planning, mapping, and  
817 inspection of geological work in which the performance is related to public welfare or  
818 safeguarding of life, health, property, and the environment, except as specifically  
819 exempted by this chapter. A person shall be construed to practice publicly or offer to  
820 practice publicly geology, within the meaning and intent of this chapter, who practices  
821 any branch of the profession of geology; or who by verbal claim, sign, advertisement,

822 letterhead, card, or in any other way represents themselves to be a geologist; or through  
823 the use of some other title implies that he or she is a geologist; or that he or she is  
824 registered under this chapter; or who holds themselves out as able to perform or who does  
825 perform any geological services or work recognized as geology.

826 (4) 'Registered professional geologist' means a person who is registered as a geologist  
827 under this chapter.

828 (5) 'Responsible charge of work' means the independent control and direction, by the use  
829 of initiative, skill, and independent judgment, of geological work or the supervision of  
830 such work.

831 (6) 'Secretary of State' means the Secretary of State of the State of Georgia or his or her  
832 designee.

833 (7) 'Subordinate' means any person who assists a registered professional geologist or a  
834 registered engineer in the practice of geology without assuming the responsible charge  
835 of work.

836 46-19-3.

837 In carrying out the duties and responsibilities under this chapter, the Secretary of State may  
838 seek the advice and counsel of industry representatives, stakeholders, or subject matter  
839 experts as he or she deems appropriate to provide expertise and assistance in the  
840 administration and enforcement of this chapter.

841 43-19-4.

842 By engaging in the public practice of geology in this state, a nonresident individual  
843 appoints the Secretary of State as the individual's agent for service of process in any civil  
844 action in this state related to the individual's public practice of geology in this state.

845 43-19-5.

846 (a) Except as otherwise provided in subsection (e) of this Code section, an individual shall  
847 not engage in the public practice of geology in this state without holding a certificate of  
848 registration under this chapter.

849 (b) It shall be unlawful for any person other than a registered professional geologist or a  
850 subordinate under his or her direction to prepare any geologic plans, reports, or documents  
851 in which the performance is related to the public welfare or safeguarding of life, health,  
852 property, or the environment.

853 (c) It shall be unlawful for any person other than a professional registered geologist to  
854 stamp or seal any plans, plats, reports, or other documents with the seal or stamp of a  
855 registered professional geologist or to use in any manner the title 'registered professional  
856 geologist.'

857 (d) It shall be unlawful for any person to affix his or her signature or to stamp or seal any  
858 plans, plats, reports or other documents after the certification of the registrant named  
859 thereon has expired or has been suspended or revoked, unless the certificate has been  
860 renewed or reissued.

861 (e) The provisions of this chapter shall not apply to any individual who is:

862 (1) Engaged in the practice of any profession or trade for which a license is required  
863 under any other law of this state, including, without limitation, licensed professional  
864 engineers lawfully practicing soil mechanics, foundation engineering, and other  
865 professional engineering as provided in this title; or licensed architects lawfully  
866 practicing architecture as provided in this title;

867 (2) Engaged solely in teaching the science of geology or engaged in nonpublic geologic  
868 research in this state;

869 (3) An officer or employee of the United States or this state practicing geology solely as  
870 such officer or employee; and

871 (4) A subordinate to a geologist registered under this chapter, insofar as he or she acts  
872 solely in such capacity; provided, however, that this paragraph shall not be construed to  
873 permit any such subordinate to practice geology for others in his or her own right or use  
874 the title 'registered professional geologist.'

875 (f) The right to engage in the practice of geology shall be deemed a personal right, based  
876 on the qualifications of the individual as evidenced by his or her certificate of registration,  
877 and shall not be transferable.

878 43-19-6.

879 (a) The Secretary of State shall issue a certificate of registration as a professional geologist  
880 to an applicant when such applicant has completed and submitted an application upon a  
881 form and in such manner as the Secretary of State prescribes, accompanied by applicable  
882 fees and evidence satisfactory to the Secretary of State that:

883 (1) The applicant has graduated from an accredited college or university which has been  
884 approved by the Secretary of State with a bachelor's degree in geology, engineering  
885 geology, or geological engineering; or has completed 45 quarter hours or the equivalent  
886 in geological science courses leading to a major in geology, of which at least 36 quarter  
887 hours or the equivalent were taken in the third or fourth year or in graduate courses;

888 (2) The applicant has at least seven years of professional geological work, including a  
889 minimum of three years under the supervision of a registered professional geologist or  
890 a registered civil engineer, or another individual who is legally authorized to practice  
891 geology. For purposes of calculating an applicant's years of professional geological  
892 work:

893 (A) Each year of undergraduate study in geological sciences counts as one-half year  
894 of training, up to a maximum of two years, and each year of graduate study counts as  
895 one full year of training. Credit for undergraduate study, graduate study, and graduate

896 courses, individually or combined, shall not exceed four years toward the required  
897 seven years of professional geological work;

898 (B) Professional geological work or geological research performed by full-time faculty  
899 at an accredited college or university shall count toward the required seven years when  
900 the work or research involves activities that fall within the definition of geology as  
901 defined under this chapter; and

902 (C) An applicant's years of professional geological work used to satisfy the required  
903 seven years shall meet the following criteria:

904 (i) The professional geological work shall consist of geological tasks included within  
905 the statutory definition of the public practice of geology;

906 (ii) Only professional geological work performed in a position with assigned  
907 professional responsibility for geological work shall be counted; and

908 (iii) Documentation of supervision and experience shall be submitted in the format  
909 prescribed by the Secretary of State;

910 (3) The applicant has successfully passed such examinations endorsed by the National  
911 Association of State Boards of Geology as are required by the board;

912 (4) The applicant is in good standing based on a review of the applicant's licensure  
913 history in any other jurisdiction, including a review of any prior disciplinary action,  
914 alleged misconduct, or negligence in the practice of geology and the applicant has not  
915 been previously denied a certificate of registration under this chapter, unless the Secretary  
916 of State determines that the grounds for such denial no longer apply; and

917 (5) The applicant provides at least one secure and verifiable document, as defined in  
918 Code Section 50-36-2, establishing the applicant's identity, and submits an affidavit  
919 verifying lawful presence in the United States pursuant to Code Section 50-36-1, together  
920 with any required immigration documentation for non-citizen applicants.

921 (b) An application for a certificate of registration under this Code section shall constitute  
922 express consent and authorization for the Secretary of State to perform a criminal

923 background check conducted by the Georgia Crime Information Center and the Federal  
924 Bureau of Investigation. Each applicant who submits an application to the Secretary of  
925 State for a certificate of registration agrees to provide any and all information necessary to  
926 run a criminal background check, including, but not limited to, classifiable sets of  
927 fingerprints. The applicant shall be responsible for all fees associated with the performance  
928 of such background check.

929 43-19-7.

930 A person holding a certificate of registration to engage in the public practice of geology,  
931 on the basis of comparable licensing requirements issued to him or her by a proper  
932 authority of a state, territory, or possession of the United States or the District of Columbia,  
933 and who, in the opinion of the Secretary of State, otherwise meets the requirements of this  
934 chapter based on verified evidence may be registered, upon application, without further  
935 examination.

936 43-19-8.

937 (a) Except as otherwise provided in subsection (b) of this Code section, the Secretary of  
938 State shall issue a certificate of registration to an individual who complies with Code  
939 Section 43-19-6.

940 (b) The Secretary of State may refuse to issue a certificate of registration if it is determined  
941 that the applicant has engaged in conduct that has a significant adverse effect on the  
942 applicant's fitness to engage in the public practice of geology. In making the  
943 determination, the Secretary of State may consider whether the applicant has:

944 (1) Been convicted of, or entered a plea of nolo contendere to, a crime that, if committed  
945 in this state, would constitute a felony or a crime involving moral turpitude, including any  
946 offense reasonably related to the applicant's fitness to engage in the public practice of

947 geology. A record of conviction, plea, or a certified copy thereof shall be conclusive  
948 evidence of such conviction or plea;

949 (2) Made a material false, misleading, deceptive, or fraudulent representation in the  
950 application or as a geologist;

951 (3) Engaged in conduct prohibited by this chapter or regulation adopted pursuant to this  
952 chapter; or

953 (4) Had a registration or licensure as a geologist suspended, revoked, or denied or been  
954 refused renewal of registration or licensure as a geologist in any state.

955 (c) The refusal to grant a registration as provided in this Code section shall not be  
956 considered to be a contested case within the meaning of Chapter 13 of Title 50, the  
957 'Georgia Administrative Procedure Act,' and notice and hearing within the meaning of such  
958 chapter shall not be required in connection with such refusal. Notice of refusal to grant a  
959 registration shall be sent by registered mail or statutory overnight delivery or personal  
960 service setting forth the particular reasons for the refusal. The written notice shall be sent  
961 to the applicant's address of record with the Secretary of State, and the applicant shall be  
962 allowed to appear before the Secretary of State if the applicant requests to do so in writing.

963 43-19-9.

964 (a) The Secretary of State may suspend, revoke, or refuse to renew a registration or may  
965 discipline an individual registered under this chapter for conduct that would have justified  
966 denial of registration under Code Section 43-19-8.

967 (b) The Secretary of State may discipline, suspend, revoke, or refuse to renew a certificate  
968 of registration only after proper notice and an opportunity for a hearing.

969 (c) Except as otherwise provided, the provisions of Chapter 13 of Title 50, the 'Georgia  
970 Administrative Procedure Act,' shall be applicable to the provisions of this chapter and to  
971 the Secretary of State in carrying out the provisions of this chapter.

972 43-19-10.

973 (a) All certificates shall be renewable biennially at such time as may be designated by the  
974 Secretary of State. All applications for renewal shall be filed with the Secretary of State  
975 prior to the expiration date, accompanied by the renewal fee prescribed by the Secretary  
976 of State. A certificate which has expired for failure to renew may only be restored after  
977 application and payment of the prescribed restoration fee.

978 (b) Each person shall be responsible for timely renewal of his or her certificate of  
979 registration and shall notify the Secretary of State, in a manner prescribed by the Secretary  
980 of State, of any change in his or her mailing address or contact information.

981 (c) Failure to renew a certificate of registration shall result in forfeiture of the certificate.  
982 Certificates that have been forfeited may be restored within one year of the expiration date  
983 upon payment of renewal and restoration fees. Failure to restore a forfeited certificate  
984 within one year of the date of its expiration shall result in the automatic termination of the  
985 certificate, and the Secretary of State may require the individual to reapply for his or her  
986 certificate of registration as a new applicant.

987 43-19-11.

988 Each registrant under this chapter, upon issuance of a certificate of registration, may use  
989 a seal of such design as is authorized by the board, bearing the registrant's name and the  
990 legend 'Registered Professional Geologist'. All drawings, reports, or other geologic papers  
991 or documents involving the practice of geology, as defined in this chapter, which shall have  
992 been prepared or approved by a registered professional geologist or a subordinate employee  
993 under his or her direction for the use of or for delivery to any person or for public record  
994 within this state shall be signed by him or her and impressed with the seal provided for in  
995 this Code section or the seal of a nonresident practicing under this chapter, either of which  
996 shall indicate his or her responsibility for them.

997 43-19-12.

998 The Secretary of State may assess a civil penalty against a geologist not to exceed  
999 \$10,000.00 for a violation of this chapter.

1000 43-19-13.

1001 This state and its political subdivisions, such as a county, a municipality, or a legally  
1002 constituted board, district, commission, or authority, shall contract for geological services  
1003 only with persons registered under this chapter or with a firm employing a registered  
1004 professional geologist.

1005 43-19-14.

1006 (a) This chapter does not prohibit one or more geologists from practicing through the  
1007 medium of a sole proprietorship, partnership, limited liability company, or corporation. In  
1008 a partnership, limited liability company, or corporation whose primary activity consists of  
1009 geological services, at least one partner, member, or officer shall be a registered  
1010 professional geologist.

1011 (b) This chapter does not prevent or prohibit an individual, firm, company, association, or  
1012 corporation whose principal business is other than the public practice of geology from  
1013 employing a nonregistered geologist to perform nonpublic geological services necessary  
1014 to the conduct of its business.

1015 (c) This chapter shall not be construed to prevent or to affect:

1016 (1) The practice of any profession or trade for which a license is required under any other  
1017 law of this state; the practice of registered professional engineers from lawfully practicing  
1018 soils mechanics, foundation engineering, and other professional engineering as provided  
1019 in this title; or licensed architects from lawfully practicing architecture as provided in this  
1020 title; or

1021 (2) The practice of a person who is not a resident of and has no established place of  
1022 business in this state or who has recently become a resident hereof practicing or offering  
1023 to practice the profession of geology herein for more than 90 days in any calendar year  
1024 if the person shall have filed with the Secretary of State an application for a certificate of  
1025 registration and shall have paid the fee required by this chapter. Such practice shall  
1026 continue only for such time as the Secretary of State requires for the consideration of the  
1027 applicant for registration.

1028 43-19-15.

1029 Any person who engages in the public practice of geology or publicly offers to engage in  
1030 the public practice of geology for others in this state without being registered in accordance  
1031 with this chapter; any person presenting or attempting to use as his or her own the  
1032 certificate of registration or the seal of another; any person who gives any false or forged  
1033 evidence of any kind to the Secretary of State in obtaining a certificate of registration; any  
1034 person who falsely impersonates any other registrant of like or different name; or any  
1035 person who attempts to use an expired or revoked certificate of registration or who attempts  
1036 to practice at any time during a period when the Secretary of State has suspended or  
1037 revoked his or her certificate of registration shall, upon conviction, be sentenced as for a  
1038 misdemeanor."

1039 **SECTION 3-2.**

1040 Code Section 12-8-107 of the Official Code of Georgia Annotated, relating to submission of  
1041 voluntary investigation and remediation plan, enrollment, proof of assurance, termination,  
1042 and compliance status, is amended by revising subsection (a) as follows:

1043 "(a) In order to enroll any qualifying property in the voluntary remediation program  
1044 described in this part, an applicant shall submit to the director a voluntary investigation and  
1045 remediation plan prepared by a registered professional engineer or a registered professional

1046 geologist who is registered with the State Board of Registration for Professional Engineers  
1047 and Land Surveyors or the ~~State Board of Registration for Geologists~~ Secretary of State  
1048 and who has experience in responsible charge of the investigation and remediation of such  
1049 releases. The voluntary investigation and remediation plan shall be in such streamlined  
1050 form as may be prescribed by the director; provided, however, that the plan shall, at  
1051 minimum, enumerate and describe those actions planned to bring the qualifying property  
1052 into compliance with the applicable cleanup standards, with one or more registered  
1053 professionals to be retained by the applicant at its sole cost to oversee the investigation and  
1054 remediation described in the plan; all in accordance with the provisions, purposes,  
1055 standards, and policies of the voluntary remediation program. The voluntary investigation  
1056 and remediation plan shall be considered an application for enrollment in the voluntary  
1057 remediation program, and a nonrefundable application fee of \$5,000.00 shall be submitted  
1058 with the application. The director may, at any time, invoice the participant for any costs  
1059 to the division in reviewing the application or subsequent document that exceed the initial  
1060 application review fee, including reasonably detailed itemization and justification of the  
1061 costs. Failure to remit payment within 60 days of receipt of such invoice may cause  
1062 rejection of the participant from the voluntary remediation program. The director may not  
1063 issue a written concurrence with a certification of compliance if there is an outstanding fee  
1064 to be paid by the participant."

1065 **PART IV**

1066 **SECTION 4-1.**

1067 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
1068 is amended by repealing Chapter 20, relating to hearing aid dealers and dispensers, and  
1069 enacting a new Chapter 20 to read as follows:

H. B. 1254

1070 "CHAPTER 20

1071 43-20-1.

1072 This chapter may be cited as the 'Georgia Hearing Aid Dispensers Act.'

1073 43-20-2.

1074 In carrying out the duties and responsibilities under this chapter, the Secretary of State may  
1075 seek the advice and counsel of industry representatives, stakeholders, or subject matter  
1076 experts as he or she deems appropriate to provide expertise and assistance in the  
1077 administration and enforcement of this chapter.

1078 43-20-3.

1079 The purpose and intent of this chapter is to establish standards of competence in the  
1080 dispensing of prescription hearing aids, for profit or otherwise.

1081 43-20-4.

1082 As used in this chapter, the term:

1083 (1) 'Apprentice dispenser permit' or 'permit' means a temporary nonrenewable one-year  
1084 permit issued while the applicant is in apprenticeship under a licensed dispenser in order  
1085 to become a licensed prescription hearing aid dispenser.

1086 (2) 'Dispenser license' or 'license' means the license required and issued for each person  
1087 that engages in the practice of dispensing prescription hearing aids to or for use by the  
1088 eventual user of such hearing aid.

1089 (3) 'Hearing aid' means any wearable electronic instrument or device designed for or  
1090 represented or offered for the purpose of compensating for defective human hearing,  
1091 including parts, attachments, ear molds, and accessories, except batteries, cords,  
1092 replacement tubing, and minor service limited to the removal of battery corrosion.

1093 (4) 'Over-the-counter hearing aid' means a hearing aid as defined by the United States  
1094 Food and Drug Administration that is intended for adults age 18 or older with perceived  
1095 mild to moderate hearing impairment and may be sold directly to consumers without a  
1096 prescription, medical evaluation, or professional fitting.

1097 (5) 'Practice of dispensing prescription hearing aids' means the providing of a  
1098 prescription hearing aid to a consumer by sale, rental, lease, or otherwise.

1099 (6) 'Prescription hearing aid' means a hearing aid that is not an over-the-counter hearing  
1100 aid and that, under federal law and regulations of the United States Food and Drug  
1101 Administration, is required to be dispensed only pursuant to a written or electronic  
1102 prescription by a licensed practitioner and is intended for individuals whose hearing  
1103 impairment exceeds the limits of the over-the-counter hearing aid or requires professional  
1104 fitting, adjustment, or programming.

1105 (7) 'Secretary of State' means the Secretary of State of the State of Georgia or his or her  
1106 designee.

1107 43-20-5.

1108 By engaging in the dispensing of prescription hearing aids in this state, a nonresident  
1109 individual or entity thereby appoints the Secretary of State as such individual's or entity's  
1110 lawful agent for service of process in any civil action arising from the dispensing of  
1111 prescription hearing aids.

1112 43-20-6.

1113 (a) It is unlawful for any person or firm to engage in the practice of dispensing prescription  
1114 hearing aids in this state without having a valid license under this chapter.

1115 (b) No person or firm, except those exempted in Code Section 43-20-12, shall engage in  
1116 the practice of dispensing prescription hearing aids or display a sign or in any way  
1117 advertise or represent such person or firm as practicing the dispensing of prescription

1118 hearing aids in this state unless such person or firm holds a valid license issued by the  
1119 Secretary of State under this chapter.

1120 43-20-7.

1121 (a) The Secretary of State shall issue a license to engage in the practice of dispensing  
1122 prescription hearing aids to an applicant when such applicant has completed and submitted  
1123 an application upon a form and in such manner as prescribed by the Secretary of State,  
1124 accompanied by applicable fees, and evidence satisfactory to the Secretary of State that:

1125 (1) The applicant is at least 18 years of age;

1126 (2) The applicant provides proof of successful completion of the International Licensing  
1127 Examination administered by the International Hearing Society or any successor  
1128 organization or fulfills the requirements enumerated in subsection (c) of this Code  
1129 section;

1130 (3) The applicant provides proof of successful completion of a jurisprudence  
1131 examination approved by the Secretary that tests such applicant's knowledge relative to  
1132 this chapter, applicable Georgia laws and rules, and relevant federal requirements  
1133 governing prescription hearing aids under 21 C.F.R. Section 801.109;

1134 (4) The applicant demonstrates competency in audiometric testing and prescription  
1135 hearing aid fitting by submitting documentation, including, but not limited to:

1136 (A) A completed audiogram performed by the applicant;

1137 (B) Documentation of ear mold impressions or equivalent fitting procedures performed  
1138 by the applicant; and

1139 (C) Evaluation records showing the applicant's ability to interpret audiometric data,  
1140 determine suitability for prescription hearing aids, and select, program, and fit such  
1141 hearing aids;

1142 (5) The applicant is in good standing based on a review of such applicant's licensure  
1143 history in any other jurisdiction, including a review of any prior disciplinary action,

1144 alleged misconduct, or negligence in the dispensing of prescription hearing aids or other  
1145 regulated health related practices, and the applicant has not been previously denied a  
1146 license under this chapter prior to July 1, 2026, unless the Secretary of State determines  
1147 that the grounds for such denial no longer apply; and

1148 (6) The applicant provides at least one secure and verifiable document, as defined in  
1149 Code Section 50-36-2, establishing such applicant's identity, and submits an affidavit  
1150 verifying lawful presence in the United States pursuant to Code Section 50-36-1, together  
1151 with any required immigration documentation for noncitizen applicants.

1152 (b) The Secretary of State shall issue an apprentice dispenser permit to an applicant that  
1153 is seeking licensure as a prescription hearing aid dispenser through the apprenticeship  
1154 pathway when such applicant has completed and submitted an application upon a form and  
1155 in such manner as prescribed by the Secretary of State, accompanied by applicable fees,  
1156 and evidence that:

1157 (1) The applicant is at least 18 years of age;

1158 (2) The applicant has submitted a 'Statement of Supervision,' executed by the licensed  
1159 prescription hearing aid dispenser that will provide indirect supervision for the duration  
1160 of the apprenticeship, affirming such dispenser's agreement to supervise the applicant's  
1161 practice under the apprentice dispenser permit;

1162 (3) The applicant is in good standing based on a review of such applicant's licensure  
1163 history in any other jurisdiction, including a review of any prior disciplinary action,  
1164 alleged misconduct, or negligence in the dispensing of prescription hearing aids or other  
1165 regulated health related practices, and the applicant has not been previously denied a  
1166 permit under this chapter prior to July 1, 2026, unless the Secretary of State determines  
1167 that the grounds for such denial no longer apply; and

1168 (4) The applicant provides at least one secure and verifiable document, as defined in  
1169 Code Section 50-36-2, establishing such applicant's identity, and submits an affidavit

1170 verifying lawful presence in the United States pursuant to Code Section 50-36-1, together  
1171 with any required immigration documentation for noncitizen applicants.

1172 (c) An applicant that holds a valid apprenticeship permit issued under this chapter shall be  
1173 eligible for full licensure upon meeting the following additional requirements, accompanied  
1174 by applicable fees, and evidence satisfactory to the Secretary of State that:

1175 (1) The applicant has completed the apprenticeship and such completion shall be verified  
1176 through an affidavit, executed by such applicant's supervising licensed dispenser,  
1177 attesting under oath that the applicant has completed all apprenticeship requirements;

1178 (2) The applicant has successfully completed a jurisprudence examination approved by  
1179 the Secretary of State that tests such applicant's knowledge relative to this chapter,  
1180 applicable Georgia laws and rules, and relevant federal requirements governing  
1181 prescription hearing aids under 21 C.F.R. Section 801.109; and

1182 (3) The applicant demonstrates competency in audiometric testing and prescription  
1183 hearing aid fitting by submitting documentation, including, but not limited to:

1184 (A) Completed audiogram performed by the applicant;

1185 (B) Documentation of ear mold impressions or equivalent fitting procedures performed  
1186 by the applicant; and

1187 (C) Evaluation records showing the applicant's ability to interpret audiometric data,  
1188 determine suitability for prescription hearing aids, and select, program, and fit such  
1189 hearing aids.

1190 (d) An application for a permit or license under this Code section shall constitute express  
1191 consent and authorization for the Secretary of State to perform a criminal background  
1192 check conducted by the Georgia Crime Information Center and the Federal Bureau of  
1193 Investigation. Each applicant who submits an application to the Secretary of State for a  
1194 permit or licensure agrees to provide any and all information necessary to run a criminal  
1195 background check, including, but not limited to, classifiable sets of fingerprints. The

1196 applicant shall be responsible for all fees associated with the performance of such  
1197 background check.

1198 43-20-8.

1199 (a) Notwithstanding any other provision of this chapter to the contrary, an applicant  
1200 licensed to dispense prescription hearing aids in another state or jurisdiction shall be  
1201 eligible for issuance of a prescription hearing aid dispenser license in this state without  
1202 examination, provided that:

1203 (1) The applicant is at least 18 years of age;

1204 (2) The applicant submits a proper application upon a form and in such manner as  
1205 prescribed by the Secretary of State and pays all required fees;

1206 (3) The applicant submits verification that the applicant holds a current, unsuspended,  
1207 and unrevoked license to dispense prescription hearing aids issued by another state or  
1208 jurisdiction;

1209 (4) The applicant provides satisfactory evidence that such other state or jurisdiction  
1210 maintains licensure qualifications and a program for determining the competency of  
1211 applicants that are equivalent to or more stringent than those required under this chapter;

1212 (5) The applicant provides satisfactory evidence that such other state or jurisdiction  
1213 affords reciprocity to Georgia licensees; and

1214 (6) The applicant provides at least one secure and verifiable document, as defined in  
1215 Code Section 50-36-2, establishing such applicant's identity, and submits an affidavit  
1216 verifying lawful presence in the United States pursuant to Code Section 50-36-1, together  
1217 with any required immigration documentation for noncitizen applicants.

1218 (b) An application for a permit or license under this Code section shall constitute express  
1219 consent and authorization for the Secretary of State to perform a criminal background  
1220 check conducted by the Georgia Crime Information Center and the Federal Bureau of  
1221 Investigation. Each applicant who submits an application to the Secretary of State for a

1222 permit or licensure agrees to provide any and all information necessary to run a criminal  
1223 background check, including, but not limited to, classifiable sets of fingerprints. The  
1224 applicant shall be responsible for all fees associated with the performance of such  
1225 background check

1226 43-20-9.

1227 (a) The Secretary of State may refuse to issue a license or permit if it is determined that  
1228 the applicant has engaged in conduct that has a significant adverse effect on such  
1229 applicant's fitness to act as a prescription hearing aid dispenser. In making the  
1230 determination, the Secretary of State may consider whether the applicant has:

1231 (1) Been convicted of, or entered a plea of nolo contendere to, a crime that, if committed  
1232 in this state, would constitute a felony or a crime involving moral turpitude, including any  
1233 offense reasonably related to the individual's fitness to dispense prescription hearing aids  
1234 or to protect the health, safety, and welfare of consumers. Record of conviction or plea  
1235 or a copy thereof certified by the clerk of the court shall be conclusive evidence of such  
1236 conviction or plea;

1237 (2) Made a materially false, misleading, deceptive, or fraudulent representation in the  
1238 application;

1239 (3) Engaged in conduct prohibited by this chapter; or

1240 (4) Had a registration, license, or permit as a hearing aid dispenser suspended, revoked,  
1241 or denied or been refused renewal of registration or licensure as a hearing aid dispenser  
1242 in any state.

1243 (b) The refusal to issue a license or permit as provided in subsection (a) of this Code  
1244 section shall not be a contested case within the meaning of Chapter 13 of Title 50, the  
1245 'Georgia Administrative Procedure Act,' and notice and hearing within the meaning of such  
1246 chapter shall not be required in connection with such refusal. Notice of refusal to issue a  
1247 license or permit shall be sent by registered mail or statutory overnight delivery or personal

1248 service setting forth the reasons for the refusal. Such notice shall be sent to the applicant's  
1249 address of record with the Secretary of State, and the applicant shall be allowed to appear  
1250 before the Secretary of State, if such applicant requests in writing to do so.

1251 (c) In addition to any other penalties as provided for in this chapter, the Secretary of State  
1252 is authorized to reprimand any licensee or permit holder and to suspend, revoke, or  
1253 otherwise sanction such person's license or permit for a fixed period, or may refuse to  
1254 renew, upon affording an opportunity for a hearing, for any of the following causes:

1255 (1) Conviction of, or entered a plea of nolo contendere to, a crime that, if committed in  
1256 this state, would constitute a felony or a crime involving moral turpitude, including any  
1257 offense reasonably related to the individual's fitness to dispense prescription hearing aids  
1258 or to protect the health, safety, and welfare of consumers. Record of conviction or plea  
1259 or a copy thereof certified by the clerk of the court shall be conclusive evidence of such  
1260 conviction or plea;

1261 (2) Committing fraud, deceit, or misrepresentation in obtaining, renewing, altering,  
1262 selling, lending, using, or attempting to use any license or permit issued under this  
1263 chapter, including permitting another person to use such license or permit;

1264 (3) Engaging in fraud, misrepresentation, deception, or other misleading conduct in the  
1265 dispensing, fitting, advertising, or sale of prescription hearing aids, including, but not  
1266 limited to:

1267 (A) False, misleading, or deceptive advertisements or representations;

1268 (B) Implying medical treatment, diagnosis, or audiological involvement when such  
1269 services are not provided or using the words 'hearing center,' 'doctor,' 'ear specialist,'  
1270 'clinic,' 'clinical audiologists,' 'state licensed clinic,' 'state registered,' 'state certified,'  
1271 'state approved,' or any other term, abbreviation, or symbol when it would falsely give  
1272 the impression that an individual is being treated medically or that the licensee's or  
1273 permit holder's service has been recommended by the state;

1274 (C) Representing or implying that a prescription hearing aid is or will be 'custom  
1275 made,' 'made to order,' 'prescription made,' or in any other sense specially fabricated for  
1276 an individual person when it is not;

1277 (D) Representing that a recommendation for a specific brand, model, product, or  
1278 service is unbiased or impartial when it is not;

1279 (E) Advertising a manufacturer's product or using a manufacturer's name or trademark  
1280 which implies a relationship with the manufacturer that does not exist;

1281 (F) Giving or receiving, directly or indirectly, kickbacks or improper inducements to  
1282 influence consumer purchases; and

1283 (G) Selecting or fitting a prescription hearing aid for a person who has not received the  
1284 tests necessary to determine prescription hearing aid candidacy or using procedures and  
1285 instrumentation required under this chapter or as prescribed by the Secretary of State;  
1286 and;

1287 (4) Violating any provision of this chapter or any rule or regulation promulgated by the  
1288 Secretary of State under this chapter.

1289 (d) The Secretary of State may discipline, suspend, revoke, or refuse to renew a license  
1290 after proper notice and an opportunity for a hearing.

1291 (e) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'  
1292 shall be applicable to the Secretary of State and the provisions of this chapter.

1293 (f) The Secretary of State may assess a civil penalty against a prescription hearing aid  
1294 dispenser not to exceed \$10,000.00 for each violation of this chapter.

1295 43-20-10.

1296 (a) A license issued under this chapter shall be valid for a period of two years. A licensee  
1297 may renew such license by submitting a renewal application in a form prescribed by the  
1298 Secretary of State, paying all required fees, and providing verification that the licensee has

1299 successfully completed 20 hours of continuing education approved by the Secretary of  
1300 State. A renewal application filed pursuant to this subsection shall be a public record.

1301 (b) Each licensee shall be responsible for timely renewal of such license and shall notify  
1302 the Secretary of State, in a manner prescribed by the Secretary of State, of any change in  
1303 the licensee's mailing address or contact information.

1304 (c) Failure to renew a license shall result in forfeiture of the license. Any license that has  
1305 been forfeited may be restored within one year of the expiration date upon payment of  
1306 renewal and restoration fees. Failure to restore a forfeited license within one year of the  
1307 date of its expiration shall result in the automatic termination of the license, and the  
1308 Secretary of State may require the individual to reapply for licensure as a new applicant.

1309 43-20-11.

1310 (a) Any person that dispenses a prescription hearing aid shall provide to each individual  
1311 supplied with such hearing aid a written receipt or bill of sale, in a form prescribed by the  
1312 Secretary of State. Such receipt or bill of sale shall contain, at a minimum:

1313 (1) The name and license number of the prescription hearing aid dispenser;

1314 (2) The signature of the dispenser;

1315 (3) The make, model, and serial number of the prescription hearing aid furnished;

1316 (4) A description of the condition of the hearing aid, including whether it is new,  
1317 reconditioned, or used;

1318 (5) A statement indicating whether a guarantee or warranty is provided and, if so, the  
1319 terms thereof;

1320 (6) The total sale price, including any discounts, trade-in allowances, and applicable  
1321 sales taxes;

1322 (7) A statement printed or stamped on the receipt or bill of sale, in all capital letters, in  
1323 black or blue ink, in a type size of not less than 12 point font, containing one of the  
1324 following statements:

- 1325 (A) 'THE SALE OF THIS HEARING AID IS FINAL. I UNDERSTAND THAT I  
1326 AM NOT ENTITLED TO A REFUND OR CREDIT'; or
- 1327 (B) 'I HAVE READ, UNDERSTAND, AND HAVE SIGNED OR INITIALED A  
1328 COPY OF THE REFUND AND RETURN POLICY. THE POLICY STATES  
1329 WHETHER, AND UNTIL WHAT DATE, I MAY RETURN THE HEARING AID  
1330 FOR A FULL REFUND, A PARTIAL REFUND, OR A FULL OR PARTIAL  
1331 CREDIT, AND IDENTIFIES ANY FEES FOR SERVICES THAT WILL OR WILL  
1332 NOT BE REFUNDED OR CREDITED.';
- 1333 (8) If a refund or return policy applies, a copy of such policy shall be provided to the  
1334 purchaser and signed or initialed by the purchaser;
- 1335 (9) The name and street address of the prescription hearing aid user;
- 1336 (10) The name and street address of the purchaser, or a notation that the purchaser and  
1337 user are the same individual;
- 1338 (11) The date of delivery of the prescription hearing aid to the user or purchaser; and  
1339 (12) The signature of the purchaser acknowledging receipt of the prescription hearing  
1340 aid and a copy of the receipt or bill of sale.
- 1341 (b) If a prescription hearing aid that is not new is dispensed, the receipt or bill of sale shall  
1342 be clearly and conspicuously marked 'used' or 'reconditioned,' as applicable, and shall state  
1343 the terms of any guarantee or warranty provided, if any.
- 1344 (c) A copy of the receipt or bill of sale and any applicable refund or return policy  
1345 acknowledgment shall be maintained by the licensee or permit holder for a period of not  
1346 less than six years following delivery of the prescription hearing aid.
- 1347 (d) The Secretary of State may require such additional information on the receipt or bill  
1348 of sale as he or she determines to be necessary in the public interest.

1349 43-20-12.

1350 (a) This chapter shall not apply to a person who is a physician licensed to practice  
1351 medicine in this state or to a person who is licensed as an audiologist under Chapter 44 of  
1352 this title.

1353 (b) This chapter shall not apply to a person while he or she is working as an employee of  
1354 a federal, state, county, or municipal agency or a duly chartered educational institution or  
1355 a training center, provided that such person does not engage in the sale, rental, or lease of  
1356 prescription hearing aids.

1357 (c) Nothing in this chapter shall be construed to prevent a person licensed under any other  
1358 law of this state from operating within the scope of that license, provided that such person  
1359 does not engage in the sale, rental, or lease of prescription hearing aids.

1360 (d) Nothing in this chapter shall be construed to prohibit any person or entity from  
1361 manufacturing, selling, offering for sale, or distributing over-the-counter hearing aids,  
1362 provided that such activities are conducted in compliance with applicable federal law. The  
1363 sale or distribution of over-the-counter hearing aids shall not require licensure under this  
1364 chapter, and no person or entity engaged solely in such activities shall be subject to the  
1365 licensure, supervision, or regulatory requirements of this chapter.

1366 43-20-13.

1367 Any person that dispenses or sells prescription hearing aids without a license or that  
1368 otherwise is in violation of this chapter shall be guilty of a misdemeanor and such  
1369 misdemeanor shall be considered a crime involving moral turpitude."

1370 **PART V**

1371 **SECTION 5-1.**

1372 Code Section 43-10A-5 of the Official Code of Georgia Annotated, relating to powers and  
 1373 duties of the board, quorum, and meetings regarding professional counselors, social workers,  
 1374 and marriage and family therapists, is amended by revising subsection (c) as follows:

1375 ~~"(c) Unless specifically delegated to a standards committee pursuant to Code Section~~  
 1376 ~~43-10A-6, the~~ The board shall have the following powers and duties:

1377 (1) To adopt, amend, and repeal such rules and regulations not inconsistent with this  
 1378 article necessary for the proper administration and enforcement of this article;

1379 (2) To issue, renew, and reinstate the licenses of duly qualified applicants for licensure  
 1380 to practice a specialty in this state;

1381 (3) To deny, suspend, revoke, or otherwise sanction licenses to practice a specialty in this  
 1382 state;

1383 (4) To initiate investigations for the purpose of discovering violations of this article;

1384 (5) To conduct hearings upon charges calling for the discipline of a licensee or on  
 1385 violations of this article;

1386 (6) To issue to specialists licensed under this article certificates under the seal of the  
 1387 board evidencing such licensure and signed, either by hand or facsimile signature, by the  
 1388 chairperson of the board and the division director;

1389 (7) To adopt a seal; and

1390 (8) To do all other things necessary to administer and enforce this article and all rules  
 1391 and regulations adopted by the board pursuant to this article."

1392

**PART VI**

1393

**SECTION 6-1.**

1394 All laws and parts of laws in conflict with this Act are repealed.