

The House Committee on Regulated Industries offers the following substitute to HB 1254:

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

H. B. 1254 (SUB)

- 1 -

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 all such duties otherwise~~
80 ~~entrusted to the Secretary of State~~; provided, however, that the Secretary of State shall have
81 sole authority over matters relating to the regulation of funds, trust funds, and escrow
82 accounts and accounting and investigations concerning such matters but may delegate
83 authority ~~to the appropriate board~~ for the review of such investigations and the
84 determination as to disciplinary matters, necessary sanctions, and the enforcement of such
85 decisions and sanctions. The State Board of Funeral Service shall have authority to
86 promulgate rules and regulations and may be delegated the authority to make disciplinary
87 and sanctioning decisions relating to funeral services or funeral merchandise. The ~~State~~
88 ~~Board of Cemeterians~~ Secretary of State shall have authority to promulgate rules and
89 regulations and ~~may be delegated~~ the authority to make disciplinary and sanctioning
90 decisions relating to burial services or burial merchandise. ~~The Secretary of State may~~
91 ~~delegate to each board according to such duties and responsibilities of the boards."~~

92 **SECTION 1-3.**

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

- 94 "10-14-3.2.
- 95 (a) There is created within the office of the Secretary of State a Cemeterians Advisory
- 96 Group which shall consist of five members.
- 97 (b) The Secretary of State shall appoint all members of the advisory group who shall
- 98 provide the Secretary of State with expertise and assistance in carrying out his or her duties
- 99 pursuant to this chapter. Four members of the advisory group shall be registered cemetery
- 100 owners in this state. One member shall be a consumer. The remaining members shall
- 101 consist of persons familiar with the operations of cemeteries.
- 102 (c) Members shall serve terms of four years and shall not be compensated.
- 103 (d) Members may serve consecutive terms at the will of the Secretary of State. Any
- 104 vacancy shall be filled in the same manner as the regular appointments.
- 105 (e) The advisory group shall meet at least once per year or as otherwise called by the
- 106 Secretary of State.
- 107 (f) The Secretary of State may consult with the advisory group prior to setting or changing
- 108 fees in this chapter and regarding regulation of cemetery care and maintenance matters,
- 109 disciplinary actions taken, appeals, and denials or revocations of registrations.
- 110 (g) The advisory group may facilitate the development of materials that the Secretary of
- 111 State may utilize to educate the public and industry concerning the requirements regarding
- 112 maintaining a cemetery.
- 113 (h) The Secretary of State may seek the advice of the advisory group on matters necessary
- 114 to carry out the Secretary of State's responsibilities under this chapter; provided, however,
- 115 that such advice shall be advisory only and shall not limit or supersede the authority of the
- 116 Secretary under this chapter."

117 **SECTION 1-4.**

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

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

130 (A) The name of the applicant;

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

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

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

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

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

175 **SECTION 1-5.**

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

177 "10-14-4.1.

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

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

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

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

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

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

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

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

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

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

216 **SECTION 1-6.**

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

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

231 **SECTION 1-7.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

303 **SECTION 1-8.**

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

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

310 **SECTION 1-9.**

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

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

320 ~~(1)(2)~~ (2) Prior to such sale or transfer, the vendor or transferor shall notify the Secretary of
 321 State of the proposed transfer and submit to the Secretary of State any document or
 322 record the Secretary of State may require in order to demonstrate that said vendor or
 323 transferor is not indebted to the perpetual care trust fund or the preneed escrow account,

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

336 **SECTION 1-10.**

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

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

348 **SECTION 1-11.**

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

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

356 **SECTION 1-12.**

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

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

368 **SECTION 1-13.**

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

371 **SECTION 1-14.**

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

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

387 **PART II**

388 **SECTION 2-1.**

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

392

"CHAPTER 6393 43-6-1.394 As used in this chapter, the term:

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

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

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

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

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

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

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

421 (8) 'Secretary of State' means the Secretary of State of the State of Georgia or his or her
422 designee.

423 43-6-2.

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

428 43-6-3.

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

432 43-6-4.

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

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

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

446 43-6-5.

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

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

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

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

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

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

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

465 (6) Provide at least one secure and verifiable document, as defined in Code Section
466 50-36-2, establishing the applicant's identity, and submits an affidavit verifying lawful

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

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

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

481 43-6-6.

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

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

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

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

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

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

504 43-6-7.

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

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

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

513 43-6-8.

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

517 state without written examination upon the payment of the fees as required by the Secretary
518 of State.

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

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

532 43-6-9.

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

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

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

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

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

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

552 43-6-10.

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

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

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

562 43-6-11.

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

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

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

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

573 43-6-12.

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

582 43-6-13.

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

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

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

615 43-6-14.

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

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

621 43-6-15.

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

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

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

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

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

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

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

641 43-6-16.

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

646 43-6-17.

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

652 43-6-18.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

790 **SECTION 2-2.**

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

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

797

PART III

798

SECTION 3-1.

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

801

"CHAPTER 19802 43-19-1.

803 This chapter shall be known and may be cited as the 'Registration of Professional
804 Geologists Act' and is enacted to safeguard life, health, and property and to promote the
805 public welfare.

806 43-19-2.807 As used in this chapter, the term:

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

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

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

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

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

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

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

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

835 43-19-3.

836 In carrying out the duties and responsibilities under this chapter, the Secretary of State shall
837 seek the advice and counsel of industry representatives, stakeholders, or subject matter
838 experts to provide expertise and assistance in the administration and enforcement of this
839 chapter.

840 43-19-4.

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

844 43-19-5.

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

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

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

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

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

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

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

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

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

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

877 43-19-6.

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

882 (1) The applicant has graduated from an accredited college or university with a
883 bachelor's degree or higher in geology, engineering geology, geological engineering, or
884 a comparable earth or environmental science or engineering focused discipline; or has
885 completed 45 quarter hours or the equivalent in geological science courses leading to a
886 major in geology, of which at least 36 quarter hours or the equivalent were taken in the
887 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 Secretary of State;

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 Secretary of State, bearing the registrant's
990 name and the legend 'Registered Professional Geologist'. All drawings, reports, or other
991 geologic papers or documents involving the practice of geology, as defined in this chapter,
992 which shall have been prepared or approved by a registered professional geologist or a
993 subordinate employee under his or her direction for the use of or for delivery to any person
994 or for public record within this state shall be signed by him or her and impressed with the
995 seal provided for in this Code section or the seal of a nonresident practicing under this
996 chapter, either of which 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 (SUB)

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.