

House Bill 1254 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED

AN ACT

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

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 reconstitute the authority and powers to issue licenses and permits for the
36 dispensing of prescription hearing aids; to provide for rules and regulations; to require
37 licensing and permits relative to the practice of dispensing prescription hearing aids; to
38 remove dealers as a required entity to be licensed; to provide for qualifications of licensure
39 and apprentice permits; to provide for refusal to issue a license or permit; to provide for
40 violations and penalties; to provide for duration of license and renewal; to provide for
41 furnishing a bill of sale or receipt to persons supplied with prescription hearing aids; to
42 provide for exemptions; to provide for construction; to provide for a short title; to provide
43 for purpose and intent; to amend Code Section 43-10A-5 of the Official Code of Georgia
44 Annotated, relating to powers and duties of the board, quorum, and meetings regarding
45 professional counselors, social workers, and marriage and family therapists, so as to correct

46 a reference; to make conforming changes; to provide for related matters; to repeal conflicting
47 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.
101 (c) Members shall serve terms of four years and shall not be compensated.
102 (d) Members may serve consecutive terms at the will of the Secretary of State. Any
103 vacancy shall be filled in the same manner as the regular appointments.
104 (e) The advisory group shall meet at least once per year or as otherwise called by the
105 Secretary of State.
106 (f) The Secretary of State may consult with the advisory group prior to setting or changing
107 fees in this chapter and regarding regulation of cemetery care and maintenance matters,
108 disciplinary actions taken, appeals, and denials or revocations of registrations.
109 (g) The advisory group may facilitate the development of materials that the Secretary of
110 State may utilize to educate the public and industry concerning the requirements regarding
111 maintaining a cemetery.
112 (h) The Secretary of State may seek the advice of the advisory group on matters necessary
113 to carry out the Secretary of State's responsibilities under this chapter; provided, however,
114 that such advice shall be advisory only and shall not limit or supersede the authority of the
115 Secretary under this chapter."

116 **SECTION 1-4.**

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

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

129 (A) The name of the applicant;

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

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

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

142 (E) A certified copy of a certificate of existence or certificate of authority issued in
143 accordance with Code Section 14-2-128 if the applicant is a corporation;

144 (F) A description of any judgment or pending litigation to which the applicant or any
145 affiliate of the applicant is a party and which involves the operation of the applicant's

146 preneed business in Georgia or which could materially affect the business or assets of
147 the applicant;

148 (G) Whether the applicant or any affiliate of the applicant owns any other entities in
149 Georgia regulated by this chapter and, if so, the location, mailing address, telephone
150 number, and type of registration of such other entities;

151 (H) A consent to service of process meeting the requirements of Code
152 Section 10-14-24 for actions brought by the State of Georgia;

153 (I) A list of each individual employed, appointed, or authorized by the applicant to
154 offer for sale or to sell any grave lots, burial rights, burial or funeral merchandise, or
155 burial services on behalf of the applicant;

156 (J) A balance sheet of the applicant dated as of the end of the most recent fiscal year
157 and in no event dated more than 15 months prior to the date of filing, which the
158 Secretary of State shall treat as confidential and not open to public inspection;

159 (K) The name, address, location, and telephone number of the preneed trust or escrow
160 account depository or depositories, the names of the accounts, and the account
161 numbers;

162 (L) An executed copy of the trust or escrow agreement required by Code
163 Section 10-14-7 or 10-14-7.1;

164 (M) The name, address, and telephone number of the trust or escrow agent;

165 (N) Such other information and documents as the Secretary of State may require by
166 rule; and

167 (O) A filing fee of \$250.00.

168 The provisions of this paragraph notwithstanding, a person licensed by the Board of
169 Funeral Service as a funeral services director in full and continuous charge or an owner
170 of a cemetery ~~licensed by the State Board of Cemeterians as a cemeterian~~ registered
171 under this chapter shall not be required to separately register as a preneed dealer,

172 provided that the requirements of subparagraphs (A) through (N) of this paragraph are
173 satisfied."

174 **SECTION 1-5.**

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

176 "10-14-4.1.

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

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

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

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

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

- 198 (4) The assignment of duties to qualified responsible persons to ensure continuity of
199 cemetery operations in the event of the death, incapacity, or unavailability of key
200 personnel, including procedures for conducting scheduled interments or inurnments,
201 responding to lot owners and families, complying with trust or escrow deposit
202 requirements, and safeguarding cemetery property and records; and
203 (5) Procedures designed to minimize service disruptions and prevent harm to lot owners,
204 preneed contract holders, families, and the public in the event of a sudden or significant
205 business interruption, including continuity of grounds maintenance, perpetual care,
206 interment and inurnment services, trust or escrow administration, and the security and
207 integrity of cemetery property.
- 208 (c) The Secretary of State shall require a registered cemetery owner to provide such
209 additional information, documentation, or assurances as the Secretary of State considers
210 necessary or appropriate for the protection of purchasers and trust beneficiaries, consistent
211 with the Secretary of State's investigative and supervisory authority under this chapter and
212 under Chapter 5 of this title, the 'Georgia Uniform Securities Act of 2008.'
- 213 (d) The Secretary of State shall promulgate such rules and regulations as are necessary to
214 implement and enforce the provisions of this Code section."

215 **SECTION 1-6.**

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

219 "(a) All individuals who offer preneed contracts to the public, or who execute preneed
220 contracts on behalf of any entity required to be registered as a preneed dealer, and all
221 individuals who offer, sell, or sign contracts for the preneed sale of burial rights shall be
222 registered with the Secretary of State as preneed sales agents, pursuant to this Code section,
223 unless such individuals are exempted under this chapter or individually own a controlling

224 interest in a preneed dealer registered under this chapter. For purposes of this chapter, any
 225 person licensed by or registered with the Board of Funeral Service as a funeral services
 226 director in full and continuous charge or an owner of a cemetery ~~licensed by the State~~
 227 ~~Board of Cemeterians~~ registered under this chapter as a ceterian shall be deemed a
 228 registered preneed dealer; and regulated pursuant to the rules governing same, by virtue
 229 thereof."

230

SECTION 1-7.

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

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

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

242 (3) The initial corpus of the trust fund and all subsequent required deposits shall be
 243 deposited in a state bank, state savings and loan institution, savings bank, national bank,
 244 or federal savings and loan institution, whose deposits are insured by the Federal Deposit
 245 Insurance Corporation or other governmental agency, or a state or federally chartered
 246 credit union insured under 12 U.S.C. Section 1781 of the Federal Credit Union Act, or
 247 other depository or trustee which is approved by the Secretary of State or which meets
 248 the standards contained in the rules and regulations promulgated by the Secretary of
 249 State.

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

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

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

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

274 (C) Less than 50 percent of available lots are unsold,

275 then 95 percent of the income from the trust fund shall be paid to the owner or receiver
276 exclusively for covering the costs of care and maintenance of the cemetery, including

277 reasonable administrative expenses incurred in connection therewith. The income of the
278 trust fund shall be paid to the owner or receiver at intervals agreed upon by the recipient
279 and the trustee, but in no case shall the income be paid more often than monthly.

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

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

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

296 "(j) Upon a finding by a court of competent jurisdiction of failure to deposit or maintain
297 funds in the trust account as required by this chapter or of fraud, theft, or misconduct by
298 the owners of the cemetery or the officers or directors of a cemetery ~~company~~ which has
299 wasted or depleted such funds, the cemetery owners or the officers or directors of a
300 cemetery ~~company~~ may be held jointly and severally liable for any deficiencies in the trust
301 account as required in this chapter."

302 **SECTION 1-8.**

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

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

309 **SECTION 1-9.**

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

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

319 ~~(1)(2)~~ Prior to such sale or transfer, the vendor or transferor shall notify the Secretary of
320 State of the proposed transfer and submit to the Secretary of State any document or
321 record the Secretary of State may require in order to demonstrate that said vendor or
322 transferor is not indebted to the perpetual care trust fund or the preneed escrow account,
323 or both. After the transfer of ownership or control and the presentation of proof of
324 currency of the perpetual care trust fund or the preneed escrow account, or both, by the
325 vendor or transferor, the Secretary of State may require the presentation of proof of the
326 continued current status of the perpetual care trust fund or the preneed escrow account,
327 or both, by the vendee or transferee. The Secretary of State is authorized to recover from

328 such vendor, transferor, vendee, or transferee, for the benefit of the perpetual care trust
 329 fund or the preneed escrow account, or both, all sums which the vendor, transferor,
 330 vendee, or transferee has not properly accounted for and paid into the trust fund.

331 ~~(2)~~(3) When the vendee or transferee has complied with the provisions of this subsection,
 332 he or she shall submit to the Secretary of State an application for registration and
 333 appropriate fees pursuant to Code Section 10-14-4. The Secretary of State shall then
 334 issue a certificate of registration to said vendee or transferee."

335 **SECTION 1-10.**

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

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

347 **SECTION 1-11.**

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

- 350 (1) Code Section 10-14-12, relating to separate accounts and records, owner acting as
 351 trustee, removal of trustee, removal of trustee or escrow agent, and financial reports;
 352 (2) Code Section 10-14-17, relating to prohibited acts and fees; and

353 (3) Code Section 10-14-29, relating to construction of mausoleums and columbariums
354 and preconstruction trust funds.

355 **SECTION 1-12.**

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

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

367 **SECTION 1-13.**

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

370 **SECTION 1-14.**

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

374 "(d)(1) The costs of obtaining and testing of DNA samples, including the costs of
375 disinterment and reinterment of the remains of the decedent, if necessary, as well as the
376 costs of providing the report, shall be assessed against and paid by the moving party, and

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

386 **PART II**

387 **SECTION 2-1.**

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

391 "CHAPTER 6

392 43-6-1.

393 As used in this chapter, the term:

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

397 (2) 'Auction business' or 'business of auctioning' means the performing of any of the acts
 398 of an auctioneer, including bid calling for a fee, commission, or any other valuable
 399 consideration or with the intention or expectation of receiving the same by means of or

400 by process of an auction or sale at auction or offering, negotiating, or attempting to
401 negotiate a listing contract for the sale, purchase, or exchange of goods, chattels,
402 merchandise, real or personal property, or any other commodity which lawfully may be
403 kept or offered for sale.

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

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

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

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

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

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

422 43-6-2.

423 In carrying out the duties and responsibilities under this chapter, the Secretary of State may
424 seek the advice and counsel of industry representatives, stakeholders, or subject matter

425 experts as he or she deems appropriate to provide expertise and assistance in the
426 administration and enforcement of this chapter.

427 43-6-3.

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

431 43-6-4.

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

437 (b) It shall be unlawful for any licensed auctioneer to act in such capacity in the sale of real
438 property unless such auctioneer is also licensed as a real estate broker, associate broker, or
439 salesperson under Chapter 40 of this title; provided, however, that any auctioneer who was
440 licensed as such by this state prior to July 1, 1978, and who, prior to December 31, 1984,
441 submits proof to the commission that he or she has been auctioning real property for five
442 years or more immediately prior to the date of application shall not be required to meet the
443 provisions of this subsection, but such person shall not thereby be construed to be a real
444 estate broker, associate broker, or salesperson under Chapter 40 of this title.

445 43-6-5.

446 (a) Any person desiring to act as an auctioneer shall file an application for licensure with
447 the Secretary of State. The application shall be completed and submitted upon a form and
448 in such manner as prescribed by the Secretary of State and shall be accompanied by the

449 applicable fees and evidence satisfactory to the Secretary of State that the applicant meets
450 the requirements for licensure under this chapter.

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

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

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

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

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

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

464 (6) Provide at least one secure and verifiable document, as defined in Code Section
465 50-36-2, establishing the applicant's identity, and submits an affidavit verifying lawful
466 presence in the United States pursuant to Code Section 50-36-1, together with any
467 required immigration documentation for noncitizen applicants.

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

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

480 43-6-6.

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

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

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

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

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

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

503 43-6-7.

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

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

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

512 43-6-8.

513 (a) Any resident of another state who holds a current license as an auctioneer under the
514 laws of any other state having requirements similar to those in this chapter may, at the
515 discretion of the Secretary of State, be issued a license to practice as an auctioneer in this
516 state without written examination upon the payment of the fees as required by the Secretary
517 of State.

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

523 (c) By applying for or engaging in the business of auctioning in this state pursuant to this
524 Code section, a nonresident auctioneer shall be deemed to have appointed the Secretary of

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

531 43-6-9.

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

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

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

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

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

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

551 43-6-10.

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

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

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

561 43-6-11.

562 (a) Where an applicant has been convicted of forgery, embezzlement, obtaining money
563 under false pretenses, larceny, extortion, conspiracy to defraud, or other like offense or
564 offenses or has been convicted of any other crime in a court of competent jurisdiction of
565 this or any other state, district, or territory of the United States or of a foreign country, such
566 untrustworthiness of the applicant and the conviction, in itself, may be a sufficient ground
567 for refusal of a license.

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

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

572 43-6-12.

573 The refusal to grant a license as provided in this chapter shall not be considered to be a
574 contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative
575 Procedure Act,' and notice and hearing as provided in such chapter shall not be required

576 in connection with such refusal. Notice of refusal to grant a license shall be sent by
577 registered mail or statutory overnight delivery or personal service setting forth the
578 particular reasons for the refusal. The written notice shall be sent to the applicant's address
579 of record with the Secretary of State, and the applicant shall be allowed to appear before
580 the Secretary of State, or their designee, if the applicant requests to do so in writing.

581 43-6-13.

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

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

591 (2) Engaging in a continued and flagrant course of misrepresentation, making false
592 promises through an agent, or advertising an auction to be an absolute auction while
593 conducting the auction with reserve or otherwise inconsistently with such representation;

594 (3) Failing to account for or remit, within 30 days unless otherwise provided by contract,
595 any money belonging to others that comes into his or her possession, commingling funds
596 of others with his or her own, or failing to keep such funds of others in an escrow or
597 trustee account;

598 (4) Conviction by a court of competent jurisdiction in this state or any other state of a
599 felony or a crime involving moral turpitude;

600 (5) Violation of this chapter, any rule or regulation, or code of ethics promulgated by the
601 Secretary of State;

602 (6) Engaging in conduct demonstrating bad faith, dishonesty, fraud, incompetence, or
603 untruthfulness in connection with the business of auctioning;

604 (7) Having had any license to practice a business or profession revoked, suspended,
605 annulled, or sanctioned, or otherwise having had any disciplinary action taken by any
606 other licensing authority in this or any other state; or

607 (8) Knowingly making any misleading, false, or deceptive statement on any application
608 for a licensure or renewal under this chapter.

609 (b) The Secretary of State may discipline, suspend, revoke, or refuse to renew a license
610 only after proper notice and an opportunity for a hearing.

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

614 43-6-14.

615 Whenever, in the judgment of the Secretary of State, any person has engaged in any acts
616 or practices which constitute a violation of this chapter, the Attorney General may bring
617 an action in the name of the state in the superior court of the county in which venue is
618 proper, to abate and temporarily and permanently to enjoin such acts and practices and to
619 enforce compliance with this chapter. The plaintiff shall not be required to give any bond.

620 43-6-15.

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

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

624 (2) Any nonprofit organization conducting an auction where the funds are to be used in
625 a way as to benefit persons with physical or mental disabilities or disorders or for
626 research related to cures or prevention of such disabilities or disorders, nor shall this

627 chapter apply to any auction conducted by a nonprofit organization where the funds are
628 to be used for the preservation of wildlife or its habitats whether conducted by a licensed
629 auctioneer or nonlicensed auctioneer;

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

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

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

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

640 43-6-16.

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

645 43-6-17.

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

651 43-6-18.

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

658 (b) On and after July 1, 2026, the Secretary of State shall serve as the successor
659 administrator to the Georgia Auctioneers Commission for all matters arising under this
660 Code section, including the receipt of notices, the defense of actions, the processing of
661 claims, and the payment of court ordered damages from the fund. Any person, except
662 bonding companies when they are not principals in an auction transaction, aggrieved by an
663 act, representation, transaction, or conduct of an individual licensed under this chapter
664 which is in violation of the current or former provisions of this chapter or of the rules and
665 regulations promulgated pursuant to such, may recover, by order of any court having
666 competent jurisdiction, actual or compensatory damages, not including interests and costs
667 sustained by the act, representation, transaction, or conduct, provided that nothing shall be
668 construed to obligate the fund for more than \$10,000.00 per transaction regardless of the
669 number of persons aggrieved or parcels of real estate or lots of personal property involved
670 in such transaction. In addition:

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

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

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

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

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

688 (2) When any aggrieved person recovers a valid judgment in any court of competent
689 jurisdiction against any individual licensed under the provisions of this chapter for any
690 act, representation, transaction, or conduct which is in violation of this chapter or of the
691 regulations promulgated pursuant to this chapter, or which is in violation of Chapter 47
692 of this title or of the regulations promulgated pursuant to Chapter 47 of this title, which
693 act occurred on or after January 1, 1992, the aggrieved person may, upon termination of
694 all proceedings, including reviews and appeals in connection with the judgment, file a
695 verified claim in the court in which the judgment was entered and, upon ten days' written
696 notice to the Secretary of State, may apply to the court for an order directing payment out
697 of the fund of the amount unpaid upon the judgment, subject to the limitations stated in
698 this Code section.

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

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

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

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

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

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

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

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

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

- 731 (i) Any amount recovered from the judgment debtor or debtors;
732 (ii) Any amount recovered from the bonding company or companies; or
733 (iii) Any amount recovered in out-of-court settlements as to particular defendants.
- 734 (4) Whenever the aggrieved person satisfies the court that it is not practical to comply
735 with one or more of the requirements enumerated in subparagraphs (D), (E), (F), (G), or
736 (H) of paragraph (3) of this subsection and that the aggrieved person has taken all
737 reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and
738 has been unable to collect the same, the court may, in its discretion, dispense with the
739 necessity for complying with such requirements.
- 740 (5) The court shall make an order directed to the Secretary of State requiring payment
741 from the fund of whatever sum it shall find to be payable upon the claim, pursuant to the
742 provisions of and in accordance with the limitations contained in this Code section, if the
743 court is satisfied, upon the hearing, of the truth of all matters required to be shown by the
744 aggrieved person by paragraph (3) of this subsection and is satisfied that the aggrieved
745 person has fully pursued and exhausted all remedies available to him or her for
746 recovering the amount awarded by the judgment of the court.
- 747 (6) If, at any time, the money deposited in the fund is insufficient to satisfy any duly
748 authorized claim or portion thereof, the Secretary of State, as successor administrator to
749 the Georgia Auctioneers Commission, shall satisfy such unpaid claims or portions thereof
750 in the order that such claims or portions thereof were originally filed, plus accumulated
751 interest at the rate of 4 percent per annum. In no event shall the state, the Secretary of
752 State, the former Georgia Auctioneers Commission, or any member or employee thereof
753 be liable to any person for any deficiency in payment under this Code section.
- 754 (d)(1) On and after July 1, 2026, the fund shall continue to be held in trust for the
755 payment of claims, and the Secretary of State shall administer only the balance existing
756 on such date and any earnings thereon.

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

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

769 (f) When the Secretary of State receives notice, as provided in subsection (c) of this Code
770 section, the Secretary of State may enter an appearance, file an answer, appear at the court
771 hearing, defend the action, or take whatever other action he or she may deem appropriate
772 on behalf of and in the name of the defendant and take recourse through any appropriate
773 method of review on behalf of and in the name of the defendant.

774 (g) When, upon the order of the court, the Secretary of State has paid from the fund any
775 sum to the judgment creditor, the Secretary of State shall be subrogated to all of the rights
776 of the judgment creditor. The judgment creditor shall assign all its right, title, and interest
777 in the judgment to the Secretary of State before any payment is made from the fund, and
778 any amount and interest so recovered by the Secretary of State on the judgment shall be
779 deposited in the fund. If the total amount collected on the judgment by the Secretary of
780 State exceeds the amount paid from the fund to the original judgment creditor plus interest
781 and the cost of collection, the Secretary of State may elect to pay any overage collected to
782 the original judgment creditor or reassign the remaining interest in the judgment to the
783 original judgment creditor. The payment or reassignment to the original judgment creditor

784 shall not subject the fund to further liability for payment to the original judgment creditor
 785 based on that transaction or judgment. Any costs incurred by the Secretary of State's
 786 attempt to collect assigned judgments shall be paid from the fund.
 787 (h) The failure of an aggrieved person to comply with all of the provisions of this Code
 788 section shall constitute a waiver of any rights under this Code section."

789 **SECTION 2-2.**

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

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

796 **PART III**

797 **SECTION 3-1.**

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

800 "CHAPTER 19

801 43-19-1.

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

805 43-19-2.

806 As used in this chapter, the term:

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

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

813 (3) 'Public practice of geology' means the performance of geological service or work
814 such as consultation, investigation, surveys, evaluation, planning, mapping, and
815 inspection of geological work in which the performance is related to public welfare or
816 safeguarding of life, health, property, and the environment, except as specifically
817 exempted by this chapter. A person shall be construed to practice publicly or offer to
818 practice publicly geology, within the meaning and intent of this chapter, who practices
819 any branch of the profession of geology; or who by verbal claim, sign, advertisement,
820 letterhead, card, or in any other way represents themselves to be a geologist; or through
821 the use of some other title implies that he or she is a geologist; or that he or she is
822 registered under this chapter; or who holds themselves out as able to perform or who does
823 perform any geological services or work recognized as geology.

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

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

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

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

834 43-19-3.

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

839 43-19-4.

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

843 43-19-5.

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

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

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

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

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

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

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

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

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

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

876 43-19-6.

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

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

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

892 (A) Each year of undergraduate study in geological sciences counts as one-half year
893 of training, up to a maximum of two years, and each year of graduate study counts as
894 one full year of training. Credit for undergraduate study, graduate study, and graduate
895 courses, individually or combined, shall not exceed four years toward the required
896 seven years of professional geological work;

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

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

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

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

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

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

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

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

920 (b) An application for a certificate of registration under this Code section shall constitute
921 express consent and authorization for the Secretary of State to perform a criminal
922 background check conducted by the Georgia Crime Information Center and the Federal
923 Bureau of Investigation. Each applicant who submits an application to the Secretary of
924 State for a certificate of registration agrees to provide any and all information necessary to
925 run a criminal background check, including, but not limited to, classifiable sets of
926 fingerprints. The applicant shall be responsible for all fees associated with the performance
927 of such background check.

928 43-19-7.

929 A person holding a certificate of registration to engage in the public practice of geology,
930 on the basis of comparable licensing requirements issued to him or her by a proper
931 authority of a state, territory, or possession of the United States or the District of Columbia,
932 and who, in the opinion of the Secretary of State, otherwise meets the requirements of this

933 chapter based on verified evidence may be registered, upon application, without further
934 examination.

935 43-19-8.

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

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

943 (1) Been convicted of, or entered a plea of nolo contendere to, a crime that, if committed
944 in this state, would constitute a felony or a crime involving moral turpitude, including any
945 offense reasonably related to the applicant's fitness to engage in the public practice of
946 geology. A record of conviction, plea, or a certified copy thereof shall be conclusive
947 evidence of such conviction or plea;

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

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

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

954 (c) The refusal to grant a registration as provided in this Code section shall not be
955 considered to be a contested case within the meaning of Chapter 13 of Title 50, the
956 'Georgia Administrative Procedure Act,' and notice and hearing within the meaning of such
957 chapter shall not be required in connection with such refusal. Notice of refusal to grant a
958 registration shall be sent by registered mail or statutory overnight delivery or personal

959 service setting forth the particular reasons for the refusal. The written notice shall be sent
960 to the applicant's address of record with the Secretary of State, and the applicant shall be
961 allowed to appear before the Secretary of State if the applicant requests to do so in writing.

962 43-19-9.

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

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

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

971 43-19-10.

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

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

980 (c) Failure to renew a certificate of registration shall result in forfeiture of the certificate.
981 Certificates that have been forfeited may be restored within one year of the expiration date
982 upon payment of renewal and restoration fees. Failure to restore a forfeited certificate
983 within one year of the date of its expiration shall result in the automatic termination of the

984 certificate, and the Secretary of State may require the individual to reapply for his or her
985 certificate of registration as a new applicant.

986 43-19-11.

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

996 43-19-12.

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

999 43-19-13.

1000 This state and its political subdivisions, such as a county, a municipality, or a legally
1001 constituted board, district, commission, or authority, shall contract for geological services
1002 only with persons registered under this chapter or with a firm employing a registered
1003 professional geologist.

1004 43-19-14.

1005 (a) This chapter does not prohibit one or more geologists from practicing through the
1006 medium of a sole proprietorship, partnership, limited liability company, or corporation. In

1007 a partnership, limited liability company, or corporation whose primary activity consists of
1008 geological services, at least one partner, member, or officer shall be a registered
1009 professional geologist.

1010 (b) This chapter does not prevent or prohibit an individual, firm, company, association, or
1011 corporation whose principal business is other than the public practice of geology from
1012 employing a nonregistered geologist to perform nonpublic geological services necessary
1013 to the conduct of its business.

1014 (c) This chapter shall not be construed to prevent or to affect:

1015 (1) The practice of any profession or trade for which a license is required under any other
1016 law of this state; the practice of registered professional engineers from lawfully practicing
1017 soils mechanics, foundation engineering, and other professional engineering as provided
1018 in this title; or licensed architects from lawfully practicing architecture as provided in this
1019 title; or

1020 (2) The practice of a person who is not a resident of and has no established place of
1021 business in this state or who has recently become a resident hereof practicing or offering
1022 to practice the profession of geology herein for more than 90 days in any calendar year
1023 if the person shall have filed with the Secretary of State an application for a certificate of
1024 registration and shall have paid the fee required by this chapter. Such practice shall
1025 continue only for such time as the Secretary of State requires for the consideration of the
1026 applicant for registration.

1027 43-19-15.

1028 Any person who engages in the public practice of geology or publicly offers to engage in
1029 the public practice of geology for others in this state without being registered in accordance
1030 with this chapter; any person presenting or attempting to use as his or her own the
1031 certificate of registration or the seal of another; any person who gives any false or forged
1032 evidence of any kind to the Secretary of State in obtaining a certificate of registration; any

1033 person who falsely impersonates any other registrant of like or different name; or any
1034 person who attempts to use an expired or revoked certificate of registration or who attempts
1035 to practice at any time during a period when the Secretary of State has suspended or
1036 revoked his or her certificate of registration shall, upon conviction, be sentenced as for a
1037 misdemeanor."

1038 SECTION 3-2.

1039 Code Section 12-8-107 of the Official Code of Georgia Annotated, relating to submission of
1040 voluntary investigation and remediation plan, enrollment, proof of assurance, termination,
1041 and compliance status, is amended by revising subsection (a) as follows:

1042 "(a) In order to enroll any qualifying property in the voluntary remediation program
1043 described in this part, an applicant shall submit to the director a voluntary investigation and
1044 remediation plan prepared by a registered professional engineer or a registered professional
1045 geologist who is registered with the State Board of Registration for Professional Engineers
1046 and Land Surveyors or the ~~State Board of Registration for Geologists~~ Secretary of State
1047 and who has experience in responsible charge of the investigation and remediation of such
1048 releases. The voluntary investigation and remediation plan shall be in such streamlined
1049 form as may be prescribed by the director; provided, however, that the plan shall, at
1050 minimum, enumerate and describe those actions planned to bring the qualifying property
1051 into compliance with the applicable cleanup standards, with one or more registered
1052 professionals to be retained by the applicant at its sole cost to oversee the investigation and
1053 remediation described in the plan; all in accordance with the provisions, purposes,
1054 standards, and policies of the voluntary remediation program. The voluntary investigation
1055 and remediation plan shall be considered an application for enrollment in the voluntary
1056 remediation program, and a nonrefundable application fee of \$5,000.00 shall be submitted
1057 with the application. The director may, at any time, invoice the participant for any costs
1058 to the division in reviewing the application or subsequent document that exceed the initial

1059 application review fee, including reasonably detailed itemization and justification of the
1060 costs. Failure to remit payment within 60 days of receipt of such invoice may cause
1061 rejection of the participant from the voluntary remediation program. The director may not
1062 issue a written concurrence with a certification of compliance if there is an outstanding fee
1063 to be paid by the participant."

1064 **PART IV**

1065 **SECTION 4-1.**

1066 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
1067 is amended by repealing and reserving Chapter 20, relating to hearing aid dealers and
1068 dispensers.

1069 **SECTION 4-2.**

1070 Said title is further amended in Code Section 43-44-2, relating to declaration of purpose, as
1071 follows:

1072 "43-44-2.

1073 It is declared to be a policy of this state that in order to safeguard the public health, safety,
1074 and welfare and to protect the public from being misled by incompetent, unscrupulous, and
1075 unauthorized persons, it is necessary to provide regulatory authority over persons offering
1076 speech-language pathology and audiology services and hearing aid dispensing to the
1077 public."

1078 **SECTION 4-3.**

1079 Said title is further amended in Code Section 43-44-3, relating to definitions regarding
1080 speech-language pathologists and audiologists, by revising paragraph (5) as follows:

1081 "(5) 'Board' means the State Board of Examiners for Speech-Language Pathology, and
1082 Audiology, and Hearing Aid Dispensing."

1083 **SECTION 4-4.**

1084 Said title is further amended in Code Section 43-44-4, relating to creation of board, effect on
1085 prior board, composition, appointment, vacancies, terms of office, removal of members,
1086 liability for official acts, as follows:

1087 "43-44-4.

1088 (a) ~~The State Board of Examiners for Speech Pathology and Audiology existing on June~~
1089 ~~30, 1987, is abolished and there is created beginning July 1, 1987, and continuing thereafter~~
1090 ~~the State Board of Examiners for Speech-Language Pathology and Audiology which shall~~
1091 ~~succeed to all of that abolished board's powers, duties, and responsibilities which are not~~
1092 ~~inconsistent with this article and which new board shall be composed of those members of~~
1093 ~~the abolished board serving as such on June 30, 1987, which members shall serve out their~~
1094 ~~respective terms of office and until their respective successors are appointed and qualified~~
1095 ~~pursuant to this Code section. The board created by this Code section shall administer this~~
1096 ~~article. The board shall consist of eight members who shall be appointed by the Governor~~
1097 ~~and shall be confirmed by the Senate. Three of the members shall be licensed~~
1098 ~~speech-language pathologists and three shall be licensed audiologists, all of whom shall~~
1099 ~~have been engaged in rendering services to the public, teaching, or research in~~
1100 ~~speech-language pathology or audiology for a period of at least three years immediately~~
1101 ~~preceding their appointments. One member shall be a board-certified otolaryngologist of~~
1102 ~~this state. One member shall be a lay person representing the public. All members shall~~
1103 ~~be residents of this state and shall have been residents of this state for at least one year prior~~
1104 ~~to their appointments. There is continued the State Board of Examiners for Speech~~
1105 ~~Pathology and Audiology. Effective July 1, 2026, the name of such board shall be the State~~
1106 ~~Board of Examiners for Speech Language Pathology, Audiology, and Hearing Aid~~

1107 Dispensing. Such board shall administer this article. Beginning July 1, 2026, the board
1108 shall consist of ten members appointed by the Governor and confirmed by the Senate.
1109 Three members shall be licensed speech language pathologists, three members shall be
1110 licensed audiologists, two members shall be licensed hearing aid dispensers, one member
1111 shall be a board certified otolaryngologist licensed to practice in this state, and one member
1112 shall be a lay person representing the public. Each professional member shall have been
1113 actively engaged in rendering services to the public, teaching, or researching in his or her
1114 respective profession for at least three years immediately preceding appointment. All
1115 members shall be residents of this state and shall have been residents of this state for at
1116 least one year prior to appointment.

1117 ~~(b) Appointments by the Governor may be made from lists of names submitted by the~~
1118 ~~Georgia Speech-Language-Hearing Association, Georgia Organization for School-Based~~
1119 ~~Speech-Language Pathologists, Georgia Academy of Audiology, and the Georgia Society~~
1120 ~~of Otolaryngology Head and Neck Surgery or other interested persons. Board members~~
1121 ~~shall be appointed for a period of three years and until their respective successors are~~
1122 ~~appointed and qualified. No member of the board may serve more than two consecutive~~
1123 ~~full terms.~~

1124 (c) Members of the board shall serve until the expiration of the terms for which they have
1125 been appointed and until their respective successors are appointed and qualified. When a
1126 vacancy upon the board occurs, the Governor shall appoint, pursuant to this Code section,
1127 a successor to fill the unexpired term.

1128 (d) The Governor may remove any member of the board for dishonorable conduct,
1129 incompetency, or neglect of duty.

1130 (e) No member of the board shall be liable to civil action for any act performed in good
1131 faith in performance of the member's duties as prescribed by law."

SECTION 4-5.

1132

1133 Said title is further amended in Code Section 43-44-6, relating to general powers and duties
1134 of board, as follows:

1135 "43-44-6.

1136 (a) The board shall:

1137 (1) Have the responsibility and duty of administering and enforcing this article and shall
1138 assist the division director in carrying out this article;

1139 (2) Have the power to establish and to revise the requirements for obtaining licensure or
1140 the renewal of licensure;

1141 (3) Make all rules, not inconsistent with this article, that are reasonably necessary for the
1142 conduct of its duties and proceedings;

1143 (4) Adopt rules and regulations relating to professional conduct commensurate with the
1144 policy of this article, including, but not limited to, regulations which establish ethical
1145 standards of practice and for other purposes. Following their adoption, such rules and
1146 regulations consistent with this article shall govern and control the professional conduct
1147 of every person who holds a license to practice under this article;

1148 (5) Conduct hearings and keep records and minutes as are necessary to the orderly
1149 dispatch of its functions;

1150 (6) Adopt a common seal;

1151 (7) Register and otherwise regulate qualified speech-language pathology aides and
1152 audiology assistants. The provisions of this paragraph shall not apply to any student,
1153 intern, or trainee performing speech-language pathology or audiology services while
1154 completing the supervised clinical experience;

1155 (8) Issue provisional licenses to speech-language pathologists during the paid clinical
1156 experience;

1157 (9) Issue, renew, and reinstate licenses and permits;

1158 (10) Deny, suspend, revoke, or otherwise sanction licenses;

- 1159 (11) Accept results of qualifying examinations, administer examinations, or contract with
 1160 qualified testing services to conduct or supervise examinations;
 1161 (12) Establish fees;
 1162 (13) Establish requirements for continuing professional education of persons subject to
 1163 this article by appropriate regulation;
 1164 (14) Conduct national background checks by the submission of fingerprints to the
 1165 Federal Bureau of Investigation through the Georgia Crime Information Center; provided,
 1166 however, that reports from such background check records shall not be shared with
 1167 entities outside of this state; ~~and~~
 1168 (15) Administer the Audiology and Speech-Language Pathology Interstate Compact
 1169 contained in Article 2 of this chapter; and
 1170 (16) Administer the Georgia Hearing Aid Dispensers Act contained in Article 3 of this
 1171 chapter.
 1172 (b) The division director shall be guided by the recommendations of the board in all
 1173 matters relating to this article."

1174 **SECTION 4-6.**

1175 Said title is further amended in Chapter 44, relating to state speech-language pathology and
 1176 audiology licensing, by adding a new article to read as follows:

1177 "ARTICLE 3

1178 43-44-40.

1179 This article may be cited as the 'Georgia Hearing Aid Dispensers Act.'

1180 43-44-41.

1181 All duties, powers, obligations, and functions formerly exercised by the State Board of
1182 Hearing Aid Dealers and Dispensers under the former provisions of Chapter 20 of this title
1183 shall be transferred to the State Board of Speech-Language Pathology, Audiology, and
1184 Hearing Aid Dispensing established under this chapter. All licenses, permits, registrations,
1185 and apprentice permits issued under the former provisions of Chapter 20 of this title that
1186 are valid and in effect on July 1, 2026, shall continue in full force and effect and shall be
1187 deemed issued under this article.

1188 43-44-42.

1189 As used in this article, the term:

1190 (1) 'Apprentice dispenser permit' or 'permit' means a temporary nonrenewable one-year
1191 permit issued while an applicant is in apprenticeship under a licensed dispenser or
1192 audiologist in order to become a licensed prescription hearing aid dispenser.

1193 (2) 'Board' means the State Board of Examiners for Speech-Language Pathology,
1194 Audiology, and Hearing Aid Dispensing.

1195 (3) 'Dispenser license' or 'license' means the license required and issued for each person
1196 who engages in the practice of dispensing prescription hearing aids to or for use by the
1197 eventual user of such hearing aid.

1198 (4) 'Hearing aid' means any wearable electronic instrument or device designed for or
1199 represented or offered for the purpose of compensating for defective human hearing,
1200 including parts, attachments, earmolds, and accessories, except batteries, cords,
1201 replacement tubing, and minor service limited to the removal of battery corrosion.

1202 (5) 'Over-the-counter hearing aid' means a hearing aid as defined by the federal Food and
1203 Drug Administration that is intended for adults ages 18 or older with perceived mild to
1204 moderate hearing impairment and may be sold directly to consumers without a
1205 prescription, medical evaluation, or professional fitting.

1206 (6) 'Practice of dispensing prescription hearing aids' means the provision of a
1207 prescription hearing aid to a consumer by sale, rental, lease, or otherwise.

1208 (7) 'Prescription hearing aid' means a hearing aid that is not an over-the-counter hearing
1209 aid and that, under federal law and regulations of the federal Food and Drug
1210 Administration, is required to be dispensed only pursuant to a written or electronic
1211 prescription by a licensed practitioner and is intended for individuals whose hearing
1212 impairment exceeds the limits of an over-the-counter hearing aid or requires professional
1213 fitting, adjustment, or programming.

1214 43-44-43.

1215 By engaging in the practice of dispensing prescription hearing aids in this state, a
1216 nonresident individual or entity thereby appoints the board as such individual's or entity's
1217 lawful agent for service of process in any civil action arising from the practice of
1218 dispensing prescription hearing aids.

1219 43-44-44.

1220 (a) It is unlawful for any person or firm to engage in the practice of dispensing prescription
1221 hearing aids in this state without having a valid license under this article.

1222 (b) No person or firm, except those exempted in Code Section 43-44-10, shall engage in
1223 the practice of dispensing prescription hearing aids or display a sign or in any way
1224 advertise or represent such person or firm as practicing the dispensing of prescription
1225 hearing aids in this state unless such person or firm holds a valid license issued by the
1226 board under this article.

1227 43-44-45.

1228 (a) The board shall issue a license to engage in the practice of dispensing prescription
1229 hearing aids to an applicant when such applicant has completed and submitted an

1230 application upon a form and in such manner as prescribed by the board, accompanied by
1231 applicable fees, and evidence satisfactory to the board that:

1232 (1) The applicant is at least 18 years of age;

1233 (2) The applicant provides proof of successful completion of the International Licensing
1234 Examination administered by the International Hearing Society or any successor
1235 organization or fulfills the requirements enumerated in subsection (c) of this Code
1236 section;

1237 (3) The applicant provides proof of successful completion of a jurisprudence
1238 examination approved by the board that tests such applicant's knowledge relative to this
1239 article, applicable Georgia laws and rules, and relevant federal requirements governing
1240 prescription hearing aids under 21 C.F.R. Section 801.109;

1241 (4) The applicant demonstrates competency in audiometric testing and prescription
1242 hearing aid fitting by submitting documentation, including, but not limited to:

1243 (A) A completed audiogram performed by the applicant;

1244 (B) Documentation of earmold impressions or equivalent fitting procedures performed
1245 by the applicant; and

1246 (C) Evaluation records showing the applicant's ability to interpret audiometric data,
1247 determine suitability for prescription hearing aids, and select, program, and fit such
1248 hearing aids;

1249 (5) The applicant is in good standing based on a review of such applicant's licensure
1250 history in any other jurisdiction, including a review of any prior disciplinary action,
1251 alleged misconduct, or negligence in the practice of dispensing prescription hearing aids
1252 or other regulated health related practices, and confirmation that the applicant has not
1253 been previously denied a license under this article prior to July 1, 2026, unless the board
1254 determines that the grounds for such denial no longer apply; and

1255 (6) The applicant provides at least one secure and verifiable document, as such term is
1256 defined in Code Section 50-36-2, establishing such applicant's identity, and submits an

1257 affidavit verifying lawful presence in the United States pursuant to Code Section 50-36-1,
1258 together with any required immigration documentation for noncitizen applicants.

1259 (b) The board shall issue an apprentice dispenser permit to an applicant who is seeking
1260 licensure as a prescription hearing aid dispenser through the apprenticeship pathway when
1261 such applicant has completed and submitted an application upon a form and in such manner
1262 as prescribed by the board, accompanied by applicable fees, and evidence that:

1263 (1) The applicant is at least 18 years of age;

1264 (2) The applicant has submitted a 'Statement of Supervision,' executed by the licensed
1265 prescription hearing aid dispenser or audiologist that will provide indirect supervision for
1266 the duration of the apprenticeship, affirming such dispenser's or audiologist's agreement
1267 to supervise the applicant's practice under the apprentice dispenser permit;

1268 (3) The applicant is in good standing based on a review of such applicant's licensure
1269 history in any other jurisdiction, including a review of any prior disciplinary action,
1270 alleged misconduct, or negligence in the dispensing of prescription hearing aids or other
1271 regulated health related practices, and the applicant has not been previously denied a
1272 permit under this article prior to July 1, 2026, unless the board determines that the
1273 grounds for such denial no longer apply; and

1274 (4) The applicant provides at least one secure and verifiable document, as defined in
1275 Code Section 50-36-2, establishing such applicant's identity and submits an affidavit
1276 verifying lawful presence in the United States pursuant to Code Section 50-36-1, together
1277 with any required immigration documentation for noncitizen applicants.

1278 (c) An applicant that holds a valid apprenticeship permit issued under this article shall be
1279 eligible for full licensure upon meeting the following additional requirements, accompanied
1280 by applicable fees, and evidence satisfactory to the board that:

1281 (1) The applicant has completed the apprenticeship, and such completion shall be
1282 verified through an affidavit, executed by such applicant's supervising licensed dispenser

1283 or audiologist, attesting under oath that the applicant has completed all apprenticeship
1284 requirements;

1285 (2) The applicant has successfully completed a jurisprudence examination approved by
1286 the board that tests such applicant's knowledge relative to this article, applicable Georgia
1287 laws and rules, and relevant federal requirements governing prescription hearing aids
1288 under 21 C.F.R. Section 801.109; and

1289 (3) The applicant demonstrates competency in audiometric testing and prescription
1290 hearing aid fitting by submitting documentation, including, but not limited to:

1291 (A) A completed audiogram performed by the applicant;

1292 (B) Documentation of earmold impressions or equivalent fitting procedures performed
1293 by the applicant; and

1294 (C) Evaluation records showing the applicant's ability to interpret audiometric data,
1295 determine suitability for prescription hearing aids, and select, program, and fit such
1296 hearing aids.

1297 (d) An application for a permit or license under this Code section shall constitute express
1298 consent and authorization for the board to perform a criminal background check conducted
1299 by the Georgia Crime Information Center and the Federal Bureau of Investigation. Each
1300 applicant who submits an application to the board for a permit or licensure agrees to
1301 provide any and all information necessary to run a criminal background check, including,
1302 but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for
1303 all fees associated with the performance of such background check.

1304 43-44-46.

1305 (a) Notwithstanding any other provision of this article to the contrary, an applicant
1306 licensed to dispense prescription hearing aids in another state or jurisdiction shall be
1307 eligible for issuance of a prescription hearing aid dispenser license in this state without
1308 examination, provided that:

- 1309 (1) The applicant is at least 18 years of age;
1310 (2) The applicant submits a proper application upon a form and in such manner as
1311 prescribed by the board and pays all required fees;
1312 (3) The applicant submits verification that the applicant holds a current, unsuspended,
1313 and unrevoked license to dispense prescription hearing aids issued by another state or
1314 jurisdiction;
1315 (4) The applicant provides satisfactory evidence that such other state or jurisdiction
1316 maintains licensure qualifications and a program for determining the competency of
1317 applicants that are equivalent to or more stringent than those required under this article;
1318 (5) The applicant provides satisfactory evidence that such other state or jurisdiction
1319 affords reciprocity to Georgia licensees; and
1320 (6) The applicant provides at least one secure and verifiable document, as defined in
1321 Code Section 50-36-2, establishing such applicant's identity and submits an affidavit
1322 verifying lawful presence in the United States pursuant to Code Section 50-36-1, together
1323 with any required immigration documentation for noncitizen applicants.
1324 (b) An application for a permit or license under this Code section shall constitute express
1325 consent and authorization for the board to perform a criminal background check conducted
1326 by the Georgia Crime Information Center and the Federal Bureau of Investigation. Each
1327 applicant who submits an application to the board for a permit or licensure agrees to
1328 provide any and all information necessary to run a criminal background check, including,
1329 but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for
1330 all fees associated with the performance of such background check.
- 1331 43-44-47.
1332 (a) The board may refuse to issue a license or permit if it is determined that the applicant
1333 has engaged in conduct that has a significant adverse effect on such applicant's fitness to

1334 act as a prescription hearing aid dispenser. In making the determination, the board may
1335 consider whether the applicant has:

1336 (1) Been convicted of, or entered a plea of nolo contendere to, a crime that, if committed
1337 in this state, would constitute a felony or a crime involving moral turpitude, including any
1338 offense reasonably related to the individual's fitness to dispense prescription hearing aids
1339 or to protect the health, safety, and welfare of consumers. Record of conviction or plea
1340 or a copy thereof certified by the clerk of the court shall be conclusive evidence of such
1341 conviction or plea;

1342 (2) Made a materially false, misleading, deceptive, or fraudulent representation in the
1343 application;

1344 (3) Engaged in conduct prohibited by this article; or

1345 (4) Had a registration, license, or permit as a hearing aid dispenser suspended, revoked,
1346 or denied or been refused renewal of registration or licensure as a hearing aid dispenser
1347 in any state.

1348 (b) The refusal to issue a license or permit as provided in subsection (a) of this Code
1349 section shall not be a contested case within the meaning of Chapter 13 of Title 50, the
1350 'Georgia Administrative Procedure Act,' and notice and hearing within the meaning of such
1351 chapter shall not be required in connection with such refusal. Notice of refusal to issue a
1352 license or permit shall be sent by registered mail or statutory overnight delivery or personal
1353 service setting forth the reasons for the refusal. Such notice shall be sent to the applicant's
1354 address of record with the board, and the applicant shall be allowed to appear before the
1355 board, if such applicant requests in writing to do so.

1356 (c) In addition to any other penalties as provided for in this article, the board is authorized
1357 to reprimand any licensee or permit holder and to suspend, revoke, or otherwise sanction
1358 such person's license or permit for a fixed period, or may refuse to renew, upon affording
1359 an opportunity for a hearing, for any of the following causes:

1360 (1) Conviction of, or entered a plea of nolo contendere to, a crime that, if committed in
1361 this state, would constitute a felony or a crime involving moral turpitude, including any
1362 offense reasonably related to the individual's fitness to dispense prescription hearing aids
1363 or to protect the health, safety, and welfare of consumers. Record of conviction or plea
1364 or a copy thereof certified by the clerk of the court shall be conclusive evidence of such
1365 conviction or plea;

1366 (2) Committing fraud, deceit, or misrepresentation in obtaining, renewing, altering,
1367 selling, lending, using, or attempting to use any license or permit issued under this article,
1368 including permitting another person to use such license or permit;

1369 (3) Engaging in fraud, misrepresentation, deception, or other misleading conduct in the
1370 dispensing, fitting, advertising, or sale of prescription hearing aids, including, but not
1371 limited to:

1372 (A) False, misleading, or deceptive advertisements or representations;

1373 (B) Implying medical treatment, diagnosis, or audiological involvement when such
1374 services are not provided or using the words 'hearing center,' 'doctor,' 'ear specialist,'
1375 'clinic,' 'clinical audiologists,' 'state licensed clinic,' 'state registered,' 'state certified,'
1376 'state approved,' or any other term, abbreviation, or symbol when it would falsely give
1377 the impression that an individual is being treated medically or that the licensee's or
1378 permit holder's service has been recommended by the state;

1379 (C) Representing or implying that a prescription hearing aid is or will be 'custom
1380 made,' 'made to order,' 'prescription made,' or in any other sense specially fabricated for
1381 an individual person when it is not;

1382 (D) Representing that a recommendation for a specific brand, model, product, or
1383 service is unbiased or impartial when it is not;

1384 (E) Advertising a manufacturer's product or using a manufacturer's name or trademark
1385 which implies a relationship with the manufacturer that does not exist;

1386 (F) Giving or receiving, directly or indirectly, kickbacks or improper inducements to
1387 influence consumer purchases; and

1388 (G) Selecting or fitting a prescription hearing aid for a person who has not received the
1389 tests necessary to determine prescription hearing aid candidacy or using procedures and
1390 instrumentation required under this article or as prescribed by the board; and

1391 (4) Violating any provision of this article or any rule or regulation promulgated by the
1392 board under this article.

1393 (d) The board may discipline, suspend, revoke, or refuse to renew a license after proper
1394 notice and an opportunity for a hearing.

1395 (e) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
1396 shall be applicable to the board and the provisions of this article.

1397 (f) The board may assess a civil penalty against a prescription hearing aid dispenser not
1398 to exceed \$10,000.00 for each violation of this article.

1399 43-44-48.

1400 (a) A license issued under this article shall be valid for a period of two years. A licensee
1401 may renew such license by submitting a renewal application in a form prescribed by the
1402 board, paying all required fees, and providing verification that the licensee has successfully
1403 completed 20 hours of continuing education approved by the board. A renewal application
1404 filed pursuant to this subsection shall be a public record.

1405 (b) Each licensee shall be responsible for timely renewal of such license and shall notify
1406 the board, in a manner prescribed by the board, of any change in the licensee's mailing
1407 address or contact information.

1408 (c) Failure to renew a license shall result in forfeiture of the license. Any license that has
1409 been forfeited may be restored within one year of the expiration date upon payment of
1410 renewal and restoration fees. Failure to restore a forfeited license within one year of the

1411 date of its expiration shall result in the automatic termination of the license, and the board
1412 may require the individual to reapply for licensure as a new applicant.

1413 43-44-49.

1414 (a) Any person who dispenses a prescription hearing aid shall provide to each individual
1415 supplied with such hearing aid a written receipt or bill of sale in a form prescribed by the
1416 board. Such receipt or bill of sale shall contain, at a minimum:

1417 (1) The name and license number of the prescription hearing aid dispenser;

1418 (2) The signature of the dispenser;

1419 (3) The make, model, and serial number of the prescription hearing aid furnished;

1420 (4) A description of the condition of the hearing aid, including whether it is new,
1421 reconditioned, or used;

1422 (5) A statement indicating whether a guarantee or warranty is provided and, if so, the
1423 terms thereof;

1424 (6) The total sale price, including any discounts, trade-in allowances, and applicable
1425 sales taxes;

1426 (7) A statement printed or stamped on the receipt or bill of sale, in all capital letters, in
1427 black or blue ink, in a type size of not less than 12 point font, containing one of the
1428 following statements:

1429 (A) 'THE SALE OF THIS HEARING AID IS FINAL. I UNDERSTAND THAT I
1430 AM NOT ENTITLED TO A REFUND OR CREDIT.'; or

1431 (B) 'I HAVE READ, UNDERSTAND, AND HAVE SIGNED OR INITIALED A
1432 COPY OF THE REFUND AND RETURN POLICY. THE POLICY STATES
1433 WHETHER, AND UNTIL WHAT DATE, I MAY RETURN THE HEARING AID
1434 FOR A FULL REFUND, A PARTIAL REFUND, OR A FULL OR PARTIAL
1435 CREDIT, AND IDENTIFIES ANY FEES FOR SERVICES THAT WILL OR WILL
1436 NOT BE REFUNDED OR CREDITED.';

1437 (8) If a refund or return policy applies, a copy of such policy shall be provided to the
1438 purchaser and signed or initialed by the purchaser;

1439 (9) The name and street address of the prescription hearing aid user;

1440 (10) The name and street address of the purchaser or a notation that the purchaser and
1441 user are the same individual;

1442 (11) The date of delivery of the prescription hearing aid to the user or purchaser; and

1443 (12) The signature of the purchaser acknowledging receipt of the prescription hearing
1444 aid and a copy of the receipt or bill of sale.

1445 (b) If a prescription hearing aid that is not new is dispensed, the receipt or bill of sale shall
1446 be clearly and conspicuously marked 'used' or 'reconditioned,' as applicable, and shall state
1447 the terms of any guarantee or warranty provided, if any.

1448 (c) A copy of the receipt or bill of sale and any applicable refund or return policy
1449 acknowledgment shall be maintained by the licensee or permit holder for a period of not
1450 less than six years following delivery of the prescription hearing aid.

1451 (d) The board may require such additional information on the receipt or bill of sale as he
1452 or she determines to be necessary in the public interest.

1453 43-44-50.

1454 (a) This article shall not apply to a person who is a physician licensed to practice medicine
1455 in this state or to a person who is licensed as an audiologist under this chapter.

1456 (b) This article shall not apply to a person while he or she is working as an employee of
1457 a federal, state, county, or municipal agency or a duly chartered educational institution or
1458 a training center, provided that such person does not engage in the sale, rental, or lease of
1459 prescription hearing aids.

1460 (c) Nothing in this article shall be construed to prevent a person licensed under any other
1461 law of this state from operating within the scope of that license, provided that such person
1462 does not engage in the sale, rental, or lease of prescription hearing aids.

1463 (d) Nothing in this article shall be construed to prohibit any person or entity from
 1464 manufacturing, selling, offering for sale, or distributing over-the-counter hearing aids,
 1465 provided that such activities are conducted in compliance with applicable federal law. The
 1466 sale or distribution of over-the-counter hearing aids shall not require licensure under this
 1467 article, and no person or entity engaged solely in such activities shall be subject to the
 1468 licensure, supervision, or regulatory requirements of this article.

1469 43-44-51.

1470 Any person who dispenses or sells prescription hearing aids without a license or that
 1471 otherwise is in violation of this article shall be guilty of a misdemeanor, and such
 1472 misdemeanor shall be considered a crime involving moral turpitude."

1473 **PART V**

1474 **SECTION 5-1.**

1475 Code Section 43-10A-5 of the Official Code of Georgia Annotated, relating to powers and
 1476 duties of the board, quorum, and meetings regarding professional counselors, social workers,
 1477 and marriage and family therapists, is amended by revising subsection (c) as follows:

1478 ~~"(c) Unless specifically delegated to a standards committee pursuant to Code Section~~
 1479 ~~43-10A-6, the~~ The board shall have the following powers and duties:

- 1480 (1) To adopt, amend, and repeal such rules and regulations not inconsistent with this
 1481 article necessary for the proper administration and enforcement of this article;
 1482 (2) To issue, renew, and reinstate the licenses of duly qualified applicants for licensure
 1483 to practice a specialty in this state;
 1484 (3) To deny, suspend, revoke, or otherwise sanction licenses to practice a specialty in this
 1485 state;
 1486 (4) To initiate investigations for the purpose of discovering violations of this article;

- 1487 (5) To conduct hearings upon charges calling for the discipline of a licensee or on
1488 violations of this article;
- 1489 (6) To issue to specialists licensed under this article certificates under the seal of the
1490 board evidencing such licensure and signed, either by hand or facsimile signature, by the
1491 chairperson of the board and the division director;
- 1492 (7) To adopt a seal; and
- 1493 (8) To do all other things necessary to administer and enforce this article and all rules
1494 and regulations adopted by the board pursuant to this article."

1495

PART VI

1496

SECTION 6-1.

1497 All laws and parts of laws in conflict with this Act are repealed.