

The Senate Committee on the Judiciary offered the following substitute to SB 474:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 10-1-393.19 of the Official Code of Georgia Annotated, relating to
2 unsolicited inquiries, so as to provide for notices of solicitation including monetary offers;
3 to provide for a penalty; to amend Code Section 13-8-2 of the Official Code of Georgia
4 Annotated, relating to contracts contravening public policy generally, so as to render certain
5 contacts accompanying unsolicited offers from unlicensed individuals void; to amend Part 1
6 of Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to
7 recording of deeds and other real property transactions, so as to provide for certain
8 requirements in relation to filing of deeds and other instruments; to provide for validation of
9 identity; to provide for confidentiality of records and exceptions; to provide for false
10 information; to provide for rules and regulations; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Code Section 10-1-393.19 of the Official Code of Georgia Annotated, relating to unsolicited
15 inquiries, is amended by adding a new subparagraph to paragraph (1) of subsection (a) and
16 by adding a new subsection to read as follows:

"(A.1)(i) If the solicitation includes a monetary offer, following the text required in subparagraph (A) of this paragraph, the following notice in capital letters:

'THIS OFFER MAY OR MAY NOT BE THE FAIR MARKET VALUE OF THE PROPERTY.'

(ii) If the solicitation includes a monetary offer less than the value of the previous year's assessed value for ad valorem taxation by the county tax assessor for the county in which the property is located, following the text required in subdivision (i) of this subparagraph, the following notice in capital letters:

'THIS OFFER IS LESS THAN THE COUNTY ASSESSED VALUE FOR THIS PROPERTY.'

"(c) Violations of this Code section shall serve as prima facie evidence of a violation of Code Section 16-5-102 and shall entitle the harmed party to be awarded damages treble the amount of the most recently published fair market value of the property at issue as assessed by the county tax assessor for ad valorem tax purposes in the county in which the deed to the property is recorded."

SECTION 2.

Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to contracts contravening public policy generally, is amended by revising subsection (a) as follows:

"(a) A contract that is against the policy of the law cannot be enforced. Contracts deemed contrary to public policy include but are not limited to:

(1) Contracts tending to corrupt legislation or the judiciary;

(2) Contracts in general restraint of trade, as distinguished from contracts which restrict certain competitive activities, as provided in Article 4 of this chapter;

(3) Contracts to evade or oppose the revenue laws of another country;

(4) Wagering contracts; ~~or~~

(5) Contracts accompanying unsolicited offers to purchase real property from anyone not licensed or regulated pursuant to the provisions of Chapter 40 or Chapter 41 of Title 43 or Chapter 19 of Title 15; or
(5)(6) Contracts of maintenance or champerty."

SECTION 3.

Part 1 of Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recording of deeds and other real property transactions, is amended by adding a new Code section to read as follows:

"44-2-31.

(a)(1) When a deed or other instrument purporting to convey title to real property or an interest therein is presented to a clerk of the superior court for recording, whether in person or through an electronic recording service, the individual presenting the deed or other instrument shall indicate that they are:

(A) Licensed to practice law in this state;

(B) Licensed under Chapter 40 of Title 43;

(C) A licensed land surveyor;

(D) An agent of a bank or credit union with federal deposit insurance or their affiliate;

(E) A licensed title insurance agent or an agent of a licensed title insurance agency;

(F) An agent of a mortgage lender licensed pursuant to Article 13 of Chapter 1 of Title 7;

(G) An agent of a licensed or exempt mortgage lender pursuant to Article 13 of Chapter 1 of Title 7;

(H) An agent of a federal, state, or local government agency, or department thereof; or

(I) An individual filing on behalf of themselves;

(2) An individual indicating that they are filing pursuant to subparagraph (a)(1)(I) of this Code section shall present or provide validation of identity. For purposes of this

subsection, a passport, a military identification card, a government issued driver's license, or an identification card authorized under Code Sections 40-5-100 through 40-5-104, or other form of validation proscribed through rules promulgated pursuant to subsection (d) of this Code section, shall be identified.

(b) If presented with a photographic identification card by an individual pursuant to subparagraph (a)(1)(I) of this Code section, the clerk of the superior court shall make a photocopy of such identification card and document on the photocopy information relating to the deed or other instrument that was presented by such individual for recording, which information shall include the deed book and page number assigned to such deed or other instrument. Such photocopy and information shall not be recorded in the real estate records, shall not be subject to Article 4 of Chapter 18 of Title 50, and shall be treated as confidential and released only:

(1) To peace officers in the course of investigating potential crimes;

(2) In response to a subpoena, discovery request, or court order;

(3) To an individual who holds a recorded interest in the real property that was purportedly conveyed by the recorded deed or other instrument; or

(4) To an individual who is named as a grantor or a grantee on the recorded deed or other instrument that purports to convey an interest in real property.

(c) The requirements of subsections (a) and (b) of this Code section may be satisfied by:

(1) a digital verification system authorized through a rule promulgated pursuant to subsection (d) of this Code section; or

(2) A credentialing system authorized through a rule promulgated pursuant to subsection (d) of this Code section, that may employ the use of a notarized statement or an initial recording of the information required pursuant to subsection (b) of this Code section that allows for the use of the credential in subsequent filings without the need for further validation of identity.

94 (d) The Georgia Superior Court Clerks' Cooperative Authority may adopt rules and
95 regulations necessary to implement this Code section.
96 (e) False information provided to a court clerk by any individual filing pursuant to this
97 Code section shall serve as prima facie evidence of a violation of Code Section 16-8-102
98 and shall entitle the harmed party to be awarded damages treble the amount of the most
99 recently published fair market value as assessed by the county assessor for tax purposes in
100 the county in which the deed is recorded."

101 **SECTION 4.**

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