

1 **RESOLUTION URGING THE GEORGIA GENERAL ASSEMBLY TO**
2 **AMEND STATE LAW SO AS TO MAKE FRAUD/PREDATORY LENDING**
3 **IN THE SALE OF RESIDENTIAL HOUSING A FELONY**
4

5 **WHEREAS**, while there is no statutory definition of predatory lending,
6 there are certain practices or acts that constitute predatory behavior or lending
7 which include: lending to borrowers who do not have the ability to repay the loan
8 in order to capture that borrower's equity in their home; charging and financing of
9 large amounts of points and fees; heavy prepayment penalties accompanied by
10 higher-than-par interest rates; loan "flipping"; and steering homeowners to loans
11 based on their race, age, or ethnic background; and

12 **WHEREAS**, collectively, these practices may lead to the reduction or
13 elimination of equity or value in a borrower's home, often forcing the borrower
14 into foreclosure; and

15 **WHEREAS**, to combat the problem of predatory lending, numerous states
16 and local governments have enacted anti-predatory lending laws to augment
17 those enacted by the Federal government; and

18 **WHEREAS**, these laws regulate, prohibit or limit certain loan terms and
19 practices and provide penalties for violations of these restrictions; and

20 **WHEREAS**, in 2003 the State of Georgia enacted the current Georgia Fair
21 Lending Act (O.C.G.A. § 7-6A-1, et seq.) to prohibit unfair practices regarding all
22 home loans, high-cost home loans and the "flipping" of home loans; and

23 **WHEREAS**, a violator of the Georgia Fair Lending Act is only guilty of a
24 misdemeanor and, on conviction, is subject to a fine not to exceed \$1,000.00 for
25 each violation or imprisonment not exceeding six months, or both; and

1 **WHEREAS**, the State of Georgia has also enacted the Georgia
2 Residential Mortgage Fraud Act (O.C.G.A. § 16-8-101, et seq.) to prohibit
3 misrepresentations, misstatements, or omissions made during the residential
4 mortgage lending process; and

5 **WHEREAS**, any violation of the Georgia Residential Mortgage Fraud Act
6 is a felony and, on conviction, shall be punished by imprisonment for not less
7 than one year nor more than ten years, by a fine not to exceed \$5,000.00, or
8 both, with enhanced punishment and fines for repeat violators; and

9 **WHEREAS**, the Joint Fulton-DeKalb Committee on Housing has
10 recognized that the statutory penalties of the Georgia Fair Lending Act and the
11 Georgia Residential Mortgage Fraud Act are different and do not provide a
12 sufficient disincentive for practitioners of predatory lending; and

13 **WHEREAS**, in an effort to protect their residents from predatory lending,
14 the Boards of Commissioners of Fulton County and DeKalb Counties jointly find
15 that the public health, safety, and welfare would be promoted by making violation
16 of the Georgia Fair Lending Act a felony similarly to the penalty available for a
17 violation of the Georgia Residential Mortgage Fraud Act;

18 **NOW, THEREFORE, BE IT RESOLVED**, that the Boards of
19 Commissioners of Fulton County and DeKalb County hereby encourage the
20 State of Georgia to make violations of the Georgia Fair Lending Act a felony
21 rather than a misdemeanor.

22 **BE IT FURTHER RESOLVED**, that the relevant Fulton County and
23 DeKalb County staff members are hereby directed to work with the Counties'

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SO PASSED AND ADOPTED, this ____ day of _____, 2009.

DEKALB COUNTY BOARD OF COMMISSIONERS

By: _____

ATTEST:

APPROVED AS TO FORM:

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