

Senate Bill 448

By: Senators Balfour of the 9th, Chance of the 16th, Hill of the 4th, Mullis of the 53rd,  
Hooks of the 14th and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 18 of the Official Code of Georgia Annotated, relating to debtor  
2 and creditor relations, so as to enact the "Small Business Borrower Protection Act"; to  
3 provide for definitions; to provide for recovery limits for debt obligations by successor  
4 creditors; to provide for applicability; to require successor creditors to submit the amount  
5 paid for a debt during recovery proceedings; to provide for an exemption; to provide for  
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 2 of Title 18 of the Official Code of Georgia Annotated, relating to debtor and  
10 creditor relations, is amended by adding a new article to read as follows:

11 "ARTICLE 5

12 18-2-90.

13 This article shall be known and may be cited as the 'Small Business Borrower Protection  
14 Act.'

15 18-2-91.

16 As used in this article, the term:

17 (1) 'Affiliate' means a majority owned subsidiary or entity having common majority  
18 ownership.

19 (2) 'Guarantor' means any person who agrees to pay, in whole or in part, the original debt  
20 obligation of another person.

21 (3) 'Guaranty' means any guaranty, indemnification, agreement to make whole, or any  
 22 other arrangement under which a person shall agree to pay, in whole or in part, the  
 23 original debt obligation of another person.

24 (4) 'Original creditor' means any person who first extends credit to a debtor or person  
 25 obligated on a debt obligation.

26 (5) 'Person' means any natural person, corporation, limited liability company, or any  
 27 form of partnership, or any combination of any of the foregoing, and the heirs, executors,  
 28 administrators, successors, and assigns of such person.

29 (6) 'Successor creditor' means any person who did not enter into the original debt  
 30 obligation with the debtor and has by assignment, sale, transfer, or other means acquired  
 31 the original debt obligation.

32 18-2-92.

33 Any successor creditor shall be limited to recovery against any guarantor on any debt  
 34 obligation to the lesser of:

35 (1) The actual amount paid for the debt obligation, plus interest at the interest rate stated  
 36 on the face of the debt obligation from the date of purchase, transfer, or assignment of the  
 37 obligation. The interest rate allowed under this article shall be a nondefault rate; or

38 (2) The maximum amount permitted to be collected under the guaranty.

39 18-2-93.

40 This article shall apply to the sale, assignment, or transfer of debt obligations and the sale,  
 41 assignment, or transfer of judgments rendered on debt obligations regardless of when such  
 42 judgments were entered.

43 18-2-94.

44 In any action to collect a debt obligation by a successor creditor, the successor creditor  
 45 shall be required to prove the actual amount paid for the debt obligation.

46 18-2-95.

47 This article shall not apply to institutions with federally insured deposits or their affiliates."

48 **SECTION 2.**

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