

House Bill 886 (AS PASSED HOUSE AND SENATE)

By: Representatives Williamson of the 111th, Smyre of the 132nd, Carson of the 43rd, Battles of the 15th, Williams of the 113th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 7-1-285 of the Official Code of Georgia Annotated, relating to limits
2 on obligations of one person or corporation, so as to limit certain obligations related to credit
3 exposure as a counterparty in derivative transactions; to provide for definitions; to provide
4 for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 7-1-285 of the Official Code of Georgia Annotated, relating to limits on
8 obligations of one person or corporation, is amended by revising subsections (a) and (b) and
9 adding a new subsection to read as follows:

10 "(a) As used in this Code section, the term:

11 (1) 'Credit exposure as a counterparty in derivative transactions' means an amount that
12 the bank reasonably determines pursuant to a methodology acceptable to the department
13 under the terms of the derivative or otherwise would be its loss if a counterparty were to
14 default on the date of determination, taking into account any netting and collateral
15 arrangements and any guarantees or other credit enhancements; provided, however, that
16 the bank may elect to determine credit exposure on the basis of such other method of
17 determining credit exposure as may be permitted by the department and the bank's
18 primary federal regulator.

19 (2) 'Derivative transaction' includes any transaction that is an agreement, contract, note,
20 option, swap, or warrant that is based, in whole or in part, on the value of, any interest in,
21 or any quantitative measure or the occurrence of any event relating to, one or more
22 commodities, securities, currencies, interest or other rates, indices, or other assets.

23 (3) 'Person or corporation' includes, but is not limited to, an individual, corporation,
24 partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, or
25 unincorporated organization. The term 'person or corporation' shall not include the
26 affiliates of a bank or a clearing organization registered or exempt from registration with

27 the Commodity Futures Trading Commission, the Securities and Exchange Commission,
 28 any other federal agency, or any successor agencies.

29 (a.1) A bank shall not at any time:

30 (1) Make loans to any one person or corporation; ~~or~~

31 (2) Have obligations owing to it from any one person or corporation as a result of
 32 purchasing or discounting evidences of indebtedness or agreements for the payment of
 33 money; or

34 (3) Have credit exposure as a counterparty in derivative transactions with any one person
 35 or corporation,

36 where the aggregate of ~~said~~ such loans ~~and,~~ obligations, ~~and~~ credit exposure together
 37 exceeds 15 percent of the statutory capital base of the bank unless each loan, discount, ~~or~~
 38 purchase, ~~or derivative~~ transaction in excess of ~~said~~ such 15 percent limit is approved in
 39 advance by the board of directors or a committee authorized to act for it.

40 (b) Except as provided in subsection (c) of this Code section, a bank shall not directly or
 41 indirectly make loans, have obligations, or have credit exposure as a counterparty in
 42 derivative transactions to any one person or corporation which in aggregate exceed 15
 43 percent of the statutory capital base of the bank unless the entire amount of such loans,
 44 obligations, and credit exposure in derivative transactions is secured by good collateral or
 45 other ample security and does not exceed 25 percent of the statutory capital base. Except
 46 as otherwise indicated in subsection (c) of this Code section, the purchase or discount of
 47 agreements for the payment of money or evidences of indebtedness shall be regarded as
 48 indirect loans to the person or corporation receiving the proceeds of such transactions. In
 49 estimating the legal lending limit for any ~~individual~~ one person or corporation, loans to
 50 related corporations, partnerships, and other entities shall be combined subject to
 51 regulations established by the department."

52 **SECTION 2.**

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