

The House Committee on Banks and Banking offers the following substitute to SB 448:

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 provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

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

10 "ARTICLE 5

11 18-2-90.

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

14 18-2-91.

15 As used in this article, the term:

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

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

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

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

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

28 (6) 'Successor creditor' means any person, other than an institution whose deposits are
 29 federally insured or its affiliates, who did not enter into the original debt obligation with
 30 the debtor and has by assignment, sale, transfer, or other means acquired the original debt
 31 obligation directly from a federal bank regulatory agency.

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 only apply to debt obligations or judgments acquired directly from a
 41 federal bank regulatory agency by a person other than institutions with federally insured
 42 deposits or their affiliates."

43 **SECTION 2.**

44 All laws and parts of laws in conflict with this Act are repealed.