

House Bill 82

By: Representative Ehrhart of the 36th

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 a method of purchasing debt obligations from
4 successor creditors; to provide for applicability; to provide for related matters; to repeal
5 conflicting 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) 'Distressed value' means any value paid or received in connection with the sale of a
19 note, debt, or judgment which is less than 60 percent of the original debt obligation.

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

22 (4) 'Person' means any natural person, corporation, limited liability company, or any
23 form of partnership, or any combination of any of the foregoing, and the heirs, executors,
24 administrators, successors, and assigns of such person.

25 (5) 'Successor creditor' means any person, other than an institution whose deposits are
26 federally insured or its affiliates, who did not enter into the original debt obligation with
27 the debtor and has by assignment, sale, transfer, or other means acquired the original debt
28 obligation or judgment for a distressed value.

29 18-2-92.

30 A successor creditor shall give written notice setting forth the terms and conditions under
31 which the debt obligation or judgment was obtained to all guarantors of the debt obligation
32 or judgment within 30 days of purchase or assignment. Upon receipt of such notice, any
33 guarantor shall have 90 days to purchase the debt obligation or judgment from a successor
34 creditor subject to the same terms and conditions, with a 10 percent premium added to the
35 purchase price for transactions occurring within 30 days and a 20 percent premium added
36 to the purchase price for transactions within 90 days.

37 18-2-93.

38 This article shall only apply to debt obligations or judgments acquired directly from an
39 original depository or affiliate which is federally insured by a person other than institutions
40 with federally insured deposits or their affiliates."

41 **SECTION 2.**

42 All laws and parts of laws in conflict with this Act are repealed.