



March 12, 2012

Hon. Greg Morris, Chairman  
Banking and Banks Committee  
Georgia House of Representatives  
226 State Capitol  
Atlanta, GA 30334

Re: SB 448 – Successor Creditor Limits

Dear Mr. Chairman:

I am writing today to express my strong opposition to SB 448, which I understand has recently passed the Senate and is under consideration by the House.

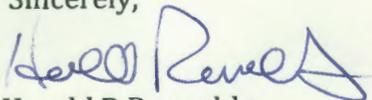
SB 448 would severely undermine banks' ability to lend in Georgia: Here's how:

1. SB 448 would completely eradicate the successor credit market in Georgia. The consequences of this go far beyond what are apparently the motives of some of the bill's supporters.
2. SB 448 purports to "carve out" exclusion for FDIC insured institutions. This exclusion, along with the statute, will most likely be challenged in Georgia and US Courts. The prospects for its survival would seem to be very much in question.
3. I believe the immediate outcome of the bill, particularly if it should become law, will be a significant increase in litigation. Attorneys will be citing the intention of the legislature to allow some favored guarantors to advocate their contractual obligation while others are left to pay the bills. Already the courts are backlogged with claims and counterclaims, most of which are put forward by debtors, to place Georgia banks under increased capital and regulatory pressure. Because of these pressures many banks are forced to abandon collection activities to preserve remaining capital. For others, the process of cleaning up the financial fiasco will be lengthened for years to the detriment of the vast majority of Georgia's public and private sectors. I find it ironic that many of the beneficiaries of this bill will be the borrowers most responsible for the failures and stress in Georgia's financial institutions.

4. Banks like ours depend on the successor credit market to liquidate performing and non-performing loan portfolios that provide us with much-needed cash to make new loans and mitigate risk concentrations. We frequently sell to non FDIC insured institutions, so that exclusion does not apply, even if it is deemed constitutional.
5. If we cannot sell bank originated debt, we will have much less cash with which to make new loans. As I am sure you are aware, significant debt, particularly residential mortgages, consumer and commercial loans are sold to non FDIC insured institutions at discounts. Many private citizens purchase debt at discounts as part of their investment portfolio. This and other sources of capital will simply migrate to other states that recognize contractual obligations further restricting Georgia families' access to mortgages and other credit will be adversely affected.
6. Additionally, SB 448 abrogates personal guarantees. If the legislature can retroactively annul a guarantor's promise to pay, then banks cannot make loans based on a borrower's signature. That is one of the surest means to restrict needed capital for small business. Certainly, you know of many businesses started in a garage with a signature loan from a community bank. What will the legislature propose next to retroactively alter contractual arrangements to the detriment of citizens and businesses of Georgia?

One can only hope that in its haste to react to some of the aftereffects of the financial system meltdown that the Georgia Senate did not adequately consider the unintended consequences of this bill. The far-reaching effects of this bill cry out for a close and thorough examination. I urge your careful evaluation of SB 448's potentially devastating effect on Georgia's economy as you consider this legislation. Ultimately, a clear message from the House is needed to forestall potential consequences of this or similar bills that attempt to retroactively void contractual obligations.

Sincerely,



Harold R Reynolds  
CEO, BankSouth

CC: Speaker David Ralston  
Speaker Pro Tem Jan Jones  
Majority Leader Larry O'Neal