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## Viewpoint

# Georgia must help its community banks

Premium content from Atlanta Business Chronicle by Steve Brock

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~~It is not often when a chamber of the Georgia General Assembly passes a bill unanimously, but that occurred recently in the Georgia Senate concerning vital legislation that rights some wrongs against small businesses while aiming to stabilize our important community-based banks.~~

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This vital legislation is necessary, in part, to begin to stabilize Georgia's community banks that have been especially targeted for seizure by federal regulators. Indeed, there have been more bank seizures in Georgia by over-reaching federal bureaucrats than in any other state.

One of the direct consequences of bank failures in this state is that lenders are being forced to transfer their loans to successor creditors for, in some cases, pennies on the dollar. Those successor creditors are then earning windfalls by suing Georgia citizens for full judgments on guaranties; thereby circumventing long-standing practices in place since the Great Depression requiring confirmation of a foreclosure for true market value. After they have obtained a judgment on the guaranties, these successor creditors are then foreclosing the collateral securing the loan for as little as possible (sometimes again pennies on the dollar) and then turning around and selling the collateral for much more. By circumventing this policy, successor creditors are earning, in some instances, two times the amount of the original loan that they only bought for pennies on the dollar, and are allowing communities all around the state to waste while they pursue judgments.

This era of bank failures in Georgia has resulted in the loans of thousands of Georgia business people ending up in the hands of vulture investors. U.S. Rep. Lynn Westmoreland, R-Ga., has already launched an investigation into the demise of our community banking system and the players that have emerged on top. Testimonies submitted to Congress by Federal Deposit Insurance Corp. bank closure victims cite companies like Rialto Capital, a subsidiary of Miami-based national homebuilder Lennar Corp. (NYSE: LEN) as chief among these vultures in Georgia and elsewhere.

Several of my developer colleagues are being ruined financially because of misguided federal policies favoring companies like Rialto Capital. To add insult to injury, these out-of-state vulture investors are acquiring loans originated by Georgia community-banks with zero percent interest from the FDIC for a five-year term.

This begs the question: Why is the FDIC partnering with a group like Lennar on extraordinarily propitious terms if — just like the policy to reduce the number of community banks so that fewer banks exist in this country — they are not intending to eliminate small-business competition in the real estate industry??

A critical first step to reform will occur if the Georgia House of Representatives passes S.B. 448, modeled after a law recently enacted by Nevada (and now being considered by many other states in the nation), and sends it to the governor for his signature. By the way, nothing in this legislation affects the original creditors' rights under existing loan documents and the rights of successor creditors to recover against any collateral securing a loan. Further, since you can expect to be treated more reasonably by banks and not your competitor that is trying to nationally monopolize the building industry, banks are excluded from this legislation.

Hopefully we are on the heels of the worst national recession since the Great Depression. Passage of the aptly named "Small Business Borrower Protection Act" — S.B. 448 — will greatly assist our community banks to resolve their loan portfolios with their longtime customers and stop the number of lawsuits against Georgia small-business owners. By allowing community banks to work with their customers, banks will not be forced to sell their assets at a loss to vulture

investors. Let's not let the predatory vultures and their lobbyists derail Georgia's elected representatives from doing the right thing for our state.

Brock is the founder and president of Brock Built Homes, an Atlanta-based residential builder and developer.