



**GEORGIA BANKERS ASSOCIATION**  
the resource that empowers



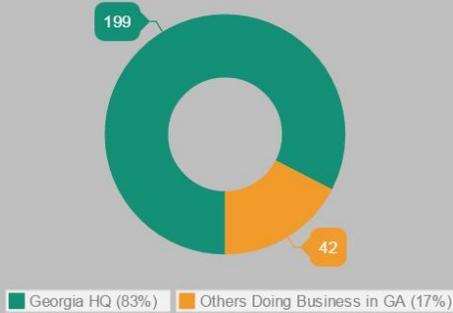
## Georgia Banking Update January 2016

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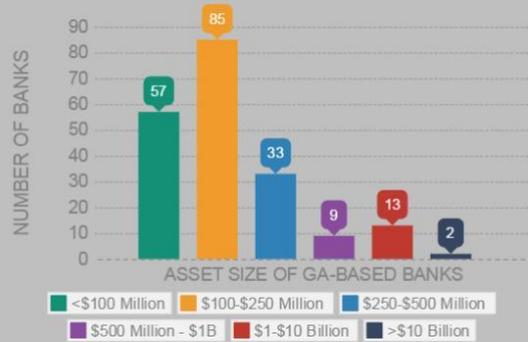
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# GEORGIA BANKS AT A GLANCE

## 241 BANKS IN GEORGIA

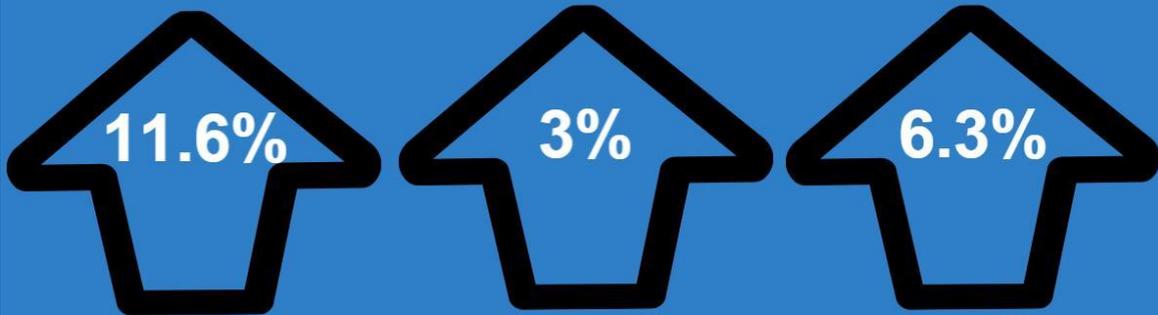


## ASSET-SIZE DIVERSITY



**60,000 EMPLOYED**

## STATEWIDE GEORGIA BANK PERFORMANCE



**EARNINGS INCREASE FROM Q3 2014**

**LOANS AT HIGHEST LEVEL SINCE 2008**

**DEPOSITS AT RECORD HIGHS**

## FAMILY AND BUSINESS FINANCES ARE BETTER

**22** CONSECUTIVE  
 QUARTERS OF LOWER  
 NONCURRENT LOANS

## Georgia Banking Facts and Figures

Through Sept. 30, 2015, unless noted otherwise

- There are 241 FDIC-insured banks and savings institutions operating in Georgia from more than 2,480 branches.<sup>1</sup> Of those, 199 are Georgia-based institutions as of Sept. 30 2015.<sup>2</sup>
- Georgia-based banks employ almost 43,500 people. Conservatively, GBA estimates that all banks operating in Georgia employ about 60,000 people.
- Net income for the first nine months of 2015 was \$2.14 billion, or 11.6 percent higher than during the same period in 2014.
- Nearly 88 percent of banks were profitable through the first nine months of the year.
- Total assets grew by 1.7 percent from third quarter 2014.
- Total deposits grew by 6.3 percent from third quarter a year ago and are at record levels.
- Total loans grew by 3 percent from third quarter 2015 and are at the highest level since year-end 2008.
- Credit quality continues to get better. Noncurrent loans were down for the 22<sup>nd</sup> straight quarter.
- Charge-offs and bank-owned-real-estate continue to decline.
- Capital levels across the industry are good.

Measurement (Year-to-date)	Georgia 9/30/2015	Georgia 6/30/2015	Georgia 3/31/2015	Georgia 12/31/14	Georgia 9/30/14	National 6/30/15
Institutions	199	203	205	210	213	6,270
Employees (FTEs)	42,988	43,475	43,447	43,788	44,422	2,038,462
Total assets	\$284.3 B	\$285.4 B	\$285.3 B	\$284.4 B	\$279.5 B	\$15.8 T
Total deposits	\$234.8 B	\$232.8 B	\$230.8 B	\$226.1 B	\$221.0 B	\$12 T
Loans and leases, total	\$205.8 B	\$204.4 B	\$203.5 B	\$203.3 B	\$199.8 B	\$8.6 T
Other real estate owned	\$945,674 M	\$1.0 B	\$1.1 B	\$1.2 B	\$1.3 B	\$16.1 B
Net income	\$2.14 B	\$1.3 B	\$661,110 M	\$2.6 B	\$1.9 B	\$123 B
Net charge-offs to loans	0.23%	0.24%	0.26%	0.34%	0.35%	0.42%
% of profitable institutions	87.94%	88%	87%	87%	86%	95.22%
% institutions with earnings gains	65.33%	64.04%	62.93%	67.14%	66.67%	63.37%
Net interest margin	3.14%	3.11%	3.10%	3.34%	3.37%	3.05%
Return on assets (ROA)	1.01%	0.94%	0.93%	0.94%	0.94%	1.05%
Return on Equity (ROE)	8.39%	7.92%	7.80%	7.83%	7.82%	9.33%
Loss allowance to loans	1.32%	1.36%	1.40%	1.44%	1.49%	1.37%
Noncurrent loans to loans	1.15%	1.26%	1.36%	1.48%	1.62%	1.61%
Core Capital (Leverage ratio)	10.19%	10.06	9.99%	9.92%	10.04%	9.61%
Total risk-based capital ratio	13.31%	13.29%	13.36%	13.22%	13.35%	14.32%

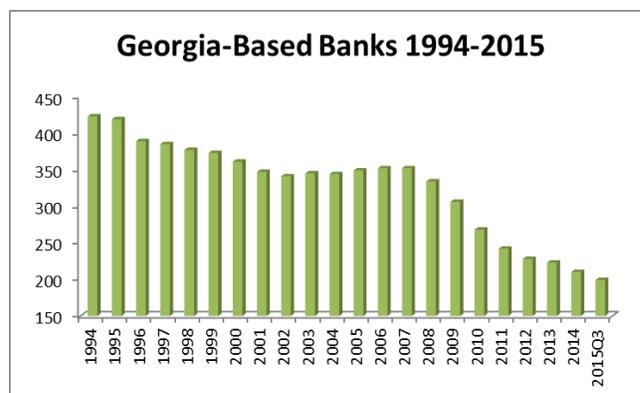
<sup>1</sup> FDIC market share report for June 30, 2015, minus the difference in state-based banks on June 30, 2015, and Sept. 30, 2015.

<sup>2</sup> FDIC institution directory website

## The Evolving Georgia Bank Landscape

Georgia remains a well-banked state, with the most state-based banks in the Southeast. There is significant choice and access to banking for families and businesses. Competition is robust in terms of rates, terms, products and services. Georgia historically has had a large number of banks, and still does. However, the national trend toward consolidation, and return of traditional merger and acquisition activity continue to shift the industry landscape.

<b>State-Based Banks</b>	
Sept. 30, 2015	
<b>Georgia</b>	<b>199</b>
Kentucky	170
Tennessee	168
Florida	165
Louisiana	133
Alabama	131
Arkansas	106
Virginia	94
Mississippi	80
North Carolina	67
Maryland	64
South Carolina	62
West Virginia	60



## 2014-15 Georgia Bank Mergers and Acquisitions

Buyer / Seller	Buyer State	Seller State	Announced	Completed
Charter Financial Corporation / CBS Financial Corporation	GA	GA	12/3/2015	
Renasant Corporation / KeyWorth Bank	MS	GA	10/20/2015	
Bank of the Ozarks Inc. / Community & Southern Holdings Inc.	AR	GA	10/19/2015	
Southern States Bancshares Inc. / Columbus Community Bank	AL	GA	7/21/2015	10/22/2015
Hamilton State Bancshares, Inc. / Highland Financial Services, Inc.	GA	GA	5/15/2015	9/1/2015
First South Bancorp, Inc. / Northwest Georgia Bank	TN	GA	5/1/2015	9/18/2015
Five Star Credit Union / Farmers State Bank	AL	GA	2/18/2015	11/1/2015
Community & Southern Holdings, Inc. / Community Business Bank	GA	GA	1/30/2015	5/8/2015
Renasant Corporation / Heritage Financial Group, Inc.	MS	GA	12/10/2014	7/1/2015
First Peoples Bankshares, Inc. / Meriwether Bank Shares, Inc.	GA	GA	12/9/2014	12/1/2015
IBERIABANK Corporation / Georgia Commerce Bancshares, Inc.	LA	GA	12/8/2014	5/31/2015
ServisFirst Bancshares, Inc. / Metro Bancshares, Inc.	AL	GA	10/20/2014	1/31/2015
State Bank Financial Corporation / Georgia-Carolina Bancshares, Inc.	GA	GA	6/24/2014	1/1/2015
WB&T Bankshares, Inc. / Citizens Exchange Bank	GA	GA	6/24/2014	11/3/2014
Community & Southern Holdings, Inc. / Alliance Bancshares, Inc.	GA	GA	5/16/2014	8/20/2014
United Bank Corporation / Monroe County Bank	GA	GA	5/15/2014	7/31/2014
First Landmark Bank / Midtown Bank & Trust Company	GA	GA	4/28/2014	10/20/2014
State Bank Financial Corporation / Atlanta Bancorporation, Inc.	GA	GA	4/28/2014	10/1/2014
Ameris Bancorp / Coastal Bankshares, Inc.	GA	GA	3/11/2014	6/30/2014
Oconee Federal Financial Corp. (MHC) / Stephens Federal Bank	SC	GA	2/27/2014	12/1/2014

## Economic and Banking Environment Summary

### The Fundamentals Remain Solid, Some Challenges Remain

- Georgia is the 8<sup>th</sup> most populous state, with 10 million people; top-10 growth expected through 2020
- Statewide unemployment was recently at its lowest level since March 2008
- Housing is still relatively affordable, especially compared to other regions in the country
- Business relocations remain good
- Ports, rail, air and highway transportation infrastructure are general advantages as ongoing challenges are being addressed by state leadership
- Georgia has become a leader in the financial services technology sector
- Competition for high-quality borrowers is strong, with attractive rates and terms for borrowers

## GBA Legislative and Regulatory Priorities

- To promote the general welfare and usefulness of banking and the preservation of a sound banking system.
- Support policy and regulatory actions that enable lending and foster job creation.
- Remove excessive regulation and other barriers to serving families, businesses and our hometowns.
- Advocate for continued charter choice and a level playing field with nonbank financial services providers.

## State Legislative Issues

The 2016 Georgia General Assembly Session begins Jan. 11, 2016. During the session, GBA will be represented by our Senior Vice President for Government Relations, **Elizabeth Chandler**, 404.420.2027, our Government Relations Consultant, **Steve Bridges**, 404.420.2037, and our President and CEO, **Joe Brannen**, 404.402.2026. Contact any of them with questions. A summary of the key legislation we expect follows.

### Some Things We Expect in the 2016 Session

#### Code Revisions suggested by GBA Code Review Task Force

The annual housekeeping bill from the Department of Banking and Finance (DBF) will include several ideas from the GBA Code Review Task Force. GBA has been working with the DBF and a task force of bankers and bank lawyers to refine several important areas of the banking code that are either outdated, have been preempted by federal law, or are an evolving banking function that falls outside the current regulatory structure. Among the topics in the bill will be: 1) removing references to building and loan associations as those charters no longer exist; 2) recognizing the preemption of the DBF's role in approving branches of out-of-state institutions, 3) removing registration requirements for institutions over which the DBF has no supervisory role; 4) removes prohibitions for state-chartered banks to charge a fee to cash "on us" checks; 5) setting up an application process for potential mergers of merchant acquirer limited purpose banks; 6) removes the reserve requirements referenced Federal Reserve Regulation D so that the provisions will only be applicable to institutions whose deposits are not federally insured; 7) removes the authority of the DBF to present a case directly to a grand jury; 8) reduces the violation of an institutions charter or bylaws from a felony; 9) clarifies that an institution operating without federal deposit insurance is a transitional situation; 10) revises the requirements for the DBF to post bonds to ensure employees' faithful performance; 11) removes barriers for the conversion of a federal savings bank into a state savings bank; 12) authorizes banks to participate in cross-guaranty state-level collateral pools; and 13) establishes a regulatory structure for virtual currencies. Other sections of the bill apply only to credit unions or non-bank entities registered with or supervised by the DBF.

### **Garnishment Code Re-write**

House Judiciary Chairman **Wendell Willard** convened a task force this past fall to review Georgia's garnishment statutes after a Federal Court Judge ruled portions of Georgia's law were unconstitutional. Sen. **Jesse Stone** has prefiled the bill, **SB 255**, that resulted from the task force's work and GBA and other interested parties are currently reviewing the legislation.

### **Multibank Collateral Pledging Pool**

The U.S. adoption of the international Basel III accord has created a shortage of the most commonly pledged securities available to collateralize public deposits for banks having assets greater than \$50 billion. Basel III also dramatically increases the cost of collateral for these institutions. That combination of factors has made public deposits increasingly impractical for the covered banks to accept. As a result, some public depositors, especially those with larger balances, are reporting difficulty in finding an institution to provide their unique and sometimes specialized deposit needs. The problem is especially pronounced in states like Georgia that do not have a multibank cross-guaranty collateralization pool option to protect public deposits. There are 10 covered banks operating in Georgia representing 65% of the total deposit market share of all bank deposits in the state. We are working with members, the Georgia State Treasurer, the Georgia Department of Banking and Finance and other stakeholders to develop a proposed multibank cross-guaranty collateralization pool option for Georgia. The new pool will be optional for any qualified bank operating in Georgia, but mandatory for the 10 larger banks. The current bank-level pool collateralization method and the dedicated collateralization method will also remain available to all other banks accepting public deposits. Legislation is expected to be introduced early in the session modeled after similar multibank pools in the surrounding states of Florida, Alabama and Tennessee.

### **Tax Reform**

**HB 445** has been introduced by Rep. **John Carson** (R-Marietta) with the intent of continuing the discussion of revising Georgia's tax structure. The principal concept is reducing individual tax rates while increasing consumption taxes. The unique method for bank taxation is not addressed in the bill although there were questions about that in the process leading up to the bill's introduction. We will be participating in any hearings on tax reform and let you know what goes on.

### **Georgia Personal Data Security Act**

State Sen. **John Albers** (R-Roswell) has said he will introduce a bill requiring businesses and government agencies to notify the public within 72 hours of discovering a data breach. Cybersecurity and protecting consumer data is a priority for Georgia's banks. Banks have been required for 10 years to have an official security breach response program and to report data breaches that address many of the proposed components of the legislation as we understand it. In 2005, bank regulators issued standards about this through authority given to them by the Gramm-Leach-Bliley Act. The federal guidelines don't specify a timeframe for good reason. There are lots of details to button up before a good notification can be made that's beneficial to a consumer. It's really important for a bank or company to know and understand the specifics of what happened and what information may have been compromised. Because every situation is different, it's difficult to put a specific time limit out there to meet. It may take longer than 72 hours to fully know which customers may be affected and which specific data may have been compromised. If a bank can confirm there has been a data breach, it has every incentive to quickly notify customers as soon as possible. The bank would be liable for any fraudulent transactions, so customer awareness and rapid corrective measures are critical to minimizing harm to consumers and the bank. In general we support a national notification standard that applies to all companies.

### **Self-Settled Spendthrift Trusts**

**HB 456** by Rep. **Tom Weldon** (R-Ringgold) would authorize the establishment of self-settled spendthrift trusts, a new type of trust instrument in Georgia. The trust would protect trust assets against the claims of a settlor who is also a trust beneficiary. Rep. Weldon was helpful in working with us to remove language in the bill that negatively affected creditor's rights. In a somewhat unusual move, in the Senate Judiciary Committee, language contained in another bill we were monitoring that had passed the House, **HB 197**, was stripped out, and the text of this trust bill was substituted. The Senate passed the bill; but in a last ditch effort by the advocates late in the evening on the last legislative day, the House voted overwhelmingly against the bill. House Judiciary Committee Chairman **Wendell Willard** took the well criticizing the underlying concept of the bill; but as important to him, the fact that the committee

vetting process was not respected in the way the bill came up for a vote. Some members of the State Bar of Georgia's Fiduciary Law Section have expressed concern about certain provisions, and we will continue to monitor the bill as we expect to see it surface again in 2016.

### **Cyber Security / Chip and PIN**

The Senate and House Science and Technology Committees have been meeting over the interim to discuss cyber security issues. They have mostly been hearing from various state agencies about the personal data the state has on hand and the protection of that data. The committees have also heard from the growing number of electronic transactions companies located in Georgia and the importance of that industry to the state's economy. In addition, there was testimony from the retail industry endorsing Chip and PIN technology for new EMV credit cards. GBA opposes mandating the PIN technology and we are meeting with legislative leaders to make them aware of our position.

### **Motor Boat Titling**

**HB 356** by Rep. **Ron Stephens** (R-Savannah) would establish a boat and boat motor titling program using the same Electronic Lien Titling process currently used for motor vehicles. We participated in hearings over the interim on the bill and hope to see it move in the 2016 session as we support the concept.

### **Digital Account Access**

**HB 274** by Rep. **Geoff Duncan** (R-Cumming) would allow for a personal representative of a deceased person to access, handle, conduct, continue, distribute, or terminate the decedent's digital accounts such as email accounts, financial account Internet sites, blogs, social networking and other online services as necessary. Since last session, GBA has shared with Rep. Duncan the language adopted by the Uniform Law Commission on the topic and we expect him to continue to pursue the legislation.

### **Savings Accounts for First-Time Homebuyers**

**HB 530** by Rep. **Bruce Williamson** (R-Monroe) would establish a special interest-bearing savings account for first-time homebuyers and allow contributions to the account and interest earned to be exempt from state income tax. The legislation was introduced at the request of the Georgia Association of Realtors and their representatives tell us they hope to see the bill passed in 2016. We will be closely monitoring the bill because the accounts would be held at federally-insured financial institutions.

### **Aquifer Protection and Uses**

**HB 116** by Rep. **Alex Atwood** (R-Saint Simons) and **SB 36** by Sen. **William Ligon** (R-Brunswick) are identical bills that would permanently ban treated surface water injection into the Floridian Aquifer in 11 southeast Georgia counties. The senate bill was substantially changed to reflect a study being conducted by the Department of Natural Resources that may negate the need for the legislation. However, because of the significance of this issue to coastal and other areas of the state dependent upon this aquifer, we expect to hear more.

## National Legislative and Regulatory Issues

There is always a long list of national issues we're working on as we represent members at the national level. We talk frequently to the Georgia Congressional delegation and their staffs, as well as officials at each federal regulatory agency. We also work in concert with a variety of other national trade groups to make sure our members' voices are heard. As we begin 2016, we've categorized our issues into six primary topic areas:

- Regulatory Relief
- Mortgage Issues
- Subchapter S / LLC Issues
- Data and Cyber Security
- Credit Unions
- Farm Credit System

### Regulatory Relief for Banks

Banks of all sizes are working to digest and implement thousands of pages of new rules and regulations associated with the Dodd-Frank Act and other downturn-era initiatives. The result is that the basics of banking – serving as a safe-haven for insured deposits and making loans for people and communities -- are more complex and more costly. GBA has been part of a Regulatory Relief Task Force with other state bankers associations and the ABA. Some priority regulatory relief measures we support are:

- Tiered regulation that corresponds to a bank's charter, business model, geography and risk profile.
- Reasonable lending, capital and accounting guidelines that strike a balance between strengthening safety and soundness and allowing loan growth that can help fuel the economy.
- A reduction in duplicate or outdated rules that complicate banking or increase costs for consumers and institutions.
- Ensure appropriate oversight for federal regulators and improve consistency in supervision and exams.

### Recent Regulatory Relief Progress

Several regulatory relief provisions were included in the federal highway transportation funding bill signed into law by the President Dec. 4. These measures provided the following relief for banks:

- Expanded the number of banks eligible for the 18-month exam cycle
- Equalized the SEC registration and de-registration thresholds for savings and loan holding companies
- Reduced the burden of unnecessary privacy notice paperwork
- Expanded TruPS CDO relief for smaller bank holding companies
- Established a process for designating an area rural for purposes of Consumer Financial Protection Bureau exemptions.

### Notable Regulatory Relief Proposals by members of the Georgia Delegation and Others

- **Financial Institutions Examination Fairness and Reform Act (H.R. 1941)**  
Georgia Rep. **Lynn Westmoreland** (R-GA) and Rep. **Carolyn Maloney** (D-NY) have introduced H.R. 1941 to set clear exam standards and create an Office of Independent Examination Review to ensure consistency across exams. It would also mandate that financial institutions receive timely reports fully documenting the information regulators use to make their determinations and create an expedited process for banks to appeal exam decisions without fear of reprisal. This bill passed the House Financial Services Committee.
- **Financial Product Safety Commission Act of 2015 (H.R. 1266)**  
Rep. **Lynn Westmoreland** (R-GA) signed on as a co-sponsor of this bill introduced by Rep. **Randy Neugebauer** (R-TX) that would replace the Director of the CFPB with a bipartisan, five-member commission, similar to other financial regulatory agencies. This bill passed the House Financial Services Committee.

- Consumer Financial Protection Bureau Accountability Act of 2015 (S. 1383)**  
 Sen. **David Perdue** (R-GA) has introduced the Consumer Financial Protection Bureau Accountability Act of 2015 (S.1383). This bill would place appropriations for the agency under control of Congress. The bureau's current budget is outside the authority and oversight of Congress thereby bypassing an important means of checks-and-balances.
- SBA Lending - The CREED Act (Commercial Real Estate and Economic Development Act - S. 966)**  
 Senators **Johnny Isakson** and **Jeanne Shaheen** (D-NH) introduced this bill that would change the eligibility rules of the SBA-504 loan program that finances the acquisition or construction of owner occupied properties for businesses at fixed rates. Under the current rules, small businesses cannot refinance out of higher interest rate loans and take advantage of the low rates currently offered.
- Systemic Risk Designation Improvement Act (H.R. 1309)**  
 This bill by Rep. **Blaine Luetkemeyer** (R-MO), introduced March 4, 2015 and reported out of committee in November 2015, would eliminate the automatic designation of banks as systemically important based solely on asset size, recognizing that regulators should consider many different components of risk.

### Mortgage Issues

Ensuring a robust and competitive mortgage market is essential to Georgia's economy and the state's banking industry. A priority in this area:

- Portfolio Loans as Qualified Mortgages (H.R. 1210)**  
 Rep. **Andy Barr** (R-KY) has introduced legislation, which has passed the House, designating all loans held in portfolio for the life of the loan as Qualified Mortgages. These exemptions for loans held in a bank's portfolio make common sense because any loan that is originated and retained by a bank or credit union must necessarily be based on the lender's careful analysis of the fundamentals of lending that have been incorporated into the "Ability-to-Repay" rule. This is what professional bankers have done for decades, and it involves a thorough examination of resources, existing debt obligations, verification of the information presented (tax returns, for example) and an analysis of the customer's unique individual circumstances. There's been no Senate action on the bill.

### Subchapter S Institutions / Limited Liability Companies

There are 57 banks in Georgia chartered as Subchapter S (Sub-S) organizations. The issue addressed by the American Jobs and Community Revitalization Act (**H.R. 1389**) by Rep. **Andy Barr** (R-KY) relates to the Basel III capital conservation buffer rules. Under this application, Sub-S banks would have to comply with new dividend restrictions that would, in some instances, prevent them from distributing proceeds to shareholders for purposes of paying income taxes. This puts Sub-S banks in a grossly unfair position and at a distinct disadvantage from C-Corp. banks that can still pay their income taxes before any dividend restrictions come into play. The simple solution would be to make the rules for Sub-S banks similar to those for C-Corp banks in regard to the Basel III Capital Conservation Buffer dividend restrictions. While the federal agencies have said they'll consider case-by-case requests to make distributions that would not otherwise be permitted under the capital rule, it is far from perfect and GBA has encouraged FDIC as well as the OCC and the Federal Reserve to reexamine their position.

Additionally, Rep. **Kenny Marchant** (R-TX) has introduced **HR 3287**, the Community Bank Flexibility Act, which would allow banks to be organized as Limited Liability Companies (LLCs) and provide a five-year window for banks to reorganize as LLCs without going through the prohibitive tax of liquidation, among other things. GBA is encouraging support for both of these bills with the Georgia congressional delegation.

In addition, as Congress considers tax reform, for these entities, we encourage the adoption of the following provisions:

- Increase the maximum shareholders for Subchapter S corporations to 200.
- Allow Subchapter S corporations to issue preferred shares.

- Allow common and preferred shares of Subchapter S corporations to be held in individual retirement accounts (IRAs).
- With regard to the net loss carry forward provision, we encourage Congress to extend that provision from five years to at least through the 2015 tax year and possibly longer. With the length and depth of the last recession, many banks are just now returning to profitability. Without extending the period, the important public policy reasons for the provision will be lost.

### **Data Protection, Consumer Notification and Cyber Security**

The Data Security Act of 2015, **H.R. 2205** by Rep. **Randy Neugebauer** (R-TX), conforms with GBA's position to support a national notification standard for data breaches. As introduced and reported out of committee, the bill requires individuals, corporations, or other non-government entities that access, maintain, communicate, or handle sensitive financial account information or nonpublic personal information to implement an information security program and to notify consumers, federal law enforcement, appropriate administrative agencies, payment card networks, and consumer reporting agencies of certain data breaches of unencrypted sensitive information likely to cause identity theft or fraudulent transactions on consumer financial accounts. And importantly, the bill prohibits certain state laws from being imposed for information security and breach notification purposes. Also, the federal highway transportation funding bill signed into law by the President Dec. 4 included a measure to increase sharing of cyber threat intelligence between the private and public sectors. It's a measure that will help combat hackers and identity thieves, and an idea GBA and members have long supported.

### **Credit Unions – Equalize Credit Unions' Tax Treatment with Banks**

Credit unions were never intended to be tax-free banks, but that's what they've become. There are now 237 credit unions in the U.S. that have over \$1 billion in assets each, compared to only 13 in 1994. Each one of these huge credit unions is larger than 90 percent of taxpaying banks. The tax exemption gives credit unions an unwarranted advantage over taxpaying community banks.

- Georgia's largest credit union, Delta Community Credit Union, has \$4.7 billion in assets and is larger than all but three of Georgia-headquartered banks.
- Georgia banks paid \$794.9 million in federal, state and local income taxes in 2014. Credit unions paid zero.
- Credit unions' tax exemption currently costs the U.S. Treasury \$2 billion annually.
- In Georgia, only 130 mortgages originated by credit unions went to low-income borrowers, compared to 9,244 mortgages originated to middle-and upper-income borrowers, according to recent Home Mortgage Disclosure Act (HMDA) data.
- Moreover, 193 HMDA reporting credit unions serving Georgia did not make a single loan to a low-income individual. Furthermore, 27 credit unions only originated mortgages to upper-income individuals.
- Congress should eliminate the credit union tax exemption.
- Congress should NOT approve any legislation expanding business lending opportunities for Credit Unions.

### **Farm Credit System – End the FCS Tax Subsidy and Improve Oversight**

The Farm Credit System (FCS) is a \$266 billion Government Sponsored Enterprise that competes directly with community banks.

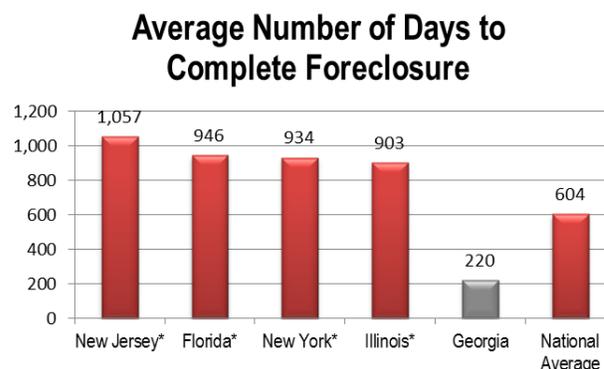
- The FCS has no specific statutory mission and the lending it provides often goes to individuals and businesses who least need subsidized credit. The lending often goes to non-farm borrowers.
- The first oversight hearing in a decade was held by the House Agriculture Committee Dec. 2, 2015. Georgia Rep. **Austin Scott** had some pointed criticism of the Farm Credit System (FCS) during the hearing. The

system, through lenders such as CoBank, has financed billions of dollars for large non-farm businesses such as Verizon and AT&T. Scott said that type of mission creep for FCS is putting the whole system at risk. “What they’re doing might be technically legal, it is my opinion that it is outside the scope and intent of the FCS. I don’t think CoBank’s going to stop until someone stops them,” he said during the hearing.

- See <http://reformfarmcredit.org/facts/> for more details.

## Foreclosures and Foreclosure Process Information

- Georgia's statutory minimum foreclosure timeline is 37 days from foreclosure notice. However, in practice, the actual time is longer. In Georgia, the average time to complete a foreclosure from the date of the first notice was 220 days in 2014<sup>3</sup>. New regulations effectively mandate that the process can't begin until a borrower is 120 days late (4 months) on a payment. Even before those regulations were in place, many lenders did not consider a loan in default until was at least 90 days past due (3 monthly payments missed).



- In most judicial foreclosure states, it takes longer to complete a foreclosure. For example, through the end of 2014, in New Jersey the average time from the first public foreclosure notice to completion was 1,057 days – almost three full years.
- Regulations provide protection for borrowers that are behind on payments. Loan servicers:
  - Must try to contact borrowers no later than 36 days after the last payment was due
  - Must tell borrowers about workout options no later than 45 days after the last payment was due
  - Must assign specific people to help a borrower once they're 45 days past due
  - Must wait until a borrower is 120 days past due before beginning the foreclosure process if they have not heard from a borrower.
- A homeowner in any state, Georgia included, has the right to challenge a foreclosure in court. The main difference is that in a non-judicial state, the lender does not have to file a lawsuit to initiate a foreclosure, which can take months or years to settle depending on the state and how burdened their courts are.
- 28 states, including Georgia, have such a statutory foreclosure process: AL, AK, AZ, AR, CA, CO, GA, HI, ID, MD, MA, MI, MN, MS, MO, MT, NV, NH, NC, OR, RI, TN, TX, UT, VA, WA, WV and WY.
- Using the court system to process foreclosures increases costs for governments and taxpayers, borrowers and lenders. Judicial foreclosure simply does not allow the flexibility that non-judicial foreclosure offers lenders when working with borrowers. The non-judicial process allows for a balance of adequate time for borrowers and lenders to work out a solution yet avoids lengthy delays in moving properties through the system.
- A Federal Reserve Bank of Boston study shows that judicial foreclosure processes and some laws touted to protect borrowers from foreclosure do not lead to fewer foreclosures. "Borrowers in judicial states are no more likely to cure and no more likely to renegotiate their loans, but the delays lead to a buildup in these states of persistently delinquent borrowers, the vast majority of whom eventually lose their homes," the study said.<sup>4</sup>

<sup>3</sup> Source: RealtyTrac U.S. Foreclosure Market Report through year-end 2014, based on date from first public notice to foreclosure completion.

<sup>4</sup> <http://www.bos.frb.org/economic/ppdp/2011/ppdp1109.pdf>