

FIDELITY SOUTHERN CORP  
Form 8-K  
June 21, 2012

# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## FORM 8-K

### CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): June 15, 2012

# FIDELITY SOUTHERN CORPORATION

(Exact name of registrant as specified in its charter)

Georgia  
(State or other jurisdiction of  
incorporation)

No. 001-34981  
(Commission  
File Number)  
3490 Piedmont Road, Suite 1550  
Atlanta, Georgia 30305

No. 58-1416811  
(IRS Employer  
Identification No.)

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(Address of principal executive offices)

Registrant's telephone number, including area code: (404) 639-6500

Not applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240-13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement.**

The information provided under Item 2.01 Completion of Acquisition or Disposition of Assets is incorporated herein by reference.

**Item 2.01 Completion of Acquisition or Disposition of Assets.**

On June 15, 2012, Fidelity Bank (the Bank), the wholly-owned banking subsidiary of Fidelity Southern Corporation (the Company), entered into a Purchase and Assumption Agreement (Agreement) with the Federal Deposit Insurance Corporation (the FDIC), as Receiver of Security Exchange Bank, Marietta, Georgia, and the FDIC, acting in its corporate capacity, pursuant to which the Bank acquired certain assets, and assumed all of the deposits and certain liabilities, of Security Exchange Bank.

Under the terms of the Agreement, the Bank acquired approximately \$151.0 million in assets, including approximately \$64.4 million in loans, approximately \$46.0 million in other real estate, and also assumed approximately \$146.6 million in liabilities, including approximately \$146.5 million in customer deposits. The deposits were acquired with no premium, and the assets were acquired at a discount of \$19.3 million. To settle the transaction, the FDIC made a cash payment to the Bank totaling \$14.9 million, based on the differential between liabilities assumed and assets acquired, taking into account the asset discount.

In connection with the Agreement, the Bank entered into a loss-share agreement with the FDIC that covers approximately \$102.8 million assets, of which approximately \$46.0 million is other real estate and approximately \$56.8 million is commercial real estate loans, construction loans, other commercial loans and other commercial assets (collectively, Covered Assets). Under this loss-share agreement, the FDIC will reimburse the Bank for 80% of losses on Covered Assets, beginning with the first dollar of loss incurred. The Bank will reimburse the FDIC for recoveries with respect to losses for which the FDIC paid the Bank under the loss-share agreement. The loss-share agreement provides for FDIC loss sharing for five years and reimbursement by the Bank to the FDIC for eight years.

The Bank also has agreed to pay to the FDIC, 45 days after June 30, 2022 (or, if later, the time of disposition of all acquired assets pursuant to the loss-share agreement) (the True-Up Date), the excess, if any, of (i) 20% of the intrinsic loss estimate of approximately \$24.8 million less (ii) the sum of (A) 20% of the cumulative loss-share payments (defined as the aggregate of all loss-share payments made by the FDIC to the Bank under the loss-share agreement minus the aggregate of all reimbursement payments made by the Bank to the FDIC under such agreement), plus (B) 25% of the asset discount of total Covered Assets at the inception of the loss-share agreement, plus (C) servicing amounts equal to 3.5% of total Covered Assets at the inception of the loss-share agreement.

The terms of the Agreement provide for the FDIC to indemnify the Bank against certain claims, including, but not limited to, claims with respect to liabilities and assets of Security Exchange Bank or any of their affiliates not assumed or otherwise purchased by the Bank, with respect to claims made by shareholders of Security Exchange Bank and with respect to claims based on any action by Security Exchange Bank's directors, officers and other employees.

The foregoing summary of the Agreement, including the related loss-share agreement, is not complete and is qualified in its entirety by reference to the full text of the Agreement, which is attached as Exhibit 2.1 to this Current Report and incorporated herein by reference.

**Item 8.01 Other Events.**

On June 15, 2012, the Company issued a press release announcing the Security Exchange Bank Acquisition. A copy of the press release is attached as Exhibit 99.1 to this Current Report and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits**

(a) Financial Statements of Businesses Acquired.

To the extent that financial statements are required by this Item, such financial statements will be filed by amendment to this Current Report no later than December 31, 2012.

(b) Pro Forma Financial Information.

To the extent that pro forma financial information is required by this Item, such pro forma financial information will be filed by amendment to this Current Report no later than December 31, 2012.

(d) Exhibits.

2.1 Purchase and Assumption Agreement dated as of June 15, 2012 by and among the Federal Deposit Insurance Corporation, Receiver of Security Exchange Bank, Marietta, Georgia, Fidelity Bank and the Federal Deposit Insurance Corporation acting in its corporate capacity.

99.1 Press release dated June 15, 2012.

| <b>Exhibit No.</b> | <b>Description</b>  |
|--------------------|---|
| 2.1                | Purchase and Assumption Agreement dated as of June 15, 2012 by and among the Federal Deposit Insurance Corporation, Receiver of Security Exchange Bank, Marietta, Georgia, Fidelity Bank and the Federal Deposit Insurance Corporation acting in its corporate capacity |
| 99.1               | Press Release issued on June 15, 2012   |

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

/s/ Stephen H. Brolly  
Stephen H. Brolly  
Chief Financial Officer

June 20, 2012