

FIDELITY SOUTHERN CORP

Form PRER14A

January 20, 2009

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**SCHEDULE 14A
(Rule 14a-101)**

**INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION
Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No. 1)**

Filed by the registrant

Filed by a party other than the registrant

Check the appropriate box:

Preliminary proxy statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive proxy statement

Definitive additional materials

Soliciting material pursuant to Rule 14a-11(c) or Rule 14a-12

FIDELITY SOUTHERN CORPORATION

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than Registrant)

Payment of filing fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transactions applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

- o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously.

Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement no.:

(3) Filing Party:

(4) Date Filed:



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FIDELITY SOUTHERN CORPORATION
3490 Piedmont Road NE
Suite 1550
Atlanta, Georgia 30305
NOTICE OF SPECIAL MEETING OF SHAREHOLDERS
To Be Held on February __, 2009

The Special Meeting of Shareholders of Fidelity Southern Corporation will be held at One Securities Centre, 3490 Piedmont Road NE, Suite 1550, Atlanta, Georgia 30305, on [DAY], February __, 2009, at 3:00 p.m. for the following purposes:

1. To approve the reservation of 2,266,458 shares of the Company's common stock (the "Warrant Shares") for issuance upon the exercise of that certain Warrant dated December 19, 2008, issued in connection with Fidelity Southern Corporation's participation in the U.S. Treasury's TARP Capital Purchase Program. The number of shares reserved may be modified in accordance with the terms of the Warrant.
2. To grant management of Fidelity Southern Corporation the authority to adjourn the Special Meeting to another time and date in order to allow the Board of Directors to solicit additional proxies or attendance at the Special Meeting.
3. To transact such other business as may properly come before the Special Meeting or any adjournment thereof.

Only shareholders of record at the close of business on January 7, 2009, will be entitled to notice of and to vote at the Special Meeting or any adjournment thereof.

Important Notice Regarding the Availability of Proxy Materials for the Shareholder Meeting to be Held on February __, 2009: The proxy statement is available at [www.http://materials.proxyvote.com/316394](http://materials.proxyvote.com/316394).

A Proxy Statement and a Proxy are enclosed. Whether or not you plan to attend, please vote your shares by completing, signing, dating, and returning the enclosed Proxy as soon as possible in the postage-paid envelope provided.

By Order of the Board of Directors,

Martha C. Fleming
Corporate Secretary
January __, 2009

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FIDELITY SOUTHERN CORPORATION
3490 Piedmont Road NE
Suite 1550
Atlanta, Georgia 30305
PROXY STATEMENT

GENERAL INFORMATION

The enclosed proxy card is solicited on behalf of the Board of Directors of Fidelity Southern Corporation (Fidelity or Company) in connection with the Special Meeting of Shareholders (Special Meeting) to be held at One Securities Centre, 3490 Piedmont Road NE, Suite 1550, Atlanta, Georgia 30305, on [DAY], February ____, 2009, at 3:00 p.m., and at any adjournment thereof. This proxy statement and the enclosed proxy card are being mailed to our shareholders on or about January 7, 2009.

Your vote is very important. For this reason, the Board of Directors is requesting that you permit your common stock to be represented at the Special Meeting by the individuals named on the enclosed proxy card. If no specification is made, the proxies will be voted for approval of the Reservation of the Warrant Shares and for the Adjournment Proposal, and upon such other matters as may properly come before the Special Meeting or any adjournment thereof, according to the best judgment of the Proxy Committee elected by the Board of Directors and composed of Edward G. Bowen, M.D. and H. Palmer Proctor, Jr.

The presence of a majority of the votes entitled to be cast at the Special Meeting, represented in person or by proxy, will constitute a quorum. A majority of the votes cast at the Special Meeting is required to approve the Reservation of the Warrant Shares, the Adjournment Proposal, and any other proposals, unless the vote of a greater number is required by law.

Who Can Vote

Each shareholder of record at the close of business on January 7, 2009, is entitled to notice of and to vote at the Special Meeting or any adjournment thereof. Each share of Fidelity common stock entitles the shareholder to one vote on any matter coming before a meeting of Fidelity shareholders. On January 7, 2009, the record date for the Special Meeting, there were ___shares of Fidelity common stock outstanding and eligible to vote. The enclosed proxy card shows the number of shares that you are entitled to vote. If you own any shares in Fidelity's Direct Stock Purchase and Dividend Reinvestment Plan or the Employee Stock Purchase Plan, the enclosed proxy card includes the number of shares you had in that plan on the record date for the Special Meeting, as well as the number of shares registered in your name.

How Do I Cast My Vote

If you are the record owner of your shares (either in certificates, book-entry, or in the Direct Stock Purchase and Dividend Reinvestment Plan or the Employee Stock Purchase Plan), you have the following voting options:

By mail by completing, signing, dating, and returning the enclosed proxy card; or

By attending the Special Meeting and voting your shares in person.

Even if you plan to attend the Special Meeting, we encourage you to vote your shares by proxy.

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If you provide specific voting instructions, your shares will be voted as instructed. If you hold shares in your name and sign and return a proxy card without giving specific voting instructions, your shares will be voted for the proposals at the Special Meeting. If you hold your shares in your name and do not return a valid proxy or vote in person at the Special Meeting, your shares will not be voted.

If you hold your shares in a brokerage account or through another nominee, your broker or nominee (the record holder) is forwarding these proxy materials to you along with voting instructions. The record holder is required to vote your shares in accordance with your instructions. If you do not give the record holder instructions, the record holder may have the authority to vote your shares in its discretion if permitted by the exchange or other organization of which the record holder is a member. Although most brokers and nominees offer telephone voting, availability and specific procedures will depend on their voting arrangements. Please follow their directions carefully.

Every vote is important! Please vote your shares promptly.

What Am I Voting On

There are two proposals that will be presented for your consideration at the Special Meeting:

Proposal One. To approve the reservation of 2,266,458 shares of Fidelity common stock for issuance upon the exercise of that certain Warrant dated December 19, 2008, issued in connection with Fidelity's participation on the U.S. Treasury Capital Purchase Program, which number of shares may be modified pursuant to the terms of the Warrant.

Proposal Two. To grant management of Fidelity Southern Corporation authority to adjourn the Special Meeting to another time and date in order to allow the Board of Directors to solicit additional proxies or attendance at the Special Meeting.

Other business may be addressed at the Special Meeting if it properly comes before the Special Meeting. However, we are not aware of any such other business.

Can I Change My Vote

If you are a record owner, you may revoke your proxy and change your vote at any time before voting begins on any proposal. You may do this by either giving our Corporate Secretary written notice of your revocation, submitting a new signed proxy card with a later date, or by attending the Special Meeting and electing to vote in person. However, your attendance at the Special Meeting will not automatically revoke your proxy; you must specifically revoke your proxy. If your shares are held in nominee or street name, you should contact your broker or other nominee regarding the revocation of proxies.

What Quorum is Needed to Hold the Special Meeting

In order to conduct the Special Meeting, a majority of Fidelity shares entitled to vote must be present in person or by proxy. This is called a quorum. If you return a valid proxy or elect to vote in person at the Special Meeting, you will be considered part of the quorum.

Abstentions, withheld votes, and broker non-votes will be included in the calculation of the number of shares represented in person or by proxy at the Special Meeting in determining whether the quorum requirement is satisfied. Abstentions, withheld votes, and broker non-votes will not, however, be counted for purposes of determining whether any proposal has received sufficient votes for approval.

What Vote is Needed

For each proposal to be presented at the meeting, the affirmative vote of the majority of the votes cast at the Special Meeting is needed for approval of such proposal.

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What is our Voting Recommendation

Our Board of Directors recommends that you vote **FOR** the reservation of the Warrant Shares and the Adjournment Proposal.

Proxy cards that are timely signed, dated, and returned but do not contain instructions on how you want to vote will be voted in accordance with our Board of Directors' recommendation.

Proxy Solicitation

Fidelity will bear the expenses of soliciting proxies, including the cost of preparing and mailing this proxy statement. Fidelity will furnish solicitation materials to banks, brokerage houses, and other custodians, nominees, and fiduciaries for forwarding to beneficial owners of shares of the common stock and normal handling charges may be paid for such forwarding service. In addition, directors, officers, and other employees of Fidelity who will not be additionally compensated therefor may solicit proxies in person or by telephone, email, or other means.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table reflects the number of shares of common stock beneficially owned as of December 31, 2008, by (1) each person known to be the beneficial owner of more than five percent of the common stock of Fidelity, (2) each director, (3) each named executive officer (as defined in Item 402(a)(3) of Regulation S-K under the Securities Exchange Act of 1934), and (4) all directors and named executive officers as a group.

Unless otherwise indicated, each of the named individuals and each member of the group has sole or shared voting power or investment power with respect to the shares shown. Unless otherwise indicated, the address of each person or entity named in the table is c/o Fidelity Southern Corporation, 3490 Piedmont Road NE, Suite 1550, Atlanta, Georgia 30305.

The number of shares beneficially owned by each shareholder is determined under rules promulgated by the SEC. The information is not necessarily indicative of beneficial ownership for any other purpose. Under these rules, beneficial ownership includes any shares as to which the individual has sole or shared voting power or investment power and any shares as to which the individual has the right to acquire beneficial ownership within 60 days of December 31, 2008, through the exercise of any stock option, warrant, or other right. The inclusion in the following table of those shares, however, does not constitute an admission that the named shareholder is a direct or indirect beneficial owner of those shares.

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Name of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class
Tontine Partners, LP 55 Railroad Avenue, 3 rd Floor Greenwich, CT 06830-6378	895,299	9.32%
Sagus Financial Fund LP 3399 Peachtree Road # 2040 Atlanta, GA 30326	653,877	6.80
James B. Miller, Jr.	2,950,737 ⁽¹⁾	30.70
Major General (Ret) David R. Bockel	11,832 ⁽²⁾	*
Edward G. Bowen, M.D.	17,275 ⁽³⁾	*
Dr. Donald A. Harp, Jr.	3,729	*
Kevin S. King	12,003 ⁽⁴⁾	*
James H. Miller III	46,108	*
H. Palmer Proctor, Jr.	73,673 ⁽⁵⁾	*
Robert J. Rutland	149,441 ⁽⁶⁾	1.56
W. Clyde Shepherd III	78,906 ⁽⁷⁾	*
Rankin M. Smith, Jr.	18,299 ⁽⁸⁾	*
Stephen H. Brolly	5,126 ⁽⁹⁾	*
David Buchanan	34,528 ⁽¹⁰⁾	*
All directors and executive officers as a group (12 persons)	3,401,657 ⁽¹¹⁾	35.40%

* Less than 1%.

(1) Includes 324,716 shares held by Mr. Miller's children, grandchild, and family trust, and 187,386 shares held by Berlin American, LLC and Berlin American Company II, companies of which Mr. Miller and his wife's estate own 40%. Also includes 89,655 shares owned by

his wife's estate.

- (2) Includes 265 shares held by Major General (Ret) Bockel's wife.
- (3) Includes 10,560 shares held by Dr. Bowen as trustee for Target Benefit Plan.
- (4) Includes 4,396 shares held by Mr. King's wife.
- (5) Includes 18,667 shares that Mr. Proctor has the right to acquire pursuant to outstanding stock options.
- (6) Includes 6,000 shares held by Mr. Rutland's children and 7,920 shares held by a family foundation.
- (7) Includes 34,530 shares held by a Shepherd family trust, 5,000 shares held by a family partnership, and 1,800 shares held in trust for minor children.
- (8) Includes 298 shares owned by Mr. Smith's wife.

- (9) Includes 3,333 shares that Mr. Brolly has the right to acquire pursuant to outstanding stock options.
- (10) Includes 3,333 shares that Mr. Buchanan has the right to acquire pursuant to outstanding stock options.
- (11) Includes 25,333 shares that the beneficial owners have the right to acquire pursuant to outstanding stock options.

PROPOSAL ONE: RESERVATION OF THE WARRANT SHARES

Background TARP Capital Purchase Program

On October 14, 2008, the U.S. Department of the Treasury (the Treasury) announced the Troubled Asset Relief Program (TARP) Capital Purchase Program (the Program). The Program was instituted by the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 (EESA), which provides up to \$700 billion to the Treasury to, among other things, take equity positions in financial institutions. The Program is intended to encourage U.S. financial institutions to build capital and thereby increase the flow of financing to businesses and consumers.

On December 19, 2008, as part of the Program, Fidelity entered into a Letter Agreement (Letter Agreement) and a Securities Purchase Agreement Standard Terms attached thereto (Securities Purchase Agreement) with the Treasury, pursuant to which Fidelity agreed to issue and sell, and the Treasury agreed to purchase (1) 48,200 shares (the

Preferred Shares) of Fidelity s Fixed Rate Cumulative Perpetual Preferred Stock, Series A, having a liquidation preference of \$1,000 per share, and (2) a ten-year warrant (the Warrant) to purchase up to 2,266,458 shares of the Company s common stock, no par value (Common Stock), at an exercise price of \$3.19 per share, for an aggregate purchase price of \$48.2 million in cash.

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While our capital and liquidity position were strong prior to receiving the \$48.2 million investment from the Treasury, our Board of Directors determined that it was in the best interest of Fidelity and our shareholders to participate in the Program to further strengthen our capital and liquidity position, given the current and future uncertainty of the local and national economy. We believe that the Program provided us an opportunity to access additional capital with very favorable pricing and terms. The additional capital will enable us to continue to be well-positioned to support our existing operations as well as our anticipated future growth. Our plan is to use the proceeds to increase our lending capacity by making prudent loans to creditworthy individuals and businesses in our markets, improve our ability to work with troubled borrowers, and support our broader strategic growth and community service initiatives.

The Preferred shares will qualify as Tier 1 capital for regulatory purposes and rank senior to the Common Stock. The Preferred Shares pay a cumulative dividend rate of 5% per annum for the first five years they are outstanding and thereafter at a rate of 9% per annum. The Preferred Shares are non-voting but have voting rights on matters that could adversely affect the Preferred Shares. After three years, the Preferred Shares are callable at 100% of the issue price plus any accrued and unpaid dividends. Prior to the end of three years, the Preferred Shares may be redeemed with the proceeds from a qualifying equity offering of any Tier 1 perpetual preferred or common stock. The Treasury's consent is required for any increase in common dividends per share or certain repurchases of common stock until December 19, 2011, unless prior to such third anniversary either the Preferred Stock issued to the Treasury is redeemed in whole or the Treasury has transferred all of the Preferred Stock to third parties.

The Warrant issued to the Treasury in connection with Fidelity's participation in the Program has an exercise price of \$3.19 per share, which was equal to the market price of our Common Stock at the time of preliminary approval of our participation in the Program, calculated on a 20-trading day trailing average. The amount of earnings per share dilution resulting from the issuance of the Warrant will depend upon the value of our Common Stock during the period that the Warrant is outstanding. The Warrant requires that, subject to receipt of necessary shareholder approvals, Fidelity will at all times reserve and keep available, out of its authorized but unissued Common Stock, solely for the purpose of providing for the exercise of the Warrant, the aggregate number of shares of Common Stock then issuable upon exercise of the Warrant at any time. Additionally, the Warrant requires that Fidelity list and maintain the listing of the Warrant Shares on the NASDAQ Global Select Market, which is the exchange on which Fidelity's Common Stock is listed.

Additionally, in connection with Fidelity's participation with the Program, Fidelity adopted the Treasury's standards for executive compensation and corporate governance set forth in Section 111 of EESA for the period during which the Treasury holds equity issued under the Program. To ensure compliance with these standards, within the time frame prescribed by the Program, Fidelity has entered into agreements with its senior executive officers who would be subject to the standards. The executive officers have agreed to, among other things, (1) clawback provisions relating to the repayment by the executive officers of incentive compensation based on materially inaccurate financial statements or performance metrics and (2) limitations on certain post-termination parachute payments.

The Letter Agreement, including the Securities Purchase Agreement, the Warrant, and the form of agreement with our senior executive officers were filed as exhibits to our Form 8-K, filed on December 19, 2008, with the Securities and Exchange Commission.

See [Appendix A](#) for the Summary of Senior Preferred Terms and Summary of Warrant Terms as published by the Treasury.

Approval of the Reservation of the Warrant Shares

Our shares of Common Stock are listed on the NASDAQ Global Select Market. The Warrant requires that Fidelity list and maintain the listing of the Warrant Shares that are issuable upon the exercise of the Warrant on this exchange. Under NASDAQ's listing requirements, our shareholders must approve the issuance of the Warrant Shares prior to listing because the number of Warrant Shares exceeds 20% of our outstanding shares of Common Stock prior to the issuance of the Warrant Shares, and the exercise price of the Warrant is less than the greater of the book value or market value of our Common Stock. Accordingly, we are seeking shareholder approval of the reservation of 2,266,458 shares of Common Stock for issuance upon the exercise of the Warrant, which number of shares may be revised pursuant to the terms of the Warrant.

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Failure to Receive Shareholder Approval

Under the terms of the Warrant, if at any time (i) following the date on which the shares of Common Stock of Fidelity are no longer listed or admitted to trading on a national securities exchange (other than in connection with any Business Combination, as defined in the Warrant) or (ii) following the 18-month anniversary of the date the Warrant was issued and until the receipt of the shareholder approval allowing the full exercise of the Warrant, the Treasury may cause Fidelity to exchange all or a portion of the Warrant for an economic interest (to be determined by the Treasury after consultation with Fidelity) of Fidelity classified as permanent equity under U.S. GAAP having a value equal to the fair market value of the portion of the Warrant so exchanged.

Use of Proceeds

Since it is uncertain when or if the Treasury or its successors in interest to the Warrant will exercise the Warrant, we are unable to determine what our use of proceeds from such exercise will or would be.

Pro Forma Financial Information

The unaudited pro forma condensed consolidated financial data set forth below has been derived by the application of pro forma adjustments to Fidelity's historical financial statements for the year ended December 31, 2007 and as of and for the nine months ended September 30, 2008. The unaudited pro forma consolidated financial data gives effect to the events discussed below as if they had occurred on January 1, 2007, and January 1, 2008 in the case of the statement of income data and September 30, 2008 in the case of the balance sheet and regulatory capital ratio data. The key assumptions in the following pro forma statements include the following:

The issuance of Preferred Shares under the Program for \$48.2 million,

The issuance of the Warrant to purchase 2,266,458 shares of Fidelity common stock under the Program, and

The investment of the proceeds in earning assets.

The pro forma financial data may change materially based on the timing and utilization of the proceeds as well as certain other factors including any subsequent changes in Fidelity's common stock price.

The information should be read in conjunction with Fidelity's audited financial statements and the related notes filed as part of our Annual Report on Form 10-K for the year ended December 31, 2007, and our unaudited consolidated financial statements and the related notes filed as part of our Quarterly Report on Form 10-Q for the quarter ended September 30, 2008.

The following unaudited pro forma consolidated financial data is not necessarily indicative of our financial position, results of operations or regulatory capital position that actually would have been attained had proceeds from the Program been received, or the issuance of the Warrant been made, at the dates indicated, and is not necessarily indicative of our financial position, results of operations or regulatory capital position that will be achieved in the future. In addition, as noted above, until the receipt of the shareholder approval allowing the full exercise of the Warrant, the Treasury may cause Fidelity to exchange all or a portion of the Warrant for an equivalent economic interest in Fidelity.

We have included the following unaudited pro forma consolidated financial data solely for the purpose of providing shareholders with information that may be useful for purposes of considering and evaluating the Reservation of the Warrant Shares proposal. Our future results are subject to prevailing

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economic and industry specific conditions and financial, business and other known and unknown risks and uncertainties, certain of which are beyond our control. These factors include, without limitation, those described in this Proxy Statement and those described under Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2007, in Item 1A of our Quarterly Report on Form 10-Q for the quarter ended September 30, 2008 and in our other reports filed with the SEC.

**FIDELITY SOUTHERN CORPORATION AND SUBSIDIARIES
PRO FORMA CONSOLIDATED BALANCE SHEET**

	Historical September 30, 2008	Pro Forma Adjustments	Pro Forma September 30, 2008
Balance sheet data:			
ASSETS			
Cash and due from banks ⁽¹⁾	\$ 21,370	\$ 48,200	\$ 69,570
Securities and other interest earning assets	189,573		189,573
Loans, net	1,449,827		1,449,827
Other assets	99,328		99,328
 Total assets	 \$ 1,760,098	 \$ 48,200	 \$ 1,808,298
 LIABILITIES AND STOCKHOLDERS EQUITY			
Deposits	\$ 1,465,819	\$	\$ 1,465,819
Borrowed funds	188,476		188,476
Other liabilities	12,537		12,537
 Total liabilities	 1,666,832		 1,666,832
 Stockholders' equity			
Preferred stock ⁽¹⁾		48,200	48,200
Common stock	46,808		46,808
Common stock warrants ⁽²⁾		4,413	4,413
Discount on preferred ^{(2) (3)}		(4,413)	(4,413)
Retained earnings	47,559		47,559
Accumulated comprehensive income	(1,101)		(1,101)
 Total stockholders' equity	 93,266	 48,200	 141,466
 Total liabilities and stockholders' equity	 \$ 1,760,098	 \$ 48,200	 \$ 1,808,298

(1) Reflects the issuance of \$48,200,000 of Fidelity Southern Corporation

senior preferred shares. Proceeds are assumed to be initially invested in cash and Fed Funds.

- (2) The carrying values of the senior preferred stock and the common stock warrants are determined based on their relative fair values at issue date. The fair value of the senior preferred stock was estimated using a market rate of 12.4%. The fair value of the common stock warrants was estimated to be \$1.25 per share and was determined using the Black-Scholes model with the following assumptions: dividend yield, 1.25%; risk-free interest rate, 1.185%; expected life, 10 years; and volatility, 37.44%.
- (3) The discount on the senior preferred stock is amortized over its estimated life of

five years using
the effective
yield method.

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PRO FORMA CONSOLIDATED STATEMENT OF INCOME**

	Historical Nine Months Ended September 30, 2008	Pro Forma Adjustments	Pro Forma Nine Months Ended September 30, 2008
Income Statement Data:			
Total interest income ⁽¹⁾	\$ 79,725	\$ 1,675	\$ 81,400
Total interest expense	44,007		44,007
Net interest income	35,718	1,675	37,393
Provision for loan losses	21,850		21,850
Net interest income after provision for loan losses	13,868	1,675	15,543
Total noninterest income	13,893		13,893
Total noninterest expense ^{(3) (5)}	36,426	662	37,088
Income before income taxes	(8,665)	1,013	(7,652)
Income tax expense	(3,998)	385	(3,613)
Net income	\$ (4,667)	\$ 628	(4,039)
Effective dividend on preferred stock ⁽⁴⁾			1,834
Net income available to common stockholders			\$ (5,873)
Selected Financial Ratios			
Earnings per share			
Basic	\$ (0.50)	\$ (0.12)	\$ (0.62)
Diluted	\$ (0.50)	\$ (0.09)	\$ (0.59)
Average basic shares outstanding	9,404,001		9,404,001
Average diluted shares outstanding ⁽²⁾	9,404,001	593,428	9,997,429

(1) The funds received from the senior preferred stock issue are assumed to be initially invested in mortgage backed investment securities guaranteed by an agency of the

U.S.

Government at a rate of 4.56%.

An incremental tax rate of 38% was assumed.

Subsequent redeployment of the funds is anticipated but the timing of such redeployment is uncertain.

- (2) The pro forma average diluted shares outstanding includes the estimated effect of the exercise of the warrants and are accounted for under the treasury stock method, using the nine month average stock price of \$4.32.
- (3) The issuance costs expected to be incurred were immaterial; therefore, no effect was given in the pro forma.
- (4) Consists of dividends of \$1,834,000 on preferred stock at a 5% annual rate.
- (5) Includes accretion of

discount on preferred stock over a 5 year amortization period. The discount is determined based on the value that is allocated to the warrants upon issuance. The discount is accreted back to par value on an effective yield method over a 5-year term, which is the expected life of the preferred stock upon issuance. The estimated accretion is based on a number of assumptions that are subject to change. These assumptions include the discount (market rate at issuance) rate on the senior preferred stock of 12.4%, and assumptions underlying the value of the common stock warrants. The proceeds are allocated based on the relative fair value of the warrants as compared to the fair value of the senior preferred

stock.

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PRO FORMA CONSOLIDATED STATEMENT OF INCOME**

	Historical Twelve Months Ended December 31, 2007	Pro Forma Adjustments	Pro Forma Twelve Months Ended December 31, 2007
Income Statement Data:			
Total interest income ⁽¹⁾	\$ 113,462	\$ 2,552	\$ 116,014
Total interest expense	66,682		66,682
Net interest income	46,780	2,552	49,332
Provision for loan losses	8,500		8,500
Net interest income after provision for loan losses	38,280	2,552	40,832
Total noninterest income	17,911		17,911
Total noninterest expense ^{(3) (5)}	47,203	883	48,086
Income before income taxes	8,988	1,669	10,657
Income tax expense	2,354	634	2,988
Net income	\$ 6,634	\$ 1,035	7,669
Effective dividend on preferred stock ⁽⁴⁾			2,443
Net income available to common stockholders			\$ 5,226
Selected Financial Ratios			
Earnings per share			
Basic	\$ 0.71	\$ (0.15)	\$ 0.56
Diluted	\$ 0.71	\$ (0.24)	\$ 0.47
Average basic shares outstanding	9,330,932		9,330,932
Average diluted shares outstanding ⁽²⁾	9,344,891	1,811,893	11,156,784

(1) The funds received from the senior preferred stock issue are assumed to be initially invested in mortgage backed investment securities guaranteed by an agency of the

U.S.

Government at a rate of 5.17%.

An incremental tax rate of 38% was assumed.

Subsequent redeployment of the funds is anticipated but the timing of such redeployment is uncertain.

(2) The pro forma average diluted shares outstanding include the estimated effect of the exercise of the warrants and are accounted for under the treasury stock method, using the twelve month average stock price of \$15.91.

(3) The issuance costs expected to be incurred were immaterial; therefore, no effect was given in the pro forma.

(4) Consists of dividends of \$2,443,000 on preferred stock at a 5% annual rate.

(5)

Includes accretion of discount on preferred stock over a 5 year amortization period. The discount is determined based on the value that is allocated to the warrants upon issuance. The discount is accreted back to par value on an effective yield method over a 5-year term, which is the expected life of the preferred stock upon issuance. The estimated accretion is based on a number of assumptions that are subject to change. These assumptions include the discount (market rate at issuance) rate on the senior preferred stock of 12.4%, and assumptions underlying the value of the common stock warrants. The proceeds are allocated based on the relative fair value of the warrants as compared to the

fair value of the
senior preferred
stock.

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	September 30, 2008	Pro Forma as of September 30, 2008 Assuming Investment of \$48.2 million of Preferred Stock Pursuant to Program
Regulatory Capital Ratios Fidelity Southern Corporation	Actual	
Tier 1 Leverage Ratio	7.06%	10.70%
Tier 1 Risk Based Ratio	7.75%	11.68%
Total Risk Based Ratio	10.92%	14.04%
Fidelity Bank		
Tier 1 Leverage Ratio	7.81%	10.55%
Tier 1 Risk Based Ratio	8.57%	11.57%
Total Risk Based Ratio	10.45%	13.45%
<i>The Boa</i>		