

Corporate Litigation

## Submission of Bill Proposing a Partial Amendment of the Civil Code with Respect to Guarantee Contracts

The Special Act on the Protection of Guarantors (the “Act”) has been criticized as lacking adequate safeguards for individuals who execute a guarantee contract with a private money lender or loan business registered with a local government, although the Act currently does protect individual guarantors who enter into a guarantee contract with a financial institution licensed by the Financial Services Commission.

On March 25, 2014, in response to such criticism, the Korean government submitted to the National Assembly a bill proposing a partial amendment of the Civil Code (the “**Proposed Bill**”), stating that the Proposed Bill aims “to protect individual guarantors by prescribing statutory formality for a guarantee and provisions on *geun*-guarantee, since the current provisions on guarantees under the Civil Code do not provide adequate safeguards for guarantors and the application of the Act is limited to guarantees provided without consideration.” Further, the Proposed Bill contains provisions relating to tour products for the protection of travelers.

The key provisions on guarantees under the Proposed Bill are as follows:

<b>Codification of Formality for Guarantee</b>	A guarantee becomes effective only when the guarantor expresses intent in writing on which the guarantor (i) prints his/her name and affixes his/her seal, or (ii) signs.
<b>Addition of New Provision on <i>Geun</i>-Guarantee</b>	When a <i>geun</i> -guarantee is provided to secure several, unspecified payment obligations, it becomes effective only when the total ceiling guaranteed amount is fixed and recorded in writing.
<b>Creditor's Obligation to Provide Information and Notice</b>	When executing a guarantee contract, the creditor is required to provide the guarantor with the credit information of the primary obligor in connection with the payment obligation. Further, after execution of the guarantee contract, the creditor is required to notify the guarantor in certain cases, such as when the primary obligor has failed to perform his payment obligations for three months or longer. If the guarantor suffers loss due to the creditor's failure to perform such obligations, the court may reduce or discharge the guarantor's guarantee obligation.

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