

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

A Bill

Act 113 of 1999
HOUSE BILL 1202

5 By: Representative Wilkinson
6 By: Senator Harriman
7

For An Act To Be Entitled

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9
10 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
11 BANKING CODE RELATING TO DEFINITIONS AND NOTICE
12 REQUIREMENTS; AND FOR OTHER PURPOSES."
13

Subtitle

14
15 "AN ACT TO AMEND VARIOUS SECTIONS OF THE
16 ARKANSAS BANKING CODE RELATING TO
17 DEFINITIONS AND NOTICE REQUIREMENTS; AND
18 FOR OTHER PURPOSES."
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20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code 23-45-102(21) is amended to read as follows:
24 "(21) 'Financial Institution' means any state bank, registered out-of-
25 state bank, bank holding company, trust company, or subsidiary trust company;"
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27 SECTION 2. Arkansas Code 23-46-403 is amended to read as follows:
28 "23-46-403. Applications ~~—Publication of notice.~~

29 ~~(a) When any of the following applications are filed with the~~
30 ~~commissioner, the sponsors of such applications shall give notice of filing~~
31 ~~through publication by one (1) insertion in a newspaper published in the City~~
32 ~~of Little Rock and having a general and substantially statewide circulation:~~
33 in accordance with department regulations.

34 ~~(1) An application for the issuance of a new state bank charter; or~~

35 ~~(2) An application for the merger or consolidation of one (1) or more~~
36 ~~banks into a state bank; or~~

1 ~~(3) An application for the merger or consolidation of one (1) or more~~
 2 ~~savings and loan associations into a state bank; or~~

3 ~~(4) An application for the purchase by one (1) state bank of over fifty~~
 4 ~~percent (50%) of the assets of another depository institution, or an~~
 5 ~~application for the assumption by one (1) state bank of over fifty percent~~
 6 ~~(50%) of the liabilities of another depository institution; or~~

7 ~~(5) An application for the change of a state bank's place of business~~
 8 ~~from one municipality to another.~~

9 ~~(b) The sponsors of the applications described in subsection (a) hereof~~
 10 ~~shall give written notice of filing through the United States mail to all~~
 11 ~~banks:~~

12 ~~(1) In the case of an application described in subsection (a)(1) of this~~
 13 ~~section, in the county wherein the main office of the proposed new state bank~~
 14 ~~is to be located; or~~

15 ~~(2) In the case of an application described in subsection (a)(2) or~~
 16 ~~(a)(3) of this section, in the county wherein the main office of the resultant~~
 17 ~~state bank is located or is to be located, and the counties in which the main~~
 18 ~~offices of the banks or savings and loan associations which are parties to the~~
 19 ~~merger or consolidation are located; or~~

20 ~~(3) In the case of an application described in subsection (a)(4) of this~~
 21 ~~section, in the county wherein the main office of the purchasing state bank is~~
 22 ~~located, and the county wherein the main office of the bank or savings and~~
 23 ~~loan association, the assets of which are proposed to be purchased, is~~
 24 ~~located; or~~

25 ~~(4) In the case of an application described in subsection (a)(5) of this~~
 26 ~~section, in the county wherein the main office of the applicant state bank is~~
 27 ~~located and, if different, the county to which the applicant state bank~~
 28 ~~proposes to relocate such main office."~~

29
 30 SECTION 3. Arkansas Code 23-46-405(b) is amended to read as follows:

31 “(b) Notice of the time, place, and purpose of the meeting shall be
 32 given at least thirty (30) days before the hearing as follows:

33 (1) By letter from the commissioner to the sponsors of the
 34 application and to ~~each bank to which the sponsors of the application are~~
 35 ~~required to give written notice pursuant to § 23-46-403(b) any protestant that~~
 36 ~~has filed an official written protest to the application; and~~

1 ~~(2) By letter from the commissioner to each person who has~~
 2 ~~notified the department of an intention to oppose the application, provided~~
 3 ~~that if a group of persons has protested the application, the notice may be~~
 4 ~~given to one (1) member of the group; and~~

5 ~~(3)(2) By release to news media."~~

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 7 SECTION 4. Arkansas Code 23-46-406(a) is amended to read as follows:

8 “(a) No person shall appear in opposition to the application unless
 9 such person ~~shall have~~ has filed a written protest to ~~the granting of the~~
 10 ~~application within thirty (30) fifteen (15) days after the date of the notice~~
 11 ~~of the actual filing of the application. Such protest must state the grounds~~
 12 ~~for objection and~~ must be accompanied by a filing fee of not less than two
 13 thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000) for
 14 each protestant, such amount to be set by department regulation.”

15
 16 SECTION 5. Arkansas Code 23-48-305(c) is amended to read as follows:

17 “(c) Upon receipt of the certificate of incorporation, the institution
 18 may proceed with its business, ~~but with only one (1) office for the~~
 19 ~~transaction of business in only the one (1) town or city as to which the~~
 20 ~~application has been made.”~~

21
 22 SECTION 6. Arkansas Code 23-48-702 is amended to read as follows:

23 “23-48-702. Establishment of full-service branches and limited purpose
 24 offices - Locations.

25 (a) No bank shall engage in core banking activities (receiving
 26 deposits, paying checks or lending money) in this state at any location other
 27 than at a main banking office or a full-service branch, except as otherwise
 28 permitted by law. Unless otherwise restricted by applicable law, banks may
 29 engage in permitted activities other than core banking activities at a main
 30 office, any branch or a limited purpose office.

31 (b) Any Arkansas bank may establish a full-service branch provided that
 32 its supervisory banking authority approves its application for the full-
 33 service branch. Any registered out-of-state bank may establish a full-service
 34 branch provided that the bank supervisory agencies with jurisdiction over such
 35 bank approve its application for a full-service branch. Full-service branches
 36 may ~~only~~ be established as follows:

1 (1) An Arkansas bank may establish full-service branches anywhere
2 within the ~~county~~ state in which the establishing bank's main banking office
3 is located ~~and anywhere within any counties contiguous to the county in which~~
4 ~~the establishing bank's main banking office is located;~~

5 (2) A state bank which relocates its main banking office may
6 continue to use its former main banking office location as a full-service
7 branch so long as the use as a banking facility is uninterrupted;

8 (3) Following the consummation of any bank merger transaction
9 authorized under the Arkansas Banking Code §§ 23-45-101 et seq., 23-46-101 et
10 seq., 23-47-101 et seq., 23-48-101 et seq., 23-49-101 et seq., and 23-50-101
11 et seq., as amended, the resulting bank may establish, acquire, or operate
12 additional branches at any location in the State of Arkansas, or in the case
13 of an Arkansas bank, at any location within another state, where ~~any~~ the main
14 banking office of the bank which was a party to the merger could have
15 established, acquired, or operated a full-service branch under applicable law
16 if such bank had not been a party to the merger transaction, provided that
17 full-service branches shall not be established if one or more of the banks is
18 an Arkansas bank which has a de novo charter.

19 ~~(4) After December 31, 1998, a bank with its main office located within~~
20 ~~the State of Arkansas or a registered out-of-state bank may locate one (1) or~~
21 ~~more full-service branches anywhere in this state.~~

22 ~~(c) Without regard to the exceptions for location of a full-service~~
23 ~~branch as provided in this section, a bank may purchase the business and~~
24 ~~assets or assume the liabilities of, an Arkansas bank located in any~~
25 ~~incorporated city or town within this state and operate the acquired bank as a~~
26 ~~full-service branch, provided that full-service branches shall not be~~
27 ~~established if one or more of the banks is an Arkansas bank which has a de~~
28 ~~novo charter.~~

29 ~~(d)~~ (c) None of the provisions of this section which restrict the
30 locations in which full-service branches may be established shall be effective
31 in emergency instances in which the purchase or assumption of the assets and
32 liabilities of a failed bank becomes necessary due to state or federal
33 regulatory action.

34 ~~(e)~~ (d) Any state bank may file an application with the commissioner to
35 relocate any existing full-service branch to another location then authorized
36 by law. A fee of not less than one thousand dollars (\$1,000) nor more than two

1 thousand five hundred dollars (\$2,500), as set by department regulation, shall
 2 accompany the application. The application shall contain such information
 3 concerning the new location as the commissioner may require ~~by regulation~~. The
 4 commissioner shall approve such relocation unless it is determined the
 5 relocation is not economically feasible or will not serve the public
 6 convenience and necessity.

7 ~~(f)~~ (e) Any bank may establish a limited-purpose office anywhere in the
 8 state to conduct noncore banking activities upon satisfaction of the notice
 9 requirement set forth in this subsection.

10 (1) As to each limited-purpose office which a bank proposes to
 11 establish or use, the bank shall give not less than thirty (30) days' prior
 12 written notice of its intention to establish or use the limited-purpose office
 13 to:

- 14 (A) The commissioner, in the case of a state bank, or
- 15 (B) The home state regulator, in the case of a registered
 16 out-of-state bank which is an out-of-state state-chartered bank, or
- 17 (C) The Comptroller of the Currency, in the case of a
 18 national bank.

19 (2) The notice shall be in such form as may be required by the
 20 regulatory authority with which the notice is to be filed and shall include
 21 the following information:

- 22 (A) The location and a general description of the
 23 surrounding area;
- 24 (B) Whether the location will be owned or leased;
- 25 (C) The noncore banking activities to be conducted;
- 26 (D) An estimate of the initial cost of the limited purpose
 27 office; and
- 28 (E) Such other relevant information as may be required by
 29 the regulatory authority."

30
 31 SECTION 7. Arkansas Code 23-48-703 is amended to read as follows:

32 "23-48-703. Establishment of full-service branch offices - Procedure.

33 (a) The commissioner shall have the authority to approve the
 34 application of a state bank to establish a full-service branch, if he shall
 35 find upon investigation that the establishment of the branch is economically
 36 feasible and will serve the public convenience and necessity.

1 (b) The commissioner shall require the sponsor of a branch bank
 2 application to pay a filing fee of not less than two thousand dollars (\$2,000)
 3 nor more than five thousand dollars (\$5,000) as may be set by department
 4 regulations.

5 ~~(c) Notice of the filing of the application shall be given by the~~
 6 ~~applicant state bank by registered or certified mail, return receipt~~
 7 ~~requested, to the main office of every other bank or branch of a bank in the~~
 8 ~~city or town in which the proposed branch bank is to be located. This notice~~
 9 ~~shall be given on or before the date the application is filed with the~~
 10 ~~commissioner.~~

11 (c) The sponsor of a branch bank application shall give notice of the
 12 application at or prior to filing with the commissioner by publication in a
 13 newspaper of statewide circulation.

14 (d)(1) Any formal protest to a branch bank application must be received
 15 in writing detailing the reasons for protest within fifteen (15) days of the
 16 ~~date the notice of an application was mailed~~ actual filing of the application.

17 (2) Each person that files formal written protest to a branch
 18 bank application shall be required to pay a fee of not less than one thousand
 19 dollars (\$1,000) nor more than three thousand dollars (\$3,000), as set by
 20 department regulations, which fee shall accompany the formal written protest
 21 and must also be received by the commissioner's office within fifteen (15)
 22 days of the ~~date the notice of an application was mailed~~ actual filing of the
 23 application.

24 (e) An adjudicatory or administrative hearing shall not be required on
 25 a branch bank application.

26 (f) The commissioner's decision on a branch bank application will be in
 27 the form of final findings of fact, conclusions of law, and an order given by
 28 the commissioner within a reasonable period of time following the expiration
 29 of the fifteen (15) day formal protest period. The findings of fact shall
 30 include findings that:

- 31 (1) The establishment of the branch is economically feasible; and
- 32 ~~(1)-(2) Public convenience and necessity will be promoted by the~~
 33 ~~establishment of the proposed full-service branch;_~~
- 34 ~~(2) Local conditions assure reasonable promise of successful~~
 35 ~~operation of the proposed full-service branch; and~~
- 36 ~~(3) Suitable physical facilities will be provided for the full-~~

1 ~~service branch.~~

2 (g) Following adoption of the commissioner's official findings of fact,
 3 conclusions of law, and order, an applicant or official protestant shall have
 4 thirty (30) days in which to appeal the commissioner's order to the
 5 appropriate circuit court."

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 7 SECTION 8. Arkansas Code 23-48-803 is amended to read as follows:
 8 "23-48-803. Notice of establishment of terminal.

9 (a) As to any and each CBCT which a state bank proposes to establish or
 10 use, the state bank shall ~~give not less than thirty (30) days' written notice~~
 11 ~~to the commissioner of its intention to establish or use the terminal~~ notify
 12 the commissioner of the establishment and location of the terminal. ~~The notice~~
 13 ~~shall be in such form as the commissioner may require and shall include the~~
 14 ~~following information:-~~

15 (1) ~~The location and a general description of the surrounding~~
 16 ~~area, including a description of any business establishment in or on which the~~
 17 ~~terminal will be located;~~

18 (2) ~~The name of the manufacturer, owner, lessor, and lessee;~~

19 (3) ~~The manner of operation, including whether the device is on-~~
 20 ~~line, whether the device will be manned and, if so, by whose employee, and the~~
 21 ~~kinds of transactions which will be performed;~~

22 (4) ~~Whether the device will be shared and, if so, with what other~~
 23 ~~banks and their locations;~~

24 (5) ~~Compliance as to local bank participation under § 23-48-802~~
 25 ~~must be shown, where applicable; and~~

26 (6) ~~Such other relevant information as the commissioner may~~
 27 ~~require.~~

28 (b) No notice need be given for any device or machine which:

29 (1) Is used solely to verify a customer's credit for purposes of
 30 check cashing or of a credit card transaction; or

31 (2) Is a part of a bank's authorized main office or branch.

32 (c) No hearing or permit shall be required to establish or use a CBCT."
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34 SECTION 9. All provisions of this act of a general and permanent nature
 35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 36 Revision Commission shall incorporate the same in the Code.

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SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 2/17/1999