

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Dowd**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 12 OF CHAPTER 32 OF TITLE 23
9 OF THE ARKANSAS CODE OF 1987 BY DELETING RESTRICTIONS ON
10 ESTABLISHMENT OF BRANCHES AND ALLOWING ESTABLISHMENT OF
11 BRANCHES STATE-WIDE BY BANKS; TO AMEND CHAPTER 37 OF TITLE
12 23 OF THE ARKANSAS CODE OF 1987 BY DELETING RESTRICTIONS
13 ON BRANCHING FOR SAVINGS AND LOAN ASSOCIATIONS AND
14 ALLOWING ESTABLISHMENT OF BRANCHES STATE-WIDE BY SAVINGS
15 AND LOAN ASSOCIATIONS; AND FOR OTHER PURPOSES."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code 23-32-1202 is hereby amended to read as
20 follows:

21 "23-32-1202. Establishment of full service branch offices - Locations.

22 (a) No banking institution shall engage in the business of banking at
23 any location other than at a principal banking office or branch bank in this
24 state except as otherwise permitted by law.

25 (b) Any bank may establish a full service branch and may establish,
26 maintain, and use a customer-bank communication terminal, as that term is
27 defined in 23-32-1301, anywhere in the state, provided that its supervisory
28 banking authority approves its application for the full service branch.

29 (c) A bank which relocates its principal banking office may continue to
30 use its former principal banking office location as a full service branch and
31 customer-bank communication terminal so long as the use as a banking facility
32 is uninterrupted;

33 (d) A bank may purchase the business and assets and assume the
34 liabilities of, or merge or consolidate with, another bank located in any
35 incorporated city or town within this state and operate the acquired bank as a

1 full service branch and customer-bank communication terminals, provided that
2 full service branches and customer-bank communication terminals shall not be
3 established pursuant to purchase, merger, or consolidation with another bank
4 should either bank have a de novo charter.

5 (e) None of the provisions of this section which restrict the
6 locations in which branch banks shall be established will be effective in
7 emergency instances in which the purchase and assumption of the assets and
8 liabilities of a failed or failing (less than three percent (3%) capital-to-
9 asset ratio) bank becomes necessary due to state or federal regulatory action.

10 (f) Any bank may relocate any existing branch to another location then
11 authorized by law. The intent to make the relocation shall be conveyed in
12 writing to the commissioner no later than twenty (20) business days before the
13 relocation shall occur. The written notice shall contain such information
14 concerning the new location as the commissioner may by regulation require. No
15 fee shall be required with the notice. The commissioner shall approve such
16 relocation unless he finds that the relocation is not economically feasible or
17 will not serve the public convenience and necessity. The relocation shall not
18 occur until the commissioner shall approve the relocation."

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20 SECTION 2. Arkansas Code 23-37-404 is hereby amended to read as
21 follows:

22 "23-37-404. Branch offices.

23 (a) The Supervisor of Savings and Loan Associations in an unprotested
24 application, or the board in a protested application, shall not approve the
25 application for an association to open a branch unless the association
26 satisfactorily establishes that the volume of business in the proposed service
27 area for the branch office is such as to indicate a successful operation.

28 (b) An association shall furnish satisfactory evidence to the
29 supervisor that it has opened a branch office for business within one (1) year
30 from the date the granting of authority for the opening of the branch office
31 is approved by the Supreme Court of Arkansas if the matter is appealed to the
32 Supreme Court or from the date on which the time period for perfecting an
33 appeal from a decision of the board or a lower court approving the granting of
34 authority for opening of the branch office expires.

35 (c) (1) If any association fails to open the branch office for business

1 within this one-year period and the supervisor so finds after notice and
2 hearing, he shall enter an order canceling the authority for opening of the
3 branch office for business unless good cause is shown for the failure, in
4 which event the supervisor shall grant a reasonable extension of time for
5 opening the branch office for business, not to exceed one (1) year, to give
6 the association an opportunity to overcome the cause for the delay.

7 (2) Parties other than the affected association shall not be
8 heard regarding any extension of authority for opening a branch office;
9 however, any party which appeared before the board protesting the granting of
10 authority for opening the branch office for business shall, upon written
11 request, be notified of the determination of the supervisor on the extension
12 request.

13 (d) If any association closes a branch office and the branch office
14 remains closed for one (1) year, the supervisor shall, after notice and
15 hearing, enter an order canceling the authority for continued operation of
16 that branch unless good cause is shown for the failure to continue operation.
17 In this event the supervisor shall grant a reasonable extension of time for
18 reopening the branch for business not to exceed one (1) year. Parties other
19 than the affected association shall not be heard regarding any extension of
20 time to reopen the closed branch.

21 (e) Any association legally chartered by the proper state authority may
22 establish one (1) or more full service branches, anywhere in the state,
23 provided that its supervisory authority approves.

24 (f) Without regard to the exceptions for location of a branch of an
25 association as provided in this section, an association may purchase the
26 business and assets and assume the liabilities of, or merge or consolidate
27 with, another association located in any incorporated city or town within this
28 state and operate the acquired association as a branch, provided that a branch
29 shall not be established pursuant to purchase, merger, or consolidation with
30 another association should either association have a de novo charter. For
31 purposes of this section, the term "de novo charter" means a charter for an
32 association which has been in existence for less than ten (10) years.
33 However, a de novo charter does not include a charter which is issued in
34 connection with the acquisition of assets and liabilities from a predecessor
35 financial institution which is acquired through federal or state regulatory

1 action.

2 (g) Nothing contained in this section shall be construed to prevent any
3 association from retaining branch locations, wherever located, in operation
4 prior to June 30, 1988."

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6 SECTION 3. All provisions of this act of a general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 4. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 5. All laws or parts of laws in conflict with this act are
17 hereby repealed.

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