

"AN ACT TO AMEND SECTION 14 OF ACT 179 OF 1969 [ARK. STAT. 67-631], WHICH AUTHORIZES AND PROVIDES FOR THE EXTRAORDINARY ACQUISITION OF A STATE CHARTERED BANK IN AN IMPAIRED CONDITION, TO ALSO PROVIDE FOR THE AUTHORITY OF THE BANK COMMISSIONER TO AUTHORIZE ACQUISITION OF A STATE BANK IN AN IMPAIRED CONDITION; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 14 of Act 179 of 1969, the same being Arkansas Statutes Section 67-631, is hereby amended to read as follows:

"Section 14. A. Notwithstanding any other provisions of this Title, upon a determination by the Bank Commissioner that a State bank is in such an impaired condition that it may fail, the Bank Commissioner shall approve the sale of assets and assumption of liabilities, merger, or consolidation of the failing State bank or its holding company, if any, by another bank or a bank holding company. It is further provided that the Bank Commissioner may also arrange the sale of assets and assumption of liabilities, merger or consolidation of a failing national bank or its holding company, if any, by another bank or holding company domiciled in this State if requested to do so by the national bank's primary regulatory authority, the Comptroller of the Currency. In considering transactions under this Section, the Commissioner shall consider the need to minimize disruption in providing banking services to the citizens of Arkansas and the need to preserve the strength, safety and soundness of the banking system.

B. The Bank Commissioner shall authorize purchases, mergers, or consolidations under this Act considering the following priorities in the following order:

- (1) Between a bank or bank holding company whose main office is in the same city or town;
- (2) Between a bank or bank holding company whose main office is in the same county.

C. For the purposes of this Act and no other, the Bank Commissioner may determine that a State bank is a failing bank if all the following exist:

- (1) It has an adjusted capital to assets ratio of less than three percent, as reflected in the latest examination by the State Bank Department, the Federal Deposit Insurance Corporations, or the Federal Reserve Bank;
- (2) It is the conclusion of the Bank Commissioner that the bank has major and serious problems or unsafe and unsound conditions which are not being satisfactorily addressed or resolved;
- (3) It is the conclusion of the Bank Commissioner that the bank has a high potential for failure, although failure is not necessarily imminent, that its failure is predictably inevitable and its shareholders and directors have been unable to sufficiently recapitalize the bank.

D. Upon an acquisition of a failing bank as authorized by this Act, the acquiring or surviving entity may do any of the following:

- (1) Retain and operate as a branch bank any existing office of the acquired bank;
- (2) Be authorized to apply for additional branches in the county of domicile of the acquired bank in the same manner authorized to any other bank;
- (3) Merge the acquired bank with a bank subsidiary of the acquirer

or itself, if it is a bank at any time following the acquisition. After such a merger, the surviving bank may utilize Paragraphs (1) and (2) of this subsection."

SECTION 2. Nothing contained herein shall be construed to alter, amend or repeal the provisions or procedures for rights of minority shareholder, mergers and consolidations under normal conditions, branching authority for banks or for emergency acquisition procedures for failed banks.

SECTION 3. Emergency. It is hereby found and determined by the General Assembly of the State of Arkansas that there exists a present need to provide for a swift and smooth acquisition of a State banking institution found to be in a failing condition as determined by the Bank Commissioner in order to minimize disruption in providing banking services to the citizens of Arkansas, and to preserve the safety and soundness of the Arkansas State banking system. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage.

APPROVED: April 14, 1987

---