

Act 702 of the 1989 Regular Session.

Act 702

HB1753

By: Representative Ramsey

"AN ACT TO AMEND ARKANSAS CODE 23-32-303 (2) TO DEFINE THE TERM 'BANK HOLDING PURPOSES'; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 23-32-303 (2) is hereby amended to read as follows:

"(2) (A) "Bank holding company" means any company, foreign or domestic, including a bank:

(i) Which directly or indirectly owns, controls, or holds with power to vote twenty-five percent (25%) or more of the voting shares of any bank;

(ii) Which controls in any manner the election of a majority of the directors of any bank; or

(iii) For the benefit of whose shareholders or members twenty-five percent (25%) or more of the voting shares of any bank or a bank holding company is held by trustees.

(B) Notwithstanding the foregoing:

(i) No company shall be a bank holding company by virtue of its ownership or control of shares which are acquired by it in connection with its underwriting of securities and which are held only for such period of time as will permit the sale thereof upon a reasonable basis;

(ii) No company formed for the sole purpose of participating in a proxy solicitation shall be a bank holding company by virtue of its control of voting rights of shares acquired in the course of the solicitation;

(iii) This subchapter shall not apply to shares of any company acquired by a bank holding company, by a bank, or by any banking subsidiary of a bank holding company, in satisfaction of a debt previously contracted in good faith. However, the bank holding company or subsidiaries or bank shall dispose of the shares within a period of two (2) years from the date on which they were acquired. The Bank Commissioner is authorized upon application to extend, from time to time for not more than one (1) year at a time, the two-year period referred to above for disposing of any shares acquired by a bank holding company, bank or bank subsidiary in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Commissioner's judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed three years. However, a bank holding company shall not be prohibited from purchasing such shares from any of its banking subsidiaries, subject to the provisions of 23-32-306 and 23-32-308;

(iv) This subchapter shall not apply to shares of any company which are held or acquired by a bank in good faith in a fiduciary capacity or to shares of any company which are of the kinds and amounts eligible for investment by national banking associations under the provisions of 12 U.S.C. 24;

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that this Act protects the public and stockholders of banks from unnecessary loss due to untimely sale of the stock of banks acquired by legal debt collection action by allowing the Bank Commissioner to extend limits on disposal of such stock. Therefore, an emergency is declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from the date of its passage and approval.

APPROVED: March 20, 1989

---