

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 233 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/16/09

A Bill

HOUSE BILL 1433

5 By: Representative Maloch
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7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE BANK COMMISSIONER TO TAKE
10 APPROPRIATE ACTIONS TO DEAL WITH EMERGENCIES; AND
11 FOR OTHER PURPOSES.
12

Subtitle

13 TO AUTHORIZE THE BANK COMMISSIONER TO
14 TAKE APPROPRIATE ACTIONS TO DEAL WITH
15 EMERGENCIES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 23, Chapter 46, Subchapter 2 is amended
22 to add an additional section to read as follows:

23 23-46-212. Emergency powers of Bank Commissioner – Legislative
24 findings and intent – Definitions.

25 (a) The General Assembly:

26 (1) Finds that in the event of an emergency the Bank
27 Commissioner should be authorized to take appropriate action to expedite the
28 recovery of a community affected by the emergency and to encourage banks to
29 meet the credit, deposit, and other financial needs of the community; and

30 (2) Intends by the enactment of this section to authorize the
31 commissioner when warranted by a state of emergency to assist the affected
32 community by:

33 (A) Declaring with the consent of the Governor a state of
34 emergency;

35 (B) Temporarily modifying or suspending banking laws,



1 regulations, or requirements; and

2 (C) Taking any other action appropriate to assist affected
3 banks so that:

4 (i) Customary banking services can continue to be
5 provided; and

6 (ii) Financial stability can be maintained.

7 (b) As used in this section:

8 (1) "Affected area" means the geographic location described in a
9 proclamation by the commissioner declaring a state of emergency;

10 (2) "Affected bank" means a bank with an office in the
11 geographic location described in a proclamation by the commissioner declaring
12 a state of emergency;

13 (3) "Office" means a physical location where a bank transacts
14 business or conducts banking operations;

15 (4) "Officer" means:

16 (A) A person designated by the board of directors, board
17 of trustees, or other governing body of a bank to act for the bank under this
18 section; or

19 (B) The president or other person in charge of an office
20 if:

21 (i) A designation under subdivision (b)(4)(A) of
22 this section has not been made; or

23 (ii) An officer designated under subdivision
24 (b)(4)(A) of this section is not available; and

25 (5)(A) "State of emergency" means a natural or man-made
26 occurrence or condition that may:

27 (i) Affect the ability of a bank to conduct normal
28 business operations; or

29 (ii) Pose a threat to the safety or security of a
30 person or property.

31 (B) "State of emergency" includes, without limitation, an
32 occurrence or condition caused by:

33 (i) A natural disaster;

34 (ii) A tornado;

35 (iii) A storm;

36 (iv) A flood;

1 (v) High water;
2 (vi) An earthquake;
3 (vii) A drought;
4 (viii) A fire;
5 (ix) An act of war, rebellion, violent
6 demonstration, or terrorism; or
7 (x) A robbery of a bank or other financial
8 institution.

9 (c)(1) In addition to any other law of this state or of the United
10 States authorizing the closing of a bank or excusing the delay by a bank in
11 the performance of its duties and obligations because of a situation or
12 condition beyond the bank's control, the commissioner may with the Governor's
13 consent declare by written proclamation that a state of emergency exists in
14 all or part of the state.

15 (2) The proclamation and any order issued under this section:

16 (A) Shall be published on the commissioner's website; and

17 (B) May be disseminated in any other manner deemed

18 appropriate by the commissioner under the circumstances.

19 (d)(1) If the commissioner declares a state of emergency under this
20 section, the commissioner may authorize an affected bank by written order to:

21 (A) Close an office within the affected area; and

22 (B) Keep the office closed for a reasonable amount of time

23 until the office can be reopened.

24 (2) A bank that closes an office under this section shall notify
25 the commissioner as promptly as conditions permit by any means reasonably
26 available of the:

27 (A) Reason for closing the office; and

28 (B) Expected length of time the office will be closed.

29 (3) If an office is closed under this section:

30 (A) Each day that the office is closed shall be treated
31 for banking purposes as a legal holiday; and

32 (B) An affected bank or a director, officer, or employee
33 of an affected bank shall not because the office is closed:

34 (i) Incur any liability; or

35 (ii) Forfeit any legal or equitable rights.

36 (e)(1)(A) If the commissioner finds that an affected bank closed an

1 office as a result of a state of emergency and that the opening of a
2 temporary office by the affected bank will help meet the credit, deposit, and
3 other financial needs of the customers of the affected area, the commissioner
4 may authorize the affected bank by written order to open a temporary office
5 either within the state or at a location in another state.

6 (B) The temporary office may be a mobile branch, temporary
7 office space, or any other facility approved by the commissioner.

8 (2) The formal application process, requirements, and fees for
9 opening a temporary office may be suspended when a state of emergency exists.

10 (3) A temporary office opened under this section may remain open
11 until the commissioner with the consent of the Governor declares that the
12 state of emergency no longer exists unless written permission to remain open
13 is granted by the commissioner upon application by an affected bank to
14 establish an office at the site of the temporary office.

15 (f)(1) An order issued by the commissioner under this section becomes
16 effective upon issuance and continues for one hundred twenty (120) days or
17 unless terminated sooner by the commissioner.

18 (2) The commissioner may extend an order issued under this
19 section for an additional period not to exceed one hundred twenty (120) days
20 if the commissioner with the consent of the Governor finds that the existing
21 state of emergency continues or that a new state of emergency exists.

22 (g) The commissioner may by rule:

23 (1) Adopt additional procedures to implement this section; and

24 (2) Impose sanctions under § 23-46-205 for a violation of this
25 section.

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27 */s/ Maloch*

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29 **APPROVED: 2/25/2009**