

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

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

A Bill

Act 112 of 1999
HOUSE BILL 1201

5 By: Representative Wilkinson
6 By: Senator Harriman
7
8

For An Act To Be Entitled

9
10 "AN ACT TO AMEND SECTIONS OF THE ARKANSAS BANKING
11 CODE RELATING TO INVESTMENTS IN OPERATING
12 SUBSIDIARIES."

Subtitle

13
14
15 "TO AMEND SECTIONS OF THE ARKANSAS
16 BANKING CODE RELATING TO INVESTMENTS IN
17 OPERATING SUBSIDIARIES."
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 23-47-103(c) is amended to read as follows:

23 "(c) A state bank may ~~not, except~~ with the prior approval of the
24 commissioner, invest in ~~the~~ bank premises or in the stock, bonds, debentures,
25 or other obligations of the subsidiary owning the bank premises, or make
26 loans to, or upon the security of the stock of the subsidiary, if the
27 aggregate of all such investments or loans, together with the amount of any
28 indebtedness incurred by the subsidiary, will not exceed one hundred fifty
29 percent (150%) of the capital base of such state bank."
30

31 SECTION 2. Arkansas Code 23-47-601 is amended to read as follows:

32 "§ 23-47-601. Operating subsidiaries.

33 (a) With the prior approval of the commissioner, and subject to such
34 conditions as may be prescribed by him, a state bank may engage in any
35 activities which are a part of the business of banking or incidental thereto
36 by means of an operating subsidiary and other activities permissible for



1 state banks or their subsidiaries under statutory authority or as authorized
 2 by regulations of the State Banking Board. For purposes of this section, an
 3 operating subsidiary in which a state bank may invest includes a corporation,
 4 limited liability company, or similar entity if the parent bank owns more
 5 than fifty percent (50%) of the voting, or similar type of controlling,
 6 interest of the subsidiary; or the parent bank otherwise controls the
 7 subsidiary and no other party controls more than fifty percent (50%) of the
 8 voting, or similar type of controlling, interest of the subsidiary.

9 Subsidiaries which are not subject to this section are:

10 (1) A subsidiary in which the state bank's investment is made
 11 and limited pursuant to specific authorization in a statute or by regulation;

12 (2) A subsidiary, in which the state bank has acquired, in good
 13 faith, shares through foreclosure on collateral, by way of compromise of a
 14 doubtful claim, or to avoid loss in connection with a debt previously
 15 contracted.

16 ~~(b) In order to qualify as an operating subsidiary, at least eighty~~
 17 ~~percent (80%) of the voting stock of the subsidiary must be owned by the~~
 18 ~~state bank. (c) The total of a each state bank's loans and investments in~~
 19 ~~any single operating subsidiary shall not exceed twenty percent (20%) of the~~
 20 ~~bank's capital base, and the total of a each state bank's loans and~~
 21 ~~investments in all subsidiaries, including operating subsidiaries and bank~~
 22 ~~service companies, shall not exceed one hundred percent (100%) of the bank's~~
 23 ~~capital base. Loans to an operating subsidiary that are fully secured by~~
 24 ~~securities that the state bank could invest in without limitation pursuant to~~
 25 ~~§ 23-47-401 shall not be subject to the limitations of this subsection or of~~
 26 ~~§ 23-47-602 will be considered by the commissioner and may be limited,~~
 27 ~~according to the commissioner's discretion, for safety and soundness~~
 28 ~~purposes."~~

29
 30 SECTION 3. Arkansas Code 23-47-602 is amended to read as follows:

31 "§ 23-47-602. Real estate subsidiaries.

32 (a) A state bank acting through an operating subsidiary ~~and~~ or a bank
 33 holding company acting, directly or through a subsidiary, may, with the prior
 34 approval of the commissioner, engage in real estate investment and
 35 development, including without limitation:

36 (1) Development of subdivisions or additions;

- 1 (2) Construction of improvements;
- 2 (3) Acquisition of stock or equity interests in any entity
- 3 created primarily for the purpose of owning and developing real estate,
- 4 including those activities authorized for community development corporations
- 5 pursuant to § 23-47-605; and
- 6 (4) Any other activities necessary and proper in connection with
- 7 real estate investment and development.
- 8 (b) A state bank's investment in real estate and in real estate
- 9 subsidiaries (excluding its bank premises) shall not exceed ~~twenty percent~~
- 10 ~~(20%)~~ one hundred fifty percent (150%) of its capital base.
- 11 (c) A state bank acting through an operating subsidiary or a bank
- 12 holding company acting directly or through a subsidiary may carry out any one
- 13 (1) or more of the purposes, activities, and objectives set forth in this
- 14 section as principal, factor, agent, or otherwise, either alone, through or
- 15 in conjunction with any person, including the performance and carrying out of
- 16 the purposes and objects herein enumerated as a member of a partnership or
- 17 joint venture.
- 18 (d) Loans to an operating subsidiary engaged in real estate investment
- 19 and development that are fully secured by securities that the state bank
- 20 could invest in without limitation pursuant to § 23-47-401 shall not be
- 21 subject to the limitations of this subsection."

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23 SECTION 4. All provisions of this act of a general and permanent

24 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

25 Code Revision Commission shall incorporate the same in the Code.

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27 SECTION 5. If any provision of this act or the application thereof to

28 any person or circumstance is held invalid, such invalidity shall not affect

29 other provisions or applications of the act which can be given effect without

30 the invalid provision or application, and to this end the provisions of this

31 act are declared to be severable.

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33 SECTION 6. All laws and parts of laws in conflict with this act are

34 hereby repealed.

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APPROVED: 2/17/1999