

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Representative D. Wood

HOUSE BILL 1572

"AN ACT AUTHORIZING A FINANCIAL INSTITUTION TO CONVERT ITS CHARTER IN ORDER TO DO BUSINESS AS ANOTHER TYPE OF FINANCIAL INSTITUTION, WITH APPROVAL FROM THE APPROPRIATE SUPERVISORY AUTHORITY; AND FOR OTHER PURPOSES."

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

SECTION 1. This Act shall be known as the Financial Institutions Conversion Act of 1987.

SECTION 2. DEFINITIONS. As used in this Act the following words and terms shall have the following meanings:

(1) "Capital stock financial institution" means a financial institution, the ownership of which rests in the holders of shares of capital stock, who may receive dividends on their shares, and who have the sole right to vote on matters affecting the financial institution;

(2) "Converting institution" means a financial institution converting to another type of financial institution;

(3) "Financial institution" means a savings and loan association or a bank organized under the laws of this State or organized under the laws of the United States and having its principal place of business in this State;

(4) "Mutual financial institution" means an association, the ownership of which rests in members who receive interest on their deposit accounts, and who have the sole right to vote on all matters affecting the financial institution; and

(5) "Resulting financial institution" means the financial institution resulting from a conversion.

(6) "Appropriate supervisory authority" means the State Bank Commissioner where the resulting financial institution is a bank and the Supervisor of

Savings and Loan Association where the resulting financial institution is a savings and loan association.

SECTION 3. CONVERSION OF CHARTER. Any financial institution may apply to the appropriate supervisory authority for permission to convert its charter in order to do business as another type of financial institution in accordance with the procedures prescribed in this Act.

SECTION 4. CONVERSION PROCEDURE. (a) The board of directors of the converting institution shall, by a majority of the entire board, approve a plan of conversion which shall contain:

- (1) The type of financial institution which will result from the conversion;
- (2) The proposed name of the resulting institution;
- (3) The proposed effective date of conversion;
- (4) A copy of the proposed charter of the resulting institution;
- (5) A copy of the proposed bylaws of the resulting institution;
- (6) The method for converting the current capital structure of the institution to the structure indicated for the resulting institution by the proposed charter;
- (7) The name of each director and executive officer, the office held and his experience;
- (8) The method and schedule for terminating any activities and disposing of any assets which do not conform to the requirements of the resulting institution, and for meeting any requirements applicable to the resulting institution which the converting institution does not presently satisfy;
- (9) Any additional activities the converting institution intends to conduct immediately upon the effective date of the conversion which it does not presently conduct;
- (10) A copy of the application for deposit insurance or insurance of accounts;
- (11) Provisions for appointment of successors to any fiduciary positions held by the converting institution if the resulting institution will not exercise trust powers;
- (12) The competitive impact of the conversion, if any, including any effect on the availability of particular financial services in the community

served by the institution;

(13) A statement that the conversion is subject to approval by the appropriate supervisory authority and by the shareholders of the financial institution; and

(14) Such other provisions as the appropriate supervisory authority requires to enable him to discharge his duties with respect to the conversion.

(b) After approval by the board of directors of the converting bank, the plan of conversion shall be submitted to the commissioner for approval, together with a certified copy of the authorizing resolutions of the board of directors showing approval by a majority of the entire board.

(c) The application for conversion pursuant to this Act shall be accompanied by a non-refundable fee in the amount required for a new bank charter application.

(d) The appropriate supervisory authority shall approve the plan of conversion if it appears that:

(1) The resulting financial institution meets the requirements of law applicable to the resulting institution;

(2) The plan of conversion provides an adequate capital structure in relation to deposit liabilities of the resulting financial institution and its other activities which are to continue or are to be undertaken;

(3) The officers and directors of the resulting institution have sufficient experience, ability, and standing to afford reasonable promise of successful operation;

(4) The proposed name of the resulting institution is not deceptively similar to that of another institution;

(5) The schedule for termination of any nonconforming activities and disposition of any nonconforming assets is timely, and the plan for such termination and disposition does not include any unsafe or unsound practice;

(6) The plan of conversion is fair;

(7) The conversion is not contrary to the public interest; and

(8) The resulting institution will be able to obtain federal deposit insurance.

(e) If the appropriate supervisory authority disapproves a plan of conversion he shall state his objections and give an opportunity to the converting institution to obviate such objections.

SECTION 5. APPROVAL BY STOCKHOLDERS OF CONVERTING FINANCIAL INSTITUTION.

(a) To be effective, a plan of conversion must be approved by the stockholders of the converting financial institution by a vote of two-thirds (2/3) of the outstanding voting stock of each class at a meeting called to consider such action, which vote shall constitute the adoption of the charter and bylaws of the resulting financial institution.

(b) Notice of the meeting of the stockholders shall be given by publication in a newspaper of general circulation in a place where the principal office of the converting financial institution is located, at least once a week for four (4) successive weeks, and by mail, at least fifteen (15) days before the date of the meeting to each stockholder of record of the converting financial institution at his address on the books of the converting financial institution, who has not waived such notice in writing; no notice by publication need be given if written waivers are received from holders of two-thirds (2/3) of the outstanding shares of each class of voting stock. If the converting institution is a mutual financial institution, notice by mail shall be waived.

(c) Dissenting shareholders to a conversion of a financial institution to another type of financial institution shall have the same dissenters rights, and shall follow the same dissenting stockholder procedures to perfect their dissenting shareholder rights as provided by state banking laws to dissenting shareholders in the conversion, merger or plan of exchange of stock in a state or national bank to a resulting state or national bank, or bank holding company.

SECTION 6. EFFECTIVE DATE OF CONVERSION - CERTIFICATE OF CONVERSION.

(a) The conversion shall, unless a later date is specified in the plan of conversion, become effective upon the filing with the appropriate supervisory authority of the executed plan of conversion together with a copy of the resolution of the stockholders of the converting financial institution approving it, certified by the financial institution's president or a vice president and a cashier.

(b) The appropriate supervisory authority shall thereupon approve the proposed charter of the resulting financial institution for filing with the appropriate authority and issue to the resulting financial institution a certificate of conversion. The certificate of conversion shall be issued after

the following conditions have been met:

(1) Provisions of the plan of conversion for successors to fiduciary positions of the plan of conversion for successors to fiduciary positions held by the converting institution have been implemented; and

(2) A commitment for federal deposit insurance effective as of the proposed effective date of conversion has been received. Such certificate shall be conclusive evidence of the conversion and correctness of all proceedings therefor in all courts and places, and shall be recorded in the same manner as is provided for recording of a charter of such institution.

SECTION 7. CONTINUATION OF CORPORATE ENTITY. (a) From and after the effective date of conversion, the resulting institution shall be deemed to be a continuation of the converting institution such that all property of the converting institution, including all right, title and interest in and to all property of whatsoever kind, whether real, personal or mixed and things and actions, and all rights, privileges and interests, and assets of any conceivable value or benefit which are then existing, or pertaining to it, or which would inure to it, shall immediately be vested in and continue to be the property of the resulting institution, by act of law and without any conveyance or transfer or without further act or deed; and such institution shall have, hold and enjoy the same in its own right as fully and to the same extent as the same which possessed, held and enjoyed by the converting institution; and, as of the effective date of such conversion, the resulting institution shall have and shall succeed to all the rights, obligations and relations of the converting institution.

(b) If the resulting institution is a savings and loan association it may continue to operate as branch offices all offices of the converting institution in existence or applications filed for branches pending approval by the appropriate supervisory authority on July 1, 1987.

If the resulting institution is a bank it may continue to operate as branch offices only those branch offices that will comply with state banking laws regarding location requirements or restrictions for branch banks. All branch offices, of the converting institution meeting such location requirements, that are currently in existence or applications filed for branches pending approval by the appropriate supervisory authority on July 1, 1987, may continue to operate as bank branches.

For the purpose of this Act the date chartered will be the date the converting institution was chartered prior to conversion.

(c) Any pending action or other judicial proceeding to which the converting institution is a party shall not be deemed to have been abated or to have been discontinued by reason of such conversion but may be prosecuted to a final judgment, order, or decree in the manner as if such action had not been taken; and the institution resulting from such conversion may continue such action in its new name; and any judgment, order or decree may be rendered for or against it which might have been rendered for or against the converting institution previously involved in such judicial proceeding.

(d) The resulting institution shall be liable for all obligations of the converting institution which existed prior to such action; and the action taken shall not prejudice the right of a creditor of the converting institution to have its debts paid out of the assets throughout, nor shall such creditor be deprived of, or prejudiced in, any action against the officers, directors, incorporators, or members of the converting institution for neglect or misconduct.

SECTION 8. SCOPE. This Act shall not be construed to modify, limit or repeal any provision of State law except as expressly stated herein.

