

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Gibson**
5
6

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-32-701(b) TO ALLOW A
9 FINANCIAL INSTITUTION IN A TOWN WITH A POPULATION OF LESS
10 THAN 2,500 PEOPLE TO ACQUIRE, PURCHASE OR CONSTRUCT A
11 DWELLING FOR USE OF THE FINANCIAL INSTITUTION'S CHIEF
12 EXECUTIVE OFFICER; AND FOR OTHER PURPOSES."
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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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16 SECTION 1. Arkansas Code 23-32-701(b) is amended to read as follows:

17 "(b) Any bank organized under the laws of this state shall also be
18 permitted to exercise the following powers:

19 (1) It may invest in general obligation and revenue bonds of a
20 state, of any county, town, or city of a state, or a political subdivision of
21 any state, or the United States of America, or of any commonwealth, territory,
22 or insular possession of the United States of America, and bonds and
23 certificates of indebtedness of the United States of America and agencies
24 thereof, plus corporate debt, which corporate debt is subject to applicable
25 loan limits;

26 (2) It may issue capital notes without interest and term
27 limitations, provided such issue has the prior written approval of the Bank
28 Commissioner and is consistent with sound banking practice. It also may
29 otherwise become indebted;

30 (3) It may commit and utilize authorized but unissued stock for
31 stock option, stock purchase, and compensation plans or as required to meet
32 commitments under the terms of issue of convertible debentures and for such
33 other purposes as may be approved by the commissioner;

34 (4) It may purchase or construct public buildings and facilities
35 and, as holder of legal title, lease them to a municipality or other public

1 authority having resources sufficient to make payment of all rentals as they
2 become due if the lease agreement provides that the lessee will become owner
3 of the building or facility upon expiration of the lease by purchase or
4 otherwise;

5 (5) It may own and lease personal property acquired upon the
6 specific request and for the use of a customer and may incur obligations
7 incident thereto, the lease obligation to be subject to borrower loan limits
8 and to a schedule of periodic regular rental payments which shall be
9 consistent with sound banking practice and the timely recovery by the bank of
10 its cost for the leased property;

11 (6) It may establish a charitable foundation in such form as
12 permitted by state law for the purpose of facilitating charitable
13 contributions provided that the purposes of such foundation are exclusively
14 philanthropic and benevolent, that its use is fully disclosed to and approved
15 by the commissioner, and that contributions to the foundation in any one (1)
16 year are in keeping with sound banking practice;

17 (7) It may issue credit cards;

18 (8) It may act as agent in warehousing and servicing of mortgages
19 and other loans;

20 (9) It may provide messenger service within the city of its
21 domicile by means of an armored car, or otherwise, pursuant to an agreement
22 wherein it is specified that the messenger is the agent of the customer rather
23 than of the bank;

24 (10) (A) With the prior approval of the commissioner, and subject
25 to such conditions as may be prescribed by him, a bank may engage in any
26 activities which are a part of the business of banking or incidental thereto
27 by means of an operating subsidiary.

28 (B) In order to qualify as an operating subsidiary, at
29 least eighty percent (80%) of the voting stock of the subsidiary must be owned
30 by the parent bank.

31 (C) The bank shall not permanently invest in such a
32 subsidiary a sum exceeding ten percent (10%) of its capital and unimpaired
33 surplus.

34 (D) Subject to the foregoing, a bank may have more than one
35 (1) subsidiary.

1 (E) The commissioner shall have authority to examine each
 2 subsidiary and charge the subsidiary a fee therefor at a rate representing the
 3 approximate cost of the examination as determined by the commissioner.

4 (F) The commissioner, with the approval of the State
 5 Banking Board, may promulgate regulations pertaining to such subsidiaries;

6 (11) A bank may make loans to its subsidiaries subject to the
 7 following conditions:

8 (A) The loan to any single subsidiary shall not exceed in
 9 amount ten percent (10%) of the bank's capital and surplus or, if the bank
 10 makes loans to more than one (1) subsidiary, the aggregate amount of all such
 11 loans outstanding at any one (1) time shall be limited to twenty percent (20%)
 12 of the bank's capital stock and surplus;

13 (B) No such loan shall be made unless it is secured by
 14 obligations of the United States Government, the Federal Intermediate Credit
 15 Banks, the Federal Land Banks or the Federal Home Loan Banks having an
 16 aggregate market value, at the time the loan is made, equal to the amount of
 17 the loan;

18 (12) A bank may acquire and operate, through a subsidiary as
 19 above authorized, a mortgage loan company for the purpose of making real
 20 estate loans or loans secured by security interests in tangible personal
 21 property or commercial paper;

22 (13) A bank, acting on its own behalf or through a subsidiary as
 23 above prescribed, may operate a travel agency;

24 (14) (A) A state bank, a bank holding company organized under the
 25 laws of this state, or subsidiaries of the bank or bank holding company, may
 26 engage in real estate investment and development including without limitation:

27 (i) development of subdivisions or additions;
 28 (ii) construction of improvements;
 29 (iii) acquisition of stock or equity interests in any
 30 entity created primarily for the purpose of owning and developing real estate;
 31 and

32 (iv) any other activities necessary and proper in
 33 connection with real estate investment and development except those prohibited
 34 in subdivision (14) (B) of this section.

35 (B) It may not engage in the investment in and development

1 of single family lots and actual construction of single family residences
2 consisting of one (1) through four (4) family units nor may it engage in
3 business as a real estate salesman or broker. However, if a financial
4 institution cited above acquires real estate through foreclosure or in lieu of
5 foreclosure of debts previously contracted in the due course of business,
6 including single family lots and single family residences consisting of one
7 (1) through four (4) family units, it shall have the ability to develop and
8 dispose of the real estate. If the financial institution is located in a town
9 with a population of less than 2,500 people, according to the latest federal
10 decennial census, the financial institution may acquire, purchase or construct
11 a dwelling for use as the residence of the financial institution's chief
12 executive officer, as part of his or her compensation.

13 (C) The investment in real estate and in real estate
14 subsidiaries shall not exceed twenty percent (20%) of unimpaired capital,
15 surplus, and undivided profits.

16 (D) A state bank, a subsidiary thereof, or a state bank
17 holding company may carry out any one (1) or more of the purposes, activities,
18 and objectives set forth in this subsection as principal, factor, agent, or
19 otherwise, either alone or through or in conjunction with any person,
20 partnership, association, or corporation, including the performance and
21 carrying out of the purposes and objects herein enumerated as a member of a
22 partnership or joint venture;

23 (15) In addition to the foregoing, a bank may exercise any other
24 powers which are incidental to the business of banking;

25 (16) In addition to the powers conferred upon banks under this or
26 any other law of this state, the commissioner, with the approval of the State
27 Banking Board, shall have power to authorize state banks to engage in any
28 banking activities in which said banks could engage were they acting as
29 national banks at the time such authority is granted."

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

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35 SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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6 SECTION 4. All laws or parts of laws in conflict with this act are
7 hereby repealed.

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9 SECTION 5. EMERGENCY. It is found and determined by the General
10 Assembly that small rural community banks are vital to the economic needs of
11 the rural community; that there is an immediate need to provide additional
12 incentives to attract qualified people to operate such banks; and that this
13 Act will assist the banks to bring in or keep officers of the quality
14 necessary to keep the banks as a integral part of the community. Therefore,
15 an emergency is hereby declared to exist and this Act being necessary for the
16 preservation of the public peace, health and safety shall be in full force and
17 effect from and after its passage and approval.

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