

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

SENATE BILL 564

4 By: Senators Harriman, Beebe and Malone

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For An Act To Be Entitled

8 "AN ACT TO ALLOW STATE-CHARTERED BANKS TO ACT AS AGENTS
9 FOR ANY DEPOSITORY INSTITUTION AFFILIATE; AND FOR OTHER
10 PURPOSES."

11

Subtitle

12 "ALLOW STATE BANKS TO ACT AS AGENTS FOR
13 DEPOSITORY INSTITUTION AFFILIATES."
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Definitions. As used in this act:

19 (1) "Affiliate" means any company that controls, is controlled by, or
20 is under common control with another company.

21 (2) "Control" has the meaning set forth in § 2(a)(2) of the federal
22 Bank Holding Company Act of 1956, as amended, 12 U.S.C. §1841.

23 (3) "Depository Institution" means a bank, savings and loan
24 association, or savings bank organized under the laws of any state or the
25 United States.

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27 SECTION 2. (a) Any state bank may, upon compliance with the
28 requirements of this section, agree to receive deposits, renew time deposits,
29 close loans, service loans, receive payments on loans and other obligations,
30 and perform such other services as may receive the prior approval of the
31 commissioner, act as an agent for any affiliated depository institution.

32 (b) A state bank that proposes to enter into an agency agreement under
33 this section shall, prior to entering such agreement, file with the
34 commissioner:

35 (1) A notice of intention to enter into an agency agreement with

1 an affiliated depository institution;

2 (2) A description of the services proposed to be performed under
3 the agency agreement; and

4 (3) A copy of the agency agreement.

5 (c) If any proposed service is not specifically designated in
6 subsection (a) of this section, and has not previously been approved in a
7 regulation issued by the commissioner and the State Banking Board, the
8 commissioner shall decide whether to approve the offering of such service
9 after receipt of the notice required in subsection (b). In deciding whether
10 to approve any proposed service that is not specifically designated in
11 subsection (a), the commissioner shall consider whether such service would be
12 consistent with applicable federal and state law and the safety and soundness
13 of the principal and agent institutions.

14 (d) A state bank may not under an agency agreement:

15 (1) Conduct any activity as an agent that it would be prohibited
16 from conducting as a principal under applicable state or federal law; or

17 (2) Have an agent conduct any activity that the bank as
18 principal would be prohibited from conducting under applicable state or
19 federal law.

20 (e) The commissioner may order a state bank or any other depository
21 institution subject to the commissioner's enforcement powers to cease acting
22 as an agent or principal under any agency agreement that the commissioner
23 finds to be inconsistent with safe and sound banking practices.

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25 SECTION 3. Notwithstanding any other provision of the law of this
26 state, a state bank acting as an agent for an affiliated depository
27 institution in accordance with this act shall not be considered to be a
28 branch of that institution.

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30 SECTION 4. All provisions of this act of a general and permanent
31 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
32 Code Revision Commission shall incorporate the same in the Code.

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34 SECTION 5. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 6. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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8 SECTION 7. EMERGENCY. It is hereby found and determined by the
9 General Assembly that present state law does not authorize state chartered
10 banks to act as agents for affiliated depository institutions; that federal
11 law allows federally chartered banks that authority; that until this act
12 becomes effective state banks will be at a disadvantage to national banks;
13 and therefore this act should go into effect as soon as possible. Therefore,
14 an emergency is hereby declared to exist and this act being necessary for the
15 immediate preservation of the public peace, health and safety shall be in
16 full force and effect from and after its passage and approval.

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