

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

# A Bill

HOUSE BILL 1305

4  
5 By: Representative Wilkinson  
6 By: Senator Harriman

## For An Act To Be Entitled

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10 "AN ACT TO AMEND ARKANSAS CODE 23-48-601, 23-48-604  
11 AND 23-48-605 RELATING TO BANK REORGANIZATION THROUGH  
12 PLANS OF EXCHANGE; AND FOR OTHER PURPOSES."

## Subtitle

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15 "CLARIFICATION OF THE PROCEDURES TO  
16 REORGANIZE USING A PLAN OF EXCHANGE."

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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 23-48-601(a)(1) is hereby amended to read as  
22 follows:

23 "(a)(1) A state bank may adopt a plan of exchange ~~of all~~ for shares of  
24 the outstanding capital stock held by its stockholders, for the consideration  
25 designated in this section to be paid or provided by a bank holding company  
26 which acquires the stock, in the manner provided in this subchapter, by  
27 complying with the provisions of this subchapter, subject to subsections (b)-  
28 ~~(e)~~ (c) of this section."

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30 SECTION 2. 23-48-604. Effect of Exchange.

31 "(a)(1) When the plan of exchange of shares as filed with the  
32 commissioner and approved by the commissioner under ~~§ 23-48-602~~ § 23-48-603  
33 becomes effective in accordance with the terms of the plan, the exchange  
34 provided for therein shall be deemed to have been consummated, and each  
35 shareholder of the state bank whose shares were acquired shall thereupon cease  
36 to be a shareholder of the state bank.

1           (2) The ownership of ~~all shares of the issued and outstanding~~  
 2 ~~stock of the state bank~~ acquired in the plan of exchange, except shares  
 3 payment of the value of which is required to be made under § 23-48-603,  
 4 hereinafter sometimes referred to as 'dissenting shares', shall automatically  
 5 vest in the bank holding company, as the acquiring person, without any  
 6 physical transfer or deposit of certificates representing the shares.

7           (3) All dissenting shares shall be considered authorized, but no  
 8 longer outstanding, shares of the state bank and may be disposed of in  
 9 accordance with the provisions of the plan of exchange or as otherwise  
 10 approved by the commissioner.

11           ~~(4) The bank holding company thereupon shall become the sole~~  
 12 ~~stockholder of the state bank and shall be subject to all of the duties and~~  
 13 ~~liabilities, to the extent provided by law, of a stockholder of a state bank~~  
 14 ~~organized under the laws of this state.~~

15           (b)(1) Certificates representing shares acquired in the plan of  
 16 exchange of the state bank prior to the plan of exchange becoming effective,  
 17 except certificates representing dissenting shares, shall, after the plan of  
 18 exchange becomes effective, represent:

19                   (A) Shares of the capital stock or other securities of the  
 20 bank holding company to be issued in exchange for shares of the state bank;  
 21 and

22                   (B) The right, if any, to receive cash or other  
 23 consideration upon terms specified in the plan of exchange.

24           (2) However, the plan of exchange may specify that all such  
 25 certificates shall, after the plan of exchange becomes effective, represent  
 26 only the right to receive shares of stock or other securities issued by the  
 27 bank holding company, cash, or a combination thereof upon such terms as  
 28 specified in the plan of exchange."  
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30           SECTION 3. Arkansas Code 23-48-605 is hereby amended to read as  
 31 follows:

32           "23-48-605. State bank and holding company to remain separate -  
 33 Nonliability of directors, officers, etc.

34           The state bank ~~acquired under a plan of exchange~~ and the ~~acquiring~~ bank  
 35 holding company shall, in all respects, remain separate and distinct entities  
 36 with neither entity having any liability to the creditors or depositors, if

1 any, or the stockholders of the other, or for any acts or omissions of the  
2 officers, directors, stockholders, or representatives of the other, other than  
3 obligations which may be expressly provided for in the plan of exchange.”  
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5 SECTION 4. All provisions of this act of a general and permanent nature  
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
7 Revision Commission shall incorporate the same in the Code.  
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9 SECTION 5. If any provision of this act or the application thereof to  
10 any person or circumstance is held invalid, such invalidity shall not affect  
11 other provisions or applications of the act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 act are declared to be severable.  
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15 SECTION 6. All laws and parts of laws in conflict with this act are  
16 hereby repealed.  
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