Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1	State of Arkansas	As Engrossed: H2/3/05		
2	85th General Assembly	A Bill		
3	Regular Session, 2005		HOUSE BILL 1264	
4				
5	By: Representatives Childers, Ve	erkamp, Mahony		
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7				
8	For An Act To Be Entitled			
9	AN ACT TO PERMIT THE BANK COMMISSIONER TO OBTAIN			
10	BACKGROUND	D CHECKS ON APPLICANTS; TO CLARIF	Y THE	
11	COMMISSION	NER'S CEASE AND DESIST POWERS; AN	ID FOR	
12	OTHER PURP	POSES.		
13				
14		Subtitle		
15	TO PERM	MIT THE BANK COMMISSIONER TO		
16	OBTAIN	BACKGROUND CHECKS ON APPLICANTS		
17	AND TO	CLARIFY THE COMMISSIONER'S CEASE]	
18	AND DES	SIST POWERS.		
19				
20				
21	BE IT ENACTED BY THE GEN	IERAL ASSEMBLY OF THE STATE OF AR	KANSAS:	
22				
23	SECTION 1. Arkans	as Code § 23-46-205 is amended t	o read as follows:	
24	23-46-205. Bank C	Commissioner - Powers and duties.		
25	(a) The Bank Comm	nissioner shall be charged with t	he general	
26	supervision of financial	institutions, the execution of	all laws passed by	
27	the State of Arkansas re	elating to the organization, oper	ations, inspection,	
28	supervision, control, li	quidation, and dissolution of ba	nks, bank holding	
29	companies, subsidiary tr	rust companies, and the general c	ommercial banking	
30	business of Arkansas, an	nd such other duties as prescribe	d by law.	
31	(b)(1) The commis	sioner shall have the power to i	ssue such rules and	
32	regulations as may be ne	ecessary or appropriate to carry	out the intent and	
33	purposes of all those laws and to issue cease and desist orders against any			
34	financial institution, o	or an officer, director, or employ	yee of any financial	
35	institution, found to be	e violating federal banking laws	or regulations,	
36	violating the banking la	ws of this state or State Bank D	epartment	



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1 regulations, violating any regulatory agreement, or jeopardizing the safety 2 and soundness of any financial institution. (2)(A) The commissioner may issue rules or regulations only with 3 4 the approval and consent of the State Banking Board, but he shall have power 5 to issue cease and desist orders upon his own motion. 6 (B) Nothing in this section shall be construed to curtail 7 the commissioner's power to issue emergency rules and regulations with the 8 approval and consent of the board. 9 (3)(A) Any person subject to a cease and desist order issued by the commissioner that shall refuse or fail to comply with the terms of the 10 11 order may be assessed a monetary penalty for the failure to comply with the provisions of the cease and desist order after a ten-day notice given by the 12 commissioner to the institution or person subject to the order. 13 14 (B) The amount of the monetary penalty shall not exceed 15 one thousand dollars (\$1,000) per day of violation against each institution 16 and each officer, director, or employee contributing to the institution's or 17 individual's failure to comply with the provisions of the cease and desist 18 order. 19 (C) Subject to such limitation, the amount of the monetary penalty shall be determined by the commissioner. 20 21 (4) The commissioner has grounds for and may issue a cease and 22 desist order for the permanent or temporary removal of an officer, director, 23 employee, agent or any other person participating in the affairs of or 24 otherwise connected with a financial institution subject to the supervision 25 of the commissioner, or any affiliate thereof, from service to that any 26 institution or affiliate subject to the supervision of the commissioner if he 27 or she is found by the commissioner to be or to have been: 28 (A) Violating state or federal law, rules and regulations 29 of a federal financial institution's regulatory agency, or department regulations; 30 (B) Acting incompetently, recklessly, or dishonestly; 31 32 (C) Indicted of a crime involving moral turpitude; or 33 (D) Otherwise impairing the safety and soundness of the 34 financial institution. 35 (5)(A) Any person aggrieved and directly affected by an order of 36 the commissioner issued pursuant to this section is entitled to judicial 2 02-03-2005 08:48 DLP098

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1 review. 2 (B) A person so aggrieved may seek judicial review by petition to a chancery circuit court having jurisdiction in the matter. 3 4 (C) The petition must be filed within seven (7) thirty 5 (30) days from the date of issuance of the order. 6 (D) If no petition for review is filed within thirty (30) 7 days from the date of issuance of the order, the order may not be appealed 8 and is permanently binding upon the person until terminated by the 9 commissioner. 10 (c) Department regulations shall be distributed, in form and method 11 selected by the commissioner, to all state banks chartered in the State of 12 Arkansas. (d) In addition to other powers, the commissioner shall have the power 13 14 and authority to: 15 (1) Inspect and copy all books, records, and other information 16 relating to the financial institutions he regulates; 17 (2) Restrict withdrawal of deposits from state banks under 18 extraordinary circumstances; 19 (3) Subpoena witnesses, compel their attendance, require production of evidence, and administer oaths; 20 21 (4) Approve or disapprove applications for new state bank 22 charters or branch facilities in connection with failed institutions as 23 provided in § 23-48-511; 24 (5) Approve or disapprove applications for voluntary 25 liquidations as provided in § 23-49-119; 26 (6) Define any term or phrase used in this chapter which is not 27 defined by this chapter; 28 (7) Issue orders or declaratory statements, disseminate 29 information, and otherwise exercise discretion to effectuate the purposes of 30 this chapter and all laws described in subsection (a) of this section, and to interpret and implement the provisions of those laws consistently with such 31 32 purposes; 33 (8) Authorize state banks to engage in any banking activity in 34 which national banks are authorized or may hereafter be authorized by federal 35 legislation or regulations to engage; and 36 (9) Cooperate with federal financial institutions' regulatory

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2 (10)(A) Perform pre-employment state criminal background checks 3 through the Arkansas State Police and pre-employment federal criminal background checks through the Federal Bureau of Investigation. 3 (B) The federal Bureau of Investigation to disclose fingerprints of the applicant shall sign a release authorizing the Arkansas State Police and the Federal Bureau of Investigation to disclose eriminal history information about the applicant to the State Bank 10 Department. 11 (D) The department shall treat the information as confidential and shall only disclose the information to the applicant. 13 (e)(1) As soon as practicable after acceptance of any application referred to either in this chapter or in department regulations for filing, 15 regardless of whether the application is of a type referred to in § 23-46- 16 403, and receipt of the filing fee therefor, the commissioner to determine 17 (2) The investigation shall enable the commissioner to determine 18 (2) The investigation of any application and the need from the public standpoint for granting the application 19 (A) the The investigation of any application is \$ 19 (b) the tree true investigation of any application as \$ 10 10 the extent that the commissioner deems it appropriate, 11 (A) the The investigation of any application is \$ 12 (1	agencies .; and		
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