

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.

Act 42 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 99

4
5 By: Senators Wilkinson, Baker, Salmon, Trusty
6 By: Representatives Thyer, Wells, Wills, Overbey, Pickett, Maloch, Rosenbaum, Walters, Wyatt,
7 Maxwell, J. Johnson, Breedlove, Dunn, Schulte, Glidewell

For An Act To Be Entitled

8
9
10 AN ACT TO REVISE THE ARKANSAS BANKING CODE; TO
11 PROVIDE PARITY BETWEEN THE STATE AND NATIONAL
12 BANK APPLICATION PROCESS; TO REDUCE APPLICATION
13 FEES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO REVISE THE ARKANSAS BANKING CODE; TO
17 PROVIDE PARITY BETWEEN THE STATE AND
18 NATIONAL BANK APPLICATION PROCESS; AND
19 TO REDUCE APPLICATION FEES.
20

21
22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
25 SECTION 1. Arkansas Code § 23-48-701 is amended to read as follows:
26 23-48-701. Definitions.

27 As used in this subchapter:

28 (1)(A) "Full service branch" means a banking facility separate
29 from the main office of the bank at which all lawful banking activities may
30 be conducted as fully as in the main office.

31 (B) "Full service branch" includes a mobile facility that:
32 (i) Conducts banking business within the same county
33 as the main office or another full service branch of the bank;
34 (ii) Does not have a single, permanent site;
35 (iii) Does not remain within five (5) miles of any



1 banking location for more than two (2) business days;

2 (iv) Travels to various locations within the county
3 to enable customers to conduct banking business; and

4 (v) Maintains a log of operations indicating the
5 date and specific location of each stop; ~~and~~

6 (2) "Healthy bank" means a state bank whose financial condition
7 satisfies the criteria established by State Bank Department regulation; and

8 ~~(2)(3)~~ "Supervisory banking authority" means the Bank
9 Commissioner for state banks and the United States Comptroller of the
10 Currency for national banks.

11
12 SECTION 2. Arkansas Code § 23-48-702 is amended to read as follows:

13 23-48-702. Establishment of full-service branches and limited-purpose
14 offices - Locations.

15 (a)(1) No bank shall engage in core banking activities, receiving
16 deposits, paying checks, or lending money at any location other than at a
17 main banking office or full-service branch, except as otherwise permitted by
18 law.

19 (2) Unless otherwise restricted by applicable law, banks may
20 engage in permitted activities other than core banking activities at a main
21 office, any branch, or a limited purpose office.

22 (3)(A) All communities and banking markets shall be presumed to
23 be suitable for bank branches.

24 (B) The prior existence of a main or branch office of any
25 bank in a community does not grant the bank any right or power to preclude
26 any other bank from branching into the community.

27 (b)(1) Any Arkansas bank may establish a full-service branch, ~~provided~~
28 ~~that~~ with the approval of its supervisory banking authority ~~approves its~~
29 ~~application for the full-service branch.~~

30 (2) Any registered out-of-state bank may establish a full-
31 service branch, ~~provided that~~ with the approval of the bank supervisory
32 agencies with jurisdiction over the bank ~~approve its application for a full-~~
33 ~~service branch.~~

34 (3) Full-service branches may be established as follows:

35 (A) An Arkansas bank may establish full-service branches
36 anywhere within the state in which the establishing bank's main banking

1 office is located;

2 (B) A state bank which relocates its main banking office
3 may continue to use its former main banking office location as a full-service
4 branch so long as the use as a banking facility is uninterrupted;

5 (C) Following the consummation of any bank merger
6 transaction authorized under the Arkansas Banking Code of 1997, §§ 23-45-101
7 et seq., 23-46-101 et seq., 23-47-101 et seq., 23-48-101 et seq., 23-49-101
8 et seq., and 23-50-101 et seq., the resulting bank may establish, acquire, or
9 operate additional branches at any location in the State of Arkansas, or in
10 the case of an Arkansas bank, at any location within another state, where the
11 main banking office of the bank which was a party to the merger could have
12 established, acquired, or operated a full-service branch under applicable law
13 if the bank had not been a party to the merger transaction, provided that
14 full-service branches shall not be established if one (1) or more of the
15 banks is an Arkansas bank which has a de novo charter;

16 (D) An Arkansas bank possessing a capital and surplus of
17 one million dollars (\$1,000,000) or more may file an application with the
18 Bank Commissioner for permission to exercise, upon such conditions as the
19 commissioner may prescribe, the power to establish branches in foreign
20 countries or dependencies or insular possessions of the United States and to
21 act as fiscal agent for any governmental entity; and

22 (E) Notwithstanding any other provisions of state law
23 regarding locations of full-service branches, any federal or state savings
24 bank or association chartered and in operation prior to August 13, 2001, with
25 branches in operation in one (1) or more states, may convert to a state bank
26 in accordance with § 23-48-504 and may retain its branches, both in-state and
27 out-of-state, as branches of the state bank.

28 (c)(1) None of the provisions of this section which restrict the
29 locations in which full-service branches may be established shall be
30 effective in emergency instances in which the purchase or assumption of the
31 assets and liabilities of a failed bank becomes necessary due to state or
32 federal regulatory action.

33 (2) The restrictions on the location of ~~mobile~~ banking services
34 by an authorized bank may be suspended by the commissioner during a disaster,
35 emergency, or other cause which disables the operation of a permanent
36 location of the bank under the terms and conditions considered appropriate by

1 the commissioner.

2 (d)(1) Any state bank may file ~~an application~~ a notice with the Bank
3 Commissioner to relocate any existing full-service branch to another location
4 then authorized by law.

5 (2) A fee of not less than ~~one thousand dollars (\$1,000)~~ three
6 hundred dollars (\$300) nor more than ~~two thousand five hundred dollars~~
7 ~~(\$2,500)~~, ~~as set~~ five hundred dollars (\$500) established by State Bank
8 Department regulation, shall accompany the ~~application~~ notice.

9 (3) The ~~application~~ notice shall:

10 (A) Be filed not less than thirty (30) days prior to the
11 proposed relocation; and

12 (B) ~~contain such~~ Contain any information concerning the
13 new location ~~that~~ required by the commissioner ~~may require~~.

14 (4) The commissioner shall approve ~~such a~~ the relocation unless
15 it is determined that the relocation is not ~~economically feasible or will not~~
16 ~~serve the public convenience and necessity~~ consistent with the standards
17 contained in § 23-48-703(a).

18 (5)(A) No ~~application~~ notice to relocate a full-service branch
19 is required if:

20 (i)(a) A full-service branch is:

21 (1) Opened or built within the immediate
22 neighborhood of an existing branch; or

23 (2) Opened, built, or established as a
24 result of the consolidation of two (2) or more banks within the immediate
25 neighborhood of an existing branch or main office of a bank.

26 (b) The existing branch or main office may be
27 closed upon the opening of the new branch;

28 (ii) The nature of the business and customers of the
29 branch are not substantially affected; and

30 (iii) A notice and filing fee of no more than two
31 hundred fifty dollars (\$250) as prescribed by the commissioner is filed with
32 the department.

33 (B) As used in subdivision (d)(5)(A) of this section,
34 "within the immediate neighborhood" includes, but is not limited to:

35 (i) Across the street;

36 (ii) Around the corner;

- 1 (iii) Within two (2) blocks;
- 2 (iv) Within one thousand feet (1,000'); or
- 3 (v) In densely populated areas, within five thousand
- 4 feet (5,000').

5 (e)(1) Any bank may establish a limited-purpose office anywhere in the
 6 state to conduct noncore banking activities upon satisfaction of the notice
 7 requirement set forth in this subsection.

8 (2) As to each limited-purpose office which a bank proposes to
 9 establish or use, the bank shall give not fewer than thirty (30) days' prior
 10 written notice of its intention to establish or use the limited-purpose
 11 office to:

- 12 (A) The commissioner, in the case of a state bank;
- 13 (B) The home state regulator, in the case of a registered
- 14 out-of-state bank which is an out-of-state state-chartered bank; or
- 15 (C) The Comptroller of the Currency, in the case of a
- 16 national bank.

17 (3) The notice shall be in such form that may be required by the
 18 regulatory authority with which the notice is to be filed and shall include
 19 the following information:

- 20 (A) The location and a general description of the
- 21 surrounding area;
- 22 (B) Whether the location will be owned or leased;
- 23 (C) The noncore banking activities to be conducted;
- 24 (D) An estimate of the initial cost of the limited-purpose
- 25 office; and
- 26 (E) Such other relevant information as may be required by
- 27 the regulatory authority.

28
 29 SECTION 3. Arkansas Code § 23-48-703 is amended to read as follows:

30 23-48-703. Establishment of full-service branch ~~offices~~ - ~~Procedure~~
 31 Standards and procedure.

32 ~~(a) The Bank Commissioner shall have the authority to approve the~~
 33 ~~application of a state bank to establish a full-service branch if he shall~~
 34 ~~find upon investigation that the establishment of the branch is economically~~
 35 ~~feasible and will serve the public convenience and necessity.~~

36 ~~(b) The commissioner shall require the sponsor of a branch bank~~

1 application to pay a filing fee of not less than two thousand dollars
 2 (\$2,000) nor more than five thousand dollars (\$5,000) as may be set by State
 3 Bank Department regulations.

4 (c) ~~The sponsor of a branch bank application shall give notice of the~~
 5 ~~application at or prior to filing with the commissioner by publication in a~~
 6 ~~newspaper of statewide circulation.~~

7 (d)(1) ~~Any formal protest to a branch bank application must be~~
 8 ~~received in writing detailing the reasons for protest within fifteen (15)~~
 9 ~~days of the actual filing of the application.~~

10 (2) ~~Each person who files a formal written protest to a branch~~
 11 ~~bank application shall be required to pay a fee of not less than one thousand~~
 12 ~~dollars (\$1,000) nor more than three thousand dollars (\$3,000), as set by~~
 13 ~~department regulations, which fee shall accompany the formal written protest~~
 14 ~~and must also be received by the commissioner's office within fifteen (15)~~
 15 ~~days of the actual filing of the application.~~

16 (e) ~~An adjudicatory or administrative hearing shall not be required on~~
 17 ~~a branch bank application.~~

18 (f) ~~The commissioner's decision on a branch bank application will be~~
 19 ~~in the form of final findings of fact, conclusions of law, and an order given~~
 20 ~~by the commissioner within a reasonable period of time following the~~
 21 ~~expiration of the fifteen day formal protest period. The findings of fact~~
 22 ~~shall include findings that:~~

23 (1) ~~The establishment of the branch is economically feasible;~~
 24 ~~and~~

25 (2) ~~Public convenience and necessity will be promoted by the~~
 26 ~~establishment of the proposed full-service branch.~~

27 (g) ~~Following adoption of the commissioner's official findings of~~
 28 ~~fact, conclusions of law, and order, an applicant or official protestant~~
 29 ~~shall have thirty (30) days in which to appeal the commissioner's order to~~
 30 ~~the appropriate circuit court.~~

31 (a) The Bank Commissioner shall have the authority to approve the
 32 application of a state bank to establish a full-service branch if the
 33 commissioner determines that the establishment of the full-service branch is
 34 consistent with:

35 (1) Maintaining a sound banking system;

36 (2) Encouraging the bank to help meet the credit needs of the

1 community;

2 (3) Relying on the marketplace as generally the best regulator
3 of economic activity; and

4 (4) Encouraging healthy competition to promote efficiency and
5 better service to customers.

6 (b) The sponsor of a full-service branch application may file an
7 application with the commissioner by:

8 (1) Paying a filing fee established by State Bank Department
9 regulation of not less than three hundred dollars (\$300) nor more than five
10 hundred dollars (\$500); and

11 (2) Not less than thirty (30) days prior to filing the
12 application, publishing notice of the application one (1) time per week for
13 four (4) consecutive weeks in a newspaper of statewide circulation.

14 (c) The commissioner:

15 (1) May establish by regulation an expedited application process
16 and procedure for the approval of a healthy bank full-service branch
17 application; and

18 (2) Shall approve a healthy bank full-service branch application
19 unless the commissioner determines that approving the application is not
20 consistent with the standards provided in subsection (a) of this section.

21 (d)(1) The commissioner shall give notice of the filing of an
22 application under subsection (b) or subsection (c) of this section to all
23 Arkansas state-chartered banks with a bank or a full service branch currently
24 open and operating within the market area of the proposed new branch.

25 (2) The procedure for giving notice and the parameters of the
26 market area shall be established by State Bank Department regulation.

27 (e)(1) A written protest to a full-service branch application may be
28 filed with the commissioner within fifteen (15) days of the filing of the
29 application.

30 (2) The protest shall include:

31 (A) A detailed explanation of the protesting party's
32 reasons why the commissioner should deny the application; and

33 (B) A filing fee established by department regulation of
34 not less than three hundred dollars (\$300) nor more than five hundred dollars
35 (\$500).

36 (f) The commissioner may conduct an adjudicatory or administrative

1 hearing on a full-service branch application.

2 (g)(1) The commissioner shall issue an order accepting or rejecting a
3 full-service branch application within a reasonable period of time following
4 the expiration of the fifteen-day protest period under subdivision (d)(1) of
5 this section.

6 (2) The order shall include specific findings of fact and
7 conclusions of law concerning whether the establishment of the full-service
8 branch is consistent with the standards provided in subsection (a) of this
9 section.

10 (h) Within thirty (30) days after the commissioner issues an order
11 accepting or rejecting a full-service branch application, an applicant or a
12 party that filed a protest to the full-service branch application may appeal
13 the commissioner's order to the circuit court of the county where the full-
14 service branch will be established.

15
16 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly of the State of Arkansas that federal and out-of-state banks
18 have the benefit of less cumbersome branch application procedures and
19 policies; that state-chartered banks are thereby placed at a competitive
20 disadvantage; and that this act is necessary to help state-chartered banks
21 compete with other banks and to allow the Bank Commissioner appropriate
22 flexibility in administering the state's banking laws. Therefore, an
23 emergency is declared to exist and this act being immediately necessary for
24 the preservation of the public peace, health, and safety shall become
25 effective on:

26 (1) The date of its approval by the Governor;

27 (2) If the bill is neither approved nor vetoed by the Governor,
28 the expiration of the period of time during which the Governor may veto the
29 bill; or

30 (3) If the bill is vetoed by the Governor and the veto is
31 overridden, the date the last house overrides the veto.

32
33 APPROVED: 1/30/2007
34
35
36