

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 739

5 By: Senator J. Hutchinson
6

For An Act To Be Entitled

8 AN ACT DECLARING AN EMERGENCY TO CONFORM CERTAIN
9 STATE BANKING LAWS TO FEDERAL BANKING LAW; TO
10 REGULATE THE ESTABLISHMENT OF BRANCH FACILITIES
11 WITHIN THE STATE OF ARKANSAS AND THE UNITED STATES;
12 AND FOR OTHER PURPOSES.
13

Subtitle

14
15 DECLARING AN EMERGENCY TO CONFORM CERTAIN
16 STATE BANKING LAWS TO FEDERAL BANKING
17 LAW; TO REGULATE THE ESTABLISHMENT OF
18 BRANCH FACILITIES WITHIN THE STATE OF
19 ARKANSAS AND THE UNITED STATES.
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21

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

24 SECTION 1. Arkansas Code § 23-48-702(b), concerning the authority to
25 establish branch banking facilities, is amended to read as follows:

26 (b)(1) (A) Any An Arkansas bank may establish a full-service branch
27 anywhere within the United States with the approval of its supervisory
28 banking authority.

29 (B) A state bank that relocates its main banking office
30 may continue to use its former main banking office location as a full-service
31 branch as long as the use of the banking facility is uninterrupted.

32 (2) Any A registered out-of-state bank may establish a full-
33 service branch anywhere within the state of Arkansas:

34 (A) with With the approval of the its bank supervisory
35 agencies with jurisdiction over the bank,; and

36 (B) Upon receiving a certificate of authority from the



1 Bank Commissioner.

2 ~~(3) Full service branches may be established as follows:~~

3 ~~(A) An Arkansas bank may establish full service branches~~
4 ~~anywhere within the state in which the establishing bank's main banking~~
5 ~~office is located;~~

6 ~~(B) A state bank which relocates its main banking office~~
7 ~~may continue to use its former main banking office location as a full service~~
8 ~~branch so long as the use of the banking facility is uninterrupted;~~

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

20 ~~(D)(3) An Arkansas bank possessing a capital and surplus of one~~
21 ~~million dollars (\$1,000,000) or more may file an application with the Bank~~
22 ~~Commissioner commissioner for permission to exercise, upon such conditions as~~
23 ~~the commissioner may prescribe, the power to establish branches in foreign~~
24 ~~countries or dependencies or insular possessions of the United States and to~~
25 ~~act as fiscal agent for any government entity; and.~~

26 ~~(E)(4) Notwithstanding any other provisions of state law~~
27 ~~regarding locations of full-service branches, any a federal or state savings~~
28 ~~bank or association chartered and in operation prior to before August 13,~~
29 ~~2001, with branches in operation in one (1) or more states, may convert to a~~
30 ~~state bank in accordance with § 23-48-504 and may retain its branches, both~~
31 ~~in-state and out-of-state, as branches of the state bank.~~

32
33 SECTION 2. Arkansas Code § 23-48-901 is repealed.

34 ~~23-48-901. Definitions.~~

35 ~~As used in this subchapter, unless the context otherwise requires:~~

36 ~~(1) "Acquisition of an interstate branch" means the acquisition~~

1 of a branch located in a host state as the initial entry of an out-of-state
2 bank into the host state, without engaging in an interstate merger
3 transaction as defined in 23-45-102.

4 (2) ~~“Control” shall be construed consistently with the~~
5 ~~provisions of 12 U.S.C. 1841(a)(2).~~

6 (3) ~~“De novo interstate branch” means a bank branch located in a~~
7 ~~host state which (i) is the initial entry of an out-of-state bank into the~~
8 ~~host state, (ii) is originally established by the bank as a branch and (iii)~~
9 ~~does not become a branch of the bank as a result of an interstate merger~~
10 ~~transaction.~~

11
12 SECTION 3. Arkansas Code § 23-48-904 is repealed.

13 ~~23-48-904. De novo interstate branches or acquisition of interstate~~
14 ~~branches prohibited.~~

15 (a) ~~No state bank may establish or maintain a de novo interstate~~
16 ~~branch or engage in a transaction involving the acquisition of an interstate~~
17 ~~branch.~~

18 (b) ~~No out-of-state bank may establish or maintain a de novo~~
19 ~~interstate branch in Arkansas or engage in a transaction involving the~~
20 ~~acquisition of an interstate branch in Arkansas.~~

21
22 SECTION 4. Arkansas Code § 23-48-906(c), concerning the activities of
23 out-of-state bank branches, is repealed.

24 (c) ~~An out-of-state bank that has established or acquired a branch in~~
25 ~~Arkansas under this subchapter may establish or acquire additional branches~~
26 ~~or limited purpose offices in Arkansas to the same extent that any Arkansas~~
27 ~~bank may establish or acquire additional branches or limited purpose offices~~
28 ~~in Arkansas under applicable state and federal law.~~

29
30 SECTION 5. Arkansas Code § 23-48-1001(a), concerning the registration
31 of out-of-state banks in the state, is amended to read as follows:

32 (a) ~~On or before the consummation of an interstate merger transaction~~
33 ~~in which the resulting bank is an out-of-state bank which will operate~~
34 ~~branches in this state, the resulting bank or out-of-state bank shall apply~~
35 ~~for a certificate of authority to transact banking business in this state by~~
36 ~~delivering an application to the Bank Commissioner for filing. The~~

~~application must set forth~~ An out-of-state bank that desires to operate a branch location in the State of Arkansas, whether initial entry into the state is by an interstate merger transaction or establishment of a full-service branch, shall apply for a certificate of authority to transact banking business in this state. An applicant shall deliver an application to the Bank Commissioner for filing by the consummation of an interstate merger transaction or before establishment of a full-service branch. The application shall state:

- (1) The name of the bank;
- (2) The name of the state or country under whose law it is chartered;
- (3) Its date of formation and period of duration;
- (4) The street address of its principal office;
- (5) The address of its registered office in this state and the name of its registered agent at that office; and
- (6) The number and par value, if any, of shares of the bank's capital stock owned or to be owned by residents of this state.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly that federal law allows out-of-state bank holding companies to acquire control of Arkansas banks; that the Federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 preempts all state laws prohibiting branching by all banks across state lines; and that this act is necessary to amend and repeal certain provisions within the Arkansas Banking Code pertaining to the authority of Arkansas banks to establish branch bank facilities outside the State of Arkansas and out-of-state banks to establish branch facilities within the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.