

**APPLICATION FOR ACQUISITION OF CONTROL  
OF STATE TRUST COMPANY**  
submitted to the  
**ARKANSAS STATE BANK DEPARTMENT**

**By**

\_\_\_\_\_  
Corporate Title of Entity or Names of Individual(s)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City County State Zip Code

(hereinafter referred to as "**Applicant**")

hereby applies to the Department for written consent of the State Bank Commissioner to acquire twenty-five percent (25%) or more of the stock of:

\_\_\_\_\_  
Name of State Trust Company

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City County State Zip Code

by the acquisition of \_\_\_\_\_ shares of **voting** stock representing \_\_\_\_\_ % of \_\_\_\_\_ shares of **voting** stock outstanding. \_\_\_\_\_ shares representing \_\_\_\_\_ % of \_\_\_\_\_ shares of nonvoting stock outstanding will also be acquired.

Name, title, address, and telephone number of person(s) to whom inquiries concerning this application may be directed:

I hereby certify that the Board of Directors has authorized the filing of this application and that to the best of my knowledge, it contains no misrepresentations or omissions of material facts.

**Applicant must notify the Bank Commissioner promptly of any material changes in financial or other conditions which may affect the Commissioner's decision.**

\_\_\_\_\_  
Signature of Authorized Individual

\_\_\_\_\_  
Date of Application

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

## **AUTHORITY**

The Arkansas Trust Institutions Act Section 23-51-135 requires a proposed transferee seeking approval to acquire control of a state trust company or a person that controls a state trust company must file with the Commissioner an application for acquisition of control. In this instance, control is defined under the Arkansas Trust Institutions Act Section 23-51-102 as:

1. The ownership of or ability or power to vote, directly, acting through one or more persons, or otherwise indirectly, more than twenty-five percent of the outstanding shares of a class of voting securities of a state trust company;
2. The ability to control the election of a majority of the board of a state trust company; or
3. The power to exercise, directly or indirectly, a controlling influence over the management or policies of a state trust company.

## **APPLICATION**

An acquisition of control application shall contain information as provided by Section 135 of the Arkansas Trust Institutions Act and such other information as the Commissioner may require. According to the Arkansas Trust Institutions Act, Section 136, the Commissioner may issue an order denying an application if:

1. the acquisition would substantially lessen competition, be in restraint of trade, result in a monopoly, or be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the trust industry in any part of this state, unless:
  - a. the anti-competitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of acquisition in meeting the convenience and needs of the community to be served; and
  - b. the proposed acquisition is not in violation of law of this state or the United States;
2. the financial condition of the proposed transferee, or any member of a group composing the proposed transferee, might jeopardize the financial stability of the state trust company being acquired;
3. plans or proposals to operate, liquidate, or sell the state trust company or its assets are not in the best interests of the state trust company;
4. the experience, ability, standing, competence, trustworthiness, and integrity of the proposed transferee, or any member of a group comprising the proposed transferee, are insufficient to justify a belief that the state trust company will be free from improper or unlawful influence or interference with respect to the state trust company's operation in compliance with law;

5. the state trust company will be insolvent, in a hazardous condition, not have adequate capitalization, or not be in compliance with the laws of this state after the acquisition;
6. the proposed transferee has failed to furnish all information pertinent to the application reasonably required by the Commissioner; or
7. the proposed transferee is not acting in good faith.

## **PROCEDURES**

Any person(s) or entity desiring to acquire "control" of a state chartered trust company shall be required to file an application with the Bank Commissioner on a form prescribed by the Commissioner.

**Notice Published by Applicant:** Notice of intent to file an application must be published once in a newspaper in the city of Little Rock and having a general and substantially statewide circulation. Original proof of publication must accompany the application to the Bank Commissioner.

**Presentation of Facts:** The Bank Commissioner, at his/her discretion, may afford the applicant or other properly interested individuals an opportunity to present opinions or facts regarding the application either at informal conference discussions or at informal presentations of evidence.

**Authority to Investigate and Examine:** The Commissioner may conduct an investigation of the application and examine the condition of any state trust company to the extent deemed necessary. The cost of any examination shall be charged to the applicant. The Commissioner may request additional information during the investigation process.

**Preliminary Approval:** Upon completion of the application process, the Bank Commissioner shall communicate to applicant his intentions to approve the acquisition of control pursuant to the facts as stated in the application. If it is the Commissioner's intent to not approve the application, reasons for such denial shall be so stated. Notification of the Commissioner's preliminary approval or intention to not approve the application shall be by mail.

**Filing of Transfer Forms:** Applicant shall file the applicable Certificate of Transfer of Stock within ten (10) business days of the date of the transfer of stock as described in the Application for Acquisition of Control. The Bank Commissioner shall approve such transfer provided there have been no material changes to the information submitted in the application.

**Fees:** Applicant shall submit a nonrefundable filing fee of \$1,500 in order to defray the cost of an investigation of the application.

## **CONFIDENTIALITY**

Pursuant to the provisions of the Freedom of Information Act, the application is a public document and available to the public upon request.

If Applicant is of the opinion that disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that of its subsidiaries, or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy, confidential treatment of such information may be requested. The request for confidential treatment must be submitted in writing concurrently with the submission of the application, and must discuss in detail the justification for confidential treatment. Such justification must be provided for each response for which confidential treatment in the public portion of the application is requested. Applicant's reasons for requesting confidentiality should demonstrate specifically the harm that would result from public release of the information. A statement simply indicating that the information would result in competitive harm or that it is personal in nature is not sufficient. It must be demonstrated that disclosure would meet either the "substantial competitive harm" or "unwarranted invasion of personal privacy" test.

Information for which confidential treatment is requested should be: (1) Specifically identified in the public portion of the application (by reference to the confidential section); (2) bound separately from the public portion of the application; and (3) labeled "Confidential". The same procedure should be followed with regard to filing any supplemental information to the application.

The Department will determine if information submitted as confidential will be so regarded, and will advise Applicant of any decision to make available to the public information labeled "Confidential". However, it shall be understood that, without prior notice to Applicant, the Department may disclose or comment on any of the contents of the application in the Order or Statement issued by the Department in connection with a decision on the application.

## **SUPPORTING DOCUMENTATION**

Applicant must submit the following information and/or documentation in support of the Acquisition of Control application. Please number responses to correspond with the following:

1. Indicate the terms and conditions of the proposed acquisition and the manner in which the acquisition is to be completed. Identify the amount of stock to be acquired by each acquiring party and attach copies of all purchase and sale agreements, tender offers to stockholders, and related documents. Information submitted must include the number of shares to be acquired, type(s) of stock, voting status, par value, purchase price, and the total number of shares of each type of stock issued and outstanding.

## **SUPPORTING DOCUMENTATION (continued)**

2. If any part of the funds or other consideration must be borrowed or otherwise obtained to complete the acquisition, provide details of any commitments or loans. Include a copy of the loan agreement and commitment letter. (Documents must identify name of borrower, name and address of lender, amount to be financed, collateral to be pledged, interest rate, amortization schedule, guarantors and endorsers, source of repayment, and any other agreements between the parties.)
3. Submit to the fullest extent possible an itemization of the uses of any borrowed funds other than for stock purchase.
4.
  - a. If Applicant is a bank holding company, submit parent company only and consolidated balance sheets (parent company only if Applicant's pro forma consolidated assets would be less than \$150 million) as of the most recent fiscal quarter. If Applicant's long-term debt will exceed 30 percent of its equity, submit cash flow projections demonstrating its ability to reduce its debt to equity ratio to 30 percent or less. Be specific as to sources of funds, particularly those generated by the acquired institution or those obtained from outside entities.
  - b. If Applicant is not a holding company, submit financial statements for all acquiring individuals who will hold a controlling interest (ten percent or more of the outstanding voting stock) after consummation of the proposed transaction.
  - c. Submit financial statements for any person individually liable for debt repayment or for any individual or company that acts as a guarantor.
5. Identify any person or entity employed, retained, or to be compensated by Applicant, or by any person on their behalf to make solicitations or recommendations to stockholders to assist in the acquisition. Briefly summarize the terms of such employment, retainer, or arrangement for compensation. Include a copy of the contract/agreement.
6. Indicate positions held by acquiring parties in any other bank, bank holding company, or state trust company other than the institution being acquired. Also identify ownership interests of acquiring parties in other banks, bank holding companies, or state trust companies (include affiliate relationships).

## **SUPPORTING DOCUMENTATION (continued)**

7.
  - a. Describe any changes to be made in the management and board of directors of the acquired state trust company.
  - b. Submit resumes for all acquiring individuals who will serve as officers, directors, or hold controlling interest (ten percent or more of the outstanding voting stock) after consummation of the proposed transaction.
8. Indicate in detail any change in Applicant's strategic plans occurring subsequent to the acquisition. Also disclose strategic goals and resulting strategies of the state trust company to be acquired, including the full range of fiduciary services which are proposed to be offered.
9. Discuss the effect of the proposed transaction on existing and potential competition.
10. Submit any proposed changes to the acquired state trust company's bonuses and salary structure for officers. Identify benefits of any kind to be paid, directly or indirectly, to officers, employees, or acquiring parties resulting from the acquisition.
11. Identify any changes to be made in services offered and the probable effect on the needs and convenience of the community to be served
12. If the proposed transferee is not an Arkansas resident, an Arkansas company, or an out-of-state company qualified to do business in this state, Applicant must include a written consent to service of process on a resident of this state in any action or suit arising out of or connected with the proposed acquisition.
13. Summarize the reason(s) for the proposed acquisition of control and future plans for the state trust company if the transaction is approved. Provide details of any plans to liquidate or merge any operations or assets of the acquired state trust company.
14. Indicate if any of the acquiring parties have ever been convicted of a felony.