

**A.C.A. § 23-46-212**

Current through all legislation of the 2023 Regular Session and the 2023 First Extraordinary Session.

*AR - Arkansas Code Annotated > Title 23 Public Utilities and Regulated Industries > Subtitle 2. Financial Institutions And Securities > Chapter 46 State Bank Department and State Banking Board > Subchapter 2 — State Bank Department*

**23-46-212. Emergency powers of Bank Commissioner — Legislative findings and intent — Definitions.**

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(a) The General Assembly:

- (1) Finds that in the event of an emergency, the Bank Commissioner should be authorized to take appropriate action to expedite the recovery of a community affected by the emergency and to encourage banks to meet the credit, deposit, and other financial needs of the community; and
- (2) Intends by the enactment of this section to authorize the commissioner when warranted by a state of emergency to assist the affected community by:
  - (A) Declaring with the consent of the Governor a state of emergency in this state;
  - (B) Temporarily modifying or suspending banking laws, regulations, or requirements;
  - (C) Taking any other action appropriate to assist affected banks so that:
    - (i) Customary banking services can continue to be provided; and
    - (ii) Financial stability can be maintained; and
  - (D) Declaring a state of emergency in another state if:
    - (i) The declaration of a state of emergency is limited in scope to an affected branch office of an Arkansas state-chartered bank that is under the regulatory authority of the commissioner; and
    - (ii) Prior notice is given to the relevant state banking regulatory authority of the state in which the emergency is to be declared.

(b) As used in this section:

- (1) “Affected area” means the geographic location described in a proclamation by the commissioner declaring a state of emergency;
- (2) “Affected bank” means a bank with an office in the geographic location described in a proclamation by the commissioner declaring a state of emergency;
- (3) “Office” means a physical location where a bank transacts business or conducts banking operations;
- (4) “Officer” means:

**(A)** A person designated by the board of directors, board of trustees, or other governing body of a bank to act for the bank under this section; or

**(B)** The president or chief executive officer or other person in charge of an office if:

**(i)** A designation under subdivision (b)(4)(A) of this section has not been made; or

**(ii)** An officer designated under subdivision (b)(4)(A) of this section is not available; and

**(5)**

**(A)** “State of emergency” means a natural or man-made occurrence or condition that may:

**(i)** Affect the ability of a bank to conduct normal business operations; or

**(ii)** Pose a threat to the safety or security of a person or property.

**(B)** “State of emergency” includes without limitation an occurrence or condition caused by:

**(i)** A natural disaster;

**(ii)** A tornado;

**(iii)** A storm;

**(iv)** A flood;

**(v)** High water;

**(vi)** An earthquake;

**(vii)** A drought;

**(viii)** A fire;

**(ix)** An act of war, rebellion, violent demonstration, or terrorism;

**(x)** A robbery of a bank or other financial institution; or

**(xi)** A cyberattack on, or a cybersecurity breach of, a bank or other depository institution.

**(c)**

**(1)** In addition to any other law of this state or of the United States authorizing the closing of a bank or excusing the delay by a bank in the performance of its duties and obligations because of a situation or condition beyond the bank's control, the commissioner may with the Governor's consent declare by written proclamation that a state of emergency exists in all or part of the state.

**(2)** The proclamation and any order issued under this section:

**(A)** Shall be published on the commissioner's website; and

**(B)** May be disseminated in any other manner deemed appropriate by the commissioner under the circumstances.

**(d)**

**(1)** If the commissioner declares a state of emergency under this section, the commissioner may authorize an affected bank by written order to:

**(A)** Close an office within the affected area; and

- (B) Keep the office closed for a reasonable amount of time until the office can be reopened.
- (2) A bank that closes an office under this section shall notify the commissioner as promptly as conditions permit by any means reasonably available of the:
  - (A) Reason for closing the office; and
  - (B) Expected length of time the office will be closed.
- (3) If an office is closed under this section:
  - (A) Each day that the office is closed shall be treated for banking purposes as a legal holiday; and
  - (B) An affected bank or a director, officer, or employee of an affected bank shall not because the office is closed:
    - (i) Incur any liability; or
    - (ii) Forfeit any legal or equitable rights.
- (e)
  - (1)
    - (A) If the commissioner finds that an affected bank closed an office as a result of a state of emergency and that the opening of a temporary office by the affected bank will help meet the credit, deposit, and other financial needs of the customers of the affected area, the commissioner may authorize the affected bank by written order to open a temporary office either within the state or at a location in another state.
    - (B) The temporary office may be a mobile branch, temporary office space, or any other facility approved by the commissioner.
  - (2) The formal application process, requirements, and fees for opening a temporary office may be suspended when a state of emergency exists.
  - (3) A temporary office opened under this section may remain open until the commissioner with the consent of the Governor declares that the state of emergency no longer exists unless written permission to remain open is granted by the commissioner upon application by an affected bank to establish an office at the site of the temporary office.
- (f)
  - (1) An order issued by the commissioner under this section becomes effective upon issuance and continues for one hundred twenty (120) days or unless terminated sooner by the commissioner.
  - (2) The commissioner may extend an order issued under this section for an additional period not to exceed one hundred twenty (120) days if the commissioner with the consent of the Governor finds that the existing state of emergency continues or that a new state of emergency exists.
- (g) The commissioner may by rule:
  - (1) Adopt additional procedures to implement this section; and
  - (2) Impose sanctions under § 23-46-205 for a violation of this section.

## History

Acts 2009, No. 233, § 1; 2017, No. 169, § 1; 2017, No. 198, § 1; 2023, No. 298, § 1.

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