

## **524.528 Shareholders' preemptive rights.**

1. Unless otherwise provided in section 524.529, the shareholders of a state bank do not have a preemptive right to acquire the state bank's unissued shares except to the extent provided in the articles of incorporation.

2. A statement included in the articles of incorporation that "the state bank elects to have preemptive rights", or words of similar import, means that, except to the extent otherwise expressly provided in the articles of incorporation, the following principles apply:

*a.* A shareholder of a state bank has a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire a proportional amount of the state bank's unissued shares upon the decision of the board of directors to issue such shares.

*b.* A shareholder may waive the shareholder's preemptive right. A waiver evidenced in writing is irrevocable even though it is not supported by consideration.

*c.* There is no preemptive right with respect to any of the following:

(1) Shares issued as compensation to directors, managers, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, managers, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(3) Shares authorized in articles of incorporation that are issued within six months from the effective date of incorporation or organization.

*d.* A holder of shares of any class without general voting rights but with preferential rights to distributions or assets has no preemptive rights with respect to shares of any class.

*e.* A holder of shares of any class with general voting rights but without preferential rights to distributions or assets has no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

*f.* Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. For purposes of this section, "*shares*" includes a security convertible into or carrying a right to subscribe for or acquire shares.

[C71, 73, 75, 77, 79, 81, § 524.506]

95 Acts, ch 148, §45

CS 95, §524.528

2004 Acts, ch 1141, §64