

MAR 2 1999

REPRINTED 445

Place On Calendar

HOUSE FILE
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HF 282)

Passed House ^(P. 636) Date 3/11/99 Passed Senate, Date ^(P. 1063) 4/12/99
Vote: Ayes 75 Nays 22 Vote: Ayes 47 Nays 0
Approved May 21, 1999

A BILL FOR

1 An Act relating to the rights of a dissenting shareholder of a
2 state bank.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

HF 445

1 Section 1. Section 524.1406, Code 1999, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 3. a. Notwithstanding any contrary
4 provision in chapter 490, division XIII, in determining the
5 fair value of the shareholder's shares under this section, due
6 consideration shall be given to valuation issues acknowledged
7 and authorized by the Internal Revenue Code, as defined in
8 section 422.3, including discounts for minority interests and
9 discounts for lack of marketability.

10 b. If, prior to giving notice of a meeting at which a
11 shareholder would be entitled to assert dissenter's rights, a
12 bank may seek a declaratory judgment to establish the fair
13 value for purposes of section 490.1301, subsection 4, of
14 shares held by shareholders who would have a right to dissent.
15 Another cause of action or a counterclaim shall not be joined
16 with such a declaratory action. A declaratory judgment shall
17 be filed in the county where the bank's principal place of
18 business is located. The court shall appoint an attorney to
19 represent minority shareholders. All shareholders of the bank
20 shall be served with notice of the action and be advised of
21 the name, address, and telephone number of the attorney
22 appointed to represent minority shareholder interests. The
23 bank shall select an appraiser to give an opinion on fair
24 value and the attorney shall select an appraiser to give an
25 opinion on fair value. Any shareholder may participate
26 individually and present evidence of the fair value of such
27 shareholder's shares. All court costs, appraiser's fees, and
28 the fees and expenses of the attorney shall be assessed
29 against the bank. A final judgment in the action shall
30 establish fair value for the purposes of chapter 490, division
31 XIII and shall be disclosed to the shareholders in the notice
32 to shareholders of the meeting to approve the transaction that
33 gives rise to dissenters' rights. If the proposed transaction
34 is approved by the shareholders, upon consummation of the
35 proposed transaction the fair value so established shall be

1 paid to all dissenting shareholders upon receipt of such
2 shareholders' share certificates.

3 EXPLANATION

4 This bill relates to the determination of fair value of a
5 dissenting shareholder's shares in a state or national bank
6 which is a party to a merger. The bill provides that in
7 determining the fair value of the shareholder's shares, due
8 consideration must be given to valuation issues acknowledged
9 and authorized by the Internal Revenue Code, as defined in
10 Code section 422.3, including discounts for minority interests
11 and discounts for lack of marketability.

12 The bill provides that if, prior to giving notice of a
13 meeting at which a shareholder would be entitled to assert
14 dissenter's rights, a bank determines to establish the fair
15 value of shares held by shareholders who would have a right to
16 dissent, the bank may seek a declaratory judgment to establish
17 such fair value. The court is to appoint an attorney to
18 represent minority shareholders and all shareholders of the
19 bank shall be served with notice of the proceeding and be
20 advised of the name, address, and phone number of the attorney
21 appointed to represent minority shareholder interests. The
22 bank shall select an appraiser to give an opinion on fair
23 value and the attorney shall select an appraiser to give an
24 opinion on the fair value. Any shareholder may participate
25 individually and present evidence of the fair value of such
26 shareholder's shares. All court costs, appraiser's fees, and
27 the fees and expenses of the attorney shall be assessed
28 against the bank. If the proposed transaction is approved by
29 the shareholders, then upon consummation of the proposed
30 transaction, the fair value so established is to be paid to
31 all dissenting shareholders upon receipt of such shareholder's
32 share certificates.

33

34

35

HOUSE FILE 445

H-1066

- 1 Amend House File 445 as follows:
- 2 1. Page 2, by inserting after line 2 the
- 3 following:
- 4 "c. Notwithstanding the manner of determining fair
- 5 value under this subsection, the fair value determined
- 6 shall not be less than the book value of such shares."

By WISE of Lee
RANTS of Woodbury

H-1066 FILED MARCH 10, 1999

with drawn

3-11-99 (P.635) HOUSE FILE 445

H-1073

- 1 Amend House File 445 as follows:
- 2 1. Page 1, line 23, by striking the word "shall"
- 3 and inserting the following: "may".
- 4 2. Page 1, line 29, by inserting after the word
- 5 "bank." the following: "A judgment in the action
- 6 shall not determine fair value for a share to be less
- 7 than the stockholders' equity in the bank in its last
- 8 statement of condition filed under section 524.220
- 9 divided by the number of shares outstanding."
- 10 3. Page 2, by striking lines 1 and 2 and
- 11 inserting the following: "paid to all shareholders
- 12 entitled to payment for their shares upon receipt of
- 13 such shareholders' share certificates."

By WISE of Lee

H-1073 FILED MARCH 10, 1999

Adopted

3-11-99 (P.635) HOUSE FILE 445

H-1055

- 1 Amend House File 445 as follows:
- 2 1. Page 1, line 3, by striking the letter "a."
- 3 2. By striking page 1, line 10, through page 2,
- 4 line 2.

By WEIGEL of Chickasaw

H-1055 FILED MARCH 9, 1999

lost 3-11-99
(P.636)

HOUSE FILE 445

H-1056

- 1 Amend House File 445 as follows:
- 2 1. By striking page 1, line 31, through page 2,
- 3 line 2, and inserting the following: "XIII and shall
- 4 be disclosed to the shareholders. If the bank seeks a
- 5 declaratory judgment pursuant to this subsection, the
- 6 bank shall complete the proposed transaction."

By WEIGEL of Chickasaw

H-1056 FILED MARCH 9, 1999

out of order
3/11/99 (P.635)

5-3/25/99 De Bara

445

HOUSE FILE
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HF 282)

(As Amended and Passed by the House, March 11, 1999)

Passed House, Date _____ Passed Senate, Date 4/12/99
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 0
Approved May 21, 1999

(P1063)

A BILL FOR

1 An Act relating to the rights of a dissenting shareholder of a
2 state bank.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

HF 445

1 Section 1. Section 524.1406, Code 1999, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 3. a. Notwithstanding any contrary
4 provision in chapter 490, division XIII, in determining the
5 fair value of the shareholder's shares under this section, due
6 consideration shall be given to valuation issues acknowledged
7 and authorized by the Internal Revenue Code, as defined in
8 section 422.3, including discounts for minority interests and
9 discounts for lack of marketability.

10 b. If, prior to giving notice of a meeting at which a
11 shareholder would be entitled to assert dissenter's rights, a
12 bank may seek a declaratory judgment to establish the fair
13 value for purposes of section 490.1301, subsection 4, of
14 shares held by shareholders who would have a right to dissent.
15 Another cause of action or a counterclaim shall not be joined
16 with such a declaratory action. A declaratory judgment shall
17 be filed in the county where the bank's principal place of
18 business is located. The court shall appoint an attorney to
19 represent minority shareholders. All shareholders of the bank
20 shall be served with notice of the action and be advised of
21 the name, address, and telephone number of the attorney
22 appointed to represent minority shareholder interests. The
23 bank may select an appraiser to give an opinion on fair value
24 and the attorney shall select an appraiser to give an opinion
25 on fair value. Any shareholder may participate individually
26 and present evidence of the fair value of such shareholder's
27 shares. All court costs, appraiser's fees, and the fees and
28 expenses of the attorney shall be assessed against the bank.
29 A judgment in the action shall not determine fair value for a
30 share to be less than the stockholders' equity in the bank in
31 its last statement of condition filed under section 524.220
32 divided by the number of shares outstanding. A final judgment
33 in the action shall establish fair value for the purposes of
34 chapter 490, division XIII and shall be disclosed to the
35 shareholders in the notice to shareholders of the meeting to

1 approve the transaction that gives rise to dissenters' rights.
2 If the proposed transaction is approved by the shareholders,
3 upon consummation of the proposed transaction the fair value
4 so established shall be paid to all shareholders entitled to
5 payment for their shares upon receipt of such shareholders'
6 share certificates.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

AN ACT
RELATING TO THE RIGHTS OF A DISSENTING SHAREHOLDER OF A STATE
BANK.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 524.1406, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Notwithstanding any contrary provision in chapter 490, division XIII, in determining the fair value of the shareholder's shares under this section, due consideration shall be given to valuation issues acknowledged and authorized by the Internal Revenue Code, as defined in section 422.3, including discounts for minority interests and discounts for lack of marketability.

b. If, prior to giving notice of a meeting at which a shareholder would be entitled to assert dissenter's rights, a bank may seek a declaratory judgment to establish the fair value for purposes of section 490.1301, subsection 4, of shares held by shareholders who would have a right to dissent. Another cause of action or a counterclaim shall not be joined with such a declaratory action. A declaratory judgment shall be filed in the county where the bank's principal place of business is located. The court shall appoint an attorney to represent minority shareholders. All shareholders of the bank shall be served with notice of the action and be advised of the name, address, and telephone number of the attorney appointed to represent minority shareholder interests. The bank may select an appraiser to give an opinion on fair value and the attorney shall select an appraiser to give an opinion on fair value. Any shareholder may participate individually and present evidence of the fair value of such shareholder's shares. All court costs, appraiser's fees, and the fees and expenses of the attorney shall be assessed against the bank. A judgment in the action shall not determine fair value for a

share to be less than the stockholders' equity in the bank in its last statement of condition filed under section 524.220 divided by the number of shares outstanding. A final judgment in the action shall establish fair value for the purposes of chapter 490, division XIII and shall be disclosed to the shareholders in the notice to shareholders of the meeting to approve the transaction that gives rise to dissenters' rights. If the proposed transaction is approved by the shareholders, upon consummation of the proposed transaction the fair value so established shall be paid to all shareholders entitled to payment for their shares upon receipt of such shareholders' share certificates.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 445, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 21, 1999

THOMAS J. VILSACK
Governor