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TALLAHASSEE, FLORIDA

*Amend  
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**SMITH MACKINNON, PA**

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JOHN P. GREELEY

October 12, 2010

***Sent via Federal Express***

Department of State  
Attention: Karon Beyer  
Division of Corporations  
2661 Executive Center Circle  
Tallahassee, FL 32301

Re: Articles of Amendment to the Articles of Incorporation of  
Gateway Financial Holdings of Florida, Inc.

Dear Karon:

Enclosed are three manually-signed originals of Articles of Amendment to the Articles of Incorporation of Gateway Financial Holdings of Florida, Inc., accompanied by a check in the amount of \$52.50 payable to the Florida Secretary of State for the filing fee.

I would appreciate it if you could file the Articles of Amendment at your earliest convenience and return two certified copies of the filed Articles of Amendment to us at your convenience.

If you have any questions regarding the enclosed, please do not hesitate to call me at your convenience. As always, we appreciate your assistance.

Very truly yours,

  
John P. Greeley

JPG/jle

Enclosures

cc: David K. Maholias,  
President and Chief Executive Officer  
Gateway Financial Holdings of Florida, Inc.

**ARTICLES OF AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION OF  
GATEWAY FINANCIAL HOLDINGS OF FLORIDA, INC.  
(Pursuant to Section 607.1006 of the  
Florida Business Corporation Act)**

**FILED**

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Gateway Financial Holdings of Florida, Inc., a corporation organized and existing under the laws of the State of Florida (the "Corporation"), in accordance with the provisions of Section 607.1006 of the Florida Business Corporation Act (the "Act"), does hereby amend its Articles of Incorporation as follows:

FIRST: The Articles of Incorporation are amended by adding the following:

**ARTICLE III**

**Capital Stock**

**E. Description of Series B Preferred Stock.**

Pursuant to authority granted by Article III, Section A of the Articles, there is hereby created and the Corporation be, and hereby is, authorized to issue from the 5,000,000 authorized shares of Preferred Stock, 20,000 shares of preferred stock which shall have, in addition to the terms set forth in the Articles, the following terms, designations, preferences and privileges, relative, participating, optional and other special rights, and qualifications, limitations, and restrictions:

1. **Designation.** There shall be 20,000 shares of the Preferred Stock of the Corporation hereby constituted as a series of Preferred Stock with a par value of \$5.00 per share designated as Series B Non-Cumulative Perpetual Preferred Stock (hereinafter called the "Series B Preferred Stock").

2. **Rank.** The Series B Preferred Stock, with respect to dividend rights and rights of liquidation, dissolution or winding up of the Company, ranks senior to the Common Stock, the shares of Series A Preferred Stock, and all of the classes and series of equity securities of the Company, other than any classes or series of equity securities of the Company subsequently issued ranking on a parity with, or senior to, the Series B Preferred Stock, as to dividend rights and rights upon liquidation, dissolution or winding up of the Company. The relative rights and preferences of the Series B Preferred Stock may be subordinated to the relative rights and preferences of holders of subsequent issues of other classes or series of preferred stock and equity securities of the Corporation designated by the Board of Directors. The Series B Preferred Stock is junior to indebtedness issued from time to time by the Corporation, including notes and debentures.

3. **Number of Shares in Series.** The number of shares of Series B Preferred Stock shall initially be 20,000 shares, which number from time to time may be increased or decreased (but not decreased below the number of shares of the series then outstanding) by the Board of Directors.

4. **Voting.** Except as provided by law, the holders of the Series B Preferred Stock shall not have any voting rights. On those matters in which the holders of Series B Preferred Stock are entitled to vote, the holders shall have the right to one vote for each share of Series B Preferred Stock, and shall be

entitled to receive notice of any shareholder's meeting held to act upon such matters in accordance of the Bylaws of the Corporation, and shall be entitled to vote in such manner as provided by law. The holders of Series B Preferred Stock shall vote together with the holders of Common Stock and Series A Preferred Stock as a single class, and not as a separate class.

5. Liquidation Preference. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the affairs of the Corporation, then, before any distribution or payment shall be made to the holders of any junior stock, the holders of Series B Preferred Stock shall be entitled to be paid in full the sum of \$1,000 per share. To the extent such payment shall have been made in full to the holders of the Series B Preferred Stock, all other series of Preferred Stock and any parity stock, the remaining assets and funds of the Corporation shall be distributed among the holders of the junior stock, according to their respective rights and preferences and in each case according to their respective shares. If upon liquidation, dissolution or winding up, the amounts so payable are not paid in full to the holders of all outstanding shares of Series B Preferred Stock, and all other shares on a parity with the Series B Preferred Stock, then the holders of Series B Preferred Stock and all other shares on a parity with the Series B Preferred Stock, share ratably in any distribution of assets in proportion to the full amounts to which they would otherwise be respectively entitled. A Change of Control shall not be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of the provisions of this Section 5.

6. Convertibility. The Series B Preferred Stock shall not be convertible into any other capital stock of the Corporation.

7. Dividend Rights. Dividend rights attributable to the shares of Series B Preferred Stock are as follows:

(a) Rate. The holders of Series B Preferred Stock shall be entitled to receive on each share of Series B Preferred Stock such non-cumulative dividends if, as, and when declared by the Board of Directors out of funds legally available therefor, at a rate of 5% per annum (the "Coupon Rate"). The dividends are payable at the option of the Board of Directors of the Corporation (the "Board") (i) in cash, (ii) in shares of Series B Preferred Stock, or (iii) in any combination of cash and shares of Series B Preferred Stock. If a quarterly dividend is paid in additional shares of Preferred Stock, then the amount of such shares issuable for each share of Preferred Stock for such quarterly dividend payment will be equal to an amount computed by dividing (i) the product of (x) \$1,000, times (y) the Coupon Rate, times (z) 0.25, by (ii) \$1,000 per share. Each fractional share of Series B Preferred Stock outstanding, if any, will be rounded to thousands of a share (*i.e.*, three decimal points) and will be entitled to a ratably proportionate amount of all dividends paid or other distributions made with respect to the Series B Preferred Stock at the same time and in the same manner as distributions on all other shares of Series B Preferred Stock. Dividends are payable quarterly in arrears on January 15, April 15, July 15 and October 15 of each year and, if declared for the first such date following issuance of the Series B Preferred Stock, shall be computed during the period from the date of issuance. In the event that any dividend payment date would otherwise fall on a day that is not a business day for the Corporation, the dividend payment due on that date will be postponed to the next day that is a business day for the Corporation and no additional dividends will accrue as a result of that postponement. Dividends that are payable on the Series B Preferred Stock shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Each declared dividend shall be payable to holders of record as they appear at the close of business on the stock books of the Corporation on the 15th calendar day preceding the dividend payment date therefor. All shares of Series B Preferred Stock issued as a

dividend with respect to the Series B Preferred Stock will be duly authorized, validly issued, fully paid and non-assessable.

(b) **Non-Cumulative.** Dividends shall be non-cumulative. If the Board of Directors does not declare a dividend on the Series B Preferred Stock in respect of any calendar quarter, the holders of the Series B Preferred Stock shall have no right to receive any dividend for such calendar quarter, and the Corporation shall have no obligation to pay a dividend for such calendar quarter, whether or not dividends are declared for any subsequent calendar quarter with respect to the Series B Preferred Stock.

(c) **Priority of Dividends.** So long as any shares of Series B Preferred Stock are outstanding, no dividend may be declared or paid or set aside for payment or other distribution declared or made upon the Common Stock or the Series A Preferred Stock by the Corporation (other than dividends payable solely in shares of Common Stock) unless full dividends on all outstanding shares of Series B Preferred Stock for the most recently completed calendar quarter have been or are contemporaneously declared and paid (or have been paid in a sum sufficient for the payment thereof has been set aside for the benefit of the holders of shares of Series B Preferred Stock on the applicable record date).

8. **Redemption Rights.** The redemption rights attributable to the shares of Series B Preferred Stock shall be as follows:

(a) The shares of Series B Preferred Stock may be redeemed by the Corporation (provided that notice thereof shall have been delivered by the Corporation) at its option in whole or in part from time to time, subject to the receipt of prior approval from the applicable bank regulatory agencies (as and to the extent required), at an amount equal to the sum of (i) the amount of \$1,000 per share (the "Liquidation Amount") and (ii) the amount of any declared and unpaid dividends on each such share (such amounts collectively, the "Liquidation Preference"). The Series B Preferred Stock shall be redeemed by the Corporation, subject to the receipt of prior approval from the applicable bank regulatory agencies (as and to the extent required), in an amount equal to the Liquidation Preference upon the closing of a Change in Control. The Corporation shall give written notice of each redemption of the Series B Preferred Stock or any portion thereof to the holder of the shares by first-class mail not less than 30 days prior to the date fixed for such redemption, which notice shall specify the amount thereof so to be redeemed and the date fixed for such redemption. Such notice shall be mailed to the holder of the Series B Preferred Stock at the address appearing in the register of the Corporation unless any such holder (or successor to such holder) shall have filed with the Corporation another address for such purpose, in which event such notice shall be mailed to such address most recently filed. Upon notice of any redemption being given as provided herein, the Corporation shall redeem on the date fixed for such redemption, the amount of the Series B Preferred Stock or portion thereof as the case may be, so to be redeemed, as specified in such notice. Shares of Series B Preferred Stock redeemed by the Corporation shall be on a pro rata basis among all holders of such shares. Any redemption of the shares of Series B Preferred Stock shall be subject to the prior approval from the applicable bank regulatory agencies including, but not limited to, the Federal Reserve Bank of Atlanta, as and to the extent required by law.

(b) The Series B Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series B Preferred Stock will have no right to require redemption or repurchase of any shares of Series B Preferred Stock.

9. Antidilution Adjustments. If the outstanding shares of Series B Preferred Stock are increased or decreased or changed into or exchanged for a different number or kind of shares or other securities of the Corporation or of any other corporation by reason of any merger, consolidation, liquidation, reclassification, stock split up, combination of shares, or stock dividend, appropriate adjustment shall be made by the Board of Directors of the Corporation in the number, and relative terms, of the shares of Series B Preferred Stock.

10. Definitions. As used herein with respect to the Series B Preferred Stock, the following terms have the following meanings:

a. The term "parity stock" means all series of Preferred Stock (including but not limited to Series B Preferred Stock) and any other class of stock of the Corporation hereafter authorized ranking on a parity with the Series B Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

b. The term "junior stock" shall mean the Common Stock, the Series A Preferred Stock and any other class of stock of the Corporation hereafter authorized over which Preferred Stock, including without limitation Series B Preferred Stock, has preference or priority in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

c. The term "Change in Control" shall means (i) a merger or consolidation of the Corporation with an unaffiliated entity, but not including a merger or consolidation in which any individual or group of the shareholders of the Corporation immediately prior to such merger or consolidation are the beneficial owners of more than 50% of the outstanding shares of the Common Stock of the surviving corporation immediately after such merger or consolidation, (ii) the acquisition by any individual or group of beneficial ownership of more than 50% of the outstanding shares of the Common Stock, (iii) any other transaction that two-thirds of the directors of the Board of Directors deem to be a Change of Control, or (iv) the election of a slate of individuals to serve as directors of the Corporation (who are not then directors of the Corporation prior to such election) and who would constitute a majority of the members of the board of directors of the Corporation. The term "group" and the concept of beneficial ownership shall have such meanings ascribed thereto as set forth in the Securities Exchange Act of 1934, as amended, and the regulations and rules thereunder.

11. Limitations of Rights. Holders of shares of Series B Preferred Stock shall not have any relative, participating, optional or other special rights and powers other than as set forth herein.

### CERTIFICATE

The undersigned, being the duly elected and incumbent President and Chief Executive Officer of Gateway Financial Holdings of Florida, Inc. (the "Corporation"), a corporation organized under the laws of the State of Florida, does hereby certify that the foregoing Articles of Amendment were duly adopted by the Board of Directors on September 23, 2010 and shareholder action as to the foregoing Articles of Amendment was not required.

IN WITNESS WHEREOF, the undersigned has hereunto affixed his signature this 23<sup>rd</sup> day of September, 2010.

**GATEWAY FINANCIAL HOLDINGS OF  
FLORIDA, INC.**

By: 

David K. Mahoffas

As its: President and Chief Executive Officer