

PO 9000056561

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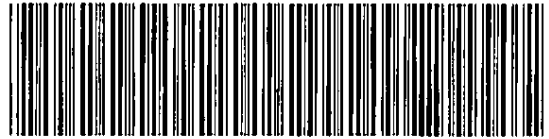
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FLORIDA DEPARTMENT OF STATE  
Division of Corporations

January 11, 2024

JERMY ASHBY, ESQ  
1201 SIMONTON STREET  
KEY WEST, FL 33040

SUBJECT: FIRST STATE BANK OF THE FLORIDA KEYS HOLDING  
COMPANY  
Ref. Number: P09000056561

We have received your document for FIRST STATE BANK OF THE FLORIDA KEYS HOLDING COMPANY and your check(s) totaling \$35.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

You may only file one. You may either file an amendment, or an amended and restated articles.

~~★~~ Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Morgan E Lovett  
Regulatory Specialist II

Letter Number: 724A00000687

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**COVER LETTER**

TO: Amendment Section  
Division of Corporations

NAME OF CORPORATION: First State Bank of the Florida Keys Holding Company

DOCUMENT NUMBER: P09000056561

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Jermy Ashby, Esq

Name of Contact Person

First State Bank of the Florida Keys Holding Company

Firm/ Company

1201 Simonton Street

Address

Key West, FL 33040

City/ State and Zip Code

JermyA@KeysBank.com

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Maria A Vanegas

at ( 305 ) 293-7118

Name of Contact Person

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount made payable to the Florida Department of State:

☒ \$35 Filing Fee

☐ \$43.75 Filing Fee &  
Certificate of Status

☐ \$43.75 Filing Fee &  
Certified Copy  
(Additional copy is  
enclosed)

☐ \$52.50 Filing Fee  
Certificate of Status  
Certified Copy  
(Additional Copy  
is enclosed)

**Mailing Address**

Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**Street Address**

Amendment Section  
Division of Corporations  
The Centre of Tallahassee  
2415 N. Monroe Street, Suite 810  
Tallahassee, FL 32303

**COPY**

**AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
FIRST STATE BANK OF THE FLORIDA KEYS HOLDING COMPANY**

Pursuant to Sections 607.1003 and 607.1007 of the Florida Business Corporation Act (the "Act"), the Articles of Incorporation of the First State Bank of the Florida Keys Holding Company, a Florida corporation (the "Corporation"), are hereby amended and restated in their entirety as follows:

**ARTICLE I**

**Name and Principal Place of Business**

The name of the Corporation shall be FIRST STATE BANK OF THE FLORIDA KEYS HOLDING COMPANY, and its mailing address and principal place of business shall be at 1201 Simonton Street, in the City of Key West, Monroe County, Florida 33040.

**ARTICLE II**

**Duration**

The Corporation's period of duration is perpetual.

**ARTICLE III**

**Purpose**

The Corporation is organized to transact any or all lawful business for which corporations incorporated under the Act as it now exists or may hereafter be amended or supplemented.

**ARTICLE IV**

**Common Stock**

4.1 **Authorized Shares.** The Corporation shall be authorized to issue 44,925 shares of a single class of common stock, par value \$20.00 per share (the "Common Stock").

4.2 **Voting Rights.** The holders of Common Stock shall be entitled to one (1) vote per share on all matters to be voted on by the stockholders of the Corporation.

4.3 **Preemptive Rights.** No stockholder of this Corporation shall, by reason of his holding shares of any class of stock of this Corporation, have any preemptive or preferential right to purchase or subscribe for any shares of any class of stock of this Corporation, now or hereafter to be authorized, or any notes, debentures, bonds or other securities convertible into or carrying options, warrants or rights to purchase shares of any class, now or hereafter to be authorized, whether or not the issuance of any such shares or such notes, debentures, bonds or other securities would adversely affect the dividend or voting rights of

any such stockholder, other than such rights, if any, as the Board of Directors, at its discretion, from time to time may grant, and at such price as the Board of Directors at its discretion may fix; and the Board of Directors may issue shares of any class of stock of this Corporation or any notes, debentures, bonds or other securities convertible into or carrying options, or warrants or rights to purchase shares of any class without offering any such shares of any class of such notes, debentures, bonds or other securities, either in whole or in part, to the existing stockholders of any class.

4.4 Liquidation. In the event of any liquidation, dissolution or winding up (whether voluntary or involuntary) of the Corporation, the holders of Common Stock shall be entitled to participate ratably on a per share basis in all distributions to the holders of Common Stock.

## ARTICLE V

### Registered Office and Registered Agent

The street address of the Corporation's registered office is 1201 Simonton Street, Key West, Florida 33040, and the name of the registered agent at that office is J. Jon Ashby.

## ARTICLE VI

### Board of Directors; Officers

The business and affairs of the Corporation shall be managed by a Board of Directors of not less than five (5) nor more than twenty-five Directors who shall be elected annually by the stockholders at an annual meeting of stockholders to be held at the principal place of business of the Corporation in the City of Key West in the County of Monroe and State of Florida; provided, however, that a majority of the full Board, though less than a quorum, may, by resolution, at any time, increase the number of the Board of Directors within the limits specified above, and appoint persons to fill the resulting vacancies; and provided further that not more than two (2) such additional Directors shall be authorized pursuant to this provision in any one year. Each Director so elected to fill a vacancy shall hold office until the next annual meeting of the stockholders and until a successor has been elected and qualified.

Immediately after the Board of Directors is elected by the stockholders, at the same place, on the same day, the Board of Directors shall elect or appoint a President or Chief Executive Officer, who shall be a Director, a Corporate Secretary and such other officers as may be designated in the bylaws of the Corporation, provided that one or more of such offices may be held by the same person.

## ARTICLE VII

### Subchapter S Corporation Provisions

7.1 General. The rights and obligations of stockholders of the Corporation provided for in this Article VII shall be effective notwithstanding whether the Corporation has elected to be treated as an S Corporation under Section 1361(a) of the Internal Revenue Code of 1986, as amended ("S Election").

7.2 Certain Definitions. For purposes of this Article VII:

(a) "Common Stock" means the issued and outstanding shares of common stock of the Corporation.

(b) "Electing Small Business Trust," or "ESBT," means a trust described in Section 1361(c)(2)(A)(v) of the Code.

(c) "Eligible Stockholder" means a Person, trust or other entity that is eligible to be a Stockholder of an S Corporation under the Code and the regulations issued thereunder; but (i) for an ESBT to be an Eligible Stockholder, it must have filed and continue to file all necessary documents with the Internal Revenue Service (the "IRS") to own S Corporation stock and the Corporation must have received and continue to receive evidence satisfactory to it of those filings and (ii) for any trust to be an Eligible Stockholder, each beneficiary of the trust must be an Eligible Stockholder at all times. The Corporation, in the sole discretion of the Board of Directors, may require a Person that is a holder of record of shares of the Common Stock or that the Corporation knows to have, or has reasonable cause to believe has, beneficial ownership of shares of the Common Stock to verify such Person's qualification as an Eligible Shareholder in accordance with the provisions of the Stockholders' Agreement, effective as of December 31, 2023, as it may be amended from time to time, by and among the Corporation and each of the stockholders party thereto and who from time to time become a party thereto by way of executing a Supplement Signature Page, in the form attached thereto (the "Stockholders' Agreement").

(d) "Permitted Transfer" is defined in Section 7.3(a).

(e) "Person" means any natural Person, corporation, unincorporated organization, limited liability corporation, partnership, association, joint stock corporation, joint venture, trust or government, or any agency or political subdivision of any government, or any other entity.

(f) "Prohibited Transfer" means any Proposed Transfer that, as determined by the Board of Directors after consulting with counsel, (i) would not comply with the provisions of the Stockholders' Agreement, (ii) is to a party that is not an Eligible Stockholder, (iii) any Transfer (whether by operation of law or otherwise) of any shares of the Common Stock, the result of which would cause the Corporation to have more than the maximum number of stockholders permitted for an S Corporation, or (iv) would cause, or would create a material risk of causing, the Corporation to be ineligible to be an S Corporation.

(g) "Proposed Transfer" means, a Transferring Stockholder's intent to Transfer all or any portion of his shares of Common Stock.

(h) "Proposed Transferee" means, with respect to any Proposed Transfer, the party to whom the Transferring Stockholder's shares of Common Stock are proposed to be transferred.

(i) "Redemption Right" is defined in Section 7.4.

(j) "S Election" is defined in Section 7.1.

(k) "Transfer" means any transfer, whether outright or as security, inter vivos or testamentary or through intestacy, with or without consideration, voluntary or involuntary, and whether or not by operation of law, or pursuant to a decree of divorce, of all or any part of any right, title or interest (including but not limited to voting rights) in or to any Common Stock.

(l) "Transferring Stockholder" means a stockholder desiring to effect a Transfer.

7.3 Restrictions on Transfers. No stockholder may make a Prohibited Transfer of any Common Stock, whether now owned or hereafter acquired; and no stockholder may make any Transfer (including a Permitted Transfer, as defined below) of any Common Stock, whether now owned or hereafter acquired, except according to the provisions hereof and as set forth in the Stockholders' Agreement. Any purported or attempted Transfer that does not comply with the provisions hereof and with the Stockholders' Agreement is subject to the Redemption Right of the Corporation (as defined below).

(a) Permitted Transfers. A "Permitted Transfer" shall mean:

(i) any Transfer by one stockholder to such stockholder's spouse;

(ii) any Transfer to which the Board of Directors consents;

(iii) any Transfer by one stockholder to any other stockholder who is a party to the Stockholders' Agreement;

(iv) any Transfer to a family member or other transferee who would qualify under Code Section 1361(c)(1)(B) if the Corporation were treated as an S Corporation for federal and Florida state income tax purposes; or

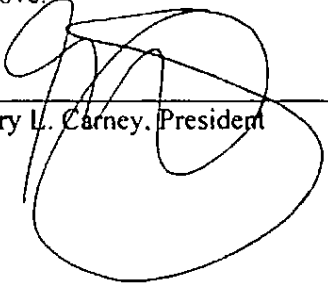
(v) a pledge or hypothecation of all or any part of the Common Stock as security for a loan with a commercial bank or other lending institution regularly engaged in the business of making loans; provided that the conditions set forth in the Stockholders' Agreement are satisfied.

7.4 Redemption. Notwithstanding any other provision this Article VII or the Stockholders' Agreement to the contrary, the Corporation may redeem some or all of the Common Stock which are the subject of a proposed Prohibited Transfer, to the extent determined by the Board of Directors, in its sole discretion, to be necessary to preserve the Corporation's ability to become an S Corporation in the future (or if the Corporation is currently an S Corporation, preserve such S Election) (the "Redemption Right"). The terms and conditions of the Redemption Right shall be as set forth in the Stockholders' Agreement.

7.5 Severability. If any paragraph or provision of this Article VII is determined to be invalid, void, illegal or unenforceable to any extent, then the remainder of such paragraph or provision and the remaining sections and provisions of this Article VII shall continue to be valid and enforceable and shall in no way be affected, impaired, or invalidated by such invalidity, voidness, illegality or unenforceability.

*[Signature Page follows]*

IN WITNESS WHEREOF, these Amended and Restated Articles of Incorporation have been executed by the Corporation as of the date first written above.

  
\_\_\_\_\_  
Gary L. Carney, President