

P97000098828

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

(Business Entity Name)

(Document Number)

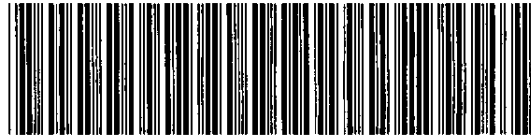
Certified Copies

2

Certificates of Status

Special Instructions to Filing Officer:

Office Use Only



400241504984

03/26/13--01003--005 **52.50

FILED
2013 MAR 26 AM 11:32
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Amend

MAR 26 2013

T. LEWIS

SMITH MACKINNON, PA

ATTORNEYS AT LAW

SUITE 800
CITRUS CENTER
255 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801

POST OFFICE BOX 2254
ORLANDO, FLORIDA 32802-2254

TELEPHONE (407) 843-7300
FACSIMILE (407) 843-2448
E-MAIL: JPG7300@AOL.COM

JOHN P. GREELEY

March 25, 2013

Via Federal Express

Department of State
Attention: Brenda Tadlock
Division of Corporations
2661 Executive Center Circle
Tallahassee, FL 32301

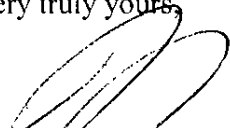
Re: Articles of Amendment to the Articles of Incorporation of Highlands Independent Bancshares, Inc., Sebring, Florida

Dear Brenda:

Enclosed are three manually signed originals of an amendment to the Articles of Incorporation of Highlands Independent Bancshares, Inc., accompanied by a check in the amount of \$52.50 payable to the Florida Secretary of State for the filing fee and the receipt of two certified copies

I would appreciate it if you would file the enclosed Articles of Amendment and return two certified copies to me. As always, we appreciate your assistance.

Very truly yours,



John P. Greeley

JPG:erw

Enclosures

Copy to: Mr. R. Todd Foster
Executive Vice-President/Chief Financial Officer
Highlands Independent Bancshares, Inc.

**ARTICLES OF AMENDMENT
OF THE
RESTATED ARTICLES OF INCORPORATION OF
HIGHLANDS INDEPENDENT BANCSHARES, INC.
(Pursuant to Section 607.0602 of the
Florida Business Corporation Act)**

FILED
2013 MAR 26 AM 11:32
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Highlands Independent Bancshares, Inc., a corporation organized and existing under the laws of the State of Florida (the "Corporation"), in accordance with the provisions of Section 607.0602 of the Florida Business Corporation Act (the "Act"), does hereby amend its Restated Articles of Incorporation ("Articles") by filing these Articles of Amendment and in connection therewith,

HEREBY CERTIFIES:

That the name of the Corporation is Highlands Independent Bancshares, Inc.

The Board of Directors of the Corporation hereby confirms that as of the date of the filing of these Articles of Amendment, the Corporation has outstanding (a) 6,700 shares of its Fixed Rate Cumulative Perpetual Preferred Stock, Series A, (b) 335 shares of Fixed Rate Cumulative Perpetual Preferred Stock, Series B, and (c) 289,302 shares of Non-Cumulative Perpetual Series C Preferred Stock. Accordingly, since the Corporation has authorized 1,000,000 shares of preferred stock and since there are outstanding an aggregate of 305,337 shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock, then the Corporation has available to issue 703,663 remaining shares of preferred stock.

Pursuant to authority granted to the Board of Directors by Article IV, Section B of the Articles, the Corporation shall be authorized to issue 703,660 shares of Non-Cumulative Perpetual Series D Preferred Stock, which shall have the following terms, designations, preferences and privileges, relative, participating, optional and other special rights, and qualifications, limitations, and restrictions:

1. Description of Series D Preferred Stock. The terms, preferences, limitations and relative rights of the Non-Cumulative Perpetual Series D Preferred Stock (the "Series D Preferred Stock") are as follows:

(1) Ranking. The Series D Preferred Stock shall, with respect to dividend rights and rights on liquidation, dissolution or winding up of the Corporation, rank senior to the Common Stock, and all of the classes and series of equity securities of the Corporation, other than shares of the Corporation's Fixed Rate Cumulative Perpetual Preferred Stock, Series A (the "Series A Preferred Stock"), the shares of the Corporation's Fixed Rate Cumulative Perpetual Preferred Stock, Series B (the "Series B Preferred Stock", and together with the Series A Preferred Stock collectively referred to as the "Treasury Preferred Stock"), and other than any classes or series of equity securities

of the Corporation subsequently issued on a parity with the Series D Preferred Stock as to dividend rights and rights upon liquidation, dissolution or winding up of the Corporation. The Series D Preferred Stock shall be junior to the Treasury Preferred Stock, and will rank on a parity with the shares of Non-Cumulative Perpetual Series C Preferred Stock (the "Series C Preferred Stock"), as to dividend rights and rights upon liquidation, dissolution or winding up of the Corporation. The relative rights and preferences of the Series D 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 from time to time. The Series D Preferred Stock is junior to indebtedness issued from time to time by the Corporation, including notes and debentures.

(2) Dividends. Dividend rights attributable to the shares of Series D Preferred Stock are as follows:

(a) Rate. The holders of Series D Preferred Stock shall be entitled to receive on each share of Series D Preferred Stock such non-cumulative dividends if, as, and when declared by the Board of Directors out of funds legally available therefor, payable annually in arrears on March 31 of each year at a rate of 10% per annum. The dividends are payable at the option of the Board of Directors of the Corporation (the "Board") (i) in cash at a per annum rate equal to \$0.25 for each share of Series D Preferred Stock, (ii) in shares of Common Stock at a per annum rate equal to 0.20 shares of Common Stock for each share of Series D Preferred Stock, or (iii) in any combination of cash and shares of Common Stock. 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 D 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 Common Stock issued as a dividend with respect to the Series D Preferred Stock will be duly authorized, validly issued, fully paid and non-assessable. No fractional shares of Common Stock shall be issued. Rather, all fractional share interests from dividends of shares of Common Stock will be rounded down to the nearest whole share.

(b) Non-Cumulative. Dividends shall be non-cumulative. If the Board of Directors does not declare a dividend on the Series D Preferred Stock in respect of any calendar quarter, the holders of the Series D 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 D Preferred Stock.

(c) Priority of Dividends. So long as any shares of Series D 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 by the Corporation (other than dividends

payable solely in shares of Common Stock) unless full dividends on all outstanding shares of Series D 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 D Preferred Stock on the applicable record date).

(3) Voting Rights. Holders of Series D Preferred Stock shall have no voting rights, except as provided under the Act. So long as any shares of Series D Preferred Stock are outstanding, in addition to any other vote or consent of the holders thereof required by law, the vote or consent of the holders of at least 50% of the shares of Series D Preferred Stock at the time outstanding, voting as a separate class, shall be required for approval of the consummation of a binding share exchange or reclassification involving the Series D Preferred Stock, or of a merger or consolidation of the Corporation with another corporation or other entity, unless (i) (x) the shares of Series D Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such shares remain outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, and limitations and restrictions thereof, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of the Series D Preferred Stock immediately prior to such consummation, taken as a whole, or (ii) such share exchange, reclassification, merger or consolidation constitutes a Change of Control and the Corporation has elected to redeem all shares of Series D Preferred Stock upon the closing of such Change of Control (as contemplated by Section (5) below) and the closing of such Change of Control is conditioned upon the redemption of all shares of Series D Preferred Stock.

(4) Conversion Rights. The Series D Preferred Stock shall be automatically converted into shares of the Corporation's Common Stock upon the earlier of (i) the closing of a Change of Control or (ii) December 31, 2017. Each share of Series D Preferred Stock shall be convertible into two shares of Common Stock, which equates to a conversion price of \$1.25 for each share of Common Stock. This conversion price will be reduced, and the conversion ratio adjusted, if at any time prior to December 31, 2017, the Corporation issues or sells any shares of Common Stock (other than as a dividend or upon a subdivision or a combination of the shares of Common Stock) for a price less than \$1.25 per share, in which event the conversion price will be reduced, and the conversion ratio appropriately adjusted, to such price at which the Corporation issued or sold the shares of Common Stock below \$1.25 per share. The conversion ratio will be subject to adjustment (i) upon the issuance of any shares of Common Stock as a dividend or distribution on the Common Stock, or (ii) upon any subdivisions, combinations, and reclassifications of the Common Stock. As promptly as practicable on or after the conversion date, the Corporation shall issue and shall deliver to the holder a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion, together with payment in lieu of any fractional shares, to the person entitled to receive the same.

Any fractional shares resulting from conversion will be rounded down to the nearest whole share.

The holder of record of a share of Series D Preferred Stock on a record date with respect to the payment of a dividend on the Series D Preferred Stock will be entitled to receive a dividend on that share of Series D Preferred Stock on the corresponding dividend due date notwithstanding the conversion of the share after the record date or any default by the Corporation in the payment of the dividend payable on that dividend due date. Holders of record of shares of Series D Preferred Stock on a record date with respect to the payment of a dividend on the Series D Preferred Stock who convert their shares on or after the corresponding dividend due date will receive the dividend payable by the Corporation on that date.

(5) Redemption Rights. The redemption rights attributable to the shares of Series D Preferred Stock shall be as follows:

(a) The shares of Series D 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 \$2.50 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 Corporation shall give written notice of each redemption of the Series D 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 D 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 D Preferred Stock or portion thereof as the case may be, so to be redeemed, as specified in such notice. Shares of Series D 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 D 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 D Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series D Preferred Stock will have no right to require redemption or repurchase of any shares of Series D Preferred Stock.

(c) A "Change of Control" shall mean (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 Corporation's Common Stock, or (iii) any other transaction that two-thirds of the directors of the Corporation deem to be a Change of Control. 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.

(6) Liquidation Preference.

(a) Voluntary or Involuntary Liquidation. In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Series D Preferred Stock shall be entitled to receive for each such share, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to shareholders of the Corporation, subject to the rights of any creditors of the Corporation, before any distribution of such assets or proceeds is made to or set aside for the holders of Common Stock and any other stock of the Corporation ranking junior to the Series D Preferred Stock as to such distribution, and subject to the prior liquidation preference for the shares of Series A Preferred Stock and Series B Preferred Stock as well as any securities subsequently issued senior to the Series D Preferred Stock, payment in full in an amount equal to the Liquidation Preference. The Series D Preferred Stock will rank on a parity with the Series C Preferred Stock in the event of any liquidation, dissolution or winding up of the affairs of the Corporation.

(b) Partial Payment. If in any distribution described in Section 6(a) above, the assets of the Corporation or proceeds thereof are not sufficient to pay in full the amounts payable with respect to all outstanding shares of Series D Preferred Stock and the corresponding amounts payable with respect to any other stock of the Corporation ranking equally with the Series D Preferred Stock as to such distribution, holders of Series D Preferred Stock and the holders of such other stock shall share ratably in any such distribution in proportion to the full respective distributions to which they are entitled.

(c) Residual Distributions. If the Liquidation Preference has been paid in full to all holders of Series D Preferred Stock and the corresponding amounts payable with respect to any other stock of the Corporation ranking equally with the Series D Preferred Stock as to such distribution has been paid in full, the holders of other stock of the Corporation shall be entitled to receive all remaining assets of the Corporation (or proceeds thereof) according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation. For purposes of this Section 6, the merger or consolidation of the Corporation with any other corporation or other entity, including a merger or consolidation in which the holders of Series D Preferred Stock received cash, securities or other property for their shares, or the sale, lease or exchange (for cash,

securities or other property) of all or substantially all of the assets of the Corporation, shall not constitute a liquidation, dissolution or winding up of the Corporation.

(7) Preemptive Rights. Holders of Series D Preferred Stock shall not have as a matter of right any preemptive or preferential right to subscribe for, purchase, receive, or otherwise acquire any part of any new or additional issue of stock of any class, whether now or hereafter authorized, or of any bonds, debentures, notes, or other securities of the Corporation, whether or not convertible into shares of stock of the Corporation.

(8) Certain Events. If any event occurs as to which in the sole discretion of the Board of Directors of the Corporation the other provisions of this Article would not protect the conversion or other rights of the Series D Preferred Stock (and, if issued, shares of Preferred Stock) in accordance with the essential intent and principles of this Article, then such Board of Directors shall make an adjustment in the application of such provisions, in accordance with such essential intent and principles as determined by the Board of Directors, so as to protect such rights as aforesaid.

CERTIFICATE

The undersigned, being the duly elected and incumbent President and Chief Executive Officer of Highlands Independent Bancshares, 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 March 25, 2013 and continue in full force and effect as of the date of this Certificate without alteration or modification and that shareholder approval of the foregoing Articles of Amendment was not required.

IN WITNESS WHEREOF, the undersigned has hereunto affixed his signature effective March 25, 2013.

**HIGHLANDS INDEPENDENT BANCSHARES,
INC.**

By: 
John C. Shoop

As its: President and Chief Executive Officer.