

PEOPLES HOLDING CO
Form S-8
August 06, 2004

As filed with the Securities and Exchange Commission on August 6, 2004

Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933, AS AMENDED

THE PEOPLES HOLDING COMPANY

(Exact name of registrant as specified in its charter)

Mississippi
(State or other jurisdiction of
incorporation or organization)

64-0676974
(I.R.S. Employer
Identification Number)

209 Troy Street

Tupelo, Mississippi, 38802-0709

(662) 680-1001

(Address, including zip code, and telephone number,
including area code, of registrant's principal executive offices)

THE PEOPLES HOLDING COMPANY

PLAN OF ASSUMPTION

RENASANT BANCSHARES, INC.

STOCK OPTION PLAN

(Full title of the Plan)

E. ROBINSON McGRAW

President and Chief Executive Officer

The Peoples Holding Company

209 Troy Street

Tupelo, Mississippi 38802-0709

(662) 680-1001

(Name, address, including zip code, and telephone number,
including area code, of agent for service)

Copy to:

JANE E. ARMSTRONG, ESQ.

Phelps Dunbar LLP

365 Canal St., Suite 2000

New Orleans, Louisiana 70130

(504) 584-9244

CALCULATION OF REGISTRATION FEE

Title of each Class of	Amount	Proposed maximum	Proposed maximum	Amount of
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securities to be registered	To be Registered	offering price per unit ⁽¹⁾⁽²⁾	Aggregate offering price ⁽¹⁾⁽²⁾	registration fee
Common Stock ⁽¹⁾	104,139 Shares	\$ 16.50; \$ 13.50	\$ 1,267,605	\$ 160.61

⁽¹⁾ In the event of a stock split, stock dividend or similar transaction involving common stock of the registrant, in order to prevent dilution, the number of shares registered shall be automatically increased to cover the additional shares in accordance with Rule 416(a) under the Securities Act of 1933, as amended.

⁽²⁾ Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h)(1), based on the prices at which the options granted under the plan registered hereunder may be exercised. An aggregate of 3,000 options are exercisable at \$16.50 per share; an aggregate of 101,139 options are exercisable at \$13.50 per share.

The Registration Statement shall become effective upon filing in accordance
with Rule 642 under the Securities Act of 1933, as amended.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Company with the Securities and Exchange Commission (SEC) pursuant to the Securities Exchange Act of 1934, as amended (the Exchange Act), are incorporated in this Registration Statement by reference:

- (1) The Company s Annual Report on Form 10-K for the year ended December 31, 2003, filed with the Commission on March 11, 2004.
- (2) The Company s Quarterly Report on form 10-Q for the quarter ended March 31, 2004, filed with the Commission on May 10, 2004.
- (3) The Company s Current Reports on Form 8-K filed with the SEC on January 22, 2004, February 18, 2004, February 20, 2004, February 27, 2004, April 21, 2004, May 20, 2004, June 3, 2004, July 1, 2004, July 15, 2004, and July 21, 2004, excluding any information furnished in items 9 or 12 thereof.
- (4) A description of the Company s common stock, contained in the Company s Registration Statement on Form S-4, filed with the Commission on February 17, 1999.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act prior to the filing by the Company of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statements so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interest of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Mississippi Business Corporation Act (MBCA) empowers a corporation to indemnify an individual who is a party to a proceeding because he is a director against liability incurred in the proceeding if:

He conducted himself in good faith;

He reasonably believed in the case of conduct in his official capacity, that his conduct was in the best interests of the corporation, and in all other cases, that his conduct was at least not opposed to the best interests of the corporation; and

In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

A corporation may also indemnify an individual who engaged in conduct which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation as authorized by Section 79-4-2.02(b)(5) of the MBCA. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the relevant standard of conduct.

Unless ordered by a court under Section 79-4-8.54(a)(3) of the MBCA, a corporation may not indemnify a director:

In connection with a proceeding by or in the right of the corporation except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under the MBCA; or

In connection with any proceeding with respect to conduct for which he was adjudged liable on the basis that he received a financial benefit to which he was not entitled, whether or not involving action in his official capacity.

The MBCA further provides that a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he was a director of the corporation against reasonable expenses incurred by him in connection with the proceeding. Also, a corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because he is a director. The director must deliver to the corporation: (1) a written affirmation of his good faith belief that he has met the relevant standard of conduct described in the MBCA or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by the MBCA; and (2) his written undertaking to repay any funds advanced if he is not entitled to mandatory indemnification under the MBCA and it is ultimately determined under the MBCA that he has not met the relevant standard of conduct described in the MBCA. The undertaking required must be an unlimited general obligation of the director. It need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

A corporation may not indemnify a director as described above unless authorized by:

The board of directors if there are two or more disinterested directors, by a majority vote of all the disinterested directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote;

Special legal counsel selected in accordance with the MBCA; or

The shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization.

A corporation may also indemnify and advance expenses to an officer of the corporation who is a party to a proceeding because he is an officer to the same extent as for a director.

The bylaws of the Company contain the following indemnification provision: Any person, his heirs, executors, or administrators, may be indemnified by the corporation for reasonable expenses (including judgments and compromise settlements, except where as in a derivative suit situation any judgment in the matter would run in favor of the corporation) actually incurred in connection with any action, suit or proceeding, civil or criminal, to which he was made a party by reason of service as a director, officer, or employee of the corporation, provided, however, that no person shall be so indemnified or reimbursed as to any matter as to which he shall finally be adjudged to have been guilty of gross negligence, willful misconduct or criminal acts in the performance of his duty to the corporation; and, provided further, that no person shall be so indemnified or reimbursed as to any matter in such action or suit which has been as the subject of a compromise settlement except with the approval (1) of a court of competent jurisdiction, or (2) the holders of record of a majority of the outstanding shares of the corporation, or (3) a majority of the corporation's board of directors, excluding members who are parties to the same or substantially the same suit or proceeding. The foregoing right of indemnification or reimbursement shall not be exclusive of other rights to which such person may be entitled as a matter of law. The board of directors of the Company may, in its discretion, purchase directors' and officers' liability insurance coverage to provide, in whole or in part, for such indemnification or reimbursement.

The Company maintains an insurance policy insuring the Company and its directors and officers against certain liabilities.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

- 4.1 Agreement and Plan of Merger, dated as of February 17, 2004, and related Plan of Merger among Renasant Bancshares, Inc., The Peoples Holding Company and Peoples Merger Corporation, a wholly owned subsidiary of Peoples (filed as Annex A-1 to the Company's Registration Statement on Form S-4 on April 8, 2004 and incorporated herein by reference, Commission File No. 333-114309).
- 4.2 Articles of Incorporation and Articles of amendment to Articles of Incorporation (filed as Exhibit 3.1 to The Peoples Holding Company's Registration Statement on Form S-4 filed on February 17, 1999, as amended, and incorporated herein by reference, Commission File No. 333-72507).
- 5 Opinion of Phelps Dunbar, LLP as to the legality of the securities being registered
- 23.1 Consent of Ernst & Young, LLP
- 23.2 Consent of Phelps Dunbar, LLP (included in Exhibit 5)
- 24.1 Power of Attorney (included on signature page of this Registration Statement)
- 99 Plan of Assumption, Renasant Bancshares, Inc. Stock Option Plan

Item 9. Undertakings.

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers of shares are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the Securities Act);

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) If the registration is a foreign private issuer, to file a post-effective amendment to the registration statement to include any financial statements required by Rule 3-19 of Regulation S-X at the start of any delayed offering or throughout a continuous offering.

(5) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bonafide* offering thereof.

(6) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Tupelo, State of Mississippi, on this 20th day of July, 2004.

THE PEOPLES HOLDING COMPANY

By: /s/ E. Robinson McGraw

E. Robinson McGraw
 President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears immediately below constitutes and appoints E. Robinson McGraw and Stuart R. Johnson, his true and lawful attorney-in-fact and agent, with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or his substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
/s/ E. Robinson McGraw <hr/>	President and Chief Executive Officer and Director (Principal Executive Officer)	July 20, 2004
E. Robinson McGraw		
/s/ Stuart R. Johnson <hr/>	Chief Financial Officer (Principal Financial and Accounting Officer)	July 20, 2004
Stuart R. Johnson		

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<u>/s/ William M. Beasley</u>	Director	July 20, 2004
William M. Beasley		
<u>/s/ George H. Booth, II</u>	Director	July 20, 2004
George H. Booth, II		
<u>/s/ Frank B. Brooks</u>	Director	July 20, 2004
Frank B. Brooks		
<u>/s/ Francis J. Cianciola</u>	Director	July 20, 2004
Francis J. Cianciola		
<u>/s/ John M. Creekmore</u>	Director	July 20, 2004
John M. Creekmore		
<u>/s/ Marshall H. Dickerson</u>	Director	July 20, 2004
Marshall H. Dickerson		
<u>/s/ John T. Foy</u>	Director	July 20, 2004
John T. Foy		
<u>/s/ Eugene B. Gifford, Jr.</u>	Director	July 20, 2004
Eugene B. Gifford, Jr.		
<u>/s/ Richard L. Heyer, Jr.</u>	Director	July 20, 2004
Richard L. Heyer, Jr.		
<u>/s/ Jack C. Johnson</u>	Director	July 20, 2004
Jack C. Johnson		
<u>/s/ Robert C. Leake</u>	Director	July 20, 2004
Robert C. Leake		

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/s/ J. Niles McNeel	Director	July 20, 2004
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J. Niles McNeel		
/s/ C. Larry Michael	Director	July 20, 2004
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C. Larry Michael		
/s/ Theodore S. Moll	Director	July 20, 2004
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Theodore S. Moll		
/s/ John W. Smith	Director	July 20, 2004
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John W. Smith		
/s/ H. Joe Trulove	Director	July 20, 2004
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H. Joe Trulove		
/s/ J. Larry Young	Director	July 20, 2004
<hr/>		
J. Larry Young		

EXHIBIT INDEX

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