

Sunshine Financial, Inc.  
Form 425  
March 16, 2018

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d)**

**of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **March 16, 2018**

**The First Bancshares, Inc.**

(Exact name of registrant as specified in its charter)

**Mississippi**                      **33-94288**      **64-0862173**  
(State or other jurisdiction (Commission (IRS Employer

of incorporation)                      File Number) Identification No.)

**6480 U.S. Highway 98 West, Suite A**

**Hattiesburg, Mississippi, 39402**  
(Address and Zip Code of principal executive offices)

**(601) 268-8998**

(Registrant's telephone number, including area code)

**Not Applicable**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

**Item 8.01**

**Other Events**

***Merger Closing Date***

The First Bancshares, Inc. (“First Bancshares”) and Sunshine Financial, Inc. (“Sunshine”) anticipate that the proposed merger of Sunshine with and into First Bancshares (the “Merger”) will be effective as of April 1, 2018. The closing remains subject to approval of the Agreement and Plan of Merger, dated December 6, 2017, by and between First Bancshares and Sunshine (the “Merger Agreement”) by the Sunshine stockholders at the special meeting of Sunshine stockholders on March 27, 2018, and satisfaction of all other conditions described in the Merger Agreement.

***Regulatory Approval***

As of February 27, 2018, First Bancshares has received all regulatory approvals necessary to consummate the Merger. The Merger remains subject to the approval of Sunshine’s stockholders and the satisfaction of other customary closing conditions.

***Proposed Settlement of Litigation Related to the Merger***

On February 9, 2018, Stephen Bushansky, the owner of 100 shares of Sunshine stock, commenced a civil action in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida against Sunshine, its directors, and First Bancshares. The plaintiff purports to bring the action as a class action, on behalf of all Sunshine stockholders other than the defendants and their affiliates. The plaintiff alleges that Sunshine’s directors breached their fiduciary duties by agreeing to sell Sunshine at an inadequate price after an inadequate sales process, and by failing to disclose all material information concerning the proposed transaction. The plaintiff alleges that Sunshine and First Bancshares aided and abetted these breaches of fiduciary duty. The plaintiff asks the Court to enjoin the defendants from proceeding with the proposed transaction unless and until all material information has been disclosed.

First Bancshares, Sunshine and Sunshine’s directors deny the plaintiff’s allegations. They believe the proposed transaction was only entered into after Sunshine had engaged in an exhaustive sales process. They believe the price to be paid in the proposed transaction is the best price available to Sunshine stockholders. Finally, they believe all material facts concerning the proposed transaction have already been disclosed to Sunshine stockholders in the proxy statement/prospectus for the proposed transaction dated February 12, 2018, and mailed to Sunshine stockholders on February 16, 2018.

Nonetheless, on March 16, 2018, solely for the purpose of avoiding the expense, inconvenience and uncertainty of litigation, the defendants agreed with the plaintiff, among other things, that the defendants would make certain additional disclosures concerning the proposed transaction, and the plaintiff would make no effort to prevent the completion of the proposed transaction and dismiss his complaint with prejudice. The agreement explicitly states that the resolution of the civil action on the terms described above is not an admission by the defendants that any of the plaintiff's allegations have merit. The resolution of the civil action will have no impact on the timing of the special meeting of Sunshine stockholders to approve the Merger. The additional agreed upon disclosures are set forth below.

#### **SUPPLEMENT TO PROXY STATEMENT/PROSPECTUS**

The following information supplements the proxy statement/prospectus dated February 12, 2018, and mailed to Sunshine stockholders on February 16, 2018. We urge you to read the proxy statement/prospectus in its entirety. To the extent that information herein differs from or updates information contained in the proxy statement/prospectus, the information contained herein supersedes the information contained in the proxy statement/prospectus. All page references in the information below are to pages in the proxy statement/prospectus, and defined terms used but not defined herein have the meanings set forth in the proxy statement/prospectus. Without admitting in any way that any of the disclosures below are material or required by the federal securities laws, state fiduciary law, or any other applicable rule, statute, regulation or law, First Bancshares and Sunshine make the following additional disclosures:

1. *The following sentence is inserted immediately after the second sentence in the first full paragraph appearing on page 52 of the definitive proxy statement/prospectus which is under the heading "The Merger – Background of the Merger."*

None of these non-disclosure agreements contained a standstill or similar provision which would prohibit these parties from making a topping bid for Sunshine in the future.

2. *The following paragraph is inserted immediately following the first full paragraph on page 52 of the definitive proxy statement/prospectus which is under the heading "The Merger – Background of the Merger."*

Three of the four bidders proposed to acquire Sunshine for consideration consisting of either all stock or a mixture of cash and stock within specified ranges, with a transaction value per share of \$28.00 at the high end of the range and \$23.00 at the low end of the range. The fourth bidder offered all cash at a transaction value per share that was substantially below what the other bidders had offered. None of the bidders offered any board seats or provided any specific employment arrangements for Sunshine's existing management.

3. *The following sentence supplements and restates the first sentence in the second full paragraph appearing on page 52 of the definitive proxy statement/prospectus which is under the heading "The Merger – Background of the Merger."*

Following the August 29, 2017 Sunshine Board meeting, BSP was instructed to contact two of the bidders and request they increase the bottom of their consideration range to \$24.00.

4. *The following sentences supplement and restates the third sentence in the third full paragraph appearing on page 52 of the definitive proxy statement/prospectus which is under the heading "The Merger – Background of the Merger."*

On October 27, 2017, the remaining two parties submitted updated IOIs, both of which provided for merger consideration consisting of a mixture of stock and cash, with a fixed exchange ratio with respect to the stock consideration. Neither IOI offer any board representation to Sunshine's directors, but each of the IOIs indicated that Sunshine's directors would have the opportunity to serve on a local advisory board. One of the IOIs, indicated that Mr. Baggett would be offered a position with the respective party following the close of the transaction.

5. *The following disclosure supplements and restates the information appearing on page 59 of the definitive proxy statement/prospectus which is under the heading “The Merger – Opinion of Sunshine’s Financial Advisor.”*

Using the latest publicly available information prior to the announcement of the relevant transaction on December 6, 2017, BSP reviewed the following transaction metrics for a selected merger transaction group: transaction price to last-12-months earnings, transaction price to tangible book value, transaction price to total assets and tangible book premium to core deposits. BSP compared the indicated transaction multiples for the merger to the 25<sup>th</sup> percentile, 75<sup>th</sup> percentile, and median multiples of the merger transaction group.

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| Buyer Name/ Target Name                                    | Transaction Price/ |         |               |        | Target Announcement Financials |              |                            |          |          |              |
|--|--------------------|---------|---------------|--------|--------------------------------|--------------|----------------------------|----------|----------|--------------|
|  | Transaction Value  | LTM EPS | Tangible Book | Assets | Premium/ Core Deposits         | Total Assets | Tang. Equity/ Tang. Assets | LTM ROAA | LTM ROAE | NPAs/ Assets |
|  | (\$mm)             | (x)     | (%)           | (%)    | (%)                            | (\$000)      | (%)                        | (%)      | (%)      | (%)          |
| First Bancshares, Inc./ Sunshine Financial, Inc.           | 32.2               | 54.5    | 145.5         | 16.6   | 6.9                            | 194,090      | 11.41                      | 0.33     | 2.70     | 2.12         |
| Median   | 18.8               | 37.4    | 124.9         | 13.4   | 4.3                            | 154,959      | 10.75                      | 0.34     | 2.93     | 1.93         |
| 25th Percentile  | 15.7               | 32.3    | 108.5         | 11.3   | 1.1                            | 124,370      | 10.22                      | 0.28     | 2.56     | 0.88         |
| 75th Percentile  | 25.1               | 42.0    | 135.4         | 14.0   | 5.7                            | 197,959      | 11.78                      | 0.46     | 3.82     | 2.85         |
| First Bank/ Delanco Bancorp, Inc.                          | 13.4               | NM      | 98.7          | 10.6   | (0.2 )                         | 126,256      | 10.74                      | 0.09     | 0.85     | 4.15         |
| Atlantic Community Bancshares, Inc./ BBN Financial Corp.   | 17.0               | 36.2    | 109.2         | 10.2   | 1.1                            | 167,125      | 10.39                      | 0.36     | 3.35     | 0.00         |
| Seacoast Banking Corp. of Florida/ NorthStar Banking Corp. | 29.9               | 38.6    | 136.8         | 14.1   | 6.1                            | 211,797      | 10.23                      | 0.46     | 4.57     | 0.00         |
| First Bank/ Bucks County Bank                              | 27.2               | 46.7    | 124.7         | 13.8   | 5.2                            | 197,771      | 11.04                      | 0.29     | 2.70     | 2.16         |
| First Guaranty Bancshares, Inc./ Premier Bancshares, Inc.  | 20.6               | 42.3    | 125.2         | 13.4   | 4.3                            | 153,801      | 10.17                      | 0.23     | 1.86     | 2.92         |
| Southern Missouri Bancorp, Inc./ Tammcorp, Inc.            | 23.4               | 31.5    | 158.6         | 11.8   | 6.3                            | 198,521      | 10.09                      | 0.48     | 4.73     | 1.92         |
| Suncrest Bank/ Security First Bank                         | 17.0               | 31.8    | 111.2         | 16.1   | 2.1                            | 105,018      | 14.52                      | 0.47     | 3.56     | 3.39         |
| Monticello Bankshares, Inc./ Banco Harlan, Inc.            | 14.3               | 41.1    | 91.2          | 10.2   | (1.5 )                         | 139,750      | 10.76                      | 0.25     | 2.28     | 1.93         |
| Central Valley Community Bancorp/ Sierra Vista Bank        | 24.4               | 30.7    | 135.1         | 15.6   | 7.1                            | 156,117      | 11.56                      | 0.50     | 5.07     | 0.71         |