

CHAPTER 4 - REORGANIZATION OF BANKS

ARTICLE 1 - MERGER, CONVERSION, CHANGE IN PLACE OF BUSINESS

13-4-101. Change in place of business.

(a) Any bank may apply in writing to the state banking commissioner for permission to change its place of business to any other municipality in the state. The application shall be accompanied by a fee of two thousand five hundred dollars (\$2,500.00) and shall state the reasons for the proposed change, be signed by a majority of its board of directors and accompanied by the written assent to the application by the stockholders owning at least two-thirds (2/3) of its stock. The application fee shall be deposited by the state banking commissioner with the state treasurer and credited to the financial institutions administration account. Expenditures shall be made from the account by warrants drawn by the state auditor, upon vouchers issued and signed by the director or commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner or the state banking board.

(b) If the state banking commissioner determines that the change may be desirable, he shall hold a hearing upon the application pursuant to the Wyoming Administrative Procedure Act.

(c) The applicant shall publish notice of the hearing once a week for three (3) consecutive weeks in a newspaper of general circulation in all municipalities affected by the change. At the conclusion of the hearing if the state banking commissioner finds that a change of location is desirable and in the best interests of the bank and the municipality to which the bank is proposing to move, he shall grant a certificate authorizing the change of location.

13-4-102. Amendment to articles of incorporation.

(a) A bank may amend its articles of incorporation pursuant to the requirements of W.S. 17-16-1001 through 17-16-1009. The articles of amendment shall be executed in triplicate with the cashier or assistant cashier executing in the place of the corporate secretary. Notice of the shareholders' meeting to vote on a proposed amendment shall be given as provided by the bylaws of the bank.

(b) Triplicate originals of the articles of amendment shall be delivered to the state banking commissioner together with a fee required for filing documents with the secretary of state. If the state banking commissioner finds that the articles of amendment do not conform to law he shall return them to the corporation. If the state banking commissioner finds that the articles of amendment conform to the law he shall endorse on the articles of amendment his certificate of approval together with the word "filed" and the month, day and year of filing, and he shall file one (1) of the triplicate originals in his office and one (1) in the office of the secretary of state. The state banking commissioner shall issue a certificate of amendment, affix it to the third triplicate original of the articles of amendment and return it to the corporation or its representatives.

(c) Upon the issuance of the certificate of amendment by the state banking commissioner, the amendment is effective and the articles of incorporation shall be amended accordingly.

13-4-103. Cancellation of charter.

(a) The charter of any bank organized under this act is forfeited and cancelled in any of the following cases:

(i) Upon completion of a liquidation;

(ii) Merger which makes unnecessary the continued use of the charter of a bank due to the loss of its corporate identity to another banking institution;

(iii) If a regular place of business has not been maintained by any bank for two (2) years.

13-4-104. Merger or conversion into state bank; branch banking by merger or consolidation; application fees.

(a) Upon approval by the state banking commissioner, banks may be merged to result in a state bank or a national bank may convert into a state bank. The action by a national bank is subject to the laws of the United States.

(b) Any state or national bank that consolidates or merges in accordance with subsection (a) of this section may upon the completion of the consolidation or merger retain, operate and maintain the banking houses or offices of the merged or consolidated entities and provide other services or functions as would be permitted had the consolidation or merger not occurred. When a merger or consolidation application from a state bank results in maintaining the merged banking house or office as a branch, the application for merger shall be accompanied by an application fee of two thousand five hundred dollars (\$2,500.00). For each additional bank being merged into the same bank, the application fee shall be increased by one thousand two hundred fifty dollars (\$1,250.00). All fees shall be deposited by the state banking commissioner with the state treasurer and credited to the financial institutions administration account. Expenditures shall be made from the account by warrants drawn by the state auditor, upon vouchers issued and signed by the director or commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner or the state banking board.

(c) Repealed By Laws 2013, Ch. 24, 2.

13-4-105. Approval of merger by directors and state banking commissioner; disapproval.

(a) A majority of the members of the board of directors of each merging bank shall approve a merger agreement which shall contain:

(i) The name of each merging bank and location of each office;

(ii) With respect to the resulting bank:

(A) Its name and the location of its principal office which shall be a place that was the preexisting office of any merging bank;

(B) The name and residence of each director to serve until the next annual meeting of the stockholders;

(C) The name and residence of each executive officer;

(D) The amount of capital, the number of shares and the par value of each share;

(E) Whether preferred stock is to be issued and the amount, terms and preferences;

(F) The designation of the continuing bank, the charter of which is to be the charter of the resulting bank, together with the amendments to the continuing charter and to the continuing bylaws.

(iii) Provisions governing the manner of converting the shares of the merging banks into shares of the resulting bank;

(iv) A statement that the agreement is subject to approval by the state banking commissioner and by the stockholders of each merging bank;

(v) Provisions governing the manner of disposing of the shares of the resulting bank not taken by dissenting stockholders of merging banks;

(vi) Other provisions required by the state banking commissioner.

(b) After approval by the board of directors of each merging bank, the merger agreement shall be submitted to the state banking commissioner for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any merging national bank.

(c) Within thirty (30) days after receipt by the state banking commissioner of the papers specified in subsections (a) and (b) of this section, the state banking commissioner shall approve or disapprove the merger agreement. The state banking commissioner shall approve the agreement if it appears that:

(i) The resulting bank meets with the requirements of state law as to the formation of a new bank;

(ii) The agreement provides an adequate capital structure, including surplus, in relation to the deposit liabilities of the resulting bank and its other activities which are to continue or are to be undertaken;

(iii) The agreement is fair;

(iv) The merger is not contrary to the public interest.

(d) Where a resulting state bank is not to exercise trust powers, the state banking commissioner shall not approve a merger or conversion until satisfied that adequate provision has been made for successors to fiduciary positions held by the merging banks or the converting bank.

(e) If the state banking commissioner disapproves an agreement, he shall state his objections and give an opportunity to the merging banks to amend the merger agreement to obviate the objections.

13-4-106. Approval of merger by stockholders.

(a) A merger which is to result in a bank shall be approved by the stockholders of each merging bank by a vote of two-thirds (2/3) of the outstanding voting stock of each class at a meeting called to consider the action which vote shall constitute the adoption of the charter and bylaws of the continuing bank, including the amendments in the merger agreement, as the charter and bylaws of the resulting bank.

(b) Notice of the meeting of the stockholders shall be given by publication in a newspaper of general circulation in the county where the principal office of each merging bank is located, at least once a week for three (3) successive weeks, and by mail, at least fifteen (15) days before the date of the meeting, to each stockholder of record of each merging bank at his address on the books of his bank, who has not waived notice in writing. No notice by publication need be given if written waivers are received from the holders of two-thirds (2/3) of the outstanding shares of each class of voting stock. The notice shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

13-4-107. Publication of merger notice.

Upon approval of a merger agreement by the stockholders of each merging bank, the elements of the agreement shall be incorporated in a notice of the proposed merger with the effective date of the merger. The notice shall be published once each week for three (3) successive weeks in a newspaper of general circulation in each of the counties in which the merging banks are located.

13-4-108. When merger effective; certificate of merger.

(a) A merger which is to result in a state bank, unless otherwise specified in the agreement becomes effective upon filing the executed agreement, copies of the resolutions of the

stockholders of each merging bank approving it, an affidavit evidencing the publication and a copy of the publication with the state banking commissioner.

(b) The state banking commissioner shall issue in triplicate to the resulting bank a certificate of merger which constitutes a continuing charter specifying the name of each merging bank and the name of the resulting bank. The certificate is conclusive evidence of the merger and of the correctness of all proceedings and shall be filed by the resulting bank in the office of the secretary of state and in the office of the county clerk in each of the counties in which the merging banks were located.

13-4-109. Conversion of national bank, federally chartered savings bank or state savings and loan into state bank.

(a) A national bank, including a federally chartered savings and loan and a federally chartered savings bank, located in this state which follows the procedure prescribed by the laws of the United States to convert into a state bank may be granted a state charter by the state banking commissioner if the state banking commissioner finds that adequate provision has been made for successors to fiduciary positions held by the converting bank, the national bank, federally chartered savings and loan or federally chartered savings bank is legally in operation and that the resulting bank complies with the laws of the state of Wyoming. A state savings and loan chartered under chapter 6 of this act may convert into a state chartered bank in accordance with the provisions of this section. A state bank resulting from the conversion of a national bank, federally chartered savings and loan, federally chartered savings bank or state savings and loan pursuant to this section may retain, operate and maintain the banking houses or offices of the converting national bank, federally chartered savings and loan, federally chartered savings bank or state savings and loan.

(b) A financial institution seeking to convert under subsection (a) of this section may apply for a charter by filing with the state banking commissioner:

(i) A certificate signed by its president or vice president, secretary or cashier, and a majority of the entire board of directors setting forth the corporate action taken in compliance with the provisions of the laws of the United States, or this state as appropriate, confirming the conversion of a national to a state bank; and

(ii) The plan of conversion and the proposed articles of incorporation approved by the stockholders for the operation of the bank or savings and loan as a state bank.

(c) Before issuance of a charter notice of a conversion with its effective date shall be published once each week for three (3) successive weeks in a newspaper of general circulation in the county in which the financial institution is located.

(d) An affidavit evidencing the publication with a copy of the notice attached shall be filed with the state banking commissioner. The charter shall issue to become effective upon the effective date named in the notice.

(e) The articles of incorporation of the resulting state bank shall be filed with the secretary of state and the county clerk of the county by the resulting bank.

(f) The state banking commissioner shall collect from each financial institution applying for a charter under this section an amount sufficient to pay costs and expenses of processing the application, including all investigation, examination and hearing costs. The monies collected shall be remitted to the state treasurer and credited to the financial institutions administration account. Expenditures shall be made from the account only by warrants drawn by the state auditor upon vouchers issued and signed by the director or the commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner or the state banking board.

13-4-110. Dissenting shareholders.

(a) The owner of shares of a state bank which were voted against a merger to result in a state bank, or against the conversion of a state bank into a national bank, are entitled to receive their fair market value in cash, if and when the merger or conversion becomes effective, upon written demand, made to the resulting state or national bank at any time within thirty (30) days after the effective date of the merger or conversion accompanied by the surrender of the stock certificates. The value of the shares shall be determined, as of the date of the stockholders' meeting approving the merger or conversion, by three (3) appraisers, one (1) to be selected by the owners of two-thirds (2/3) of the dissenting shares involved, one (1) by the board of directors of the resulting state or national bank, and the third by the two (2) so chosen. The valuation agreed upon by any two (2) appraisers shall govern. If the appraisal is not completed within ninety (90) days after the merger or conversion becomes effective the state banking commissioner shall cause an appraisal to be made.

(b) The expenses of appraisal shall be paid by the resulting bank.

(c) The resulting state or national bank may fix an amount which it considers to be not more than the fair market value of the shares of a merging or the converting bank at the time of the stockholders' meeting approving the merger or conversion, which it will pay dissenting shareholders of the bank entitled to payment in cash. The amount due under the accepted offer or under the appraisal shall constitute a debt of the resulting bank.

13-4-111. Effect of merger or conversion.

(a) A resulting bank shall be considered the same entity as each merging bank or as the converting bank with all the property, rights, powers, duties and obligations of each merging bank or the converting bank, except as provided by state law in the case of a resulting state bank or federal law in the case of a resulting national bank and by the charter and bylaws of the resulting bank.

(b) A resulting bank may use the name of any merging bank or of the converting bank.

(c) Any reference to a merging or converting bank in writing is a reference to the resulting bank if not inconsistent with the other provisions of the writing.

13-4-112. Time for conforming to state law.

If a merging or converting bank has assets which do not conform to the requirements of state law for the resulting bank or carries on business activities which are not permitted for the resulting bank, the state banking commissioner may permit a reasonable time to conform with state law.

13-4-113. Transfer of assets and liabilities.

(a) A bank which is in the process of consolidating with another bank may transfer its assets and liabilities to the other bank upon written consent of the state banking commissioner.

(b) Without approval by the state banking commissioner assets shall not be carried on the books of the resulting bank at a valuation higher than that on the books of a merging or converting bank at the time of its last examination by a state or national bank examiner before the effective date of the merger or conversion.

13-4-114. Changing of state to national bank.

(a) A bank may merge with, convert into or reorganize as a national bank. The action to be taken by a merging or converting bank and its rights and liabilities and those of its stockholders shall be the same as those prescribed for national banks except that a vote of the holders of two-thirds (2/3) of each class of voting stock of a state bank is required for the merger or conversion. On conversion, the rights of dissenting stockholders shall be those specified in W.S. 13-4-110.

(b) Upon the completion of the merger or conversion, the franchise of any merging or converting state bank automatically terminates.