

CHAPTER 234.

[H. B. 238.]

BANKS AND TRUST COMPANIES—MERGER—
CONSOLIDATION—CONVERSION.

AN ACT relating to merger, consolidation and conversion of national and state banks and trust companies; declaring the procedure therefor; defining certain terms; defining the duties of certain officers in connection therewith; providing for the liquidation of shares of stockholders dissenting; and repealing chapter 30.48, and sections 30.08.100 and 30.08.130, RCW.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. As used in this chapter:

Definitions.
"Merging bank."

"Merging bank" means a party to a merger;

"Converting bank."

"Converting bank" means a bank converting from a state to a national bank, or the reverse;

"Merger."

"Merger" includes consolidation;

"Resulting bank."

"Resulting bank" means the bank resulting from a merger or conversion.

Resulting national bank by merger or conversion of state banks; laws applicable.

SEC. 2. This section is applicable where there is to be a resulting national bank.

Nothing in the law of this state shall restrict the right of a state bank to merge with or convert into a resulting national bank. The action to be taken by such merging or converting state bank and its rights and liabilities and those of its shareholders shall be the same as those prescribed at the time of the action for national banks merging with or converting into a resulting state bank by the law of the United States, and not by the law of this state, except that a vote of the holders of two-thirds of each class of voting stock of a state bank shall be required for the merger or conversion, and that on conversion by a state into a national bank the rights of dissenting stockholders shall be those specified in section 9.

Stockholder vote necessary.

Rights of dissenting stockholders on conversion.

Termination of state bank franchise.

Upon the completion of the merger or conversion, the franchise of any merging or converting state bank shall automatically terminate.

SEC. 3. This section is applicable where there is to be a resulting state bank.

Resulting state bank by merger or conversion authorized.

Upon approval by the supervisor of banking, state or national banks may be merged to result in a state bank, or a national bank may convert into a state bank as hereafter prescribed, except that the action by a national bank shall be taken in the manner prescribed by and shall be subject to limitations and requirements imposed by the law of the United States which shall also govern the rights of its dissenting shareholders.

Laws applicable to national bank action.

SEC. 4. This section is applicable where there is to be a resulting state bank.

Resulting state bank by merger:

(1) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

Approval of merger agreement by merging state bank.

(a) The name of each merging state or national bank and location of each office;

Contents of merger agreement.

(b) With respect to the resulting state bank, (i) the name and location of the principal and other offices; (ii) the name and residence of each director to serve until the next annual meeting of the stockholders; (iii) the name and residence of each officer; (iv) the amount of capital, the number of shares and the par value of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the manner of converting the shares of the merging state or national banks into shares of the resulting state bank;

(d) A statement that the agreement is subject to approval by the supervisor of banking and the stockholders of each merging state or national bank;

(e) Provisions governing the manner of disposing of the shares of the resulting state bank not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the supervisor of banking requires to enable him to discharge his duties with respect to the merger;

Submission of merger agreement, etc., to supervisor of banking.

(2) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the supervisor of banking 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;

Action on merger agreement by supervisor of banking.

(3) Within sixty days after receipt by the supervisor of banking of the papers specified in subsection (1), the supervisor of banking shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The supervisor of banking shall approve the agreement if it appears that:

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

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

(c) The agreement is fair;

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

Amendment of merger agreement on disapproval.

If the supervisor of banking disapproves an agreement, he shall state his objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections.

Resulting state bank by merger; vote of stockholders.

SEC. 5. To be effective, a merger which is to result in a state bank must be approved by the stockholders of each merging state bank by a vote of two-thirds of the outstanding voting stock of each class at a

meeting called to consider such action, which vote shall constitute the adoption of the charter and by-laws of the resulting state bank, including the amendments in the merger agreement.

Unless waived in writing, notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging state bank is located, at least once each week for four successive weeks, and by mail, at least fifteen days before the date of the meeting, to each stockholder of record of each merging state bank at his address on the books of his bank; no notice of publication need be given if written waivers are received from the holders of two-thirds of the outstanding shares of each class of 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.

Notice of stockholder meeting.

Sec. 6. A merger which is to result in a state bank shall, unless a later date is specified in the agreement, become effective after the filing with and upon the approval of the supervisor of banking of the executed agreement together with copies of the resolutions of the stockholders of each merging state or national bank approving it, certified by the bank's president or a vice-president and a secretary. The charters of the merging banks, other than the resulting bank, shall thereupon automatically terminate.

Resulting state bank by merger; effective date.

Termination of charters of merging banks.

The supervisor of banking shall thereupon issue to the resulting state bank a certificate of merger specifying the name of each merging state or national bank and the name of the resulting state bank. Such certificate shall be conclusive evidence of the merger and of the correctness of all proceedings therefor in all courts and places, and may be recorded in any office for the recording of deeds to

Certificate of merger.

evidence the new name in which the property of the merging state or national bank is held.

Conversion of national bank to state bank; charter requirements.

SEC. 7. Except as provided in section 10, a national bank located in this state which follows the procedure prescribed by the laws of the United States to convert into a state bank shall be granted a state charter by the supervisor of banking if he finds that the bank meets the standards as to location of offices, capital structures, and business experience and character of officers and directors for the incorporation of a state bank.

Application for charter.

The national bank may apply for such charter by filing with the supervisor of banking a certificate signed by its president and cashier and by 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 governing the conversion of a national to a state bank, and the articles of incorporation, approved by the stockholders, for the government of the bank as a state bank.

Resulting state or national bank; status.

SEC. 8. A resulting state or national bank shall be the same business and corporate entity as each merging state or national bank or as the converting state or national bank with all property, rights, powers and duties of each merging state or national bank or the converting state or national bank, except as affected by the state law in the case of a resulting state bank or the federal law in the case of a resulting national bank, and by the charter and bylaws of the resulting state or national bank.

Use of name of merging or converting bank.

A resulting state or national bank shall have the right to use the name of any merging state or national bank or of the converting bank whenever it can do any act under such name more conveniently.

Any reference to a merging or converting state or national bank in any writing, whether executed

or taking effect before or after the merger or conversion, shall be deemed a reference to the resulting state or national bank if not inconsistent with the other provisions of such writing.

Written reference to merging or converting bank.

SEC. 9. 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, shall be entitled to receive their 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 days after the effective date of the merger or conversion, accompanied by the surrender of the stock certificates. The value of such shares shall be determined, as of the date of the shareholders' meeting approving the merger or conversion, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting state or national bank, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger or conversion becomes effective, the supervisor of banking shall cause an appraisal to be made.

Liquidation of state bank shares voted against merger, or conversion.

Appraisal.

The expenses of appraisal shall be paid by the resulting state bank.

Expense of appraisal.

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 such accepted offer or under the appraisal shall constitute a debt of the resulting state or national bank.

Offer by resulting bank to dissenting stockholders.

Amount due constitutes debt of resulting bank.

SEC. 10. Where a resulting state bank is not to exercise trust powers, the supervisor of banking shall

Resulting state bank not to exercise trust powers.

not approve a merger or conversion until satisfied that adequate provision has been made for successors to fiduciary positions held by the merging state or national banks or the converting state or national bank.

Merging or converting bank assets or business activities prohibited to resulting state bank.

SEC. 11. If a merging or converting state or national bank has assets which do not conform to the requirements of state law for the resulting state bank or carries on business activities which are not permitted for the resulting state bank, the supervisor of banking may permit a reasonable time to conform with state law.

Valuation of assets of resulting state bank.

SEC. 12. Without approval by the supervisor of banking no asset shall be carried on the books of the resulting state bank at a valuation higher than that on the books of the merging or converting state or national bank at the time of its last examination by a state or national bank examiner before the effective date of the merger or conversion.

Severability clause.

SEC. 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable. The invalidity of any provision as to a national bank or as to the stockholders of a national bank shall not affect its validity as to a state bank or as to the stockholders of a state bank.

Repealing clause.

SEC. 14. Chapter 30.48, and sections 30.08.100 and 30.08.130, RCW, are repealed.

Passed the House February 14, 1953.

Passed the Senate March 10, 1953.

Approved by the Governor March 20, 1953.