

286.3-172 Conditions of and procedure for conversion of national banking association to state bank or merger or consolidation with state bank.

- (1) A national banking association may convert into, or merge or consolidate with, a state bank under a state charter in the manner provided by federal law.
- (2) In the case of each conversion:
 - (a) A written plan of conversion shall be submitted to the commissioner;
 - (b) The conversion plan shall:
 1. Be in a form satisfactory to the commissioner;
 2. Prescribe the terms and conditions of the conversion and the mode of carrying it into effect; and
 3. Include:
 - a. The proposed articles of incorporation of the state bank that is to result from the conversion, which shall be in the form prescribed by law for the organization of state banks, with variations, if any, as are satisfactory to the commissioner; and
 - b. A certificate of the president, secretary, or cashier of the national banking association certifying that all steps have been taken which are necessary under federal law for the conversion;
 - (c) The commissioner shall approve or disapprove a conversion plan within sixty (60) days of the plan's submission;
 - (d) In considering the approval or disapproval of a conversion plan, the commissioner shall take into account:
 1. Whether there are any significant supervisory or compliance concerns that exist with respect to the national banking association or any officer or director of the association;
 2. The performance of the converting national banking association for the five (5) years preceding the application for conversion as compared to similarly situated state banks; and
 3. The proposed name of the bank after conversion which shall not be the same as or deceptively similar to any existing state bank;
 - (e) The commissioner shall approve or disapprove a conversion plan in writing, which shall be sent to the applicant and filed in the office of the commissioner; and
 - (f) After a conversion plan has been approved in writing and filed in the office of the commissioner, the conversion shall become effective upon the filing and recording of the articles of incorporation, as provided in KRS 286.3-050, unless a later date is specified in the plan, in which event the conversion shall become effective upon the later date.
- (3) In the case of each merger or consolidation:
 - (a) A written plan of merger or consolidation shall be submitted to the commissioner;
 - (b) The merger or consolidation plan shall:

1. Be in a form satisfactory to the commissioner;
 2. Prescribe the terms and conditions of the merger or consolidation and the mode of carrying it into effect;
 3. Provide the name to be borne by the state bank, as receiving corporation, if the state bank's name is to be changed;
 4. Either:
 - a. Name the persons who will constitute the first board of directors of the state bank after the merger or consolidation; or
 - b. Provide for:
 - i. Conducting the affairs of the state bank until a meeting of the stockholders to elect the first board of directors of the state bank after the merger or consolidation occurs; and
 - ii. A stockholder meeting to elect the first board of directors, which shall occur within sixty (60) days after the merger or consolidation; and
 5. Include:
 - a. By the national banking association, a certificate of the president, secretary, or cashier of the association certifying that all steps have been taken which are necessary under federal law for the merger or consolidation; and
 - b. By the state bank, a certificate of the president, secretary, or cashier of the bank certifying that the plan:
 - i. Has been approved by the board of directors of the state bank by a majority vote of all the members thereof;
 - ii. Has been submitted to the stockholders of the state bank at a meeting held, upon notice of at least fifteen (15) days specifying the time and place and object of the meeting and addressed to each stockholder at the address appearing upon the books of the state bank and published pursuant to KRS Chapter 424; and
 - iii. Has been approved by the vote of at least two-thirds (2/3) of the stockholders of the state bank;
- (c) The first board of directors of the state bank after the merger or consolidation shall be in accordance with the provisions of this subtitle relating to the number and qualifications of directors of a state bank;
- (d) The commissioner shall approve or disapprove a plan of merger or consolidation:
1. Within sixty (60) days of the plan's submission; and
 2. In writing, which shall be sent to the applicant and filed in the office of the commissioner; and
- (e) A merger or consolidation shall become effective upon the filing of an approval of the merger or consolidation plan in the office of the commissioner, unless a later date is specified in the plan, in which event the

merger or consolidation shall become effective upon the later date.

- (4) If the commissioner disapproves a conversion, merger, or consolidation plan:
 - (a) The commissioner shall state the reasons for disapproval in the filing made under this section; and
 - (b) The applicant or applicants seeking conversion, merger, or consolidation shall have a right of appeal as permitted by law.
- (5) At the time when a conversion, merger, or consolidation becomes effective:
 - (a) The resulting state bank shall be considered the same business and corporate entity as the national banking association, although as to rights, powers, and duties, the resulting bank is a state bank;
 - (b) All of the property, rights, and powers and franchises of the national banking association shall vest in the resulting state bank and the resulting state bank shall be subject to and deemed to have assumed all of the debts, liabilities, obligations, and duties of the national banking association and to have succeeded to all of its relationships, fiduciary or otherwise, as fully and to the same extent as if the national banking association's property, rights, powers, franchises, debts, liabilities, obligations, duties, and relationships had been originally acquired, incurred, or entered into by the resulting state bank, except the resulting state bank shall not, through the conversion, merger, or consolidation, acquire the power to engage in any business or to exercise any right, privilege, or franchise that is not conferred by the provisions of Subtitle 3 of KRS Chapter 286 upon the resulting state bank;
 - (c) Any reference to the national banking association in any contract, will, or document, whether executed or taking effect before or after the conversion, merger, or consolidation, shall be considered a reference to the resulting state bank if not inconsistent with the other provisions of the contract, will, or document; and
 - (d) A pending action or other judicial proceeding to which the national banking association is a party shall not be deemed to have abated or to have discontinued by reason of the conversion, merger, or consolidation, but may be prosecuted to final judgment, order, or decree in the same manner as if the conversion, merger, or consolidation had not been made. The resulting state bank may be substituted as a party to any action or proceeding to which the national banking association is a party and any judgment, order, or decree may be rendered for or against the resulting state bank that might have been rendered for or against the national banking association if the conversion, merger, or consolidation had not occurred.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 152, sec. 23, effective July 15, 2024. -- Amended 2010 Ky. Acts ch. 24, sec. 627, effective July 15, 2010; and ch. 28, sec. 12, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 135, sec. 2, effective July 14, 2000. -- Amended 1980 Ky. Acts ch. 192, sec. 1, effective July 15, 1980. -- Amended 1966 Ky. Acts ch. 239, sec. 200, effective June 16, 1966. -- Created 1952 Ky. Acts ch. 222, sec. 2.

Formerly codified as KRS 287.172.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 28. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 28, which was last enacted by the General Assembly, prevails under KRS 446.250.

Legislative Research Commission Note (7/12/2006). In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.