

1 AN ACT related to financial institutions.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 286.3-172 is amended to read as follows:

- 4 (1) A national banking association may convert into or merge with a state bank under a
5 state charter, provided that the action taken complies with federal law.
- 6 (2) In the case of each conversion, a written plan of conversion shall be submitted, in
7 duplicate, to the commissioner. ~~The~~~~[Such]~~ plan shall be in form satisfactory to the
8 commissioner, shall prescribe the terms and conditions of the conversion and the
9 mode of carrying it into effect, and shall ***include a copy of***~~have annexed thereto~~
10 ~~and forming a part thereof~~ the proposed articles of incorporation of the state bank
11 which is to result from the conversion. ~~The~~~~[Such]~~ articles of incorporation shall be
12 in the form prescribed by law for the organization of state banks, with ~~any~~~~[such]~~
13 variations ***required by***~~, if any, as shall be satisfactory to~~ the commissioner. ~~[With~~
14 ~~such plan of conversion there shall be submitted, in duplicate, to the commissioner~~
15 ~~]A certificate of the president, secretary, or cashier of the national banking~~
16 ~~association certifying that all steps have been taken which are necessary under~~
17 ~~federal law to the consummation of the conversion~~ ***shall be submitted, in duplicate,***
18 ***to the commissioner with a plan of conversion.*** The commissioner shall approve or
19 disapprove ~~a~~~~[such]~~ plan of conversion within sixty (60) days of ~~its~~~~[the]~~ submission
20 ~~[thereof]~~ to him ***or her***. In considering the approval or disapproval of the conversion
21 plan the commissioner shall take into account:
- 22 (a) Any pending administrative or judicial action to which the bank or any officer
23 or director of the bank is a party;
- 24 (b) The performance of the converting national bank for the five (5) years
25 preceding the application for conversion as compared to similarly situated
26 state-chartered banks; and
- 27 (c) The proposed name of the bank after conversion which shall not be the same

1 as or deceptively similar to any existing state-chartered bank.

2 If the commissioner **approves the**~~[shall approve such]~~ plan, he **or she** shall file one
3 (1) duplicate **copy of the plan**~~[thereof]~~, together with one (1) duplicate **copy** of
4 **the**~~[such]~~ certificate submitted **with it**~~[therewith]~~ and the original **copy** of the
5 approval of the commissioner, in the office of the commissioner. After **the**~~[such]~~
6 filing in the office of the **commissioner**~~[commission]~~, the conversion shall become
7 effective upon the filing and recording of the articles of incorporation as provided in
8 KRS 286.3-050, unless a later date is specified in the plan, in which event the
9 conversion shall become effective upon **the**~~[such]~~ later date. If the commissioner
10 **disapproves**~~[shall disapprove]~~ the conversion plan, he **or she** shall state **the**~~[his]~~
11 reasons for such disapproval in writing. ~~[to which]~~ The converting national bank
12 shall have the right ~~[to of]~~ appeal **the disapproval** as permitted by law.

13 (3) In the case of each merger, a written plan of merger shall be submitted, in duplicate,
14 to the commissioner. **The**~~[Such]~~ plan shall be in **a** form satisfactory to the
15 commissioner and shall prescribe the terms and conditions of the merger and the
16 mode of carrying it into effect. **The**~~[Such]~~ plan may provide the name to be borne
17 by the state bank, as receiving corporation, if **the**~~[such]~~ name is to be changed.
18 **The**~~[Such]~~ plan may also name the persons who **will**~~[shall]~~ constitute the first board
19 of directors of the state bank after the merger **has**~~[shall have]~~ been accomplished,
20 provided that the number and qualifications of **those persons are**~~[such person shall]~~
21 ~~be]~~ in accordance with the provisions of Subtitle 3 of KRS Chapter 286 relating to
22 the number and qualifications of directors of a state bank; or **the**~~[such]~~ plan may
23 provide for a meeting of the stockholders to elect a board of directors within sixty
24 (60) days after **the**~~[such]~~ merger, and may make provision for conducting the affairs
25 of the state bank **before then**~~[meanwhile]~~. With **a**~~[such]~~ plan of merger there shall
26 be submitted, in duplicate, to the commissioner the following:

27 (a) By the national banking association, a certificate of the president, secretary, or

- 1 cashier of ***the***_[such] association certifying that all steps have been taken which
2 are necessary under federal law to the consummation of their merger;
- 3 (b) By the state bank, a certificate of the president, secretary, or cashier certifying
4 that ***the***_[such] plan of merger:
- 5 **1.** Has been approved by the board of directors of the state bank by a
6 majority vote of all the members; ~~[thereof,]~~
- 7 **2.** ~~[That such plan]~~Has been submitted to the stockholders of the state
8 bank at a ***stockholder's*** meeting ***where***_[thereof held; upon] notice of ***the***
9 ***meeting had been given*** at least fifteen (15) days ***prior to it***, specifying
10 the time and place and object of ***the***_[such] meeting and addressed to
11 each stockholder at the address appearing upon the books of the state
12 bank and published pursuant to KRS Chapter 424; ~~[;]~~ and
- 13 **3.** ~~[That such plan of merger]~~Has been approved at ***the***_[such] meeting by
14 the vote of ~~[the]~~stockholders owning at least two-thirds (2/3) in amount
15 of the stock of the state bank.
- 16 (4) The commissioner shall approve or disapprove ***a***_[such] plan of merger within sixty
17 (60) days of ***its***_[such] submission ~~[thereof]~~to him ***or her***. If the commissioner
18 ***approves the***_[shall approve such] plan, he ***or she*** shall file one (1) duplicate ***copy of***
19 ***the plan***_[thereof], together with one (1) duplicate of each of ***the required***_[such]
20 certificates and the original ***copy*** of the approval of the commissioner, in the office
21 of the commissioner. ***The merger shall become effective*** upon ***the***_[such] filing in
22 the office of the commissioner, ~~[the merger shall become effective,]~~ unless a later
23 date is specified in the plan, in which event the merger shall become effective upon
24 ***the***_[such] later date.
- 25 (5) At the time when ***a***_[such] conversion or merger becomes effective:
- 26 (a) The resulting state bank shall be considered the same business and corporate
27 entity as the national banking association, although as to rights, powers, and

- 1 duties, the resulting bank is a state bank;
- 2 (b) **1. Except as provided in subparagraph 2. of this paragraph,** all of the
3 property, rights, ~~and~~ powers, and franchises of the national banking
4 association shall vest in the resulting state bank and the resulting state
5 bank shall be subject to and deemed to have assumed all of the debts,
6 liabilities, obligations, and duties of the national banking association and
7 to have succeeded to all of its relationships, fiduciary or otherwise, as
8 fully and to the same extent as if ~~the~~^{such} property, rights, powers,
9 franchises, debts, liabilities, obligations, duties, and relationships had
10 been originally acquired, incurred, or entered into by the resulting state
11 bank.~~;~~
- 12 **2. Notwithstanding subparagraph 1. of this paragraph,**~~provided,~~
13 ~~however, that~~ the resulting state bank shall not, through ~~a~~^{such}
14 conversion or merger, acquire power to engage in any business or to
15 exercise any right, privilege, or franchise which is not conferred by the
16 provisions of Subtitle 3 of KRS Chapter 286 upon ~~the~~^{such} resulting
17 state bank;
- 18 (c) Any reference to the national banking association in any contract, will, or
19 **other** document, whether executed or taking effect before or after the
20 conversion or merger, shall be considered a reference to the resulting state
21 bank if not inconsistent with the other provisions of the contract, will, or **other**
22 document;
- 23 (d) A pending action or other judicial proceeding to which the national banking
24 association is a party, shall not be deemed to have abated or to have
25 discontinued by reason of the conversion or merger, but may be prosecuted to
26 final judgment, order, or decree in the same manner as if the conversion or
27 merger had not been made.~~;~~~~or~~ The resulting state bank may be substituted

1 as a party to ~~the~~^{such} action or proceeding, and any judgment, order, or
2 decree may be rendered for or against it that might have been rendered for or
3 against the national banking association if the conversion or merger had not
4 occurred.