

# MAINE STATE LEGISLATURE

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## CHAPTER 103

## MERGERS

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**§ 1221. Resulting national bank**

Nothing in the law of this State shall restrict the right of a trust company to merge with or convert into a resulting national bank. The action to be taken by such merging or converting bank and its rights and liabilities and those of its shareholders shall be the same as those prescribed for national banks at the time of the action by the law of the United States and not by the law of this State, except that a vote of the holders of  $\frac{2}{3}$  of each class of voting stock of a trust company shall be required for the merger or conversion, and that on conversion into a national bank the rights of dissenting stockholders shall be those specified.

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

R.S.1954, c. 59, § 145.

**§ 1222. Resulting trust company**

Upon approval by the commissioner, banks may be merged to result in a trust company or a national bank may convert into a trust company, 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 govern the rights of its dissenting shareholders.

R.S.1954, c. 59, § 146.

**§ 1223. —Written consent for acquisition of assets and assumption of deposits; exception**

Other than by merger as provided for in section 1222 and elsewhere, no trust company shall, either directly or indirectly, acquire all or substantially all of the assets of, or assume liability to pay any deposits of, any other trust company, savings bank or national bank without the prior written consent of the commissioner who shall give his consent when satisfied that the public convenience and advantage will be promoted by the proposed transaction. The commissioner may require such notice, information and publication as he deems proper.

1961, c. 379, § 4.

**§ 1224. —Approval of monopolies having undue concentrations of assets**

No merger, consolidation, acquisition of assets or assumption of deposit liabilities shall be approved by the commissioner which would promote a banking monopoly having an undue concentration of banking assets, unless approval is necessary or advisable in the public interest.

1961, c. 379, § 5.

**§ 1225. —Procedure**

The board of directors of each merging trust company shall, by a majority of the entire board, approve a merger agreement which shall contain:

**1. Name and location of merging bank.** The name of each merging bank and location of each office;

**2. Name, location, shares, etc. of resulting company.** With respect to the resulting trust company: The name and location of the principal and the other offices; the name and residence of each director to serve until the next annual meeting of the stockholders; the name and residence of each officer; the amount of capital, the number of shares and the par value of each share; whether preferred stock is to be issued and the amount, terms and preferences; the amendments to its charter and bylaws;

**3. Converting shares.** Provisions governing the manner of converting the shares of the merging banks into shares of the resulting trust company;

**4. Agreement approved by commissioner.** A statement that the agreement is subject to approval by the commissioner and by the stockholders of each merging bank;

**5. Disposal of shares of resulting company.** Provisions governing the manner of disposing of the shares of the resulting trust company not taken by dissenting shareholders of merging banks;

**6. Provisions required by commissioner.** Such other provisions as the commissioner requires to enable it to discharge its duties with respect to the merger.

After approval by the board of directors of each merging trust company, the merger agreement shall be submitted to the 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.

Within 30 days after receipt by the commissioner of such papers, the commissioner shall approve or disapprove the merger agreement, and if no action is taken, the agreement shall be deemed approved. The commissioner shall approve the agreement if it appears that the resulting trust company meets the requirements of state law as to the formation of a new trust company, provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting trust company and its other activities which are to continue or are to be undertaken, is fair, and the merger is not contrary to the public interest.

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

R.S.1954, c. 59, § 147.

### § 1226. Approval of stockholders

To be effective, a merger which is to result in a trust company must be approved by the stockholders of each merging trust company by a vote of 2/3 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 bylaws of the resulting trust company, 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 circu-

**9 § 1226** BANKS—FINANCIAL INSTITUTIONS Title 9

lation in the place where the principal office of each merging bank is located, at least once a week for 4 successive weeks, and by mail, at least 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. No notice by publication need be given if written waivers are received from the holders of 2/3 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.

R.S.1954, c. 59, § 148.

**§ 1227. Effective date; filing of agreement; certificate as evidence**

A merger which is to result in a trust company shall, unless a later date is specified in the agreement, become effective upon the filing with the commissioner of the executed agreement together with copies of the resolutions of the stockholders of each merging 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.

The commissioner shall thereupon issue to the resulting bank a certificate of merger specifying the name of each merging bank and the name of the resulting trust company. 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 evidence the new name in which the property of the merging banks is held.

R.S.1954, c. 59, § 149.

**§ 1228. Conversion of national bank to trust company**

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 commissioner if he finds that the bank meets the standards as to location of offices, capital structure and business experience and character of officers and directors for the incorporation of a trust company.

The national bank may apply for such charter by filing with the commissioner 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 laws of the

United States governing the conversion of the national to a state bank, and the articles of incorporation, approved by the stockholders, for the government of the bank as a trust company.

R.S.1954, c. 59, § 150.

### § 1229. Continuation of corporate entity

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

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

Any reference to a merging or converting bank in any writing, whether executed or taking effect before or after the merger or conversion, shall be deemed a reference to the resulting bank if not inconsistent with the other provisions of such writing.

R.S.1954, c. 59, § 151.

### § 1230. Dissenting stockholders

The owner of shares of a trust company which were voted against a merger to result in a trust company, or against the conversion of a trust company 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 trust company or national bank at any time within 30 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 3 appraisers, one to be selected by the owners of 2/3 of the shares involved, one by the board of directors of the resulting trust company or national bank and the third by the 2 so chosen. The valuation agreed upon by any 2 appraisers shall govern. If the appraisal is not completed within 90 days after the merger or conversion becomes effective the commissioner shall cause an appraisal to be made.

The expenses of appraisal shall be paid by the resulting trust company.

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The resulting trust company 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 that bank entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the resulting trust company or national bank.

R.S.1954, c. 59, § 152.

**§ 1231.    Nonconforming assets or business**

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

R.S.1954, c. 59, § 153.

**§ 1232.    Book value of assets**

Without approval by the commissicner, no asset shall be carried on the books of the resulting bank at a valuation higher than that on the books of the 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.

R.S.1954, c. 59, § 154.