

Chapter 30A.49 RCW
MERGER, CONSOLIDATION, AND CONVERSION

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RCW 30A.49.010 Definitions. As used in this chapter:

"Merging bank" means a party to a merger;

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

"Merger" includes consolidation;

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

Wherever reference is made to a vote of stockholders or a vote of
classes of stockholders it shall mean only a vote of those entitled to
vote under the terms of such shares. [1986 c 279 § 43; 1955 c 33 §
30.49.010. Prior: 1953 c 234 § 1. Formerly RCW 30.49.010.]

**RCW 30A.49.020 State bank to resulting national bank—Laws
applicable—Vote required—Termination of franchise.** 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 RCW 30A.49.090.

Upon the completion of the merger or conversion, the franchise of any merging or converting state bank shall automatically terminate. [2014 c 37 § 253; 1955 c 33 § 30.49.020. Prior: 1953 c 234 § 2. Formerly RCW 30.49.020.]

RCW 30A.49.030 State or national bank to resulting state bank—Law applicable to nationals. This section is applicable where there is to be a resulting state bank.

Upon approval by the director, 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. [1994 c 92 § 142; 1955 c 33 § 30.49.030. Prior: 1953 c 234 § 3. Formerly RCW 30.49.030.]

RCW 30A.49.040 Merger to resulting state bank—Exception—Agreement, contents, approval, amendment. This section is applicable where there is to be a resulting state bank, except in the case of reorganization and exchange as authorized by this title.

(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:

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

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

(c) Provisions governing the exchange of shares of the merging state or national banks for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the director 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 if such shares are to be issued in the transaction and are not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the director requires to discharge his or her duties with respect to the merger;

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

(3) Within sixty days after receipt by the director of the papers specified in subsection (2) of this section, the director shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The director 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.

If the director disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections. [1994 c 92 § 143; 1986 c 279 § 49; 1982 c 196 § 9; 1955 c 33 § 30.49.040. Prior: 1953 c 234 § 4. Formerly RCW 30.49.040.]

Severability—1982 c 196: See note following RCW 30A.04.550.

Reorganization as subsidiary of bank holding company: RCW 30A.04.550 through 30A.04.570.

RCW 30A.49.050 Merger to resulting state bank—Stockholders' vote—Notice of meeting—Waiver of notice. 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 bylaws 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 or her address on the books of his or her 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. [2011 c 336 § 749; 1955 c 33 § 30.49.050. Prior: 1953 c 234 § 5. Formerly RCW 30.49.050.]

RCW 30A.49.060 Merger to resulting state bank—Effective date—Termination of charters—Certificate of merger. 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 director 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.

The director 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 evidence the new name in which the property of the merging state or national bank is held. [1994 c 92 § 144; 1955 c 33 § 30.49.060. Prior: 1953 c 234 § 6. Formerly RCW 30.49.060.]

RCW 30A.49.070 Conversion of national to state bank—

Requirements—Procedure. Except as provided in RCW 30A.49.100, 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 director if he or she 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.

The national bank may apply for such charter by filing with the director 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. [2014 c 37 § 254; 1994 c 92 § 145; 1955 c 33 § 30.49.070. Prior: 1953 c 234 § 7. Formerly RCW 30.49.070.]

RCW 30A.49.080 Resulting bank as same business and corporate entity—Use of name of merging, converting bank. 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.

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. [1955 c 33 § 30.49.080. Prior: 1953 c 234 § 8. Formerly RCW 30.49.080.]

RCW 30A.49.090 Rights of dissenting shareholder—Appraisal—Amount due as debt. 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 director shall cause an appraisal to be made.

The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the resulting bank shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the resulting bank, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on the number of dissenting shares owned.

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. [1994 c 256 § 58; 1994 c 92 § 146; 1955 c 33 § 30.49.090. Prior: 1953 c 234 § 9. Formerly RCW 30.49.090.]

Reviser's note: This section was amended by 1994 c 92 § 146 and by 1994 c 256 § 58, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 30A.49.100 Provision for successors to fiduciary positions.

Where a resulting state bank is not to exercise trust powers, the director shall 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. [1994 c 92 § 147; 1955 c 33 § 30.49.100. Prior: 1953 c 234 § 10. Formerly RCW 30.49.100.]

RCW 30A.49.110 Assets, business—Time for conformance with state law. 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 director may permit a

reasonable time to conform with state law. [1994 c 92 § 148; 1955 c 33 § 30.49.110. Prior: 1953 c 234 § 11. Formerly RCW 30.49.110.]

RCW 30A.49.120 Resulting state bank—Valuation of certain assets limited. Without approval by the director 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 examiner or national bank examiner before the effective date of the merger or conversion. [1994 c 92 § 149; 1955 c 33 § 30.49.120. Prior: 1953 c 234 § 12. Formerly RCW 30.49.120.]

RCW 30A.49.125 Resulting bank has branches inside and outside of state—Application—Definitions—Combination or purchase and assumption requires director's approval—Deposit concentration limits. (1) This section is applicable where the resulting bank would have branches inside and outside the state of Washington.

(2) As used in this section, unless a different meaning is required by the context, the following words and phrases have the following meanings:

(a) "Combination" means a merger or consolidation, or purchase or sale of all or substantially all of the assets, including all or substantially all of the branches.

(b) "Out-of-state bank" means a bank, as defined in 12 U.S.C. Sec. 1813(a), which is chartered under the laws of any state other than this state, or a national bank, the main office of which is located in any state other than this state.

(c) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(3) A bank chartered under this title may engage in a combination or purchase and assumption of one or more branches of an out-of-state bank with an out-of-state bank with the prior approval of the director if the combination or purchase and assumption would result in a bank chartered under this title. Upon notice to the director a bank chartered under this title and an out-of-state bank may engage in a combination if the combination would result in an out-of-state bank. However, that combination shall comply with applicable Washington law as determined by the director, including but not limited to applicable state merger laws, and the conditions and requirements of this section.

(4) Applications for the director's approval under subsection (3) of this section shall be on a form prescribed by the director and conditioned upon payment of a fee prescribed pursuant to RCW 30A.04.070. If the director finds that (a) the proposed combination will not be detrimental to the safety and soundness of the applicant or the resulting bank, (b) any new officers and directors of the resulting bank are qualified by character, experience, and financial responsibility to direct and manage the resulting bank, and (c) the proposed merger is consistent with the convenience and needs of the communities to be served by the resulting bank in this state and is otherwise in the public interest, the director shall approve the interstate combination and the operation of branches outside of

Washington by the applicant bank. This transaction may be consummated only after the applicant has received evidence of the director's written approval.

(5) Any out-of-state bank that will be the resulting bank pursuant to an interstate combination involving a bank chartered under this title shall notify the director of the proposed combination not later than three days after the date of filing of an application for the combination with the responsible federal bank supervisory agency, and shall submit a copy of that application to the director and pay applicable filing fees, if any, required by the director. In lieu of notice from the proposed resulting bank the director may accept notice from the bank's supervisory agency having primary responsibility for the bank. The director shall have the authority to waive any procedures required by Washington merger laws if the director finds that the procedures are in conflict with applicable federal law or in conflict with the applicable law of the state of the resulting bank.

(6) Subject to RCW 30A.38.010(2), the deposit concentration limits stated in 12 U.S.C. Sec. 1831u(b)(2)(B) shall apply to the combination of an out-of-state bank and a nonaffiliated out-of-state bank or bank organized under this title or under the national bank act if the combination is an interstate merger transaction.

(7) A combination resulting in the acquisition, by an out-of-state bank that does not have branches in this state, of a bank organized under this title or the national bank act, shall not be permitted under this chapter unless the bank to be acquired, or its predecessors, have been in continuous operation, on the date of the combination, for a period of at least five years. [2014 c 37 § 255; 1996 c 2 § 9. Formerly RCW 30.49.125.]

RCW 30A.49.130 Severability—1955 c 33. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter 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. [1955 c 33 § 30.49.130. Prior: 1953 c 234 § 13. Formerly RCW 30.49.130.]