



STATE OF ALABAMA STATE BANKING DEPARTMENT



OUTLINE FOR CONSOLIDATION, MERGER, OR TRANSFER OF STATE BANKS

The following is an outline of the procedure for consolidation, merger or transfer of state banks pursuant to Alabama law. The procedure also involves compliance with various federal laws and regulations. This outline is not intended as an exhaustive treatment of the procedure and only is intended to assist those involved with the process. See Ala. Code (1975), §5-7A-1, et. seq.

1. Pre-organization meeting between the Superintendent and the bank's representatives.
2. Submission of completed application along with the filing fee as prescribed by the Banking Board. See Ala. Code (1975), §5-5A-13. The Filing fee is presently set by the Banking Board at \$5,000.
3. The board of directors of each bank affected must pass a resolution stating that such consolidation, merger or transfer is desirable and order the officers of the bank to call a meeting of the stockholders to consider the proposition. See Ala. Code (1975), §5-7A-2
 - a. Officers shall mail a notice of such meeting to each stockholder at his last known place of residence, postage prepaid, at least 30 days before the date set for the meeting of stockholders. The notice shall specify the date and place of the meeting and the purpose for which the meeting is to be held.
 - b. A copy of the resolution must also be forwarded to the Superintendent.
 - c. On the day of the meeting of the stockholders, a resolution may be prepared setting forth the reasons why the consolidation, merger or transfer of the place of business of such bank is advisable. The resolutions shall also set forth the terms of the consolidation, merger or transfer and any other matters that the stockholders may see proper that are not contrary to law.
 - d. If a majority of the stock is represented at such meeting and affirmatively votes in favor of the resolution it should be sent to the Superintendent. The Superintendent shall approve all of the proceedings if it is his judgment that the same would be for the best interest of the institution or institutions affected. The resolution shall have the force and effect of consolidating or merging the institution with the other institution, provided such action of the other institution is likewise satisfactorily passed by its stockholders.

- e. If the proposition to transfer the place of business from one town or city to the other is affirmatively voted for by a majority of all the stock of the institution and the Superintendent, after careful investigation, is of the opinion that it is wise to change or transfer the place of business to another town or city, the transfer shall be made.
4. A certificate of all the proceedings, including a copy of the pertinent portion of the minutes of the meeting of the board of directors at which the resolution under §5-7A-2 was passed, the notice which was given to each stockholder and a copy of the minutes of the stockholders' meeting, shall be made and certified to by the president and cashier of the institution under the seal thereof and acknowledged before a notary public as deeds are required to be acknowledged by a corporation and forwarded to the superintendent for his certificate of approval. See Ala. Code (1975), §5-7A-3.
5. If the Superintendent approves the entire proceedings, he shall issue his certificate of approval in writing, in duplicate, one copy being filed in his office and the other forwarded, along with the certificate, to the official or officials where articles of merger or consolidation would be filed under the business corporation laws of this state, for record at the expense of the institution affected. See Ala. Code (1975), §5-7A-4.
6. Before the Superintendent approves the proceedings to consolidate these institutions, the superintendent shall examine each institution to determine whether the interests of the depositors, creditors and stockholders of each are protected and that the consolidation is made for legitimate purposes. The Superintendent's decision whether to approve consolidation shall be based upon the outcome of the examination and investigation. The expense of such examination shall be paid by the institution. No such consolidation shall be made without the written consent of the Superintendent. See Ala. Code (1975), §5-7A-5.
7. Upon satisfactory completion of an investigation, the Superintendent will issue a certificate to the incorporators authorizing them or their agent or representative to file the proposed articles of incorporation with the appropriate official, and authorizing the official to accept and file the proposed articles of incorporation.
 - a. The Superintendent will return the proposed articles of incorporation together with his certificate of approval to the incorporators or their designated agent or representative.
 - b. The Superintendent will retain on file at the State Banking Department a duplicate of the certificate made by him and a copy of the proposed articles of incorporation and any other documents that have been submitted.
8. The resulting institution shall file with the official or officials designated by the Business corporation laws, the certificate from the Secretary of State reserving the name of the proposed corporation, the articles of incorporation, and the certificate of the

Superintendent authorizing the filing of the proposed articles of incorporation. See Ala. Code (1975), §§ 5-5A-6, 5-5A-7, 10-2B-1.20, and 10-2B-1.25.

- a. The official will endorse on the articles of incorporation and on each of the copies the word “filed” and the hour, day, month and year of the filing.
 - b. the official will file the articles of incorporation in his office and certify the copies.
 - c. submit to the Superintendent a certified copy of the executed and recorded articles of incorporation which should reflect the fact of recordation.
9. If the Superintendent denies the application, an appeal may be taken therefrom to the circuit court of the county where such institution is located.
10. This article shall apply to banks having branches and to any branch office thereof in the same way as it applies to other banks. See Ala. Code (1975), §5-7A-6.