

Part 3. Charter Conversion.

§ 53C-7-301. Conversion to a North Carolina bank charter.

(a) Any depository institution that is not a bank may apply to the Commissioner for permission to convert into a bank and for certification of related amendments to its organizational documents necessary to effect the conversion. The application for approval shall be in the form required by the Commissioner and shall be accompanied by a fee as set forth by rule.

(b) A plan of conversion shall be submitted as a part of the application filed with the Commissioner. The Commissioner may require amendment of the plan.

(c) The Commissioner shall approve the plan of conversion, as amended if applicable, if upon examination the Commissioner finds the following:

- (1) The resulting bank will commence operations in a safe, sound, and prudent manner with adequate capital, liquidity, reserves, asset composition, and earnings prospects.
- (2) The directors and officers of the converting institution are qualified by character, competency, and experience to control and operate the resulting bank in a legal and proper manner.
- (3) The interests of the converting institution's customers, creditors, and shareholders will not be materially and adversely affected by the proposed conversion.
- (4) The plan of conversion is not in violation of the converting institution's applicable organizational law.
- (5) Adequate written disclosure of the material terms of the plan of conversion and other relevant material information has been or will be made to the converting institution's equity ownership interest holders as required by the converting institution's organizational law, including a statement in any such written disclosure that any materials used to solicit the votes of the holders have not been approved by the Commission or the Commissioner and that any representation to the contrary is a criminal offense.

(d) Following approval of the plan of conversion, the Commissioner shall supervise and monitor the conversion process in order to determine compliance by the converting institution with the plan of conversion and applicable law.

(e) The Commissioner shall authorize by order the consummation of the conversion, issue a charter, and permit the converting institution to file with the Secretary of State and other public officials such documents as are necessary to effect the conversion when the Commissioner determines the conversion process complied with the organizational law applicable to the converting institution and the plan of conversion was approved, if required by applicable organizational law, by such vote of the converting institution's equity ownership interest holders as is required under the organizational law.

(f) The Commissioner may provide in the order authorizing the consummation of conversion for the resulting bank to do the following:

- (1) Wind up any activities legally engaged in by the converting institution at the time of conversion but not permitted to banks.
- (2) Return any assets and deposit liabilities legally held by the converting institution at the time of the conversion but not permitted to be held by banks.

The length, terms, and conditions of the transitional periods described in this subsection shall be subject to the discretion of the Commissioner.

(g) Upon the effective date of the conversion, the converting institution shall continue in existence as a bank, and all rights, liabilities, and obligations of whatever kind of the

converting institution shall continue and remain in its new form of organization. Except as may be authorized by the Commissioner pursuant to subsection (f) of this section, the bank shall have only those rights, powers, and duties authorized for or imposed upon banks by the laws of this State and the United States. All actions and proceedings to which the converting institution was party prior to conversion shall be unaffected by the conversion and shall proceed as if the conversion had not been effected. (2012-56, s. 4.)