

Re: Conversion of National Bank to State-Chartered Commercial Bank

This correspondence provides the procedure for conversion from a national bank to a state chartered bank. Tennessee Code Annotated Section 45-2-1303(a)(1)(B) provides that a national bank may convert into a state bank in a manner prescribed by the laws of the United States. In addition, TCA Section 45-2-1307 provides that a national bank seeking to convert to a state bank may be granted a state bank charter if the Commissioner finds: 1) that each office of the national bank is legally in operation; 2) that the resulting state bank will have an adequate capital structure, including surplus, in relation to its deposit liabilities and its other activities, not less than the capital structure required for a new state bank, and; 3) that the officers and directors of the resulting bank are persons of sound judgment and discretion.

TCA Section 45-2-1307(b) provides that a national bank may apply for a charter by filing:

- 1) 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**
- 2) The plan of conversion and the proposed articles of incorporation approved by the stockholders, for the operation of the bank as a state bank.**

You may want to check with the OCC to determine what information they will require for you to convert to a state-chartered bank. You will also need to check with the FDIC to determine what information they will require to continue your insurance as a state-chartered bank. For your convenience, I have enclosed a copy of the OCC's statutes and rules that address the conversion process. (See, 12 USC Section 214a and 12 CFR 5.24).

PLAN OF CONVERSION

The plan of conversion required by TCA Section 45-2-1307 shall contain the items required by TCA Section 45-11-105(a), as follows:

- 1) The type of financial institution which will result from the conversion including the location of all branch facilities of the institution.**
- 2) The proposed name of the resulting institution.**
- 3) The proposed effective date of the conversion.**
- 4) A copy of the current charter of the national bank and the proposed charter of the resulting institution. In addition, please provide the current charter.**

- 5) A copy of the current by-laws of the national bank and the proposed by-laws of the resulting institution. In addition, please provide the current by-laws.
- 6) The method for converting the current capital structure of the institution to the structure indicated for the resulting institution by the proposed charter.
- 7) The name of each director and executive officer, the office held and such director's and officer's experience.
- 8) The method and schedule for terminating any activities and disposing of any assets which do not conform to the requirements of the resulting institution and for meeting any requirements applicable to the resulting institution which the converting institution does not presently satisfy.
- 9) Any additional activities which the converting institution intends to conduct upon the effective date of the conversion, which it does not presently conduct.
- 10) A copy of the application for deposit insurance or proof of deposit insurance or insurance of accounts, if already insured.
- 11) Provisions for appointment of successors to any fiduciary positions held by the converting institution if the resulting institution will not exercise trust powers.
- 12) The competitive impact of the conversion, if any, including any effect on the availability of particular financial services in the community served by the institution.
- 13) A statement that the conversion is subject to approval by the Commissioner and shareholders of the financial institution.
- 14) To what extent the converting institution currently engages in any non-traditional activities such as: mortgage banking, insurance product sales, annuity sales, brokerage services or finance subsidiary. Relative to subsidiaries of the converting bank, please include the name, complete address and the purpose of all subsidiaries.
- 15) Each director, executive officer and anyone owning 10% or more of the stock of the institution must complete pages i-7 of the form at this link: <http://www.fdic.gov/formsdocuments/Bio-FinReport.pdf> In addition, the Commissioner reserves the right to request the financial portion of the form at any time during the application process.

APPLICATION FILING

Please submit the plan of conversion and the certificate required by TCA Section 45-2-1307(b)(1) to the Commissioner for approval. Any of the above information that is not applicable should be so noted in the plan of conversion.

The application for conversion shall be accompanied by a non-refundable fee of \$3,000. Please make the check payable to the Treasurer, State of Tennessee.

Stockholder approval for the conversion as well as notice of the meeting of the stockholders shall be in compliance with the provisions of the laws of the United States governing the conversion of a national bank to a state-chartered bank. The conversion must be approved by a majority vote 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 financial institution.

Prior to mailing, notice of the meeting of the shareholders or members and the proxy statement or mail ballot form shall be submitted to the commissioner for approval. The Commissioner may require changes in the disclosures and the proxy or mail ballot provided to the stockholders or members to assure full and adequate disclosure prior to those documents being mailed to stockholders or members. Notice of the meeting and other disclosures shall be mailed to each stockholder or member thirty (30) days prior to the date of the meeting called to consider the conversion.

The Commissioner may approve the plan of conversion if it meets the requirements of T.C.A. Section 45-2-1307(a) and (b).

Directors, officers and any shareholder owning 10% or more of the stock of the institution must complete the Interagency Biographical Section, including Page 15, of the Interagency Biographical and Financial Report, the appropriate pages are attached for your convenience. The Department reserves the right to request the financial portion of the report during the application process if deemed necessary to process the application.

PUBLICATION NOTICE REQUIREMENTS. Within three (3) days of the filing date (date mailed or delivered to the Department) of the application for a charter conversion, the applicant must publish one (1) time in a newspaper of general circulation in the community where the home office of the applicant is located, and each community where any other office or branch is located:

“Notice is hereby given that, pursuant to T.C.A. Section 45-2-1307, _____ (“Applicant”), with its main office located in _____, Tennessee, has filed an application with the Commissioner of Financial Institutions for the State of Tennessee for permission to convert its charter from that of a

_____ to a _____ (“commercial bank”, “savings bank”). Any person wishing to comment on or protest this application or any person having information which may have a bearing on the fitness of the Applicant, or any of its directors or officers, may file comments with the Commissioner of Financial Institutions in 414 Union Street, Suite 1000, Nashville, Tennessee 37219, or telephone the Department of Financial Institutions at 615/741-5018. Written or telephonic notice must be made to the Commissioner within fifteen (15) days of this publication.”

FILING OF CHARTER AND CERTIFICATE OF CONVERSION

Upon the Commissioner’s approval of the conversion, the Commissioner shall file the proposed charter of the resulting financial institution with the Secretary of State and issue the resulting financial institution a Certificate of Conversion. The Certificate of Conversion shall be conclusive evidence of the conversion and correctness of all proceedings in courts and places, and will be recorded in the same manner as is provided for recording of a charter of such institution.

CONCLUSION

Again, please note that it is necessary to contact the appropriate federal regulatory agencies in order to obtain requirements of those agencies in regard to the proposed conversion.

I hope that you find this information to be helpful in guiding you through the conversion process. Please feel free to contact Tod K. Trulove, Assistant Commissioner, Bank Division at 615/741-5604 or Debra Grissom, Program Administrator for Applications, at 615/741-5018 if you have questions concerning the application process or if we may offer further assistance. We look forward to working with you and the bank during the conversion process.

Attachments: 12 USC 214a;12 CFR 5.24;TCA Section 45-2-1303;TCA Section 45-2-1307;TCA Section 45-11-101 et.seq.