

Notice of Intention and Application to Form a New Bank in Tennessee

The statutes governing formation of a state chartered bank are found in T.C.A. Sections 45-2-201 through 45-2-217. The Tennessee statute can be accessed via this link: <http://www.lexisnexis.com/hottopics/tncode/>

In addition, the Department of Financial Institutions has promulgated certain rules governing new bank formation. Links to those rules can be found throughout this document.

Please submit the application information requested throughout this correspondence. In addition, please provide a disk or electronic version of the application to the Department.

The Department suggests that applicants for a new bank contact us prior to filing the Notice of Intention to schedule a meeting for the organizing group and/or potential directors and management with the Commissioner and other members of the Department's staff that will be a part of the application review team.

NOTICE OF INTENTION

Prior to filing the application, it will be necessary to file a notice of intention as required under Section 45-2-202(a), Tennessee Code Annotated. The notice of intention must include the following:

(1) The name, residence and occupation of each incorporator and the amount of stock subscribed and paid for by each.

(2) The name and address of an individual within the state to whom notice to all incorporators may be sent.

(3) The total capital, the number of shares of each class, and the par value of the shares of each class of the proposed state bank and a copy of the shareholder offering circular and subscription agreement for review, before it is finalized and printed. In addition, please supply a copy of the escrow agreement.

The Federal Deposit Insurance Corporation has issued a statement of policy which recommends use of an offering circular in connection with the sale of new bank securities which details the information that should be included in an offering circular. We suggest that you refer to this statement of policy and follow its guidelines. The statement of policy can be found at this link: <https://www.fdic.gov/regulations/laws/rules/5000-500.html>

(4) Whether it is intended that the proposed state bank shall have trust powers.

(5) The community in which the proposed state bank is to be located.

Please also identify the method of financing and amount of the organizational expense fund. Your attention is directed to T.C.A. Section 45-2-203 whereby "prior to applying for a Charter, the incorporators shall establish an organizational expense fund in an amount the Commissioner deems adequate . . ." Section 0180-7-.10 Rules of Department of Financial Institutions at this link: <http://www.tn.gov/sos/rules/0180/0180-07.pdf> sets forth the procedure and purpose for establishing this fund. Please confirm that this fund has been established prior to applying for a Charter.

The Commissioner shall within ten (10) business days after receipt of the notice of intention notify the incorporators that the notice of intention is approved as to form or call attention to any defects.

NEW BANK/CHARTER APPLICATION

After the incorporators have received notification from the Commissioner that the notice of intention and accompanying documents are approved as to form, the incorporators may apply to the Commissioner for a charter. All responses in the application should be typed with the exception of those instances where handwritten signatures may be required. The incorporators shall submit:

(1) A proposed charter in such form as the Commissioner shall prescribe containing the following information:

(A) The name of the state bank;

(B) If the state bank is to exercise trust powers, a statement to that effect;

(C) The community in which the state bank is to be located;

(D) The amount of capital, the number of shares of each class, the relative preferences, powers and rights of each class, the par value of the shares of each class, if any, and the amount of the paid-in-surplus; and

(E) Such other proper provisions to govern the business and affairs of the state bank as may be desired by the incorporators, including, but not limited to, the initial directors of the proposed state bank.

2) The application should be filed simultaneously with the Federal Deposit Insurance Corporation, Memphis, Tennessee, and this Office. The application should be submitted to the Department, together with your check of \$20,000 payable to the Tennessee Department of Financial Institutions. Link to Application Form: <https://www.fdic.gov/formsdocuments/InteragencyCharter-InsuranceApplication.pdf>

Your attention is directed to Pages i through iii of the application, "General Information and Instructions". These instructions must be followed and the application complete in order for the application to be accepted as "officially filed." Should the application not be filed within six (6) months from the date of acceptance of the Notice of Intention, or an extension granted, we may consider the file closed.

(3) Interagency Biographical and Financial Report: The Department will accept the Interagency Biographical and Financial Report ("IBFR") required by the Federal Deposit Insurance Corporation, in lieu of our own. Please submit a copy of the IBFR to the Department upon submission of the application for each incorporator, director, executive officer and/or persons owning ten percent (10%) or more of the stock of the proposed new bank. The IBFR can be found at this link: <https://www.fdic.gov/formsdocuments/Bio-FinReport.pdf>

(4) Provide a current credit report for each incorporator, director, executive officer and persons owning ten percent (10%) or more of stock of the proposed new bank. The credit report must not be more than thirty (30) days old. The report must be obtained from one of the three major credit reporting agencies. [i.e. Equifax, Experian, Trans Union]

(5) A copy of the proposed by-laws;

(6) The name, residence, and occupation of each subscriber from whom subscriptions have been accepted as of the date the application is filed, and the number of shares for which each such subscriber has subscribed, which list shall be updated not less than every thirty (30) business days or as requested by the Department, to add all additional subscribers and any amendments to any such information previously filed;

(7) The past and present connection with any bank, other than as a customer on terms generally available to the public, of each director and each subscriber to more than ten percent (10%) of the capital stock, updated as necessary to identify subscribers not previously identified in the application; and

(8) The address at which it is proposed that the state bank do business, or, if such address is not known, the area within the community in which it is proposed that the business be located.

Please note that it is also necessary to complete and return the attached affirmation form [see attachment 1] to this office before the application may be considered "officially filed." Also, the Stock Ownership form must be completed by each organizer, director or persons owning 10% or more of the stock. Link to form: <https://www.fdic.gov/formsdocuments/Bio-FinReport.pdf>

T.C.A. Section 45-2-204(c) empowers the Commissioner to require the incorporators to "mail such notice of the application as may be prescribed to each bank in the county in which the proposed new bank is to be located, and to such persons and organizations as he may designate." Publication of the notice is required by Chapter 0180-5, of the Rules of Department of Financial Institutions. Link to Rule 0180-5: <http://www.tn.gov/sos/rules/0180/0180-05.pdf>

Within 3 days, before or after, the date you mail or deliver your application, you are required to mail notice by regular mail to each bank within the county and you must publish notice one time in a newspaper of general circulation in the community where you propose to establish your bank. The notice should contain Items A and B of the attached form [See Attachment 2]. However, if the notice is run concurrently with the FDIC notice, and if such notice complies with the requirements of the applicable FDIC Rules and Regulations, then only Item B of the attached form should be included.

Immediately after publication, you should furnish this Office with a clipping of the notice as published in the newspaper with the date of the publication on the clipping.

The applicant will receive notification within twenty (20) business days from the receipt of the application and accompanying documents as to its sufficiency. If the application is deemed sufficient by the Commissioner it shall be accepted for filing.

After the application has been accepted for filing, the incorporators may make a written request for the Commissioner to grant the Charter. However, the issuance of the charter does not provide authority to the applicant to begin a banking business. Applicants must use the words "in organization" after the bank's proposed name until such time as a Certificate of Authority is granted by the Commissioner authorizing the bank to begin business.

While every application is unique, the typical time frame for the application process is approximately ten (10) to twelve (12) months. It has been the experience of the Department that this time frame can vary greatly dependent upon the quality and completeness of the application submitted; therefore, applicants may wish to consider engaging the services of consultants, advisors, or other professions experienced in the application process and familiar with applicable state and federal rules and regulations. The Department is not responsible for

delays resulting from submission of an incomplete Application.

Questions may be directed to Debra Grissom, Program Administrator for Applications at 615/741-5018.

Attachment 1

AFFIRMATION

Having been duly sworn, I hereby affirm that I have reviewed the information submitted to the Tennessee Department of Financial Institutions relative to _____ and that all of the information contained therein is truthful, complete and accurate.

BY:

Signature: _____ Printed Name: _____

Title: _____

Sworn and subscribed before me this _____ day of _____,
Day Month
_____.
Year

Notary Public

My Commission Expires _____, _____.
Day Month Year

Attachment 2

**PUBLICATION NOTICE REQUIREMENTS
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS**

ITEM A

_____ has applied to the Tennessee
name of organizers

Department of Financial Institutions to establish a DeNovo Bank at _____
street address

_____. The proposed name of the
city/state/zip code

institution is _____. The application was submitted

to the Department on _____.
date mailed

ITEM B

- 1) The names of the proposed organizers; and,
- 2) The following statement:

"Any person wishing to comment on or protest this application or any person having information which may have a bearing on the fitness of any of the organizers or proponents of this application, may file comments with the Commissioner of Financial Institutions, 400 Deaderick Street, Nashville, Tennessee 37243 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."

*Note: A completed copy of this notice must be furnished to each bank in the county where the new bank will be domiciled. Please furnish a list of institutions to which notice was furnished as part of the application per T.C.A. Section 45-2-204(d).