

## **IC 28-6.2-2**

### **Chapter 2. Reorganizing as a Mutual Savings Bank Holding Company**

#### **IC 28-6.2-2-1**

##### **Procedures for reorganization**

Sec. 1. A mutual savings bank may, upon application to and approval by the department, reorganize as a mutual holding company by:

- (1) organizing one (1) or more subsidiary stock savings banks, the ownership of which shall be evidenced by shares of stock to be owned by the reorganizing parent savings bank and transferring a substantial portion of its assets and all of the insured deposits and part or all of its other liabilities to one (1) or more subsidiary savings banks; or
- (2) organizing a first tier subsidiary stock savings bank and causing that subsidiary to organize a second tier subsidiary stock savings bank and transferring, by merger of the reorganizing savings bank with the second tier subsidiary, a substantial portion of its assets, all of its insured deposits and part or all of its other liabilities to the resulting savings bank at which time the first tier subsidiary stock savings bank becomes a mutual holding company.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-1.5**

##### **Reorganization as federal mutual holding company; approval of department and primary federal regulator; required transactions**

Sec. 1.5. (a) As used in this section, "primary federal regulator" means the federal agency primarily responsible for the regulation of mutual holding companies (as defined in IC 28-6.2-1-12).

(b) A mutual savings bank may, upon application to and with the approval by the department and the primary federal regulator, reorganize as a federal mutual holding company by undertaking a transaction or series of transactions substantially similar to those set forth in section 1 of this chapter.

*As added by P.L.90-2008, SEC.39. Amended by P.L.27-2012, SEC.91.*

#### **IC 28-6.2-2-2**

##### **Prerequisites to reorganization**

Sec. 2. Before reorganizing into a mutual holding company, a reorganizing savings bank shall do the following:

- (1) Obtain approval of a reorganization plan by a majority of the board of directors of the reorganizing savings bank.
- (2) File the reorganization plan with the department.
- (3) Obtain approval of a reorganization plan by an affirmative vote of a majority of the voting members of the reorganizing savings bank and any acquiree savings bank, at a regular or special meeting of the members.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-2.5**

##### **Voting rights of voting parties**

Sec. 2.5. The voting parties of a reorganizing mutual savings bank have the voting rights set forth in IC 28-13-6-2 with respect to a reorganization of a mutual savings bank under this chapter.

*As added by P.L.11-1998, SEC.14.*

#### **IC 28-6.2-2-3**

##### **Approval or disapproval of reorganization plan; conditional approval**

Sec. 3. (a) Upon receipt of an application for a mutual holding company reorganization under this article, the department may:

- (1) accept the application for processing;
  - (2) request additional information to complete the application;
- or
- (3) return the application if it is substantially incomplete.

(b) A proposed reorganization plan must be approved or disapproved by the department within ninety (90) days of its acceptance by the department and, if approved, may be subject to any conditions the department determines necessary.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-4**

##### **Grounds for disapproving reorganization plan application**

Sec. 4. The department may disapprove an application for a mutual holding company reorganization plan if any of the following applies:

- (1) The reorganization would result in unsafe or unsound practices, or an unsafe or unsound financial institution.
- (2) The applicant has not demonstrated that the reorganization plan is fair to the members of the reorganizing savings bank.
- (3) The reorganization plan does not protect the interests of the deposit account holders of the reorganizing savings bank.
- (4) The financial or managerial resources of the reorganizing savings bank or any acquiree savings bank warrant disapproval.
- (5) The mutual holding company or any savings bank subsidiary would have inadequate capital.
- (6) A stock issuance proposed in connection with the mutual holding company reorganization plan fails to meet the standards established by the department.
- (7) The reorganizing savings bank or any acquiree savings bank fails to furnish:
  - (A) information required in the reorganization plan; or
  - (B) any other information requested by the director regarding the proposed reorganization plan.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-5**

### **Requirements for approval of reorganization plan application**

Sec. 5. (a) The department may not approve an application for a mutual holding company reorganization unless the department finds, after an appropriate investigation or examination, that the following requirements have been satisfied:

- (1) That the reorganizing savings bank and any acquiree savings bank will operate in a safe, sound, and prudent manner.
- (2) That the proposed reorganization will not result in a reorganizing savings bank or any acquiree savings bank that has inadequate capital, unsatisfactory management, or poor earnings prospects.
- (3) That the management or other principals of the mutual holding company are qualified by character and financial responsibility to control and operate in a legal and proper manner the mutual holding company that would result from the execution of the reorganization plan.
- (4) That the interests of the depositors and creditors and of the public in general will not be jeopardized by the proposed reorganization of the savings bank into a mutual holding company.

(b) The department may conduct a public hearing to determine if the requirements of this section have been satisfied.

*As added by P.L.122-1994, SEC.101.*

### **IC 28-6.2-2-6**

#### **Articles of reorganization; filing**

Sec. 6. After a mutual holding company reorganization plan is approved by the department, the person applying for a mutual holding company reorganization must file articles of reorganization under IC 28-6.2-4, to effect the reorganization.

*As added by P.L.122-1994, SEC.101.*

### **IC 28-6.2-2-7**

#### **Membership rights**

Sec. 7. A mutual holding company that acquires a stock savings bank other than a resulting savings bank or an acquiree savings bank shall not confer any membership rights upon the depositors or borrowers of that savings bank, unless the savings bank is merged into a mutual savings bank from which the mutual holding company draws members, in which case the depositors of the stock savings bank shall receive the same membership rights as other depositors of the savings bank into which the stock savings bank is merged.

*As added by P.L.122-1994, SEC.101.*

### **IC 28-6.2-2-8**

#### **Reorganization plan requirements**

Sec. 8. Each reorganization plan must:

- (1) contain a description of all significant terms of the proposed reorganization;
- (2) include as an attachment and incorporate the following:

- (A) Any proposed stock issuance plan.
- (B) An opinion of counsel or a ruling from the federal Internal Revenue Service and the department of state revenue as to the federal and state tax treatment of the proposed reorganization.
- (C) A copy of the proposed articles of reorganization and bylaws of the resulting savings bank.
- (D) A description of the method of reorganization under this chapter.
- (E) A statement that, upon consummation of the reorganization, certain assets and liabilities, including all deposit accounts of the reorganizing savings bank, shall be transferred to the resulting savings bank, which shall immediately become a savings bank subsidiary of the mutual holding company.
- (F) A copy of any stock issuance plan that is proposed as part of the reorganization plan.
- (G) A summary of the expenses to be incurred in connection with the reorganization.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-9**

##### **Transfer of assets, rights, obligations, and liabilities**

Sec. 9. All assets, rights, obligations, and liabilities of a reorganizing savings bank that are not expressly retained by the mutual holding company shall be transferred to the resulting savings bank.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-10**

##### **Identical deposit accounts**

Sec. 10. Each person who holds a deposit account in a reorganizing savings bank or any acquiree savings bank immediately before the reorganization shall receive, upon consummation of the reorganization, without payment, an identical deposit account in the resulting savings bank or the acquiree savings bank.

*As added by P.L.122-1994, SEC.101.*

#### **IC 28-6.2-2-11**

##### **Amendment or termination of reorganization plan**

Sec. 11. A reorganization plan adopted by the boards of directors of the reorganizing savings bank and any acquiree savings bank may be:

- (1) amended by those boards as a result of any regulator's comments:
  - (A) before any solicitation of proxies from the members to vote on the reorganization plan; and
  - (B) at any later time with the consent of the director; or
- (2) terminated by either board:
  - (A) at any time before the meeting at which the members

vote on the reorganization plan; or  
(B) at any later time;  
with the consent of the department.  
*As added by P.L.122-1994, SEC.101.*