

# **Bank and Bank Holding Company Applications Manual**

## **DEPARTMENT OF BANKING AND FINANCE**

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# APPLICATIONS MANUAL

The purpose of the Georgia Department of Banking and Finance (Department) Applications Manual is to provide all users a detailed guide to the processes and procedures involved in the various corporate transactions requiring Department approval, review, registration or notification. The Applications Manual is available on our website at: <http://dbf.georgia.gov> under Forms and Applications.

The Applications Manual is designed to supplement the Financial Institutions Code (Title 7), the Department's Rules and Regulations, and the Department's Statement of Policy by providing certain details related to corporate transactions requiring regulatory approval, review, registration or notification. The applications manual will routinely refer to the Department's Statement of Policy as it guides you through the application process.<sup>1</sup>

The corporate processes described in this manual are under continuous review and are regularly modified to reflect current standards in processing regulatory transactions. Where appropriate and when a bank qualifies, the Application Manual will provide for expedited processing. The Department's goal is to always provide timely decisions on any process requiring its approval, review, registration or notification.

Specifically, for each identified corporate transaction process, the Applications Manual will identify:

- 1) Relevant laws and regulations;
- 2) Application, notification, or registration procedures;
- 3) Documents required;
- 4) Processing time; and
- 5) Fees.

The Department believes this manual will help explain the corporate application process. If you have questions about the content of the Applications Manual, please consult with the Corporate Manager or your assigned Supervisory Manager.

For bank related applications or registrations, unless otherwise noted herein, you may contact your Supervisory Manager, call 770-986-1633, or email [DBFCorp@dbf.state.ga.us](mailto:DBFCorp@dbf.state.ga.us).

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<sup>1</sup>In the event of any conflict between the Applications Manual and Georgia Law, the Department's rules and regulations, or the Department's Statement of Policy, such other provisions shall control over the Applications Manual.

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DEPARTMENT PROCEDURES  
BANK AND TRUST COMPANY CHARTERS

**1. LAW AND REGULATIONS**

Section 7-1-130 thru 134. Names, Registered Offices, and Advertising.  
Section 7-1-243. Restrictions on banking and trust nomenclature.  
Part 8 Incorporation of Banks and Trust Companies, Section 7-1-390 thru 398.  
Section 7-1-608(b)(3). Establishment of a de novo bank by a registered bank holding company.  
Section 7-5-1 thru 7-5-6. Credit Cards and Credit Card Banks.  
Chapter 80-1-1 Applications, Registrations and Notifications.  
Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.  
Chapter 80-6-1-.16 Expedited Processing Criteria for Holding Company Sponsored Bank Charters.

**2. POLICY STATEMENT**

See **Policy Statement on Bank Charters**.

**3. EXPEDITED PROCESSING**

Pursuant to O.C.G.A. Section 7-1-608(b)(3), a bank holding company registered with the Department and owning a bank that does a lawful banking business in this state may acquire control through the formation of a de novo bank in Georgia. If the application qualifies for expedited processing, the Department will normally act within 60 days of acceptance of the application or the end of the public comment period, whichever is later. For all other bank charter applications, particularly where the applicant will be an independent bank, regular processing procedures will be followed. Typically, the Department will act within 90 days of acceptance of the application.

**Criteria for Expedited processing of Bank Charter Applications:**

When the proposed institution is being established as a wholly-owned subsidiary of an “**eligible holding company**”, the processing period will be shorter and the application may be abbreviated under certain circumstances. An “eligible holding company” is defined as a bank or thrift holding company that:

- \$ has consolidated assets of \$150 million or more;
- \$ has an assigned BOPEC or Thrift Holding Company composite rating of “2” or better;
- \$ has a least 75% of its consolidated depository institution assets comprised of eligible depository institutions.

An “**eligible depository institution**” is one that: (1) has a composite CAMELS rating of “1” or “2”, (2) has a compliance rating of “1” or “2”, (3) has a Satisfactory or better CRA rating, (4) is well-capitalized as defined by the appropriate capital regulations of its primary federal regulator, and (5) is not subject to any form of administrative agreement (such as an MOU, Cease and Desist Order, Prompt Corrective Action, etc.) with its primary federal regulator or chartering authority. The definition of administrative agreement generally excludes a Board Resolution for minor supervisory matters. However, an application can be removed from expedited processing for various reasons, including, but not limited to the following:

- . Safety and soundness concerns of the Department dictate a more comprehensive review;
- . Any material adverse comment is received by the Department;
- . Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;
- . If applicable, any acquisition of fixed assets would cause the institution to exceed the state fixed asset limitation;
- . Any other good cause exists for denial or removal.

**NOTE:** *If the applicant meets all of the criteria above, with the exception of the holding company size criteria, the application could still be processed in a timely manner.* In such cases, the applicant should discuss the proposal with the Department prior to submitting the application.

**3a. PROCEDURES (EXPEDITED PROCESSING)**

Initial contact should be made by phone with the Corporate Manager at (770) 986-1645 or via e-mail at: [murali@dbf.state.ga.us](mailto:murali@dbf.state.ga.us).

- . When the entire organizers group has been formed, a meeting will be scheduled with the Commissioner, Senior Deputy Commissioner, and Deputy Commissioner for Supervision at the Office of the Department of Banking and Finance. A representative from the FDIC (and FRB, if applicable) will also be invited to attend the meeting. The application will be distributed during this meeting at no cost to the organizers.
- . Publication of the public comment notification required by Rule 80-1-1-.04 may commence no more than five days prior to submission of the application with the Department. This publication shall be published in a newspaper of

general circulation in the community in which the applicant's main office is located and in a newspaper of general circulation in any other community in which the applicant proposes to engage in business.

- . The application should be filed concurrent with the appropriate Federal regulator. The applicant will be notified within ten (10) business days of receipt of the application. The Department will notify the applicant when the application is substantially complete. The Department and the FDIC may waive a formal field investigation. However, if a field investigation is determined necessary, the field investigation will be joint with the Federal regulator, when possible.
- . For an application submitted under expedited processing, the Department should take action within 60 days of acceptance of the application unless the processing time is extended by a request of additional information prior to or during the investigation process.

**NOTE:** The application procedure will be extended in the event of any filing of a formal protest.

### **3b. DOCUMENTS REQUIRED (EXPEDITED PROCESSING)**

- . Application which should include the exact street address location of the proposed main office or a specific location. The application should include the following also:
  - ☒ Financial and Biographical forms on all proposed Directors, Officers, and shareholders of 10% or more of the stock to be offered.
  - ☒ Interagency Charter and Federal Deposit Insurance Application and all required exhibits. Please refer to specific exhibits and pages of exhibits on the application form itself.
  - ☒ Three year business plan.
  - ☒ CRA Statement.
  - ☒ Affidavit required by Section 7-1-391, included in the State Certificate for Application.

**NOTE:** An expedited application may be granted waivers on submission of certain financial and background information on the organizers. Where the de novo bank is purchasing and assuming the assets/liabilities of an existing branch(s), the amount of information required in support of the Convenience and Needs factor may be abbreviated since the bank would be replacing a competitor in the market.

- . Certificate of name reservation with the Secretary of State's Office pursuant to Code Section 7-1-131.
- . Articles of Incorporation with original signatures and a check made payable to the Secretary of State for the applicable fee. Publisher's affidavit and publication of the Articles as required by Code Section 7-1-392, should also be provided when available.
- . Publisher's affidavit and public comment publication as required by regulation, or joint publication with Federal regulator.
- . Verification of Lawful Presence/Citizenship Affidavit.
- . The filing fee as noted below.

### **4. PROCEDURES (REGULAR PROCESSING)**

- . When the entire organizers group has been formed, a meeting will be scheduled with the Commissioner, Senior Deputy Commissioner, and Deputy Commissioner for Supervision at the Office of the Department of Banking and Finance, with all proposed directors to be in attendance. A representative from the FDIC will also be invited to attend the meeting. The application will be distributed during this meeting at no cost to the organizers.
- . Publication of the public comment notification required by Rule 80-1-1-.04 may commence no more than five days prior to submission of the application with the Department. This publication shall be published in a newspaper of general circulation in the community in which the applicant's main office is located and in a newspaper of general circulation in any other community in which the applicant proposes to engage in business.
- . The application should be filed concurrent with the appropriate Federal regulator. The applicant will be notified within ten business days of receipt of the application. The Department will notify the applicant when the application is substantially complete and schedule a field investigation at that time. For the convenience of the applicant, the field investigation will be joint with the Federal regulator when possible.
- . For an application submitted under regular processing, the Department should take action within 90 days of acceptance of the application unless the processing time is extended by a request of additional information prior to or during the investigation process.

**NOTE:** The application procedure will be extended in the event of any filing of a formal protest.

### **4a. DOCUMENTS REQUIRED (REGULAR PROCESSING)**

- . Application which should include the exact street address location of the proposed main office or a specific location. The application should also include the following:

- ☒ Financial and Biographical forms on all proposed Directors, Officers, and shareholders of 10% or more of the stock to be offered.
- ☒ Interagency Charter and Federal Deposit Insurance Application and all required exhibits. Please refer to specific exhibits and pages of exhibits on the application form itself.
- ☒ Three year business plan.
- ☒ CRA Statement.
- ☒ Affidavit required by Section 7-1-391, included in the State Certificate for Application.
- . Certificate of name reservation with the Secretary of State's Office pursuant to Code Section 7-1-131.
- . Articles of Incorporation with original signatures and a check made payable to the Secretary of State for the applicable fee. Publisher's affidavit and publication of the Articles as required by Code Section 7-1-392, should also be provided when available.
- . Publisher's affidavit and public comment publication as required by regulation, or joint publication with Federal regulator.
- . Verification of Lawful Presence/Citizenship Affidavit.
- . The filing fee as noted below.

## **5. PROCESSING TIME**

Expedited Processing	60 days from acceptance, or end of the public comment period, whichever is later.
Regular Processing	90 days from acceptance

## **6. FEES**

Expedited Application Fee	\$10,000
Regular Application Fee	\$20,000
Application Fee (Credit Card Bank charter)	\$25,000
Pre-opening Investigation Fee	\$5,000
(to be paid at time of Request for Permit to Begin Business)	

## **BRANCH OFFICE (ESTABLISH OR RELOCATE)**

### **1. LAWS AND REGULATIONS**

Section 7-1-262 Power to Hold Real Estate  
Section 7-1-600 Definitions  
Section 7-1-601 Branch Offices  
Section 7-1-602 Applications for Branch Offices  
Section 7-1-603(d) Extension of Existing Banking Locations  
Section 7-1-628.8 Restrictions on de novo branches  
Section 7-1-628.9 Restrictions on purchase of branches  
Chapter 80-1-1 Applications, Registrations and Notifications, Generally  
Chapter 80-1-10 Fixed Assets and Assets Acquired D.P.C.  
Chapter 80-1-15 Extensions of Existing Offices and Facilities  
Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees Administrative Late Fees

### **INSIDER INVOLVEMENT AND FIXED ASSET LIMITATION**

If an insider is involved in the transaction or if the anticipated fixed asset investment will cause the bank to exceed 60% of Statutory Capital Base (SCB), the following information should be submitted for all applications:

- Details of insider involvement should be provided describing the individual's involvement. If appropriate, two independent appraisals of the property (or fair market value estimates of leased property) should be submitted.
- Where the proposed expansion will result in a greater investment in fixed assets than allowed by law, the bank must provide for an orderly plan for restoring the fixed asset investment to the 60% SCB limitation within not more than five years through either or both of the following means:
  - Regular annual depreciation charges consistent with current accounting regulations, or
  - Predetermined plans for restructuring the capital accounts to increase SCB to a sufficient level.

### **CRITERIA FOR EXPEDITED PROCESSING OF BANK APPLICATIONS**

- The bank must be well capitalized as defined in the appropriate capital regulation and guidance of the institution's primary Federal regulator;
- The bank must have received a CAMELS composite rating of "1" or "2" as a result of the most recent state or Federal examination;
- The bank must have a satisfactory or better Community Reinvestment Act rating from its primary Federal regulator at its most recent examination; and
- The bank must not be subject to any agreements, orders, prompt corrective action directives, or other enforcement or administrative agreements with the Department, its primary Federal regulator, or other chartering authority.
- In addition, the Department may deny or remove from expedited processing any bank's application where it finds that:
  - Safety and soundness concerns of the Department dictate a more comprehensive review;
  - Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;
  - Any acquisition of fixed assets that would cause the bank to exceed the fixed asset limitation; or
  - Any other good cause exists for denial or removal.

In the event the Department determines expedited processing is not available, the bank will be notified of the fact with the reason for the decision and instructions as how to proceed.

### **MOBILE BANKING UNITS**

Since a mobile unit will function as a branch, application for approval is made through this branch office process. Refer to Rule 80-1-15-.02 for additional ongoing requirements for mobile banking units.

### **2. EXPEDITED PROCESSING APPLICATION PROCEDURES**

A bank that qualifies for expedited processing must submit to the Department a letter form application from the bank or its representative which includes the following information: (1) the physical address of the proposed branch office; (2) a statement regarding whether or not an insider is involved in the acquisition, construction, or leasing of the property; (3) the anticipated fixed asset investment for this proposal (i.e., will the bank be in compliance with Rule 80-1-10-.01); and (4) a statement certifying that the applicant qualifies for the expedited procedure under the applicable qualifying criteria.

The Department will generally act on the application within 10 days of receipt. In the event the application does not qualify for expedited processing, the Department will use its best efforts to advise the applicant of this fact within two (2) business days of receipt. In such cases, the applicant may file an application that will be processed under regular processing procedures.

If the transaction involves the purchase and assumption of assets and/or deposits and would require a merger application

with the Federal regulator, a copy of the Federal application can be submitted in lieu of the Department's letter form application.

**2a. EXPEDITED PROCESSING DOCUMENTS REQUIRED**

- . Letter form application or application filed with the FDIC.
- . If the transaction involves a purchase and assumption that requires a merger application with the Federal regulator, then a letter form application as noted above accompanied with the application filed with the appropriate Federal regulator. In such cases, the Department will provide filing fee instructions after submission of the application.

The Department will accept the FDIC's application in lieu of the Department's application if the bank submits the application through secure e-mail.

**3. REGULAR PROCESSING APPLICATION PROCEDURES**

- . Applicant should complete and submit the Branch Office Application located on the Department's website - <http://dbf.georgia.gov>.
- . The Department will utilize its best efforts to notify the applicant of delivery within two business days of receipt of the application and the appropriate filing fee.

**3a. REGULAR PROCESSING DOCUMENTS REQUIRED**

- . Branch Office Application
- . The Department will provide filing fee instructions after submission of the application.

The Department will accept the FDIC's application in lieu of the Department's application if the bank submits the application through secure e-mail or postal mail. Electronic payment instructions will be provided by the Department after submission of the application. Payment must be remitted to the Department prior to acceptance of the application.

**4. PROCESSING TIME**

Regular Applications	30 days from receipt of completed application
Expedited Application	10 business days from date of receipt of completed application

**5. FEES\***

Regular Application	\$1,250
Expedited Application	None

\* In the case of an application to establish multiple branches related to a purchase and assumption transaction, the total application and investigation fee shall not exceed \$6,000 for regular applications.



## **REDESIGNATION OF BRANCH AND MAIN OFFICE**

### **1. LAWS AND REGULATIONS**

Section 7-1-600 Definitions

Section 7-1-601 Branch Offices

Section 7-1-602 Applications for Branch Offices

Chapter 80-1-1 Applications, Registrations and Notifications, Generally

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees Administrative Late Fees

### **2. APPLICATION PROCEDURE**

The bank must provide a letter form application to the Department. The application must include the following information: (1) detailed narrative of the proposed redesignation; (2) description of the overall condition of the bank; (3) anticipated costs of the redesignation; (4) disclosure of insider interests, and (5) calculation of the resultant level of fixed assets in relation to statutory limitations.

### **3. DOCUMENTS REQUIRED**

- . Letter form application as noted above. The Department will accept an application filed with the appropriate Federal regulator if all required information is contained therein.

### **4. PROCESSING TIME**

7 days from receipt

### **5. FEES**

None

\*Changes in the address of the main office may require an amendment to the Articles of Incorporation. Any amendments to the Articles of Incorporation will require additional procedures to those described above. Refer to the Articles of Incorporation section of this Applications Manual.

\*In the event the bank intends on closing the former main office as part of a redesignation, then the closing procedures for a bank location must be followed in addition to these procedures. Refer to the Branch Office Closing section of this Applications Manual.

## **BRANCH OFFICE CLOSING**

### **1. LAWS AND REGULATIONS**

Section 7-1-110.1 Posting Notice of Intent to Close Banking Business

Section 7-1-111 Emergency Closings

Chapter 80-1-1-.08 Procedures for Other Transactions, Expedited, Letter Form, and Notice Only Applications

Chapter 80-5-2 Temporary Changes in Operating Hours, Emergency Closings

Banks should review federal requirements for branch closings and consider possible effects on CRA compliance.

### **2. NOTIFICATION PROCEDURES – PRIOR NOTIFICATION**

The bank must provide a letter form notification to the Department. The notification must include the following information: (1) the location of the branch office; (2) a statement of the reasons and a summary of the information supporting the decision for closure; and (3) the anticipated closing date.

The bank must post notice at the subject location at least 30 days in advance of the intended closure. The bank must also disclose the closure on its website at least 30 days in advance of the intended closure. Such notice shall be posted for at least 30 consecutive days. Within two days of posting the notices, the bank must forward to the Department a copy of the notices posted at the location and on the website.

\*If the actual closing date is different from the originally submitted date contained in the letter form notification to the Department, the bank must inform the Department in writing of the actual effective action date within 15 days of the closing.

### **3. DOCUMENTS REQUIRED**

- . Letter form notification as detailed above. The Department will accept an application filed with the appropriate Federal regulator if all required information is contained therein.
- . Notices posted at the physical location and on the website. Notices must be forwarded to the Department within two days of posting.
- . Notification of new closing date if different from the anticipated date provided in the original notification to the Department.

### **4. PROCESSING TIME**

Department records will be updated at the time of notification. The Department will acknowledge receipt of the notification within 10 days.

### **5. FEES**

None

## **EMERGENCY CLOSING OF A BRANCH OR MAIN OFFICE**

Office closings due to emergency situations should be communicated to the Department as soon as transmission is feasible. Furthermore, banks should make every effort to reopen as quickly as possible to address the needs of their customers.

## **EXTENSION OF EXISTING OFFICES AND FACILITIES**

### **LAWS AND REGULATIONS**

Section 7-1-603 Extensions of Existing Banking Locations; Automated Teller Machines, Cash Dispensing Machines, Point-of-Sale Terminals, and Other Extensions

Chapter 80-1-1 Applications, Registrations and Notifications, Generally

Chapter 80-1-15 Extensions of Existing Offices and Facilities, Auxiliary Services

### **AUTOMATED TELLER MACHINE (ATM), CASH DISPENSING MACHINE, NIGHT DEPOSITORY, AND POINT OF SALE TERMINAL**

Consistent with Rule 80-1-1-.07, application and/or notification is **not** required for an ATM, Cash Dispensing Machine, Night Depository, or Point-of-Sale Terminal.

### **EXTENSIONS OF AN EXISTING FACILITY**

An extension that is 1) located within the boundary lines of a single contiguous area of property owned or leased by the bank and used as a banking location, or 2) within 200 yards of such banking location requires written notification to the Department. An extension does not have to be physically connected to the existing facility.

### **ALL OTHER EXTENSIONS**

The bank must provide a letter form application to the Department for all other banking extensions.

## **EXTENSION OF AN EXISTING FACILITY**

### **PRIOR NOTIFICATION PROCEDURES**

The bank must provide a letter form notification to the Department. The notification must include the following information: (1) exact location of proposed extension; (2) nature of service that will be performed at the extension; (3) distance of extension from bank; (4) ownership of the location; (5) cost of establishing the extension, and if site is to be leased, a copy of the proposed lease agreement; and (6) whether or not extension is connected to any banking location.

### **DOCUMENTS REQUIRED FOR EXTENSION OF EXISTING FACILITY**

- Letter form notification as detailed above

### **PROCESSING TIME FOR EXTENSION OF EXISITING FACILITY**

Department records will be updated at the time of notification. If the Department determines that the extension does not meet the requirements of O.C.G.A. § 7-1-603, communication will be provided to the bank within 10 days from receipt of the notification. In the event the Department does not make such determination, then the Department will acknowledge receipt of the notification within 10 days.

### **FEES**

None

## **ALL OTHER EXTENSIONS**

### **APPLICATION PROCEDURES**

The bank must provide a letter form application to the Department. The application must include the following information: (1) detailed narrative of the proposed extension; (2) anticipated costs of the extension; (3) distance of extension from closest bank location; (4) description of the overall condition of the bank; (5) disclosure of insider interests, and (6) calculation of the resultant level of fixed assets in relation to statutory limitations.

### **DOCUMENTS REQUIRED FOR ALL OTHER EXTENSIONS**

- Letter form application as detailed above. The Department will accept an application filed with the appropriate Federal regulator if all required information is contained therein.

### **PROCESSING TIME FOR ALL OTHER EXTENSIONS**

10 days from receipt

### **FEES**

None

## **REPRESENTATIVE OFFICE**

### **LAWS AND REGULATIONS**

Section 7-1-590 Definitions

Section 7-1-591 Establishment of Representative Office by Bank or Bank Holding Company Domiciled in State

Section 7-1-592 Establishment of Representative Office by Bank or Holding Company Domiciled in State or Outside of State; Conformance with Requirements of Primary Regulator

Section 7-1-593 Registration of Bank or Bank Holding Company having Representative Office in State

Chapter 80-1-1 Applications, Registrations and Notifications, Generally

### **GEORGIA STATE-CHARTERED INSTITUTIONS ESTABLISHING REPRESENTATIVE OFFICES**

A Georgia state-chartered bank, a bank holding company of a Georgia state-chartered bank, or their subsidiaries may establish representative offices anywhere in this state following registration with the Department. Additionally, Georgia state-chartered banks may conduct activities at any representative office outside of Georgia that are authorized by Georgia law or that are permissible for a bank chartered by the host state where the representative office is located, except to the extent that those activities are expressly prohibited by Georgia state law or order of the commissioner. If the activity is one that requires approval from the Department, such approval must be secured. Funds may not be disbursed and/or collected at a representative office.

### **FINANCIAL INSTITUTIONS NOT CHARTERED BY THE GEORGIA DEPARTMENT OF BANKING AND FINANCE**

Except for certain international bank representative offices, banks that are not chartered by the Georgia Department of Banking and Finance are **not** required to file any representative office application or notice with the Department. The appropriate application or notification should be filed with the home state regulator or the Office of the Comptroller of the Currency, as appropriate.

## **REPRESENTATIVE OFFICE OPENING**

### **REGISTRATION PROCEDURES**

The bank, bank holding company, or their subsidiary must provide a letter form registration to the Department. The "Registration of Representative Offices" form is located on the Department's website – <http://dbf.georgia.gov>.

### **DOCUMENTS REQUIRED FOR OPENING**

Online application as detailed above.

### **PROCESSING TIME**

Department records will be updated at the time of registration. The Department will acknowledge receipt of the registration within 10 days.

### **FEES**

None

## **REPRESENTATIVE OFFICE CLOSING**

### **NOTIFICATION PROCEDURES**

Prior to closing a representative office, a bank, bank holding company, or their subsidiary must post notice of the closing at such location at least 30 days in advance of the intended closure. The closure must also be disclosed on its website at least 30 days in advance of the intended closure and such notice shall be posted for at least 30 consecutive days. Within two days of providing the notice, the bank, bank holding company, or their subsidiary must forward to the Department a copy of the notice posted at the representative office as well as the disclosure contained on its website to the Department.

### **DOCUMENTS REQUIRED FOR CLOSING**

Notices posted at the physical location and on the website and forwarded to the Department within two days of posting.

### **PROCESSING TIME**

Department records will be updated at the time of notification. The Department will acknowledge receipt of the notification within 10 days.

### **FEES**

None

## **AUXILIARY SERVICES**

### **1. LAWS AND REGULATIONS**

Section 7-1-241 Restrictions on Engaging in Banking Business  
Chapter 80-1-1 Applications, Registrations and Notifications, Generally  
Chapter 80-1-15 Extensions of Existing Banking Locations

### **MESSENGER SERVICES**

Banks may provide messenger services in accordance with Rule 80-1-15-.03.

### **ACCOUNT SERVICE REPRESENTATIVES**

Banks may provide account service representatives in accordance with Rule 80-1-15-.04.

### **SCHOOL SAVINGS AND BANKING EDUCATION PROGRAMS**

Banks may participate in school savings and banking education programs in accordance with Rule 80-1-15-.05.

### **2. APPLICATION PROCEDURES**

The bank must provide a letter form application to the Department for messenger services, account service representatives, and school savings and banking education programs. The application must include the following information: (1) a detailed narrative of the proposed auxiliary service; (2) description of the overall condition of the bank; (3) anticipated costs; and (4) disclosure of insider interests. Additionally, the following information for specific applications should be detailed:

### **MESSENGER SERVICES**

Letter form applications must include the following information in addition to those elements listed above: (1) detail whether the service will be provided by the bank or a third party; (2) provide a copy of the Messenger Service Agreement; and (3) provide a copy of the Messenger Service Operating Procedures.

### **ACCOUNT SERVICES REPRESENTATIVES**

Letter form applications must include the following information in addition to those elements listed above: (1) detail the availability of access to the designated location for other financial institutions; and (2) confirm that account paying and receiving services will not be provided during visits other than an initial deposit into a new account.

### **3. DOCUMENTS REQUIRED**

- . Letter form application as noted above. The Department will accept an application filed with the appropriate Federal regulator if all required information is contained therein.

### **4. PROCESSING TIME**

10 days from receipt

### **5. FEES**

None

**DEPARTMENT PROCEDURES**  
**CONVERSION TO STATE CHARTERED BANK**

**1. LAW AND REGULATIONS**

Section 7-1-243. Restrictions on banking and trust nomenclature.

Section 7-1-293. Savings banks and state savings and loan associations.

Part 15 Conversions, Mergers, and Consolidations Involving National Banks or Federal Savings Banks Section 7-1-550 through 7-1-557.

Chapter 80-1-1 Applications, Registrations and Notifications.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

Rule 80-1-1-.08 Other Transactions which Require Approval.

**2. POLICY STATEMENT**

See **Policy Statement on Conversions.**

**3. PROCESSING**

Expedited processing will be accorded during the examination investigation which will be targeted based on the condition of the financial institution at the time of application.

**4. PROCEDURES**

- . A meeting with Management will be normally be conducted at the Department's main office prior to filing the application.
- . No public comment publication is required for a conversion since a financial institution already exists. However, if the closing of an office is involved, normal procedures for an office closing should be followed. Additionally, publication for the Articles of Conversion is required by law (Code Section 7-1-552).
- . A letter form application should be filed concurrent with the documentation required below. The applicant will be notified within ten business days of receipt of the application. The Department will notify the applicant when the application is substantially complete and schedule a field investigation at that time.
- . The Department should take action within 60 days of filing a completed application unless the processing time is extended by a request of additional information prior to or during the investigation process.

**4a. DOCUMENTS REQUIRED**

- .A letter form application.
- .Affidavit required by Section 7-1-391, included in the State Certificate for Application.
- .Certificate of name reservation with the Secretary of State's Office pursuant to Code Section 7-1-131, if the name will be changed.
- .Articles of Conversion with original signatures and a check made payable to the Secretary of State for the applicable fee.
- .Statement of undertaking of publication of the Articles of Conversion. This may be included in the articles or in a separate letter form statement.
- .A Board Resolution authorizing the Department to perform an investigation examination of the financial institution.
- .A list of all activities performed by the financial institution, banking or nonbanking, and any subsidiaries or affiliates and the activities which they perform. Also, provide a copy of the instrument that provides the legal authority to perform such activities (such as Articles of Incorporation or Bylaws).
- .A copy of any agreements or administrative action between the financial institution and regulatory authorities.
- .A copy of management's response to the most recent examination conducted by regulatory authorities.
- .A statement by the financial institution of whether or not it is in compliance with the fully phased-in capital standards prescribed under Section 5(t) of HOLA {12 U.S.C. 1464(t)}, including calculation of the relevant capital ratio. (Applicable to FSB only).
- .Interagency Biographical and Financial Report and credit report on all Directors, Officers, and shareholders of 10% or more of the bank/bank holding company stock.
- . Verification of Lawful Presence/Citizenship Affidavit.
- .The filing fee as noted below.

**Once the application has been accepted, a listing of additional information to be made available during the investigation will be forwarded to management. The processing time will be extended by the time necessary to obtain the information if it is not available at the time of the investigation examination.**

**5. PROCESSING TIME**

Regular Processing 60 days from acceptance of completed application

**6. FEES**

Regular Fee

\$20,000

## **DEPARTMENT PROCEDURES MERGERS**

### **1. LAW AND REGULATIONS**

Section 7-1-293. Savings banks and state savings and loan associations.

Section 7-1-530 thru 7-1-537. Merger and Consolidation of State Banks and Trust Companies.

Section 7-1-550 thru 7-1-557. Conversions, Mergers, and Consolidations Involving National Banks or Federal Savings Banks.

Section 7-1-606(e). Bank holding companies - Actions unlawful without prior approval of commissioner; exceptions.

Section 7-1-620 thru 7-1-627. Interstate Acquisitions of Banks and Bank Holding Companies.

Section 7-1-628 thru 7-1-628.15. Interstate Banking and Branching by Merger.

Chapter 80-1-1 Applications, Registrations and Notifications.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

#### **General Comments:**

- . If the application involves acquisition and immediate merger of a financial institution, refer to the procedures for holding company acquisitions also. The processing time will be the same as for a holding company acquisition.
- . If the application involves the merger of two affiliated financial institutions, no public comment publication is necessary since publication was made at the time of acquisition.
- . An out-of-state bank that is to be the resulting bank of an interstate merger transaction shall comply with the requirements of Section 7-1-628.5.

**NOTE:** If the resulting bank is a state chartered bank, Articles of Merger must be filed with the Department in accordance with Section 7-1-532, which also includes a publication requirement.

- . In the case of the merger of two holding companies, the Department approves the merger not the Articles of Merger. Articles of Merger are filed directly with the Secretary of State, not with the Department as in the case of a bank merger.
- . If the merger is for two holding companies which are already affiliates, a letter form application is all that is necessary since the transaction will be considered a restructure. A Certificate of Approval should be issued within seven days of receipt of the letter form application unless additional information is required.
- . If the merger is for two unaffiliated holding companies, the transaction will be treated as an acquisition by the resulting holding company with immediate merger of the holding company being acquired. See holding company acquisitions.

### **2. POLICY STATEMENT**

See **Policy Statement for Mergers.**

### **3. PROCESSING**

It is the Department's position that the current merger process is expedited as much as possible already. If the merger involves two depository institutions or two or more holding companies currently owned by the same holding company, the Department will act within seven (7) days of receipt of the application or, in the case of two or more depository institutions, upon receipt of the original signed Articles of Merger and Statement of Undertaking of the Publication, whichever is later.

Note: Publication containing the Articles of Merger, or where they are on file, is only required if the resulting bank is a state chartered bank. If the resulting bank is a national bank or a Federal thrift, no publication is required by the Department.

### **4. PROCEDURE**

- .File a letter form application and a copy of the application filed with the Federal regulator of the resulting financial institution.
- .If a state bank is the resulting bank, the applicant must also file in duplicate, Articles of Merger or Consolidation in compliance with Section 7-1-532.
- .If a consummation date has not been submitted as of the Department's approval date, the original Department approval certificate will be held in the Supervisory Division and, upon receipt of a written requested consummation date, will be forwarded to the Secretary of State along with one of the originally signed copies of the Articles of Merger and the fee made payable to the Secretary of State.

#### **4a. DOCUMENTS REQUIRED**

- .Letter form application and copy of application filed with the Federal regulator.
- .Articles of Merger in compliance with Section 7-1-532 (see also 7-1-628.4 if transaction involves an interstate merger).
- .Undertaking of publication of Articles if not included in Articles.

- .Secretary of State Name Reservation Certificate, if applicable and Secretary of State registration as a Foreign Corporation with Authority to do Business in the State of Georgia if an out-of-state bank is the resulting bank.
- .Department Fee, where applicable.
- .Check made payable to the Secretary of State for their fee which may include an additional \$100 fee for expedited treatment, if applicable.
- .A proforma balance sheet or statement of condition of the resulting financial institution should also be submitted if not included in the copy of the application filed with the Federal regulator.
- .Publisher's affidavit and copy of public comment notice if the merger involves two unaffiliated entities.
- .Interstate mergers only should also provide assurance of compliance with Section 7-1-628.5 which includes:
  - ☒ Part 19 regarding bank holding companies, if applicable. This requires registration of the out-of-state holding company and annual registration thereafter. The registration form will also ask for all locations in this state of the bank and holding company and their non banking affiliates, if any. The holding company or bank must also register as a "foreign corporation" with the Georgia Secretary of State's Office.
  - ☒ Provide notification of filing of an application with the appropriate Federal supervisory regulator no later than the date on which the application is filed. A copy of the application should also be included.
  - ☒ Provide satisfactory evidence of all required approvals from all relevant bank supervisory agencies prior to consummation.
  - ☒ Certification that all applicable Georgia laws and regulations have been satisfied and that while it maintains a branch in Georgia, that it will meet the conditions set forth in Part 20 and comply with all applicable Georgia laws and any rules issued under the laws of this state as well as any other orders or directives issued to the bank by the Commissioner.

#### **RESULTING STATE BANK ONLY:**

The supervisor of the out-of-state bank should agree to share with the Commissioner examination reports prepared by the supervisor and any other information deemed necessary by the Commissioner. This sharing should only be necessary in the event of serious problems with Georgia branches.

- ☐ The out-of-state bank must agree to make available to the commissioner any information that may be necessary to protect Georgia consumers.

#### **5. PROCESSING TIME**

Regular Processing                      7 days after receipt of required information (excluding original signed articles of merger.)

**Note:** If the Department has reviewed a copy of the **final articles**, the original may be transmitted to the Department on the proposed effective date if the applicant furnishes a courier to transmit the articles directly to the Secretary of State's Office and pays the expedited fee to the Secretary of State.

#### **6. FEES**

Regular Fee                                \$4,500

**NOTE:** If a merger is consummated simultaneously with an acquisition, or within six months of the approval date of the acquisition, there is no fee for the merger application. Subsequent mergers of two affiliated financial institutions will be considered a corporate reorganization and the merger application fee may be waived.



## DEPARTMENT PROCEDURES FIDUCIARY POWERS

### 1. LAW AND REGULATIONS

Section 7-1-242. Restrictions on corporate fiduciaries.

Section 7-1-243. Restrictions on banking and trust nomenclature.

Section 7-1-310 through 7-1-315. Powers of Trust Companies

Section 7-1-612. Power of banks to contract with other banks for trust services.

Chapter 80-1-1 Applications, Registrations and Notifications.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees

### 2. POLICY STATEMENT

See **Policy Statement for Fiduciary Powers**. Additionally, all banks must meet the following criteria before applying for fiduciary powers:

- . The depository institution must be well capitalized as defined in the appropriate capital regulation and guidance of the institution's primary Federal regulator;
- . The depository institution must have received a CAMELS composite rating of "1" or "2" as a result of the most recent state or Federal examination;
- . The depository institution must have a satisfactory or better Community Reinvestment Act rating from its primary Federal regulator at its most recent examination;
- . The depository institution must not be subject to any agreements, orders, prompt corrective action directives or other enforcement or administrative agreements with the Department or its primary Federal regulator or other chartering authority.
- . In addition, the Department may deny, any institution's application where it finds that:
  - ☒ Safety and soundness concerns of the Department dictate;
  - ☒ Other supervisory concerns, legal issues, or policy issues are present;

Applicants requesting the chartering of a trust company should refer to the Bank and Trust Charter section of the Policy Statement.

#### Fiduciary applications can be filed under one of three categories:

- . **Single Trust Power** - Used if the institution is applying to exercise one specific function, such as guardian of the estate of a minor.
- . **Limited Trust Powers** - Used by institutions wishing to exercise a few specific functions, such as guardian of the estate of a minor, agent for employee benefit accounts or other capacities not requiring extensive expertise.
- . **Full Trust Powers** - Used by applications who want to exercise full trust powers.

**NOTE:** In order to exercise any trust powers the applicant must be empowered to act as a bank **"and trust company"** in the Articles of Incorporation. If not, an Amendment of the Articles of Incorporation will be necessary which requires a two week publication. Refer to the section of Amendment of Articles or call the Department for instructions. If an Amendment of Articles is not applicable, no publication is required by the Department for approval of fiduciary powers.

### 3. PROCEDURE - SINGLE TRUST POWER

.File a letter form application containing the information and filing fee noted below.

.The applicant will be notified of the action on the application within seven business days after receipt of the application and/or receipt of additional information requested by the Department.

.The applicant must commence business of the trust activity within 12 months of approval.

#### 3a. DOCUMENTS REQUIRED - SINGLE TRUST POWER

.The applicant must file a letter form application addressing the following:

- ☒ A description of the proposed activity.
- ☒ A detailed analysis of any changes the new activity is expected to have on the bank's business plan.
- ☒ A three year estimate of income and expenses associated with this new activity.
- ☒ Information about the terms of the engagement.
- ☒ A resume of the proposed trust officer.
- ☒ A letter from the applicant's legal counsel stating that all documents and agreements related to the proposal have been reviewed.
- ☒ Assurance from management that the activity will be subject to at least a quarterly review by the Board of Directors or a Trust Committee appointed by the Board and that the trust activity will be included in the annual audit.

.Fee as noted below.

#### 4. PROCEDURE - LIMITED TRUST POWERS

- .File a letter form application containing the information and filing fee noted below.
- .The applicant will be notified of the action on the application within 15 days of receipt of the application and/or receipt of additional information requested by the Department.
- .The applicant must commence the trust activities within 12 months of approval.

#### 4a. DOCUMENTS REQUIRED - LIMITED TRUST POWERS

.Letter form application containing the following:

- ☒ A description of the types of fiduciary accounts that will be offered (Personal Trust, Corporate Trust, etc.) and a list of trust services that will be provided through contractual agreement, if any, pursuant to Section 7-1-612. Also, please indicate if any of the trust services will be acquired through successor trusteeship or correspondent relationship.
- ☒ A detailed analysis of any changes the new activity is expected to have on the bank's business plan.
- ☒ A three year estimate of income and expenses associated with this new activity.
- ☒ A resume of the proposed trust officer
- ☒ A listing of the proposed Trust Committee members and their fiduciary background (if any).
- ☒ A letter from the applicant's legal counsel stating that all documents and agreements regarding the proposal have been reviewed.
- ☒ A description of the methods to be used for record keeping of fiduciary accounts. If an off premises servicer is used, that servicer must be on the Department's approved list of servicers.

.Fee as noted below.

#### 5. PROCEDURE - FULL TRUST POWERS

- .Request an application from the Department and submit the completed application on forms provided by the Department together with the filing fee and a copy of the completed FDIC application.
- .The applicant will be notified of the action on the application within 30 days of receipt of the application and/or receipt of additional information requested.
- .The applicant must commence the trust activities within 12 months of approval.

#### 5a. DOCUMENTS REQUIRED - FULL TRUST POWERS

- .Completed Department application and a copy of completed FDIC application with all attachments.
- .Fee as noted below.

#### 6. PROCESSING TIME

Single Trust Power	7 business days from receipt of completed application
Limited Trust Powers	15 days from receipt of completed application
Full Trust Powers	30 days from receipt of completed application

#### 7. FEES

Single Trust Power	\$ 250
Limited Trust Powers	\$ 750
Full Trust Powers	\$1,250
New Trust Company (See Bank and Trust Charters)	\$20,000

**Note:** Notwithstanding any other provisions of law to the contrary, any bank or trust company which does not exercise trust powers as provided, whether or not such powers have been incorporated into its articles, may, **with the consent of the Department**, contract with any bank or trust company exercising trust powers to provide for the latter bank or trust company to offer trust services through the branches and offices of the former bank or trust company (Section 7-1-612).

## **DEPARTMENT PROCEDURES SUBSIDIARIES OF BANKS**

### **1. LAWS AND REGULATIONS**

Section 7-1-61. Rules and Regulations.

Section 7-1-261. Additional operational powers.

Section 7-1-288. Corporate stock and securities.

Rule 80-1-1-.08. Other Transactions which Require Approval.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

### **2. POLICY STATEMENT**

See **Policy Statement on Subsidiaries of Banks.**

### **3. EXPEDITED PROCESSING**

Where the bank meets expedite processing criteria, the application to acquire/establish a subsidiary will be deemed approved at the earlier of an approval letter from the Department or within 10 business days of receipt of all required information. If the proposed activity triggers some type of licensing or registration with another regulatory/government agency, the bank should ensure that these requirements are fully complied with prior to the subsidiary conducting the proposed activity.

#### **Criteria for Expedited Processing of an Application to Establish/Acquire a Subsidiary:**

- The depository institution must be well-capitalized (as defined in the appropriate capital regulation and guidance of the institution's primary Federal regulator) after deducting its investment in the subsidiary;
- The depository institution must have received a CAMELS composite rating of "1" or "2" as a result of the most recent state or Federal examination;
- The depository institution must have a satisfactory or better Community Reinvestment Act rating from its primary Federal regulator at its most recent examination;
- The depository institution must not be subject to any agreements, orders, prompt corrective action directives or other enforcement or administrative agreements with the Department or its primary Federal regulator or other chartering authority.
- In addition, the Department may deny or remove from expedited processing, any institution's application where it finds that:
  - ☒ Safety and soundness concerns of the Department dictate a more comprehensive review;
  - ☒ Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;
  - ☒ The activity prompts an application filing with the appropriate federal regulator (FDIC or FRB);
  - ☒ Any other good cause exists for denial or removal.

*The institution will be notified that expedited processing is not available, the reason, and instructions as to how to proceed.*

#### **3a. PROCEDURE (EXPEDITED PROCESSING)**

- File a letter form application indicating that the bank meets the expedited processing criteria and is in compliance with the Banking Factors described in the Policy Statement (see Documents Required below).
- The letter form application and supporting documentation should be forwarded to the appropriate Supervisory Manager.

#### **3b. DOCUMENTS REQUIRED (EXPEDITED PROCESSING)**

- Letter form application including the following:
  - ☒ A discussion of the particular functions that the corporation will perform; the relationship of these functions to banking and finance; and the risks associated with conducting these functions;
  - ☒ Details regarding the funding of the purchase/operations of the corporation;
  - ☒ A discussion of the future capital requirements of the entity;
  - ☒ Any other information deemed appropriate for the particular entity.
- Financial statement of subsidiary to be acquired if an existing corporation;
- If an existing corporation is to be purchased, detail the purchase price of the subsidiary;
- Statement as to whether an insider is involved in the transaction in any manner.
- Verification of Lawful Presence/Citizenship Affidavit.

### **4. PROCEDURE (REGULAR PROCESSING)**

*Where the applicant does not meet expedited criteria or an application to the FDIC or FRB is triggered by the type of subsidiary activity being proposed, the following processing procedures will apply:*

- . File a letter form application indicating that the bank is in compliance with the Banking Factors described in the policy statement.
- . The letter form application and supporting documentation should be forwarded to the appropriate Supervisory Manager.

#### 4a. DOCUMENTS REQUIRED

- . Letter form application including the following:
  - ☒ A discussion of the particular functions that the corporation will perform; the relationship of these functions to banking and finance; and the risks associated with conducting these functions;
  - ☒ Details regarding the funding of the purchase/operations of the corporation;
  - ☒ A discussion of the future capital requirements of the entity;
  - ☒ Any other information deemed appropriate for the particular entity.
- . Financial statement of subsidiary to be acquired if an existing corporation;
- . If an existing corporation is to be purchased, detail the purchase price of the subsidiary;
- . Statement as to whether an insider is involved in the transaction in any manner.
- . Verification of Lawful Presence/Citizenship Affidavit.
- . Filing fee noted below.

**NOTE:** If the proposed activity is not permissible for a national bank or triggers an application with the FRB or FDIC, a copy of the notice or application to be filed with the federal regulator may be submitted to the Department in lieu of or as a supplement to the letter form application as long as it contains all of the information detailed above.

#### 5. PROCESSING TIME

Expedited Processing	Earlier of an approval letter from the Department or 10 business days from receipt of a complete application
Regular Processing	30 days from receipt of complete application

#### 6. FEES

Expedited Processing	None
Regular Processing	\$500

#### COMMENTS:

Section 121(d) of the Gramm-Leach-Bliley Act (GLBA) amended the FDI Act by adding a new section 46, which provides in part that an insured state bank may control or hold interest in a subsidiary that engages as principal in activities that would be permissible for a national bank to conduct only through a “financial subsidiary” and subject to certain conditions. Under GLBA, financial subsidiaries are permitted to engage in specified, newly authorized activities that are financial in nature or in activities that are incidental to financial activities if the bank and the subsidiary meet certain requirements and comply with stated safeguards.

A state nonmember bank seeking to engage as principal in a financial subsidiary activity under Section 46(a) must comply with certain conditions listed in Section 46(a) of the FDI Act. Certain proposed activities not permissible for national banks or outside of the scope of Section 46(a) may be permissible for state banks, and the FDIC will continue to deal with these requests under Section 24 of the FDI Act (expanded bank powers) and Subpart A of Part 362 of the FDIC’s Rules and Regulations.

A financial subsidiary of a state member bank may conduct only three types of activities: (1) Activities that have been determined to be financial in nature or incidental to financial activities and permissible for financial holding companies under Section 4(k) of the Bank Holding Company Act of 1956 (These activities are listed in Section 225.86 of the FRB’s Regulation Y); (2) Activities that the state member bank is permitted to engage in directly, subject to the same terms and conditions that govern the conduct of the activity by the state member bank; and (3) Activities that the Secretary of the Treasury determines to be financial in nature or incidental to financial activities and permissible for financial subsidiaries of national banks pursuant to Section 5136A(b) of the Revised Statutes of the United States (12 U.S.C. 24a(b)).

If you are uncertain as to how the proposed subsidiary activity will be treated for federal purposes (i.e., is the activity permissible for a national bank or would notification or application to the primary federal regulator be necessary?), you should contact the bank’s primary federal regulator for guidance.

## **NAME PERMISSION, RESERVATION, AND CHANGE**

### **LAWS AND REGULATIONS**

Section 7-1-130. Permissible Names

Section 7-1-131. Reservation of Name

Section 7-1-243. Restrictions on Banking and Trust Nomenclature

### **NAME PERMISSION**

#### **APPLICATION PROCEDURES**

Entities seeking the Department's permission to use a name containing restricted word(s) should file the online application located on the Department's website at: <http://dbf.georgia.gov/webform/request-permission-use-bank-credit-union-trust-or-similar-words-name>. Sufficient documentation supporting the name request should be included with the application. If approval is granted, a letter will be sent to the applicant. Applicants receiving a name permission from the Department should follow the procedures outlined by the Secretary of State's Office for submission of the Department's approval letter.

#### **DOCUMENTS REQUIRED FOR NAME PERMISSION**

Online application as detailed above.

#### **PROCESSING TIME**

Name permissions will be acted upon within ten days of receipt of the application unless there are concerns about conformity with the statutory requirements.

#### **FEES**

None

### **NAME RESERVATION AND CHANGE**

#### **APPLICATION PROCEDURES**

Banks seeking a name reservation or change should submit a letter form application. The application should state whether the request is for a new bank and include the intended county for the main office, or for a change in the name of an existing bank. An amendment of the Articles of Incorporation is also required for a change in the name of an existing bank. If approval is granted, a letter will be sent to the applicant. The Department will transmit a copy of the approval letter to the Secretary of State's Office for name reservations and name changes.

#### **DOCUMENTS REQUIRED FOR NAME RESERVATION AND CHANGE**

- Letter form application as detailed above.
- If submitted by an existing bank, draft of the amended Articles of Incorporation.

#### **PROCESSING TIME**

Name reservations and changes will be acted upon within ten days of receipt of the application unless there are concerns about conformity with the statutory requirements. Name reservations are valid for a period of six months.

#### **FEES**

None

## **ADOPTION OF TRADE NAME**

### **1. LAWS AND REGULATIONS**

Section 7-1-130. Permissible Names

Section 7-1-243. Restrictions on Banking and Trust Nomenclature

Section 10-1-490. Business Using Trade, Partnership, or Other Name Now Showing Ownership to File Registration Statement; Indexing; Fee

### **2. NOTIFICATION PROCEDURES**

Applicant should submit a letter form notification stating the desired trade name and the county or counties in which that trade name will be used and registered.

### **3. DOCUMENTS REQUIRED**

- . Letter form notification as detailed above.
- . Effective date of trade name from the County Clerk's Office of Superior Court, if registered.

### **4. PROCESSING TIME**

Department records will be updated at the time of notification. If the Department determines that the trade name does not meet the requirements of O.C.G.A. § 7-1-130, communication will be provided to the bank within ten days from receipt of the notification. If the Department does not make such determination, then the Department will acknowledge receipt of the notification within ten days. Following the Department's acknowledgement, the applicant is directed to register the trade name with the County Clerk's Office of Superior Court in which the business will operate or in the county of its legal domicile as detailed in O.C.G.A. § 10-1-490.

### **5. Fees**

None

## CHANGE IN CONTROL OF A FINANCIAL INSTITUTION

## 1. LAW AND REGULATIONS

Section 7-1-230 through Section 7-1-236 Change in Control of Financial Institutions.

Rule 80-5-1-.03(2)(d) Examination, Supervision, Registration, Application and Other Fees for Banking Activities and Nonbank Subsidiaries of Banks or Holding Companies. Amended.

Rule 80-6-1-.05(2) Reports. Amended.

## 2. POLICY STATEMENT

See **Policy Statement for Change in Control.**

### 3. PROCESSING

The Department shall be given at least 60 days prior written notice of any proposed acquisition of a change in control. If the Department does not issue a notice disapproving the proposed acquisition within that time or extend the period the proposed acquisition shall stand approved.

## 4. PROCEDURE

.Any person proposing to acquire control of a financial institution must provide letter form notification to the Department.

.A copy of any filing with the primary Federal regulator should also accompany the notification.

.No publication is required; however, upon completion of the transaction, a report of change in control shall be filed with the Department.

## 5. DOCUMENTS REQUIRED

Letter form notification including the following:

- ☒ The identity, personal history, business background, and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a state or Federal court.
- ☒ A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the filing of the notice.
- ☒ The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.
- ☒ The identity, source and amount of the funds or other considerations used or to be used in making the acquisition and, if any part of these funds or other considerations have been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, or understandings with such persons.
- ☒ The plans and proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company, or to make any other major change in its business or corporate structure or management.
- ☒ The identification of any person employed, retained, or to be compensated by the acquiring party or by any person on his behalf to make solicitations or recommendation to stockholders for the purpose of assisting in the acquisition and a brief description of the terms of such employment, retainer, or arrangement for compensation.
- ☒ Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.
- ☒ Any additional relevant information in such forms as the Department may require by regulation or by specific request in connection with any particular notice.

. The fee as noted below.

## 6. FEES

Regular Fee	\$3,500
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**DEPARTMENT PROCEDURES  
CHANGES IN CAPITAL STRUCTURE**

**1. LAW AND REGULATIONS**

Section 7-1-414. Purchase, redemption and convertibility of shares and debt securities.  
Section 7-1-419. Subordinated securities.

**2. POLICY STATEMENT**

Refer to the **Policy Statement on Changes in Capital Structure**.

**3. EXPEDITED PROCESSING**

If all conditions required prior to filing an application are completed, the Department should act on approval of changes in capital structure within 10 business days of receipt of the completed application.

**4. PROCEDURE**

- . Applicants should file a letter form application containing the information required by law and any additional information that may be requested upon receipt of the application.
- . There is no public comment publication and no fee for this type application.

**5. DOCUMENTS REQUIRED**

- . Letter form application with the following information for conversion of preferred stock or subordinated securities to common stock:
  - ☒ Verification of enough authorized shares available for issuance of common stock, i.e., number of shares authorized and number of shares issued and outstanding.
  - ☒ If there are not enough shares authorized, the Articles will need to be amended. This will require the votes of a majority of the directors and shareholders to authorize an increase in the capital stock of the institution under Code Section 7-1-511.

**NOTE:** Any preferred shares subject to redemption shall be redeemable only pro rata or by lot or by such other equitable method as is selected by the board of directors, except as otherwise provided in the articles.

- . Letter form application with the following information for issuance of subordinated securities:
  - a. Statement that the securities are:
    - ☒ Subordinated in right of payment, in the event of insolvency or liquidation of the bank or trust company, to the prior payment of all deposits of the bank or trust company and of all claims of other creditors of the bank or trust company except to the holders of securities on a parity therewith and the holders of securities expressly subordinated thereto.
    - ☒ Authorized by the same votes of directors and shareholders as those required for authorization of an increase in capital stock of the bank or trust company under Code Section 7-1-511.
    - ☒ Contain provisions for amortization, serial maturities, transfers to a sinking fund, allocation of reserves, or other provisions sufficient to pay or to have paid at maturity all amounts due thereon.
  - b. Verification that the aggregate amount of the obligations of a bank or trust company in the form of subordinated securities shall at no time exceed 50 percent of the sum of the unimpaired capital stock, unimpaired paid-in capital, and appropriated retained earnings of the bank or the trust company.

**NOTE:** If at or after the payment or retirement of the subordinated securities of a bank or trust company there is or would be a deficiency in the capital stock of the bank or trust company, such fact shall be reported to the Department in advance of the payment or retirement. The Department may, upon receipt of such report, order a restoration of capital stock or take other appropriate remedial measures as needed.

- . Letter form application with the following information for a bank or trust company to acquire issued shares of its own common stock, which will then be considered treasury shares:
  - ☒ Description of the transaction;
  - ☒ Resolution of the board of directors;
  - ☒ A two-thirds affirmative vote of the shares entitled to vote;
- . Any additional information the Department may request.

**6. PROCESSING TIME**

Regular Processing                      10 business days from receipt of the completed application.

**7. FEES**

None



## **DEPARTMENT PROCEDURES BANK HOLDING COMPANY FORMATIONS**

### **1. LAW AND REGULATIONS**

Section 7-1-605. Bank holding companies - Definitions; when company deemed to control shares.  
Section 7-1-606. Bank holding companies - Actions unlawful without prior approval of commissioner; exceptions.  
Section 7-1-607. Bank holding companies - Registration, reporting, examinations, and control.  
Section 7-1-608. Bank holding companies - Lawful and unlawful acquisitions, formations and mergers.  
Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees  
Chapter 80-6-1 Holding Companies.

### **2. POLICY STATEMENT**

See **Policy Statement for Bank Holding Company Formations and Acquisitions.**

### **3. EXPEDITED PROCESSING**

If the applicant meets the qualifying criteria, expedited processing will be followed. If the application qualifies for expedited processing, the Department will act within 30 days of receipt of the application.

#### **Criteria for expedited processing of one bank holding company formations:**

- . The shareholder or shareholders who control at least 67% of the shares of the bank will control, immediately after the reorganization, at least 67% of the shares of the holding company in substantially the same proportion, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under state or Federal law;
- . No shareholder or group of shareholders acting in concert will, following the reorganization, own or control 10% or more of any class of voting shares of the BHC unless that shareholder or group of shareholders was authorized by the Department and the appropriate Federal banking agency for the bank, to own or control 10% or more of any class of voting shares of the bank;
- . The bank is adequately capitalized as defined in Section 38 of the Federal Deposit Insurance Act (12 USC § 1831o);
- . The bank has received at least a composite "1" or "2" rating at its most recent examination, in the event that the bank was examined;
- . At the time of the reorganization, neither the bank nor any of its officers, directors, or shareholders is involved in any unresolved supervisory or enforcement matters with any appropriate state or Federal banking agency;
- . The company demonstrates that any debt that it incurs at the time of the reorganization, and the proposed means of retiring this debt, will not place undue burden on the holding company or its subsidiary on a pro forma basis;
- . The holding company would not, as a result of the reorganization, acquire control of any additional bank or engage in any activities other than those of managing and controlling banks;
- . In addition, the Department may deny or remove from expedited processing, any institution's application where it finds that:
  - ☒ Safety and soundness concerns of the Department dictate a more comprehensive review;
  - ☒ Any material adverse comment is received by the Department;
  - ☒ Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;
  - ☒ Any other good cause exists for denial or removal.

In this event, the institution will be notified that expedited processing is not available, the reason, and instructions as to how to proceed.

#### **3a. PROCEDURES (EXPEDITED PROCESSING)**

- . A letter form application from the bank holding company or their legal representative will be filed providing a description of the transaction and stating that the application qualifies for expedited processing.
- . Acknowledgment of receipt of the application will be written by the Supervisory Division within seven (7) days of receipt of application and the required fee as noted below.

**NOTE:** The application will not be deemed to be received until the fee has been received also.

- . In the event the application does not qualify for expedited processing, Corporate will advise the applicant of this fact within seven calendar days of receipt of the application. In such case, the applicant may file an application that will be processed in the usual manner.

#### **3b. DOCUMENTS REQUIRED (EXPEDITED PROCESSING)**

- . Letter form application as noted above, accompanied by application filed with the appropriate Federal regulator.
- . Verification of Lawful Presence/Citizenship Affidavit.
- . The filing fee as noted below.

#### 4. PROCEDURE (REGULAR PROCESSING)

- . A letter form application will be filed accompanied by items (a) through (e) listed in Regulation 80-6-1-.02(1) of the Department of Banking and Finance.
- . The Department will acknowledge receipt of the application when it is complete and will act on the application within 60 days of acceptance.
- . For more detailed instructions, refer to **Instructions for Filing Applications for Bank Holding Company Formation and Acquisition.**

#### 4a. DOCUMENTS REQUIRED (REGULAR PROCESSING)

- . Letter form application accompanied by the following exhibits (one copy only of confidential exhibits):
  - ☒ A copy, one containing original signatures, of any form or documents filed with the Board of Governors of the Federal Reserve System;
  - ☒ A letter from the applicant's legal counsel containing a definitive statement concerning whether any securities to be issued in the proposed transactions are subject to registration under Federal and/or State securities laws and stating that the applicant is taking the necessary steps to comply with applicable Federal and State Laws and Regulations;
  - ☒ A draft copy of the proposed proxy statements or offering circulars or letters prepared in connection with the proposed acquisition;
  - ☒ A copy of the most recent independent audit, if any and if not already on file with the Department, of the applicant's books and records performed by independent public accountants;
  - ☒ Proof of publication of the notice required by Rule 80-6-1-.03. The applicant should publish the notice not more than 30 days prior to filing the application. In lieu of the State requirements, such publication may be in a form and location prescribed by the Federal Reserve Bank for such a transaction, or other Regulatory Authority having concurrent jurisdiction, provided it contains a reference to the Department of Banking and Finance with its address, as a regulator to whom comment should be sent.
- . Verification of Lawful Presence/Citizenship Affidavit.
- . Fee as noted below.

#### 5. PROCESSING TIME

Expedited Processing

30 days from receipt of completed application

Regular Processing

60 days from receipt of completed application

(Applications will be processed within the time frame noted above or the end of the public comment period, whichever is later).

#### 6. FEES

Expedited Fee

\$2,500

Regular Fee

\$3,500

Annual Registration

\$1,000

Plus \$500 for each Georgia non-bank subsidiary corporation of a Georgia bank holding company, excluding subsidiaries assessed pursuant to Paragraph 80-1-5-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Paragraph 80-5-1-.02(4).

There is **no** fee for a holding company formation, where the formation of the holding company involves the acquisition of a state-chartered *de novo bank*, that is filed simultaneously with or within 120 days of the bank charter application. The fee will be waived due to the payment of the higher fee for a *de novo bank* charter.

**NOTE:** A state bank must follow procedures and meet the criteria of the Federal Reserve Bank to become a financial holding company. No state application is necessary.

## **DEPARTMENT PROCEDURES HOLDING COMPANY ACQUISITIONS**

### **1. LAW AND REGULATIONS**

Section 7-1-605. Bank holding companies - Definitions; when company deemed to control shares.  
Section 7-1-606. Bank holding companies - Actions unlawful without prior approval of commissioner; exceptions.  
Section 7-1-607. Bank holding companies - Registration, reporting, examinations, and control.  
Section 7-1-608. Bank holding companies - Lawful and unlawful acquisitions, formations and mergers.  
Part 19 - Interstate Acquisitions of Banks and Bank Holding Companies, Section 7-1-620 through 7-1-627  
Part 20 - Interstate Banking and Branching by Merger, Section 7-1-628 through 7-1-628.15  
Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees  
Chapter 80-6-1 Holding Companies.

### **2. POLICY STATEMENT**

See **Policy Statement for Bank Holding Company Formations and Acquisitions**. The procedures for a holding company to acquire direct or indirect control of five percent to twenty-five percent of the voting shares of a financial institution shall be the same for permission to become a holding company.

### **3. EXPEDITED PROCESSING**

If the application qualifies for expedited processing, the Department will act within 30 days of receipt of the application or at the end of the 30 day comment period, whichever is later. If the applicant meets the qualifying criteria, expedited processing will be followed.

#### **Criteria for expedited processing of holding company acquisitions:**

1. Well-capitalized organization.
  - a) Bank holding company (BHC). Both at the time of and immediately after the proposed transaction, the acquiring BHC is well capitalized.
  - b) Insured depository institutions. Both at the time of and immediately after the proposed transaction:
    - i) The lead insured depository institution of the acquiring BHC is well capitalized;
    - ii) Well-capitalized insured depository institutions control at least 80% of the total risk-weighted assets of insured depository institutions controlled by the acquiring BHC;
    - iii) No insured depository institution controlled by the acquiring BHC is undercapitalized.
    - iv) Well capitalized and undercapitalized shall be as defined in the appropriate capital regulation and guidance of the applicable institution's primary Federal regulator.
2. Well-managed organization.
  - a) Satisfactory examination ratings. At the time of the transaction, the acquiring BHC, its lead insured depository institution, and insured depository institutions that control 80% of the total risk-weighted assets of insured depository institutions controlled by the BHC are well managed as defined by the Board of Governors of the Federal Reserve System, and have received "satisfactory" or better composite ratings at the most recent examination.
  - b) No poorly managed institutions. No insured depository institution controlled by the acquiring BHC has received one of the two lowest composite ratings at the institution's most recent examination or subsequent review by the state or appropriate Federal banking agency for the institution.
  - c) Recently acquired institutions excluded. Any insured depository institution that has been acquired by the BHC during the 12 month period preceding the date on which written notice is filed may be excluded from the preceding paragraph if:
    - i) the BHC has developed a plan acceptable to the Department for the institution to restore the capital and management of the institution;
    - ii) all insured depository institutions excluded under this paragraph represent, in the aggregate, less than ten (10) percent of the aggregate total risk-weighted assets of all insured depository institutions controlled by the BHC.
3. Convenience and needs criteria.
  - a) Effect on the community. The record indicates that the proposed transaction would meet the convenience and needs of the community standard in O.C.G.A. § 7-1-606(b) or the BHC Act;
  - b) Established CRA performance record. At the time of the transaction, the lead insured depository institution of the acquiring BHC and insured depository institutions that control at least eighty (80) percent of the total risk-weighted assets of insured institutions controlled by the BHC have received a satisfactory or better composite rating at the most recent CRA examination.
4. Public comment. No comment that is timely and substantive in response to any notice of a transaction is received by the Department or is made known to it by any other regulatory agency other than a comment that supports approval of the proposal.

5. Competitive criteria. Without regard to any divestitures proposed by the acquiring BHC, the acquisition does not cause:
  - a) Insured depository institutions controlled by the acquiring BHC to control in excess of 35% of market deposits in any relevant banking market;
  - b) The Herfindahl-Hirschman index to increase by more than 200 points in any relevant banking market with a post-acquisition index of at least 1800.
  - c) Any state or Federal agency with authority to find that the consummation of the transaction is likely to have a significant adverse effect on competition in any relevant banking market.
6. Size of acquisition.
  - a) Limited growth. Except as provided below, the sum of the aggregate risk-weighted assets to be acquired in the proposal and the aggregate risk-weighted assets acquired by the acquiring BHC in all other qualifying transactions does not exceed 35% of the consolidated risk-weighted assets of the acquiring BHC. For purposes of this paragraph "other qualifying transactions" means any transaction approved under 12 CFR Section 225.14 or 12 CFR Section 225.23 during the 12 months prior to filing the notice;
  - b) Individual size limitation. The total risk-weighted assets to be acquired do not exceed \$7.5 billion;
  - c) Small bank holding companies. The limited growth section shall not apply if, immediately following consummation of the proposed transaction, the consolidated risk-weighted assets of the acquiring BHC are less than \$300 million.
7. Supervisory Actions. During the 12 month period ending on the date on which the BHC proposes to consummate the proposed transaction, no formal administrative order, including a written agreement, cease-and-desist order, capital directive, prompt-corrective-action directive, asset-maintenance agreement or other formal enforcement action, is or was outstanding against the BHC or any depository institution subsidiary of the BHC, and no formal administrative enforcement proceeding involving any such enforcement action, order, or directive is or was pending.
8. Consummation of the transaction must not violate any provision of the Bank Holding Company Act.
9. In addition, the Department may deny or remove from expedited processing, any institution's application where it finds that:
  - a) Safety and soundness concerns of the Department dictate a more comprehensive review;
  - b) Any material adverse comment is received by the Department;
  - c) Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;
  - d) Any other good cause exists for denial or removal.

In this event, the institution will be notified that expedited processing is not available, the reason, and instructions as to how to proceed.

#### **4. PROCEDURES (EXPEDITED PROCESSING)**

- . A letter form application from the bank holding company or their legal representative will be filed providing a description of the transaction and stating that the application qualifies for expedited processing.
- . Acknowledgment of receipt of the application will be written by the Supervisory Division within seven days of receipt of application and the required fee, as noted below.

**NOTE:** The application will not be deemed to be received until the fee has been received also.

- . In the event the application does not qualify for expedited processing, Corporate will advise the applicant of this fact within 7 calendar days of receipt of the application. In such case, the applicant may file an application that will be processed in the usual manner.

#### **4a. DOCUMENTS REQUIRED (EXPEDITED PROCESSING)**

- . Letter form application as noted above, accompanied by application filed with the appropriate Federal regulator.
- . Publisher's affidavit and publication as required by Regulation 80-6-1-.03. The applicant should publish the notice not more than 30 days prior to filing the application. In lieu of the State requirements, such publication may be in a form and location prescribed by the Federal Reserve Bank for such a transaction, or other Regulatory Authority having concurrent jurisdiction, provided it contains a reference to the Department of Banking and Finance with its address, as a regulator to whom comment should be sent.

**NOTE:** A copy of the notice may be included and the publisher's affidavit filed after submission of the application; however action will not be taken on the application until the publisher's affidavit has been received.

- . The filing fee as noted below.

#### **5. PROCEDURE (REGULAR PROCESSING)**

- . Letter form application accompanied by items (a) through (e) listed in Regulation 80-6-1-.02(1) as referred by Regulation 80-6-1-.02(3) of the Department of Banking and Finance.
- . The applicant will be notified of acknowledgment of receipt of the application when it is complete and the Department will act on the application within 60 days of receipt of a complete application.
- . For more detailed instructions, refer to **Instructions for Filing Applications for Bank Holding Company**

### Formation and Acquisition.

### 5a. DOCUMENTS REQUIRED (REGULAR PROCESSING)

- Letter form application accompanied by the following exhibits (one copy only of confidential exhibits):
- ☐ A copy, one containing original signatures, of any form or documents filed with the Board of Governors of the Federal Reserve System;
  - ☐ A letter from the applicant's legal counsel containing a definitive statement concerning whether any securities to be issued in the proposed transactions are subject to registration under Federal and/or State securities laws and stating that the applicant is taking the necessary steps to comply with applicable Federal and State Laws and Regulations;
  - ☐ A draft copy of the proposed proxy statements or offering circulars or letters prepared in connection with the proposed acquisition;
  - ☐ A copy of the most recent independent audit, if any and if not already on file with the Department, of the applicant's books and records performed by independent public accountants;
  - ☐ Proof of publication of the notice required by Rule 80-6-1-.03. The applicant should publish the notice not more than 30 days prior to filing the application. In lieu of the State requirements, such publication may be in a form and location prescribed by the Federal Reserve Bank for such a transaction, or other Regulatory Authority having concurrent jurisdiction, provided it contains a reference to the Department of Banking and Finance with its address, as a regulator to whom comment should be sent.
- Fee as noted below

## 6. PROCESSING TIME

Expedited Processing	30 days from receipt of completed application
Regular Processing	60 days from receipt of completed application
To acquire 5% to 25%	15 days from receipt of completed application

(Applications will be processed within the time frame noted above or the end of the public comment period, whichever is later).

## 7. FEES

Expedited Fee	\$4,500
Regular Fee	\$6,000
To acquire 5% to 25%	\$3,500

Annual Registration	\$1,000
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Plus \$500 for each Georgia non-bank subsidiary corporation of a Georgia bank holding company, excluding subsidiaries assessed pursuant to Paragraph 80-1-5-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Paragraph 80-5-1-.02(4).

**DEPARTMENT PROCEDURES  
AMENDMENT OF ARTICLES OF INCORPORATION**

**1. LAW AND REGULATIONS**

Title 7 Part 13 Amendment of Articles, Section 7-1-510 through Section 7-1-516.

**2. POLICY STATEMENT**

A bank or trust company may, in the manner provided by law, amend its articles at any time in order to make any change therein which would then be authorized for inclusion in original articles including without limitation an amendment:

- To adopt a new name permitted to be used under this chapter;
- To renew the term for which it is to exist or to provide for perpetual duration;
- To change, add to, or diminish the statement of its purpose or purposes;
- To increase or diminish the aggregate number of shares which it has authority to issue or to reclassify the shares by changing the number, par value, designations, preferences, redemption provisions, or relative participating, optional, or other special rights of the shares or the qualifications, limitations, or restrictions of such rights, either with or without an increase or decrease in the number of shares;
- To restate the articles in their entirety;
- To change its main office location to a new location;
- In the case of a bank, to become a trust company and, in the case of a trust company, to become a bank, with or without retaining an existing capacity to engage in the banking or trust business as the case may be.

**3. EXPEDITED PROCESSING**

Acknowledgment of receipt of Articles of Amendment will be sent within two days of receipt of the articles. If necessary, a request for additional information will be included with the acknowledgment. Following receipt of completed required documentation, acceptable articles of amendment will be approved following the required two week publication notice.

**4. PROCEDURE**

- A letter form application to amend the articles should be submitted to the Supervisory Division along with the documentation listed below.

**5. DOCUMENTS REQUIRED**

- Certified copy of the Resolution by the Board of Directors as stated in Section 7-1-511.
- Articles of Amendment signed by two duly authorized officers of the bank or trust company under its seal, containing the items listed in Section 7-1-512, where applicable to the type of amendment being made.
- The fee required by Code Section 7-1-512, made payable to the Secretary of State of Georgia.
- A publisher's affidavit as proof of publication of the advertisement required by Code Section 7-1-513.

**NOTE:** If the amendment of articles involves a change in the name of a bank or trust company, it shall reserve the proposed new name under the application procedures for Name Reservations and Permissions.

**6. PROCESSING TIME**

Regular Processing	7 days from receipt of articles or upon receipt of publishers affidavit, whichever is later
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**7. FEES**

The fee required by Code Section 7-1-513, made payable to the Secretary of State of Georgia.

**DEPARTMENT PROCEDURES  
INTERNATIONAL BANK AGENCY**

**1. LAW AND REGULATIONS**

Article 5 of Chapter 1 of Title 7, International Banking Corporations and Bank Agencies, Sections 7-1-710 through Section 7-1-720

Chapter 80-7-1 Banking Activities in Georgia by Organizations Domiciled Outside of Georgia.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees

**2. POLICY STATEMENT**

Applicants seeking to establish an International Agency in this state should contact the Department for a meeting with the Deputy Commissioner for Supervision and the Corporate Manager. The application package will be distributed at that time, if applicable. The investigation process will be focused on a review of the country in which the bank is domiciled, the supervisory authority in that country, and background and management of the existing bank, as well as the activities to be conducted in this state.

**3. EXPEDITED PROCESSING**

Due to the diverse nature of the applicants, there is no expedited processing for international bank agencies.

**4. PROCEDURE**

Applicant should contact the Supervisory Division of the Department to discuss the proposal and schedule a meeting.

**5. DOCUMENTS REQUIRED**

- Filing of the application and supplemental information in support of the application, in duplicate with the Department.
- Completion of the Certificate of Designation.
- Completion of the Certificate of Appointment.
- Verification of Lawful Presence/Citizenship Affidavit.

**6. PROCESSING TIME**

Regular Processing                      90 days from receipt of completed application

**7. FEES**

Fee Type	Amount
Investigation Fee	\$5,000
Annual Registration Fee	\$2,000

**DEPARTMENT PROCEDURES  
INTERNATIONAL BANKING FACILITY**

**1. LAW AND REGULATIONS**

Article 5A of Chapter 1 of Title 7, Domestic International Banking Facilities, Sections 7-1-732 through Section 7-1-734  
Chapter 80-7-1 Banking Activities in Georgia by Organizations Domiciled Outside of Georgia.  
Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

**2. POLICY STATEMENT**

All applicants for an international banking facility should contact the Department to set up a meeting in order to discuss the process for application and approval of such a facility. The application package will be distributed at that time if applicable. "Domestic international banking facility" means the location within this state of any banking office, other than an "international bank agency," as defined in Code Section 7-1-710, which derives its funds (1) from sources outside of the United State, (2) from another domestic international banking facility, or (3) from temporary advances from its parent organization and employs those funds for banking purposes outside of the United State or through its parent organization, but does not accept deposits subject to check or draft.

Any bank, whether domiciled within this state or elsewhere and having total capital funds of \$25 million or more, as reported to its chartering authority as of December 31 of each year, may establish and operate a domestic international banking facility in this state upon compliance with Title 7, Chapter 1, Article 5A, Domestic International Banking Facilities, of the Financial Institutions Code of Georgia. Any bank having total capital funds of \$25 million or less may establish such facility upon compliance with Article 5A and upon obtaining the approval of the Department. The Department shall grant such approval only after it has satisfied itself that the registrant is financially sound, is operating in substantial conformity with all applicable laws and regulations, and is along with its principals, of good character and reputation.

**3. EXPEDITED PROCESSING**

Due to the diverse nature of the applicants, there is no expedited processing for international bank agencies.

**4. PROCEDURE**

Applicant should contact the Supervisory Division of the Department to discuss the proposal and schedule a meeting.

**5. DOCUMENTS REQUIRED**

- Completion of the application and supplemental information in support of the application.
- Completion of the Certificate of Designation.
- Certificate of Appointment.
- Verification of Lawful Presence/Citizenship Affidavit.

**6. PROCESSING TIME**

Regular Processing 30 days from receipt of completed application

**7. FEES**

Fee Type	Amount
Investigation Fee	\$5,000
Annual Registration Fee	\$2,000



**DEPARTMENT PROCEDURES**  
**AGENCY RELATIONSHIPS FOR THE PROVISION OF DIRECT BANK SERVICES**

**1. LAW AND REGULATIONS**

Section 7-1-594. Registration of banks or bank holding companies conducting agency relationships.

Chapter 80-1-2 Agency Relationships of Financial Institutions; Bank Service Contracts; Direct and Indirect Bank Services.

**2. POLICY STATEMENT**

A state financial institution may contract with another financial institution to provide certain services in a principal-agent relationship, provided both parties comply with the rules of the Department. Agency relationships shall comport with safety and soundness principles to protect the financial integrity of each financial institution and the accounts of its customers.

Banks or bank holding companies which are conducting agency relationships must register with the Department to ensure the orderly and safe transaction of the banking business and to protect the interest of the state's depositors and creditors. Each such bank or bank holding company shall register with the Department on forms prescribed by the Department, shall file according to regulations issued by the Department, and may be subject to a registration fee prescribed by regulations of the Department.

**3. DEFINITIONS**

**Agency Relationship:** A relationship created by a contractual agreement whereby a financial institution agrees with a third party, including another financial institution, to act in a principal or agent capacity to facilitate the conduct of activities related to the business of banking, which activities are currently authorized under this chapter or under other applicable law.

**Direct Bank Services:** Includes traditional banking functions such as taking deposits, paying checks and closing loans.

**Indirect Bank Services:** Includes those back office, support or enhancement type operations potentially provided by third parties, including but not limited to check and deposit sorting and posting; electronic and video systems for recording bank functions; computation and posting of interest and other credits and charges; preparation and marking of checks, statements, notices and similar items, bill payment and other services requested by customers which are provided by the bank through a third party; loan servicing; or other clerical, bookkeeping, accounting, statistical, customer support or similar functions which may be performed by a bank, whether performed on site or elsewhere, and regardless of the method of delivery.

**3a. PROCESSING**

Acknowledgment of receipt of the letter form application should be sent within 10 days of receipt of all required information and the Department shall decide whether to approve the offering of such services in the form proposed within 30 days after receipt of the complete application unless extended by the Department.

**4. PROCEDURE**

A Georgia bank wishing to act as principal or agent for the provision of **direct** bank services shall apply by letter to the Department for permission, and shall pay any applicable fee. The letter form application should be addressed to the Deputy Commissioner for Supervision.

**NOTE:** Indirect Bank Services are covered in the Notifications section of this manual. Banks wishing to contract with a third party for indirect bank services may do so by notification of the Department and will be responsible for making certain that certain contractual and safety and soundness requirements are met.

**5. DOCUMENTS REQUIRED**

- . The letter form application shall include:
  - ☒ Notice of intention to engage in an agency relationship and the desired effective date;
  - ☒ A description of the services proposed to be performed and at what locations;
  - ☒ A copy of the agreement; and
  - ☒ Relationship of principal to agent and proof of affiliation if applicable.

The agreement or contract must provide in clear and conspicuous form:

- ☒ All of the fees to be charged for services rendered;
- ☒ A full description of the services;
- ☒ The actual physical or technological operations contemplated in reasonable detail including provisions for

confidentiality and security;

- ☒ A procedure for resolution of customer problems with lost items or inaccuracies;
- ☒ Provisions for responsibility for risk of loss of items in transit or in process;
- ☒ A procedure for compliance with depository, privacy, funds availability and other applicable law by specific reference in reasonable detail;
- ☒ Methods for accounting and record keeping of items received and disbursed by agent bank; and
- ☒ Procedures for disclosure to customers of their rights and responsibilities under this arrangement.

## **6. PROCESSING TIME**

Regular Processing

30 days from receipt of completed application

## **7. FEES**

None

**DEPARTMENT PROCEDURES  
ORGANIZATION OF REAL ESTATE HOLDING SUBSIDIARIES**

**1. LAW AND REGULATIONS**

Section 7-1-262. Power to hold real estate; prior approval of acquisitions.  
Rule 80-1-10-.05 Organization of Real Estate Holding Subsidiaries. Amended.

**2. POLICY STATEMENT**

With the prior approval of the Department, any bank may invest in all of the outstanding capital stock of a subsidiary corporation organized for the purpose of owning bank premises which might be legally owned by such bank and such investment shall be included as fixed assets in determining whether the bank's total investment in fixed assets is within the limitations prescribed by law and regulation.

**3. REGULAR PROCESSING**

The Department shall acknowledge receipt of such request within five days of receipt thereof and should act on the application within 30 days of receipt of a substantially complete application.

**4. PROCEDURE**

Applicants should file a letter form application to the Deputy Commissioner for Supervision.

**5. DOCUMENTS REQUIRED**

The letter form application should include a proforma balance sheet of the Real Estate Holding subsidiary and the means for funding the acquisition of assets.

**6. PROCESSING TIME**

Regular Processing	30 days from receipt of a completed application
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**7. FEES**

None

**DEPARTMENT PROCEDURES  
APPROVAL TO LEASE REAL PROPERTY**

**1. LAW AND REGULATIONS**

Section 7-1-282. Direct Leasing of Personal and Real Property.  
Rule 80-1-5-.10 Real Estate Leasing.

**2. POLICY STATEMENT**

Under certain circumstances and with the prior approval of the Department, a bank may become the owner and lessor of real property. A bank that desires to lease real property under the conditions in Code Section 7-1-282 must make a letter application to the department to conduct the activity. The aggregate limit for such leasing for banks with a statutory capital base under \$20,000,000 shall be 100 percent of the bank's statutory capital base. Any higher amount desired must be approved in advance by the Department. The Department may at any time restrict the volume of business in this type of leasing if in its judgment there are concerns for safety and soundness of the operation.

**3. REGULAR PROCESSING**

The Department should act on the application within 30 days of receipt of a substantially complete application.

**4. PROCEDURE**

Applicants should file a letter form application to the Deputy Commissioner for Supervision.

**5. DOCUMENTS REQUIRED**

The letter form application should include:

- + A business plan that addresses the accounting, tax and legal implications of this type of leasing and the projected volume and scope of the activity;
- + Documentation of the experience and expertise of management that indicates ability to handle credit risk and administer the leasing program in conformity with accounting, legal and tax requirements;
- + Detailed risk analysis to include the potential impact of the activity on the financial and operating condition of the bank;
- + A copy of any required federal application and approval; and
- + Any other items requested by the Department.

**6. PROCESSING TIME**

Regular Processing	30 days from receipt of a completed application
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**7. FEES**

None

**DEPARTMENT PROCEDURES  
APPROVAL TO PAY DIVIDENDS**

**1. LAW AND REGULATIONS**

Section 7-1-460. Restrictions on payment of dividends; limitation of actions for dividends or distributions.  
Rule 80-1-12-.01 Dividends.

**2. POLICY STATEMENT**

Rule 80-1-12-.01 sets certain conditions which if met, the Board of Directors of any state-chartered bank in this State may declare and bank may pay cash dividends on its outstanding capital stock without any requirement to notify the Department or request the approval of the Department. Any dividend to be declared by the Board of Directors of a bank at a time when each of the conditions in Rule 80-1-12-.01 does not exist must be approved, in writing, by the Department prior to the payment thereof. Requests for approval of dividends shall be on forms prescribed by the Department.

**3. EXPEDITED PROCESSING**

The Department will approve or disapprove the payment of a dividend within five days of receipt of the request for payment of dividend form.

**4. PROCEDURE**

A bank which is required to obtain prior approval of the Department before payment of a dividend must submit the "Request for Approval of a Dividend" form to the Deputy Commissioner for Supervision at least two weeks prior to the date the dividend is to be paid. The form may be downloaded from the Department's website: <http://dbf.georgia.gov>.

**5. DOCUMENTS REQUIRED**

Request for **Approval of a Dividend**, Form 19-29.

**6. PROCESSING TIME**

Regular Processing	5 days from receipt of a completed application
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**7. FEES**

None

## **LOCKBOX OPERATIONS INVOLVING BANKS DOMICILED OUTSIDE OF GEORGIA**

A Lockbox Operation in this state by an out of state bank may be considered a “Business Production Office” which is a form of a “Representative Office” as discussed in Section 7-1-590 and shall include any corporate subsidiary of a bank domiciled outside of this State which maintains an office within this state. Consult Rule 80-7-1-.06 and Attorney General Opinions 85-3 and 85-43 for further information. Fees are consistent with the representative office fees.

**DEPARTMENT PROCEDURES  
INTERNATIONAL REPRESENTATIVE OFFICE**

**1. LAW AND REGULATIONS**

Section 7-1-721. International representative offices.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

Chapter 80-7-1 Banking Activities in Georgia by Organizations Domiciled Outside of Georgia.

**2. POLICY STATEMENT**

An international bank agency which does not transact a banking business or any part thereof in or through an office in this state but maintains an office in this state for other purposes shall be deemed to have an “international representative office.”

**3. PROCEDURE**

Applicants seeking to establish an International Representative Office in this state should contact the Department for a meeting with the Deputy Commissioner for Supervision. The Application for an International Representative Office will be distributed at that time. After the International Representative Office is approved, it will only be necessary to complete and file an annual International Representative Office registration form with the Department.

**4. DOCUMENTS REQUIRED**

- . Filing of the application and supplemental information in support of the application, in duplicate with the Department.
- . Initial applicants should also provide proof of approval by the state regulator in the state in which they are chartered in the United States, and proof of approval by the foreign regulator in the country in which the applicant is chartered.
- . Verification of Lawful Presence/Citizenship Affidavit.
- . Fee as noted below.

**5. FEES**

Initial and Annual Registration	\$1,000
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**DEPARTMENT PROCEDURES**  
**HOLDING COMPANY REGISTRATIONS INVOLVING AN OUT-OF-STATE BANK WITH BRANCHES IN**  
**GEORGIA**

**1. LAW AND REGULATIONS**

Part 19 - Interstate Acquisitions of Banks and Bank Holding Companies - Section 7-1-620 through Section 7-1-627.  
Section 7-1-605 through 7-1-612 as applicable in Part 19.

**2. PROCEDURE**

A bank holding company may acquire a bank in Georgia, and a bank holding company having its principal place of business in this state may acquire a bank having banking offices in another state upon compliance with the provisions of Code Sections 7-1-605 through 7-1-612 and in particular Code Section 7-1-606, which provisions shall be expressly applicable to any such acquisition. All out-of-state bank holding companies who own banks with locations in Georgia must register annually on forms prescribed by the Department. This includes holding companies of Federal thrifts also.

**NOTE:** An out-of-state bank holding company with a banking subsidiary which has branches in this state should list any nonbank subsidiaries with locations in Georgia as an addendum to their Bank Holding Company Registration form rather than as separate Representative Office registrations. This will avoid duplication of fees in most instances.

**3. DOCUMENTS REQUIRED**

- . Registration form for the holding company including a listing of all deposit taking locations as well as nonbanking subsidiary locations in the State of Georgia. The form for **Registration of Out of State Bank/Bank Holding Company with Banking Offices in Georgia** may be obtained from the Supervisory Division or at the Department's website at <http://dbf.georgia.gov>.
- . Verification of Lawful Presence/Citizenship Affidavit.

**4. FEES**

None



**DEPARTMENT PROCEDURES**  
**CONTRACTS FOR DIRECT OR INDIRECT BANK SERVICES**

**1. LAW AND REGULATIONS**

Section 7-1-72. Regulation of persons performing services for financial institutions.

Rule 80-1-2-.05 Bank and Credit Union Service Contracts: Requirements of Providers.

Rule 80-1-2-.06 Contracts for Direct or Indirect Bank Services.

**2. POLICY STATEMENT**

A state chartered bank that wishes to contract with a third party to provide direct or indirect bank services shall within 30 days of execution of such a contract, notify the Department in writing or provide to the Department a copy of the notification to its federal regulator. Compliant notification and recordkeeping shall constitute approval from the Department to contract with a third party. Such third party must comply with any state or federal licensing requirements if applicable.

Each entity that provides indirect or direct bank or financial services to a state financial institution subjects that person to examination and regulation by the department as if the person were a state financial institution, as authorized by Code Section 7-1-72.

**3. DEFINITIONS**

**Bank Service Contract:** A contract executed by a bank and a third party, to provide direct or indirect bank services to the bank.

**Direct Bank Services:** Includes traditional banking functions such as taking deposits, paying checks and closing loans.

**Indirect Bank Services:** Includes those back office, support or enhancement type operations potentially provided by third parties, including but not limited to check and deposit sorting and posting; electronic and video systems for recording bank functions; computation and posting of interest and other credits and charges; preparation and marking of checks, statements, notices and similar items, bill payment and other services requested by customers which are provided by the bank through a third party; loan servicing; or other clerical, bookkeeping, accounting, statistical, customer support or similar functions which may be performed by a bank, whether performed on site or elsewhere, and regardless of the method of delivery.

**4. PROCEDURE**

- . A state chartered bank that wishes to contract with a third party to provide direct or indirect bank services shall within 30 days of execution of such a contract, notify the Department in writing or provide to the Department a copy of the notification to its federal regulator.
- . Acknowledgment of receipt of notification will be sent within 10 days of receipt of the notification by the Department.

**5. DOCUMENTS REQUIRED**

Letter form notification to the Department or provide the Department a copy of the notification to its federal regulator.

**1. FEES**

None

**DEPARTMENT PROCEDURES  
PURCHASE OF REAL ESTATE FOR FUTURE EXPANSION**

**1. LAW AND REGULATIONS**

Law 7-1-262. Power to hold real estate; approval of acquisitions.

Rule 80-1-10-.02 Purchase of Real Estate for Future Expansion; Letter Notification.

**2. POLICY STATEMENT**

The purchase of real property for expansion purposes may be made without the prior consent of the Department and by only a letter notification when the real property is to be utilized as bank premises within five years of the date of purchase; the purchase of the real property does not result in the bank exceeding the fixed asset limitation; and the bank is not subject to any special requirements whereby the Department requires prior approval for such purchase. Where consent is required, it shall be granted only in those cases where the applicant bank provides reasonable assurance that it plans to utilize the property as bank premises within five years from the date of purchase and indicates the purpose for which the property is being acquired.

The ability to hold property for future expansion shall expire five years from the date of purchase unless the property is utilized as bank premises prior to that time. Banks holding property beyond the five year period must divest themselves of the property through sale unless the time limitation is extended by the Department.

**3. PROCEDURE**

- . Applicant must file a letter form notification to the appropriate Supervisory Manager when the conditions noted in the regulation have been met.
- . Acknowledgment of receipt of notification will be sent within seven days of receipt of the notification.

**4. DOCUMENTS REQUIRED**

- . Letter form notification which addresses the following:
  - ☒ Date of purchase, description and purchase price of the property.
  - ☒ Statement as to why the bank qualifies for letter notification under the provisions of the regulation.
  - ☒ Statement concerning the absence or involvement of an insider with appropriate certification that all provisions of Section 7-1-492 and the regulations of the Federal Reserve Board (Regulation O) have been met, if necessary.

**5. FEES**

None

**NOTE:** The acknowledgment of receipt of notification to purchase property for future expansion shall in no way be considered as approving the expansion program.

**DEPARTMENT PROCEDURES**  
**NONBANKING SUBSIDIARIES OF BANK HOLDING COMPANIES**

**1. LAW AND REGULATIONS**

Section 7-1-606. Bank holding companies - Actions unlawful without prior approval of commissioner; exceptions.  
Rule 80-6-1-.06 Non-Banking Acquisitions

**2. POLICY STATEMENT**

Whenever a Georgia bank holding company or a holding company owning a Georgia bank plans to engage in, or to acquire shares of stock in a company to be or which is currently engaged in, non-banking activities, the Department shall be notified of such intentions within 10 days of the filing of any application with the Federal Reserve System for approval to engage in such activities or acquire such shares. In the event Federal Reserve approval is not required, the Department shall be notified of such intent within 10 days after the Board of Directors of the holding company authorizes such specific activities or acquisition or, in lieu thereof, 10 days after any notice of engagement in such activities acquisitions is filed with the Federal Reserve.

**3. PROCESSING**

The Department should respond to the notification within 15 days of receipt of all information required.

**4. PROCEDURE**

The bank holding company should file a letter form notice within 10 days of filing of any application with the Federal Reserve System or within ten days after the Board of Directors of the holding company authorizes such activities or acquisition as noted above.

**5. DOCUMENTS REQUIRED**

A letter form notification containing the following information:

- . Name and principal location of the company to be acquired, if any;
- . Number of shares to be acquired, percentage of shares to be acquired to total shares outstanding, and price to be paid for such shares;
- . Sources of funds to be used to pay for such shares and, if borrowed funds are to be used, the terms of any borrowings;
- . Statement of Assets and Liabilities and Statement of Income for the most recent fiscal year and year-to-date on the company to be acquired or to otherwise be engaged in non-banking activities;
- . Nature of business in which company is engaged or is to be engaged;
- . Description of additional markets to be served and additional non-banking activities to be performed.

**6. FEES**

None at time of acquisition, however, annual registration fees of \$500 are required for each **Georgia** nonbank subsidiary of a Georgia bank holding company.

**DEPARTMENT PROCEDURES  
ACQUISITION BY A REGISTERED HOLDING COMPANY  
NOT REQUIRING DEPARTMENT APPROVAL**

**1. LAW AND REGULATIONS**

Section 7-1-623. Acquisitions not requiring Department approval.

**2. POLICY STATEMENT**

Subject to any applicable restrictions provided in subsection (b) of Code Section 7-1-622, a bank holding company having an out-of-state bank subsidiary with banking offices in Georgia may acquire a bank that does not have banking offices in this state, and a bank holding company that may or may not have an out-of-state bank subsidiary having only branch offices in Georgia, may acquire an out-of-state bank with branch offices in Georgia, but shall notify the Department at least 30 days prior to the consummation of the proposed transaction. Annual registration of the holding company with the Department is required as long as it has banking offices in Georgia.

**3. PROCEDURE**

- . The notification requirements shall be satisfied by furnishing the Department with a description of the transaction or a copy of the application or applications filed with applicable bank supervisory agencies seeking approval for the proposed transaction and such other information as the Department shall request.
- . Acknowledgment of receipt of the notification will be sent, or additional information will be requested, within 10 days of receipt of the notification.

**4. DOCUMENTS REQUIRED**

- . Letter form notification with copy of the application or applications filed with applicable bank supervisory agencies seeking approval for the proposed transaction. In lieu of furnishing the entire application, the applicant may submit a description of the transaction. The Department will request additional information, only if needed.
- . Additional information will be requested if necessary.

**5 FEES**

None

**DEPARTMENT PROCEDURES**  
**CHANGE IN CONTROL OF OUT-OF-STATE BANK THAT MAINTAINS A BRANCH IN THIS STATE**

**1. LAW AND REGULATIONS**

Section 7-1-628.13. Change in Control

**2. POLICY STATEMENT**

Each out-of-state state bank that has established and maintains a branch or which intends to establish a branch in this state or the person seeking to obtain control of the out-of-state state bank shall give to the commissioner at least 30 days written notice (or, in the case of an emergency transaction, such shorter notice as is consistent with applicable state or Federal law) of any merger, consolidation or other transaction that would cause a change of control with respect to such bank or any bank holding company that controls such bank, with the result that an application would be required to be filed pursuant to the Federal law.

**3. PROCESSING**

Acknowledgment of receipt of notification of change in control will be sent within 10 days of receipt of such completed notification.

**4. PROCEDURE**

Applicants should file a letter form notification including a copy of any applicable Federal filings.

**5. DOCUMENTS REQUIRED**

Letter form application with copies of any filings with Federal regulators.

**6. FEES**

None

## **DEPARTMENT PROCEDURES INTENT TO SELL INSURANCE**

### **1. LAW AND REGULATIONS**

Section 7-1-261. Additional operational powers.

Chapter 80-5-4 Regulations Regarding the Sale of Insurance by Financial Institutions.

Chapter 120-2-76 Sale of Insurance by Financial Institutions (INSURANCE DEPARTMENT REGULATION).

### **2. POLICY STATEMENT**

Insurance may be sold by financial institutions in Georgia, subject to regulations of the Department, regulations of the Office of the Commissioner of Insurance and other applicable state law including but not limited to O.C.G.A. Section 33-3-23. Sale of annuities by financial institutions is covered in Regulations Chapter 80-5-3.

Financial institutions may sell or market insurance through state licensed insurance agents. The agents may be either employees of the financial institution or independent agents who have contracted with the financial institution to sell insurance. Prior approval of the Department is not required for a financial institution to sell insurance, but policies and rules of the Department and the Office of the Commissioner of Insurance should be consulted.

### **3. PROCESSING**

The financial institution or its subsidiary should send a copy of the form filed with Office of the Commissioner of Insurance with this Department.

### **4. PROCEDURE**

- . Any financial institution that wishes to sell insurance must be licensed as an agency with the Office of the Commissioner of Insurance.
- . A copy of the form filed with the Office of the Commissioner of Insurance and any subsequent amendments to it should be filed with the Department.
- . Any out-of-state financial institution with a holding company, not currently registered with the Department, which is marketing or selling insurance products in this state must register said holding company with the Department of Banking and Finance.

### **5. DOCUMENTS REQUIRED**

- . A copy of the form filed with the Office of the Commissioner of Insurance.
- . If the form is for a subsidiary of a bank holding company, please provide the name of the bank holding company also, along with the name of the licensed agent and corporation which employs the agent, whether it is the financial institution directly or a nonbank subsidiary of a bank holding company.

### **6. FEES**

None

DEPARTMENT PROCEDURES  
**INCIDENTAL POWERS**

**1. LAW AND REGULATIONS**

Section 7-1-261. Additional Operational Powers  
Chapter 80-5-5 Incidental Powers.

**2. POLICY STATEMENT**

See **Policy Statement on Incidental Banking Powers** for detailed information regarding processing procedures and action steps to be taken in determining whether a proposed power is incidental to banking.

**3. PROCESSING**

All requests for incidental powers shall be reviewed by the assigned Supervisory Manager for a determination as to whether the proposed power is incidental to banking. The recommendation made by the Supervisory Manager will be forwarded to the Deputy Commissioner for Supervision. The Commissioner shall review such request, may request additional information, and after review of the overall economic and managerial condition of the institution, the complexity and risks involved in the activity, and the factors set out in Rule 80-5-5, as well as any other information deemed pertinent to the facts presented; shall reply by letter to the institution within 10 business days of receipt of complete information either granting, denying, or conditioning approval of the activity. In the event the Commissioner sustains a positive recommendation to consider the activity incidental to banking, this decision shall be included in the Monthly Bulletin of the Department, with an invitation for comments. The Commissioner shall review any comments received during this process and determine whether these comments should impact his or her recommendation regarding the proposed activity. In the event that the activity is approved, this information will be disclosed in the subsequent Monthly Bulletin of the Department.

**4. PROCEDURE**

An institution seeking such a specific power shall make a written application in letter form to the Commissioner.

**5. DOCUMENTS REQUIRED**

All requests for incidental banking powers shall be in letter form and shall contain, at a minimum, the following information:

- . A complete description of the power or activity that is being requested by the applicant;
- . An explanation by the applicant of why they believe the requested activity is incidental or complementary to banking;
- . An analysis of the proposed business structure of this activity, whether it is to be a bank subsidiary or division or some alternative structure;
- . The projected financial and operating impact of this activity upon the overall operations of the bank; and,
- . The proposed management structure for the activity.

**6. FEES**

None

**DEPARTMENT PROCEDURES  
CONVERSION, MERGER OR CONSOLIDATION  
OF STATE BANK OR TRUST COMPANY TO NATIONAL BANK OR TRUST COMPANY  
OR A FEDERAL SAVINGS INSTITUTION**

**1. LAW AND REGULATIONS**

Section 7-1-556. State bank or trust company to national bank or federal savings institution conversions, mergers, or consolidations.

**2. PROCEDURE**

A bank or trust company may convert into, or merge or consolidate with, a national bank or federal savings institution upon authorization by and compliance with the laws of the United States; and adoption of a plan of conversion, merger, or consolidation by affirmative vote of at least a majority of its directors; and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders.

**3. DOCUMENTS REQUIRED**

A state bank or trust company which converts into or merges or consolidates with a national bank shall notify the Department of the proposed conversion, merger, or consolidation. They must also provide the following:

- . Evidence of the adoption of the plan of conversion, merger, or consolidation by the stockholders, as the Department may request.
- . Notify the Department of any abandonment or disapproval of the plan.
- . File with the Department and with the Secretary of State a certificate of the approval of the transaction by the appropriate federal regulator.

The transaction will be effective upon compliance with these provisions or upon the notification of a specific effective date to the Department and the Secretary of State.

**4. FEES**

None