

February 12, 1953.

House File 291

Passed on File. By BANKS, BUILDING AND LOAN COMMITTEE.

Passed House, Date.....

Vote: Ayes..... Nays.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Approved

A BILL FOR

An Act relating to merger, consolidation, and conversion of national and state banks and trust companies.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Definitions.

2 1. 'Bank' means a state or a national bank. The singular

3 'bank' includes the plural 'banks' if the context warrants.

4 2. 'Continuing Bank' means a merging bank the charter of

5 which becomes the charter of the resulting bank.

6 3. "Converting Bank" means a bank converting from a state

7 to a national bank, or the reverse.

8 4. 'Merger' includes consolidation.

9 5. 'Merging Bank' means a party to a merger.

10 6. 'National Bank' means a national banking association

11 located in this state.

12 7. 'Resulting Bank' means the bank resulting from a merger

13 or conversion.

14 8. 'State Bank' means a bank or trust company chartered

15 under the laws of this state.

1 Sec. 2. Resulting National Bank.

2 1. Nothing in the law of this state shall restrict the
3 right of a state bank to merge with or convert into a resulting
4 national bank. The action to be taken by such merging or con-
5 verting state bank and its rights and liabilities and those of
6 its stockholders shall be the same as those prescribed for
7 national banks at the time of the action by the law of the
8 United States and not by the law of this state, except that a
9 vote of the holders of two-thirds of each class of voting stock
10 of a state bank shall be required for the merger or conversion,
11 and that on conversion by a state into a national bank the
12 rights of dissenting stockholders shall be those specified in
13 section nine (9) herein.

14 2. Upon the completion of the merger or conversion, the
15 certificate and charter of any merging or converting state bank
16 shall automatically terminate.

1 Sec. 3. Resulting state bank. Upon written approval by
2 the superintendent of banking, banks may be merged to result in
3 a state bank or a national bank may convert into a state bank
4 as hereafter prescribed, except that the action by a national
5 bank shall be taken in the manner prescribed by and shall be
6 subject to limitations and requirements imposed by the law of
7 the United States which shall also govern the rights of its
8 dissenting stockholders.

1 Sec. 4. Merger procedure: resulting state bank.

2 1. The board of directors of each merging state bank shall,
3 by a majority of the entire board, approve a merger agreement

4 which shall contain:

5 a. the name of each merging bank and location of each of-
6 fice.

7 b. with respect to the resulting bank: (1) Its name and
8 the location of the principal and of each additional office which
9 shall not be at places other than pre-existing offices of any
10 merging bank; (2) The name and residence of each director to
11 serve until the next annual meeting of the stockholders; (3)
12 The name and residence of each officer; (4) The amount of capital,
13 the number of shares and the par value of each share; (5) Whether
14 preferred stock is to be issued and the amount, terms, and
15 preferences; (6) The designation of the continuing bank, the
16 charter of which is to be the charter of the resulting bank,
17 together with the amendments to the continuing charter and to
18 the continuing by-laws.

19 c. Provisions governing the manner of converting the
20 shares of the merging banks into shares of the resulting state
21 bank.

22 d. A statement that the agreement is subject to approval
23 by the superintendent of banking and by the stockholders of
24 each merging bank.

25 e. Provisions governing the manner of disposing of the
26 shares of the resulting state bank not taken by dissenting
27 stockholders of merging banks.

28 f. Such other provisions as the superintendent of banking
29 may require to enable him to discharge his duties with respect

30 to the merger.

31 2. After approval by the board of directors of each
32 merging state bank, the merger agreement shall be submitted to
33 the superintendent of banking for approval, together with cer-
34 tified copies of the authorizing resolutions of each board of
35 directors showing approval by a majority of the entire board
36 and evidence of proper action by the board of directors of any
37 merging national bank.

38 3. Within thirty (30) days after receipt by the superin-
39 tendent of banking of the papers specified in subsection one
40 (1), the superintendent of banking shall approve or disapprove
41 the merger agreement, and if no action is taken, the agreement
42 shall be deemed approved. The superintendent of banking shall
43 approve the agreement if it appears that:

44 a. The resulting state bank meets the requirements of
45 state law as to the formation of a new state bank.

46 b. The agreement provides an adequate capital structure,
47 including surplus, in relation to the deposit liabilities of
48 the resulting state bank and its other activities which are to
49 continue or are to be undertaken.

50 c. The agreement is fair.

51 d. The merger is not contrary to public interest.

52 4. If the superintendent of banking disapproves an agree-
53 ment, he shall state his objections and give an opportunity to
54 the merging banks to amend the merger agreement to obviate such
55 objections.

1 Sec. 5. Merger; approval by stockholders of state banks.

2 1. To be effective, a merger which is to result in a
3 state bank must be approved by the stockholders of each merging
4 state bank by a vote of two-thirds of the outstanding voting
5 stock of each class at a meeting called to consider such action
6 which vote shall constitute the adoption of the charter and by-
7 laws of the continuing state bank, including the amendments in
8 the merger agreement, as the charter and by-laws of the result-
9 ing bank.

10 2. Notice of the meeting of the stockholders shall be
11 given by publication in a newspaper of general circulation in
12 the place where the principal office of each merging bank is lo-
13 cated, at least once a week for four (4) successive weeks, and
14 by mail, at least fifteen (15) days before the date of the meet-
15 ing, to each stockholder of record of each merging bank at his
16 address on the books of his bank, who has not waived such notice
17 in writing; no notice by publication need be given if written
18 waivers are received from the holders of two-thirds of the out-
19 standing shares of each class of voting stock. The notice shall
20 state that dissenting stockholders (other than those of the con-
21 tinuing bank) will be entitled to payment of the value of only
22 those shares which are voted against approval of the plan.

1 Sec. 6. *Effective date of merger: filing of approved agree-*
2 *ment certificate of merger as evidence.*

3 1. A merger which is to result in a state bank shall, un-
4 less a later date is specified in the agreement, become effec-

5 tive upon the filing with the superintendent of banking of the
6 executive agreement together with copies of the resolutions of
7 the stockholders of each merging bank approving it, certified
8 by the bank's president or a vice-president and a secretary.
9 The charters of the merging banks, other than the continuing
10 bank shall thereupon automatically terminate.

11 2. The superintendent of banking shall thereupon issue to
12 the resulting bank a certificate of merger, which shall consti-
13 tute a continuing charter, specifying the name of each merging
14 bank and the name of the resulting state bank. Such certifi-
15 cate shall be conclusive evidence of the merger and of the
16 correctness of all proceedings therefor in all courts and
17 places, and may be recorded in any office for the recording of
18 deeds to evidence the new name in which the property of the
19 merging bank is held.

1 Sec. 7. Conversion of national into state banks.

2 1. Except as provided in section ten (10), a national bank
3 located in this state which follows the procedure prescribed by
4 the laws of the United States to convert into a state bank may
5 be granted a state charter if the superintendent of banking
6 finds that the office of the national bank is legally in oper-
7 ation, that the resulting state bank will have an adequate capi-
8 tal structure, including surplus, in relation to its deposit
9 liabilities and its other activities, not less than the capi-
10 tal structure required for a new state bank and that the officers
11 and directors of the resulting bank are persons of sound judgment

12 and discretion.

13 2. The national bank may apply for such charter by filing
14 with the superintendent of banking a certificate signed by its
15 president and cashier and by a majority of the entire board of
16 directors, setting forth the corporate action taken in compli-
17 ance with the provisions of the laws of the United States govern-
18 ing the conversion of a national to a state bank; and the plan
19 of conversion and the proposed articles of incorporation, ap-
20 proved by the stockholders, for the operation of the bank as a
21 state bank.

1 Sec. 8. Continuation of corporate entity: use of old name.

2 1. A resulting state or national bank shall be considered
3 the same business and corporate entity as each merging bank or
4 as the converting bank with all the property, rights, powers,
5 duties, and obligations of each merging bank or the converting
6 bank, except as affected by the state law in the case of a re-
7 sulting state bank or the federal law in the case of a result-
8 ing national bank, and by the charter and by-laws of the result-
9 ing bank.

10 2. A resulting bank shall have the right to use the name
11 of any merging bank or of the converting bank whenever it deems
12 it more convenient to do so.

13 '8. Any reference to a merging or converting bank in any
14 writing, whether executed or taking effect before or after the
15 merger or conversion, shall be deemed a reference to the result-
16 ing bank if not inconsistent with the other provisions of such

17 writing.

1 Sec. 9. Dissenting stockholders.

2 1. The owner of shares of a state bank, (other than the
3 continuing bank) which were voted against a merger to result in
4 a state bank, or against the conversion of a state bank into a
5 national bank, shall be entitled to receive their value in cash,
6 if and when the merger or conversion becomes effective, upon
7 written demand, made to the resulting state or national bank at
8 any time within thirty (30) days after the effective date of
9 the merger or conversion accompanied by the surrender of the
10 stock certificates. The value of such shares shall be deter-
11 mined, as of the date of the stockholders' meeting approving the
12 merger or conversion, by three appraisers, one to be selected by
13 the owners of two-thirds of the shares involved, one by the
14 board of directors of the resulting state or national bank,
15 and the third by the two so chosen. The valuation agreed upon
16 by any two appraisers shall govern. If the appraisal is not
17 completed within ninety (90) days after the merger or conver-
18 sion becomes effective the superintendent of banking shall cause
19 an appraisal to be made.

20 2. The expenses of appraisal shall be paid by the resulting
21 state bank.

22 3. The resulting state or national bank may fix an amount
23 which it considers to be not more than the value of the shares
24 of a merging or the converting bank at the time of the stock-
25 holders' meeting approving the merger or conversion, which it

26 will pay dissenting shareholders of that bank entitled to pay-
27 ment in cash. The amount due under such accepted offer or under
28 the appraisal shall constitute a debt of the resulting state or
29 national bank.

1 Sec. 10. Trust powers. Where a resulting state bank is
2 not to exercise trust powers, the superintendent of banking
3 shall not approve a merger or conversion until satisfied that
4 adequate provision has been made for successors to fiduciary
5 positions held by the merging banks or the converting bank.

1 Sec. 11. Non-conforming assets or business. If a merging
2 or converting bank has assets which do not conform to the re-
3 quirements of state law for the resulting state bank or carries
4 on business activities which are not permitted for the result-
5 ing state bank, the superintendent of banking may permit a
6 reasonable time to conform with state law.

1 Sec. 12. Book value of assets. Without approval by the
2 superintendent of banking no asset shall be carried on the books
3 of the resulting bank at a valuation higher than that on the
4 books of a merging or converting bank at the time of its last
5 examination by a state or national bank examiner before the ef-
6 fective date of the merger or conversion.

1 Sec. 13. Severability. If any provision of this act or
2 the application thereof to any person or circumstance is held
3 invalid, such invalidity shall not affect other provisions or
4 applications of the act which can be given effect without the
5 invalid provision or application, and to this end the provisions

6 of the act are declared to be severable. The invalidity of any
 7 provision as to a national bank or as to the stockholders of a
 8 national bank shall not affect its validity as to a state bank
 9 or as to the stockholders of a state bank.

1 Sec. 14. Publication clause. This act being deemed of
 2 immediate importance shall be in full force and effect from and
 3 after its passage and publication in
 4 a newspaper published at, Iowa, and the
 5, a newspaper published at,
 6 Iowa.

EXPLANATION OF H. F. 291

This bill permits a national bank to convert to a state bank and a state bank to convert to a national bank.

Thirty states have now passed such enabling acts complementing the federal national bank merger act of 1950 (Public Law 706).

There is no express statute relative to merger or consolidation relative to banks although there are statutory provisions relative to merger or consolidation of any two or more corporations (Chapter 491, Iowa Code), though it is not clear whether these provisions would include banks. This bill would clarify these provisions. This bill further sets up the machinery and methods whereby banks may convert without first liquidating and losing their entity. Presently neither a state bank may convert into a national bank, nor a national bank into a state bank, without first liquidating and losing its entity. If this bill is enacted into law there will be free opportunity for both state and national banks, as the case may be, to convert, merge, or consolidate and at the same time preserve their entity.