

534.511 Merger.

1. *Merger defined.* As used in this section, the terms "*merger*" or "*merge*" means any plan by which the assets and liabilities of an entity are combined with those of one or more other entities, including transactions in which one of the corporate entities survives and transactions in which a new corporate entity is created.

2. *Types authorized.* An association may merge only with one or more other state associations, federal associations, association holding companies, bank holding companies, or banks.

3. *Plan of merger.* The board of directors of each merging entity shall approve an identical plan of merger by a majority vote of all directors then serving. The plan shall include the following:

- a. The proposed name of the surviving organization.
- b. The proposed articles of incorporation of the surviving organization.
- c. The proposed bylaws of the surviving organization.
- d. The effect of the merger on each type of member or each class of stockholders.
- e. Other information required by the superintendent.

4. *Superintendent of savings and loan associations' approval.* The plan of merger shall be submitted to the superintendent of savings and loan associations for approval. The superintendent shall reject the plan based on any of the following determinations:

- a. The plan is inconsistent with applicable statutes or regulations.
- b. The plan does not contain all required information.
- c. The plan is inequitable to a class of members or stockholders.

The superintendent shall notify the organizations which submitted the plan of the superintendent's decision, and the reasons for rejection if the plan is rejected.

5. *Superintendent of banking's approval.* The plan of merger shall be submitted to the superintendent of banking for approval if the proposed merger is with or into a bank or bank holding company. The superintendent of banking shall reject the plan based on any of the following determinations:

- a. The plan is inconsistent with applicable statutes or regulations.
- b. The plan does not contain all required information.
- c. The capital structure of the resulting organization will not be adequate in relation to its anticipated business.
- d. The plan does not provide for the closing or sale of all of the offices which must be discontinued in order for the resulting organization to have only those office locations which a resulting bank would be authorized under chapter 524 to apply for and have approved on the effective date of the merger if it had no bank office locations in operation on that date.

The superintendent of banking shall notify the organization which submitted the plan of the superintendent of banking's decision, and the reasons for rejection if the plan is rejected. The organization may amend and

resubmit the plan in response to a notification of rejection.

6. *Member or stockholder approval.* The plan of merger must be approved at an annual meeting of members or stockholders, or at a special meeting called to consider the plan, by a majority vote of the members represented in person or by proxy of each of the mutual associations or federal mutual associations included in the plan, or a majority vote of each class of voting stock represented in person or by proxy of each of the stock associations, federal stock associations, bank holding companies or banks included in the plan. If so approved, a copy of the minutes of the meeting, certified and acknowledged by the secretary or assistant secretary, shall be filed with the superintendent.

7. *Receivership.* If a receiver has been appointed for any association included in the plan of merger, the receiver shall act in place of the board of directors and the members or stockholders, and the plan must also be approved by the court by which the receiver was appointed.

8. *Certification.* The superintendent shall prepare a certificate of merger upon the occurrence of all of the events stated in subsections 3, 4, 5, 6, and 7. This certificate shall include the name of the surviving association, federal association, or bank and the effective date of the merger. The original certificate shall be filed with the secretary of state. The superintendent shall provide a certified copy of the certificate to any person upon payment of a five dollar fee. A certified copy of this certificate is sufficient proof of the merger for purposes of establishing liability for debts or the ownership of assets as provided in section 534.512, subsections 1 and 2. An association involved in a merger may transfer assets or receive assets under the plan of merger only after the certificate of merger has been issued by the superintendent.

9. *Competition preserved.* A merger under this section shall not prevent the subsequent incorporation of another bank in the community in which the merged association is located, and the superintendent of banking shall not find the merger to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, subsection 1, paragraph "b" or "c". A merger under this section shall not prevent the subsequent incorporation of another association in the community in which the merged association is located, and the superintendent of savings and loan associations shall not find the merger to be grounds for disapproving the incorporation of another association in the same community under this chapter.

10. *Limitations.* Nothing contained in this chapter shall be construed to authorize an association to merge with or be acquired wholly or in part by a foreign institution unless all applicable laws and regulations of the United States would specifically authorize a merger with or acquisition by a foreign institution. For purposes of this subsection the term "*foreign institution*" means a federal association whose home office is located in another state, a bank whose home office is located in another state, or a bank holding company which is with respect to the state of Iowa an "*out-of-state bank holding company*" as defined or referred to in 12 U.S.C. § 1842(d), and for purposes of this subsection the words "*acquire*" or "*acquisition*" mean to directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any association or the power to control in any manner the election of a majority of the directors of any association.

19. [S13, § 1907-b, -c; C24, 27, 31, 35, 39, § **93669370**; C46, 50, 54, 58, § 534.64534.68; C62, 66, 71, 73, 75, 77, 79, 81, § 534.36534.40; 82 Acts, ch 1253, § 32]

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C83, § 534.94, § 534.97

C85, § 534.511

88 Acts, ch 1158, §85; 90 Acts, ch 1208, §17

