

ACT 119

S. B. NO. 1035

A Bill for an Act Relating to Bank Mergers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 404-4, Hawaii Revised Statutes, is amended to read as follows:

“Section 404-4. Merger procedure; resulting state bank. (a) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

- (1) The name of each merging bank and location of each office;
- (2) With respect to the resulting bank:
 - (A) The name and location of the principal and the other offices;
 - (B) The name and residence of each director to serve until the next annual meeting of the stockholders;
 - (C) The name and residence of each officer;
 - (D) The amount of capital, the number of shares and the par value of each share;
 - (E) Whether preferred stock is to be issued and the amount, terms, and preferences;
 - (F) The amendments to its charter and bylaws;
- (3) Provisions governing the manner of converting the shares of the merging banks into shares of the resulting state bank or of distributing cash or any other property, in whole or in part, in lieu of or par-

tially in lieu of shares of the resulting state bank to stockholders of the merging banks or any class of them;

- (4) A statement that the agreement is subject to approval by the director of regulatory agencies and by the stockholders of each merging bank;
- (5) Provisions governing the manner of disposing of the shares of the resulting state bank not taken by dissenting shareholders of merging banks;
- (6) Such other provisions as the director requires to enable him to discharge his duties with respect to the merger.

(b) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the director for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board, and together with evidence of proper action by the board of directors of any merging national bank.

(c) Within thirty days after receipt by the director of the papers specified in subsection (a) the director shall approve or disapprove the merger agreement, and if no action is taken, the agreement shall be deemed approved. The director shall approve the agreement if it appears that:

- (1) The resulting state bank meets the requirements of state law as to the formation of a new state bank;
- (2) The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;
- (3) The agreement is fair;
- (4) The merger is not contrary to the public interest.

(d) If the director disapproves an agreement, he shall state his objections and give an opportunity to the merging banks to amend the merger agreement to obviate the objections.

(e) Nothing in this chapter shall be construed to require the approval by any state authority for any state bank to convert into and merge or consolidate with national banking associations as provided by federal law.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1972.)

*Edited accordingly.