

automatically terminate when its conversion into or its merger or consolidation with a State bank under a State charter is consummated and the resulting State bank shall be considered the same business and corporate entity as the national banking association, although as to rights, powers, and duties the resulting bank is a State bank. Any reference to such national banking association in any contract, will, or document shall be considered a reference to the State bank if not inconsistent with the provisions of the contract, will, or document or applicable law.

(Aug. 17, 1950, ch. 729, §3, 64 Stat. 456.)

#### § 214c. Conversions in contravention of State law

No conversion of a national banking association into a State bank or its merger or consolidation with a State bank shall take place under this subchapter and section 321 of this title in contravention of the law of the State in which the national banking association is located; and no such conversion, merger, or consolidation shall take place under said sections unless under the law of the State in which such national banking association is located State banks may without approval by any State authority convert into and merge or consolidate with national banking associations under limitations or conditions no more restrictive than those contained in section 214a of this title with respect to the conversion of a national bank into, or merger or consolidation of a national bank with, a State bank under State charter.

(Aug. 17, 1950, ch. 729, §4, 64 Stat. 456; July 12, 1952, ch. 696, 66 Stat. 590; Sept. 3, 1954, ch. 1263, §25, 68 Stat. 1235.)

#### Editorial Notes

##### AMENDMENTS

1954—Act Sept. 3, 1954, substituted “this subchapter and section 321 of this title” for “sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title”.

1952—Act July 12, 1952, amended section so that the limitation of this section beyond which State law cannot go will be measured by the standard set out in section 214a of this title for National-to-State conversions.

#### § 214d. Prohibition on conversion

A national banking association may not convert to a State bank or State savings association during any period in which the national banking association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Comptroller of the Currency with respect to a significant supervisory matter.

(Aug. 17, 1950, ch. 729, §10, as added Pub. L. 111-203, title VI, §612(a), July 21, 2010, 124 Stat. 1612.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

#### SUBCHAPTER XVI—CONSOLIDATION AND MERGER

#### § 215. Consolidation of banks within same State

##### (a) In general

Any national bank or any bank incorporated under the laws of any State may, with the approval of the Comptroller, be consolidated with one or more national banking associations located in the same State under the charter of a national banking association on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each association or bank proposing to consolidate, and be ratified and confirmed by the affirmative vote of the shareholders of each such association or bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of such State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or bank is located, or, if there is no such newspaper, then in the paper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State bank.

##### (b) Liability of consolidated association; capital stock; dissenting shareholders

The consolidated association shall be liable for all liabilities of the respective consolidating banks or associations. The capital stock of such consolidated association shall not be less than that required under existing law for the organization of a national bank in the place in which it is located: *Provided*, That if such consolidation shall be voted for at such meetings by the necessary majorities of the shareholders of each association and State bank proposing to consolidate, and thereafter the consolidation shall be approved by the Comptroller, any shareholder of any of the associations or State banks so consolidated who has voted against such consolidation at the meeting of the association or bank of which he is a stockholder, or who has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him when such consolidation is approved by the Comptroller upon written request made to the consolidated association at any time before thirty days after the date of consummation of the consolidation, accompanied by the surrender of his stock certificates.

**(c) Valuation of shares**

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the consolidation, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the consolidated banking association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

**(d) Appraisal by Comptroller; expenses of consolidated association; sale and resale of shares; State appraisal and consolidation law**

If, within ninety days from the date of consummation of the consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the consolidated banking association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the consolidated banking association. Within thirty days after payment has been made to all dissenting shareholders as provided for in this section the shares of stock of the consolidated banking association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the consolidated banking association at an advertised public auction, unless some other method of sale is approved by the Comptroller, and the consolidated banking association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders the excess in such sale price shall be paid to such shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such consolidation shall be in contravention of the law of the State under which such bank is incorporated.

**(e) Status of consolidated association; property rights and interests vested and held as fiduciary**

The corporate existence of each of the consolidating banks or banking associations partici-

pating in such consolidation shall be merged into and continued in the consolidated national banking association and such consolidated national banking association shall be deemed to be the same corporation as each bank or banking association participating in the consolidation. All rights, franchises, and interests of the individual consolidating banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the consolidated national banking association by virtue of such consolidation without any deed or other transfer. The consolidated national banking association, upon the consolidation and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, and receiver, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the consolidating banks or banking associations at the time of consolidation, subject to the conditions hereinafter provided.

**(f) Removal as fiduciary; discrimination**

Where any consolidating bank or banking association, at the time of the consolidation, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, or receiver, or in any other fiduciary capacity, the consolidated national banking association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such consolidating bank or banking association prior to the consolidation. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the consolidated national banking association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any consolidated national banking association be removed solely because of the fact that it is a national banking association.

**(g) Issuance of stock by consolidated association; preemptive rights**

Stock of the consolidated national banking association may be issued as provided by the terms of the consolidation agreement, free from any preemptive rights of the shareholders of the respective consolidating banks.

(Nov. 7, 1918, ch. 209, §2, formerly §1, as added Pub. L. 86-230, §20, Sept. 8, 1959, 73 Stat. 460; renumbered §2 and amended Pub. L. 103-328, title I, §102(b)(4)(C), Sept. 29, 1994, 108 Stat. 2351; Pub. L. 112-231, §2(b)(2)(A), Dec. 28, 2012, 126 Stat. 1619.)

**Editorial Notes****CODIFICATION**

Provisions similar to those comprising this section were contained in sections 1 and 2 of act Nov. 7, 1918,

ch. 209, 40 Stat. 1043, and section 3 of act Nov. 7, 1918, ch. 209, added Feb. 25, 1927, ch. 191, §1, 44 Stat. 1225 (formerly classified to sections 33 to 34a of this title) prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

#### AMENDMENTS

2012—Subsec. (e). Pub. L. 112-231, §2(b)(2)(A)(i), substituted “and receiver” for “receiver, and committee of estates of lunatics”.

Subsec. (f). Pub. L. 112-231, §2(b)(2)(A)(ii), substituted “or receiver” for “receiver, or committee of estates of lunatics”.

1994—Pub. L. 103-328 inserted section catchline and, in subsec. (a), inserted heading and substituted “Any national bank” for “Any national banking association”.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Act Nov. 7, 1918, ch. 209, §1, as added by Pub. L. 103-328, title I, §102(b)(4)(C), Sept. 29, 1994, 108 Stat. 2351, provided that: “This Act [enacting this subchapter] may be cited as the ‘National Bank Consolidation and Merger Act.’”

#### § 215a. Merger of national banks or State banks into national banks

##### (a) Approval of Comptroller, board and shareholders; merger agreement; notice; capital stock; liability of receiving association

One or more national banking associations or one or more State banks, with the approval of the Comptroller, under an agreement not inconsistent with this subchapter, may merge into a national banking association located within the same State, under the charter of the receiving association. The merger agreement shall—

(1) be agreed upon in writing by a majority of the board of directors of each association or State bank participating in the plan of merger;

(2) be ratified and confirmed by the affirmative vote of the shareholders of each such association or State bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of a State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors, after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or State bank is located, or, if there is no such newspaper, then in the newspaper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State banks;

(3) specify the amount of the capital stock of the receiving association, which shall not be

less than that required under existing law for the organization of a national bank in the place in which it is located and which will be outstanding upon completion of the merger, the amount of stock (if any) to be allocated, and cash (if any) to be paid, to the shareholders of the association or State bank being merged into the receiving association; and

(4) provide that the receiving association shall be liable for all liabilities of the association or State bank being merged into the receiving association.

##### (b) Dissenting shareholders

If a merger shall be voted for at the called meetings by the necessary majorities of the shareholders of each association or State bank participating in the plan of merger, and thereafter the merger shall be approved by the Comptroller, any shareholder of any association or State bank to be merged into the receiving association who has voted against such merger at the meeting of the association or bank of which he is a stockholder, or has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of merger, shall be entitled to receive the value of the shares so held by him when such merger shall be approved by the Comptroller upon written request made to the receiving association at any time before thirty days after the date of consummation of the merger, accompanied by the surrender of his stock certificates.

##### (c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the merger, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the receiving association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

##### (d) Application to shareholders of merging associations: appraisal by Comptroller; expenses of receiving association; sale and resale of shares; State appraisal and merger law

If, within ninety days from the date of consummation of the merger, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the receiving association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the receiving association. The shares of stock of the receiving asso-