

2012 Kansas Statutes

17-5541. Merger; procedure; merger agreement. As used in this section, and sections 119, 120, 121, 122, 123 and 124[*] of this act, the word "association" shall include federal savings and loan associations incorporated under the home owners' loan act of 1933. Any two or more associations may merge into one of such associations, or may consolidate into a new association by an affirmative vote of fifty-one percent of the shares, of each of said associations represented in person or by proxy, at any annual or special meeting of the shareholders of each association called for that purpose at which at least twenty days' prior notice shall have been given to each shareholder. The merger or consolidation to be upon such terms as shall be mutually agreed upon by the directors of such association: *Provided*, That any plan as shall be agreed upon by the board of directors of any associations shall first be submitted to the commissioner for his approval at least five days before the mailing of notices calling the shareholders' meeting to consider and vote upon the question of merger. The respective boards of directors of such associations shall by a majority vote of each board make or authorize to be made between such associations a written agreement of merger. The following form of merger agreement may be used by any association proposing to merge, and when so used shall be a lawful form of merger agreement and shall be given legal effect in accordance with its terms and provisions, but shall not preclude the use of any other form approved by the commissioner:

MERGER AGREEMENT

AGREEMENT MADE THIS _____ DAY OF _____, 19____, BY AND BETWEEN _____ ASSOCIATION, _____ ASSOCIATION _____ and _____ Association _____, which contracting parties are hereafter termed "merging associations";

WHEREAS, THE BOARD OF DIRECTORS OF EACH OF THE MERGING ASSOCIATIONS HAS APPROVED A PLAN OF MERGER BY A MAJORITY VOTE OF EACH OF THE SEPARATE BOARDS TO BE EVIDENCED BY THIS AGREEMENT AND HAS AUTHORIZED UNDERSIGNED OFFICERS TO EXECUTE THIS AGREEMENT IN THE name and on behalf of the merging associations and to obtain the approval of the commissioner to the plan of merger:

Now, Therefore, IN CONSIDERATION OF THE MUTUAL ADVANTAGES WHICH WILL INURE TO ALL PARTIES INTERESTED AND THE TERMS AND CONDITIONS hereinafter set forth, the parties hereto agree as follows:

1. THE NAME, STYLE, AND TITLE OF THE ASSOCIATION INTO WHICH THE ASSOCIATIONS ARE MERGED SHALL BE THE _____ ASSOCIATION _____ (hereinafter termed the "association").

2. THE ASSOCIATION SHALL OPERATE UNDER A CERTIFICATE OF INCORPORATION IN THE FORM PRESCRIBED IN THIS ACT, WHICH SHALL BE DEEMED TO BE a continuation of the charter of that association into which the other merging associations are absorbed.

3. THE NUMBER OF DIRECTORS OF THE ASSOCIATION SHALL BE _____ AND THE NAMES AND RESIDENCES OF THOSE WHO ARE CHOSEN TO SERVE until the first annual meeting of the members are:

Names Residences

4. The bylaws of the association shall be in the form hereto annexed.

5. THE BOARD OF DIRECTORS OF THE ASSOCIATION IS AUTHORIZED AND DIRECTED TO CAUSE TO BE ISSUED MEMBERSHIP CERTIFICATES TO THE members of the merging associations in accordance with the terms of this agreement.

6. THE MANNER OF CONVERTING CAPITAL OF THE MERGING ASSOCIATIONS INTO THAT OF THE ASSOCIATION SHALL BE AS FOLLOWS: (A) THE ASSOCIATION SHALL ISSUE TO THE SHAREHOLDERS OF THE MERGING ASSOCIATIONS, THE CORPORATE EXISTENCES OF WHICH ARE TERMINATED BY THE MERGER, MEMBERSHIP CERTIFICATES EVIDENCING ACCOUNTS PRO RATA TO THE PARTICIPATION VALUE OF THE SHARES OF EACH OF SUCH SHAREHOLDERS AS OF THE DATE OF THE CURRENT BALANCE SHEET OF EACH OF THE MERGING ASSOCIATIONS, PLUS PAYMENTS THEREON AND DIVIDENDS CREDITED THERETO AFTER SUCH DATE, MINUS ANY SUMS REPURCHASED OR REDEEMED ON SUCH SHARES AFTER SUCH DATE, AS SHOWN ON THE ATTACHED PRO FORMA BALANCE SHEET AND SCHEDULES, GIVING EFFECT TO THE MERGER. (B) THE ASSOCIATION SHALL ISSUE TO EACH BORROWING MEMBER OF THE MERGING ASSOCIATIONS, THE CORPORATE EXISTENCES OF WHICH ARE TERMINATED BY THE MERGER, MEMBERSHIP CERTIFICATES IN THE MERGED ASSOCIATIONS EVIDENCING THEIR membership therein as borrowers therefrom.

7. The home office of the association shall be in the city of _____, county of _____, state of Kansas.

8. ANNEXED HERETO AND MADE A PART HEREOF AS EXHIBITS ARE BALANCE SHEETS OF THE MERGING ASSOCIATIONS DATED _____, 19____, CERTIFIED BY THE TREASURERS OF THE SEVERAL ASSOCIATIONS AND PRO FORMA BALANCE SHEET OF THE ASSOCIATION DATED _____, 19____, GIVING effect to the proposed plan of merger.

9. THIS AGREEMENT SHALL NOT BE EFFECTIVE UNLESS APPROVED BY THE COMMISSIONER. THE EFFECTIVE DATE OF THE MERGER SHALL BE THE DATE upon which this proposed plan of merger shall be approved by the commissioner.

IN WITNESS WHEREOF, THE CONTRACTING PARTIES TO THIS AGREEMENT HAVE IN PURSUANCE OF A RESOLUTION DULY ADOPTED AT A LEGAL MEETING OF THE BOARD OF DIRECTORS OF EACH OF THE MERGING ASSOCIATIONS, CAUSED THESE PRESENTS TO BE SIGNED IN THE NAMES OF THE RESPECTIVE MERGING ASSOCIATIONS BY THEIR RESPECTIVE PRESIDENTS OR VICE-PRESIDENTS AND THEIR RESPECTIVE SECRETARIES OR ASSISTANT SECRETARIES, ALL DULY authorized thereunto the day and the year first above mentioned.

The above form is to be signed by the president or vice-president and secretary or assistant secretary of each association, party to the merger, under the proper name of their respective associations, and shall be properly acknowledged.

History: L. 1943, ch. 133, § 119; July 1.

* "Sections 119, 120, 121, 122, 123 and 124" evidently intended as "sections 120, 121, 122, 123, 124 and 125," see 17-5542 to 17-5547.