

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

333 Market Street, 16th Floor
Harrisburg, PA 17101-2290

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November 26, 2001

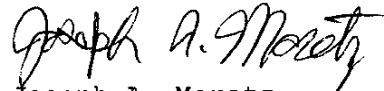
Information Collection Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: 1550-0005

Dear Sir or Madam:

The Pennsylvania Department of Banking (the "Department") has reviewed the proposed Interagency Charter/Insurance application and would consider using this application for a Pennsylvania charter if the application included a tie-in by state that would include the supplemental information similar to the attached listing. The supplementary information is necessary to meet certain statutory requirements the Department must follow in the chartering process.

If you should have any questions regarding this letter or the supplementary information listing, please contact the undersigned at (717)783-2253 at your convenience.

Very truly yours,



Joseph A. Moretz
Manager - Corporate
Applications Division

JAM:jam

Attachments

Pennsylvania Charter application

1. Submit the Interagency Charter application along with the supplementary information listed below. Trust Company charters should use the Application For Permission To Establish A State-Chartered Institution.
2. The following information should be submitted with the Interagency Charter Application:
 - a. The applicant must follow all relevant provisions of the Pennsylvania Banking Code of 1965 (the "Code") including Chapter 10 of the Code in pursuing a Pennsylvania charter.
 - b. Notice of publication – The applicant must advertise in accordance with Sections 1006 and 109 of the Code.
 - c. The following charters are available pursuant to Pennsylvania law and may be applied for through the Interagency Charter Application: a bank, bank & trust company, savings bank, and savings & loan. A banker's bank charter is available under the bank charter. There is no specific credit card bank charter in Pennsylvania. Trust Company charters do not use the Interagency application because they do not require federal deposit insurance.
 - d. The Articles of Incorporation must follow the requirements in Section 1004 of the Code and must be submitted with the application, and upon approval of the application, with or without conditions, are filed by the Department of Banking with the Department of State.
 - e. The Department has sample bylaws which may be used by the applicant as guidance in establishing bylaws that comply with the Code.
 - f. Capital requirements: the Department's minimum capital requirement is \$6,000,000. The capital must be structured to comply with Section 1010 of the Code with regards to Capital, Surplus and Expense Fund. Higher amounts of capital may be required if review of the business plan and other relevant application documentation so warrants a higher amount.
 - g. Any individual that proposes to purchase 10% or more of the proposed institution's stock who is not a director, officer or incorporator must file an application under Section 112 of the Code to purchase the shares.
 - h. There must be a minimum of three incorporators who subscribe to at least \$1,000 par value of the proposed institutions stock.
 - i. If the institution's premises will be leased or purchased from a director, officer or 10% shareholder, the Department requires submission of a market study of the lease or appraisal of said premises.
 - j. Information relating to the National Environmental Policy Act and National Historic Preservation Act compliance are not required for the Pennsylvania state charter application. However, the Department does require that the applicant satisfactorily research and has determined that no environmental hazards are located on the proposed premises.

- k. Submit an affidavit pursuant to Section 1003 of the Code regarding organizational expenses and prohibition of promoters' fees.
- l. The filing fee for a Pennsylvania state charter is \$3,000. The fee which should be made payable to the Department of State for filing the Articles of Incorporation is \$100.

Note: All charter information submitted to the Department of Banking is considered Confidential.

A copy of relevant Sections of the Code are attached for your reference.

BANKING CODE

CHAPTER 10 INCORPORATION

Section 1001. Application of Chapter

This chapter shall apply to, and the word institution in this chapter shall mean, an institution which shall be incorporated under this act.

Section 1002. Incorporators

- (a) An institution may be incorporated by:
 - (i) fifteen or more adults, in the case of a mutual savings bank, and
 - (ii) three or more adults who shall each subscribe to shares of common stock with an aggregate par value of at least one thousand dollars (\$1,000), in the case of any other institution.

((a) amended Apr. 8, 1982, P.L. 262, No. 79)
- (b) At least two-thirds of the incorporators shall be citizens of the United States or its territories or possessions and at least two-thirds shall be residents of Pennsylvania.

Section 1003. Prohibition of Promoters' Fees

- (a) Prohibited fees--An institution shall not pay any fee, compensation or commission for promotion in connection with its organization or apply any money received on account of shares or subscriptions for shares to promoters' fees for obtaining subscriptions, selling shares or other services in connection with its organization, except legal fees and other usual and ordinary expenses necessary to its organization.
- (b) Affidavit of incorporators--A majority of the incorporators shall file with the department at the time of filing of the articles an affidavit:
 - (i) setting forth all expenses incurred or to be incurred in connection with the organization of the institution, subscriptions for its shares and sale of its shares, and
 - (ii) stating that no fee, compensation or commission prohibited by subsection (a) of this section has been paid or incurred.
- (c) Disapproval of articles--In the event of a violation of this section the department may disapprove the articles on account of such violation.

Section 1004. Articles of Incorporation

- (a) Execution--Articles of incorporation shall be signed by at least five of the incorporators in the case of a mutual savings bank and by each of the incorporators in any other case.
- (b) Contents--The articles shall set forth in the English language:
 - (i) the name of the institution;
 - (ii) the location and post office address of its principal place of business;
 - (iii) a brief statement of the purpose or purposes for which it is incorporated and that it is incorporated under the provisions of this act;
 - (iv) the term for which it is to exist which may be perpetual;

- (v) except in the case of a mutual savings bank, the aggregate number of shares which the institution shall have authority to issue and
 - (A) if the shares are to consist of one class only, the par value of each of the shares, or
 - (B) if the shares are to be divided into classes, the number of shares of each class, the par value of each class, a description of each class and a statement of the preferences, redemption provisions, qualifications, limitations, restrictions and the special or relative rights granted to or imposed upon the shares of each class;
- (vi) the name, occupation, citizenship, place of residence and post office address of each incorporator and, except in the case of a mutual savings bank, the number of shares to which he has subscribed;
- (vii) the name, occupation, citizenship, place of residence and post office address, in the case of a savings bank, of each of the first trustees and, in any other case, of each of the first directors who shall serve until the first annual meeting;
- (viii) except in the case of a mutual savings bank, any provisions which the incorporators may choose to insert granting to shareholders preemptive rights to subscribe to issues of shares or securities of the institution; and
- (ix) any provision not inconsistent with law which the incorporators may choose to insert for the regulation of the internal affairs and business of the institution.

(1004 amended Apr. 8, 1982, P.L. 262, No. 79)

Section 1005. Application for Approval by Department

The incorporators shall make an application to the department for approval of the proposed institution in a manner prescribed by the department and shall deliver to the department when available:

- (a) the articles of incorporation;
- (b) the affidavit required by section 1003;
- (c) evidence of reservation in the Department of State of the name of the proposed institution;
- (d) applicable fees payable to the department in connection with the articles and with the conduct of the investigation required by section 1007; and
- (e) as soon as available, proof of publication of the advertisement required by section 1006.

Section 1006. Advertisement

- (a) The incorporators shall advertise their intention to deliver, or the delivery of, articles of incorporation with the department once in each newspaper in which such advertisement is required to be published in accordance with section 109 of this act.
- (b) The advertisement shall appear prior to, or within seven days after, the date of delivery of the articles to the department and shall set forth briefly:

- (i) the name of the proposed institution,
- (ii) a statement that it is to be incorporated under the provisions of this act,
- (iii) the purpose or purposes of the institution,
- (iv) the names and addresses of the incorporators and of the first directors or trustees as they appear, or will appear, in the articles, and
- (v) the date of delivery of the articles of incorporation.

Section 1007. Approval of Proposed Institution by Department

- (a) Upon receipt of an application for approval of a proposed institution the department shall conduct such investigation as it may deem necessary to ascertain whether:
 - (i) the articles and supporting items satisfy the requirements of this act;
 - (ii) the convenience and needs of the public will be served by the proposed institution;
 - (iii) the population density or other economic characteristics of the area primarily to be served by the proposed institution afford reasonable promise of adequate support for the institution;
 - (iv) the character and fitness of the incorporators, of the directors or trustees and of the proposed officers are such as to command the confidence of the community and to warrant the belief that the business of the proposed institution will be honestly and efficiently conducted;
 - (v) there has been or will be any violation of section 1003;
 - (vi) except in the case of a mutual savings bank, the capital structure of the proposed institution is adequate in relation to the amount and character of the anticipated business of the institution and the safety of prospective depositors; and
 - (vii) the proposed institution will have sufficient personnel with adequate knowledge and experience to administer fiduciary accounts, if the institution were authorized to act as fiduciary.

((a) amended Apr. 8, 1982, P.L. 262, No. 79)
- (b) Within sixty days after receipt of the articles the Department of Banking shall make a determination whether to approve or disapprove the proposed institution based on its investigation. In giving approval, the department may impose conditions to be satisfied prior to the issuance of a certificate of authorization under section 1010. If the Department of Banking shall approve the proposed institution with or without conditions, it shall deliver the articles with its written approval of the articles to the Department of State and notify the incorporators of its action. If the Department of Banking shall disapprove the proposed institution, it shall give written notice to the incorporators of its disapproval and a statement in detail of the reasons for its decision. ((b) repealed in part June 3, 1971, P.L. 118, No. 6)

Section 1008. Issuance of Certificate of Incorporation

If all the taxes, fees and charges required by law shall have been paid and if the name of the proposed institution continues to be reserved or is available on the records of the Department of State, the receipt of the articles by the Department of State with the written approval of the Department of Banking, shall constitute filing of the articles with the Department of State as of the date and time of receipt or as of any later date and time specified by the Department of Banking. The Department of State shall immediately issue to the incorporators a certificate of incorporation, as of the date and time of filing, with the approved articles attached thereto and shall make and retain a copy of such certificate and articles.

Section 1009. Effect of Filing of Articles in Department of State and of Certificate of Incorporation

- (a) As of the filing of the articles in the Department of State, the corporate existence of the institution shall begin and, except in the case of a mutual savings bank, those persons who subscribed for shares prior to such filing of the articles, or their assignees, shall be shareholders in the institution. ((a) amended Apr. 8, 1982, P.L. 262, No. 79)
- (b) The certificate of incorporation shall be conclusive evidence of the fact that the institution has been incorporated but proceedings may be instituted by the Commonwealth to dissolve, wind up and terminate an institution which should not have been incorporated under this act or which was incorporated without a substantial compliance with the conditions prescribed by this act as precedent to incorporation.

Section 1010. Certificate of Authorization to Do Business

- (a) Until receipt of a certificate of authorization issued by the department, an institution shall not accept deposits, incur indebtedness or transact any business except such business as is incident to its organization or to the obtaining of subscriptions and payment for its shares and other securities--subject to the penalty provisions of this act.
- (b) The department shall issue to an institution a certificate of authorization to do business when:
 - (i) except in the case of a mutual savings bank, capital of the institution shall have been fully paid in, in an amount specified by the department and in no event less than the minimum capital for the institution under the provisions of section 1102 and, in addition, there shall have been paid in:
 - (A) surplus in an amount not less than fifty percent of the capital paid in,
 - (B) an expense fund in an amount fixed by the department at not less than five percent of the capital paid in, and
 - (C) the proceeds of capital securities, if any, which were considered part of the capital structure of the institution by the department under section 1007(a)(vi) in giving its approval of the proposed institution;

- (ii) an expense fund, in the case of a mutual savings bank, shall have been paid in, in an amount fixed by the department, subject to reimbursement to the contributors thereof only out of earnings after the mutual savings bank has accumulated out of earnings an expense fund at least equal to the amount of the original expense fund and surplus in an amount at least equal to the amount of such expense fund;
- (iii) a majority of the directors or trustees have taken the oath or affirmation required by section 1406;
- (iv) the by-laws of the institution have been filed with the department;
- (v) the institution has been organized and is ready to begin the business for which it was incorporated;
- (vi) all conditions imposed by the department in giving its approval of the proposed institution under section 1007 have been satisfied; and
- (vii) the department has received an affidavit signed by the cashier or treasurer and by at least a majority of the directors or trustees of the institution to the effect that all of the foregoing requirements of this subsection have been satisfied.

(b) amended Apr. 8, 1982, P.L. 262, No. 79)

Section 1011. Organization Meetings

- (a) After the filing of the articles in the Department of State, the first meeting of the shareholders shall be held within this Commonwealth at the call of the shareholders who were the incorporators, or a majority of them, for the purpose of adopting such by-laws as this act and the articles require to be adopted by the shareholders and for such other purposes as shall be stated in the notice of the meeting. The shareholders who call the meeting shall give to each shareholder at least five days' written notice of the time and place of the meeting.
- (b) After the filing of the articles in the Department of State, an organization meeting of the board of directors or trustees named in the articles shall be held within this Commonwealth at the call of a majority of the directors, for the purpose of adopting such by-laws as the articles authorize the directors or trustees to adopt, of electing officers and of transaction of such other business as may come before the meeting. The directors or trustees who call the meeting shall give to each director or trustee named in the articles at least five days' written notice of the time and place of the meeting.

GENERAL PROVISIONS

Section 1102. Minimum Capital

- (a) Existing institutions--The minimum capital of an institution in existence on the effective date of this act shall be:
 - (i) the amount required by subsection (b) of this section, or
 - (ii) such lesser amount as the institution had on the effective date of this act but not less than the minimum amount required by law prior to such effective date.
- (b) New institutions--The minimum capital of an institution which is incorporated pursuant to this act, or of a bank which becomes a bank and trust company pursuant to this act, or of a stock savings bank which is converted from a mutual savings bank pursuant to this act, shall depend upon the population, according to the last United States census, of the city, incorporated town, borough or township where its principal place of business is located and shall be as follows:

Population of Location of Principal Place of Business		Bank	Bank and Trust Company or Trust Company
Less than 6,000	\$ 50,000	\$150,000	
6,000 to 50,000	\$100,000	\$200,000	
More than 50,000	\$200,000	\$300,000	

((b) amended Apr. 8, 1982, P.L. 262, No. 79)

Section 109. Advertisements

- (a) Number of publications--Every advertisement required by this act shall be published, except as otherwise provided in this act, once in a newspaper of general circulation and once in a legal newspaper.
- (b) Newspapers of general circulation--The newspaper of general circulation for publication of advertisements shall be one published in the English language, shall satisfy the requirements of the Newspaper Advertising Act and shall be:
 - (i) a newspaper which is one of general circulation in the county and is published in the city, borough or township in which the principal office of each institution required to publish the advertisement is, or the principal office of such a proposed institution will be, located, or if there is none,
 - (ii) a newspaper of general circulation in such county, published at the county seat, or if there is none,
 - (iii) the newspaper of general circulation published in the county at the place nearest such city, borough or township, or if there is none,
 - (iv) the newspaper of general circulation published at the place nearest such city, borough or township in an adjoining county.

- (c) Legal newspapers--The legal newspaper for publication of advertisements shall satisfy the requirements of the Newspaper Advertising Act and shall be one published in the county in which the principal office of each institution required to publish the advertisement is, or the principal office of such a proposed institution will be, located. If there is no legal newspaper published in such county, the advertisement shall be published in an additional newspaper of general circulation in the county but if there are not two such newspapers, then only the advertisement provided for under subsection (b) of this section shall be required.