



General Assembly

Substitute Bill No. 363

February Session, 2004

* SB00363BA 030404 *

**AN ACT CONCERNING CONVERSIONS AND REORGANIZATIONS OF
MUTUAL SAVINGS BANKS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-136 of the general statutes, as amended by
2 section 4 of public act 03-196 and section 11 of public act 03-259, is
3 repealed and the following is substituted in lieu thereof (*Effective from*
4 *passage*):

5 (a) With the approval of the commissioner, any mutual savings
6 bank, mutual savings and loan association, federal mutual savings
7 bank or federal mutual savings and loan association may convert to a
8 capital stock bank in accordance with the provisions of this section and
9 the regulations adopted pursuant to subsection [(f)] (j) of this section,
10 provided this section does not apply to the conversion of a mutual
11 federal bank to a capital stock federal bank. The commissioner may
12 deny an application for conversion made pursuant to this section after
13 allowing the applicant a reasonable opportunity to be heard.

14 (b) A conversion of a federal mutual savings bank or federal mutual
15 savings and loan association to a capital stock Connecticut bank shall
16 be authorized only if permitted by federal law and shall be subject to
17 all requirements prescribed by federal law. A conversion of a mutual
18 savings bank or mutual savings and loan association to a capital stock

19 federal bank shall be authorized only if permitted by federal law and
20 shall be subject to all requirements prescribed by federal law.

21 (c) The converting institution shall file with the commissioner a
22 proposed plan of conversion, a copy of the proposed amended
23 certificate of incorporation and a certificate by the secretary of the
24 converting institution that the proposed plan of conversion has been
25 approved, in accordance with subsection (d) of this section, by the
26 governing board and in the case of a converting savings and loan
27 association, federal savings bank or federal savings and loan
28 association, the depositors or members thereof.

29 (d) The plan of conversion shall require the approval of a majority
30 of the governing board of the converting institution. In the case of a
31 converting savings and loan association, the plan of conversion shall
32 also require the favorable vote of not less than fifty-one per cent of the
33 votes cast by depositors of such association at a special meeting called
34 to consider such conversion. In the case of a federal savings bank or
35 federal savings and loan association, the plan of conversion shall
36 require any vote of depositors or members prescribed by federal law.

37 (e) The plan of conversion for a mutual savings bank shall also
38 require approval by (1) a majority of all the corporators of the
39 converting bank, provided the converting bank shall, at the time of
40 such vote, have no fewer than twenty-five corporators unless
41 otherwise permitted by the commissioner based on restrictions
42 contained in the charter or certificate of incorporation of the converting
43 bank, and (2) a majority of the independent corporators of the
44 converting bank, provided the total number of independent
45 corporators shall at the time of such vote constitute no less than sixty
46 per cent of all corporators. Such approval shall be obtained at a
47 meeting held in accordance with the charter or certificate of
48 incorporation or the bylaws of the mutual savings bank. For purposes
49 of subdivision (2) of this subsection, an independent corporator means
50 a corporator who is not an employee, officer, director, trustee or
51 significant borrower of the mutual savings bank.

52 (f) A converting mutual savings bank shall, prior to the meeting
53 required by subsection (e) of this section, provide the corporators with
54 informational material regarding the plan of conversion, which
55 informational material shall have been filed with and approved by the
56 commissioner before being distributed to the corporators, and which
57 informational material shall include disclosures summarizing the plan
58 of conversion, the distribution of shares and compensation plans
59 proposed for management.

60 (g) A converting mutual savings bank shall provide the
61 commissioner with the following information with respect to the
62 corporators eligible to vote at the meeting required by subsection (e) of
63 this section:

64 (1) The number of corporators who (A) are not employees, officers,
65 directors or trustees of the mutual savings bank, (B) are employees, but
66 not officers, directors or trustees of the mutual savings bank, and (C)
67 are officers, directors or trustees of the mutual savings bank;

68 (2) A description of any loan relationships, outstanding within the
69 five-year period prior to the date of the required meeting, between the
70 mutual savings bank and any of its corporators who are not
71 employees, officers, directors or trustees of the mutual savings bank;
72 and

73 (3) A description of any commercial relationships, other than loan
74 relationships described in subdivision (2) of this subsection, in
75 existence within the five-year period prior to the date of the required
76 meeting, between the mutual savings bank and any of the corporators
77 who are not employees, officers, directors or trustees of the mutual
78 savings bank. For purposes of this subsection, the term "commercial
79 relationships" means any sale or lease of real or personal property and
80 any provision of commercial services.

81 (h) A converting mutual savings bank shall file with the
82 commissioner a certificate of the secretary of the converting bank
83 certifying that a meeting of the corporators has been held and that the

84 plan of conversion has been approved by the incorporators in
85 accordance with the requirements of subsection (e) of this section.

86 [(e)] (i) In any conversion under this section, each account holder of
87 the converting institution deemed eligible under regulations adopted
88 pursuant to subsection [(f)] (j) of this section shall receive, without
89 payment, nontransferable subscription rights to purchase capital stock
90 of the converted institution pursuant to a subscription offering, and
91 such offering shall precede any offering of the converting institution's
92 stock to the members of the community and of the general public. Each
93 converting institution shall, at the time of conversion, establish a
94 liquidation account for the benefit of such account holders and such
95 liquidation account shall establish a priority upon liquidation. The
96 requirement concerning the establishment of a liquidation account
97 shall not apply to the formation of a mutual holding company or a
98 reorganized savings institution of such mutual holding company
99 under sections 36a-192, as amended by this act, and 36a-193 or to the
100 issuance of capital stock by such reorganized savings institution under
101 sections 36a-195 and 36a-196.

102 [(f)] (j) The commissioner shall adopt regulations in accordance with
103 chapter 54 to govern the conversion of mutual institutions to capital
104 stock institutions. Such regulations shall be similar in scope and
105 content to the regulations of the Office of Thrift Supervision, 12 CFR
106 Part 563b, as from time to time amended, for the conversion of mutual
107 savings institutions into stock savings institutions. The commissioner
108 may waive any provision of the regulations adopted pursuant to this
109 section that is inconsistent with the regulations of the Office of Thrift
110 Supervision or if such waiver is necessary to comply with the
111 requirements of the Federal Deposit Insurance Corporation or its
112 successor agency.

113 [(g)] (k) If the commissioner certifies in writing that the protection of
114 depositors or other creditors of such converting institution requires
115 that the conversion proceed without delay, the commissioner may
116 waive any provision of the regulations adopted pursuant to subsection

117 [(f)] (j) of this section that the commissioner determines will cause such
118 delay.

119 [(h)] (l) The commissioner may approve a conversion under this
120 section only if the commissioner determines that: (1) The converting
121 institution has complied with all applicable provisions of law; (2) the
122 conversion would not result in any reduction of the converting
123 institution's amount of equity capital, less any subordinated debt
124 recognized as bona fide capital; (3) the conversion would not result in
125 a taxable reorganization of the converting institution under the
126 Internal Revenue Code of 1986, or any subsequent corresponding
127 internal revenue code of the United States, as from time to time
128 amended; (4) the programs, policies and procedures of the converting
129 institution relating to anti-money-laundering activity are adequate,
130 and the converting institution has a record of compliance with anti-
131 money-laundering laws and regulations; and (5) the plan of conversion
132 is fair to depositors. The converted institution shall not commence
133 business unless its insurable accounts and deposits are insured by the
134 Federal Deposit Insurance Corporation or its successor agency.

135 Sec. 2. Section 36a-192 of the general statutes is repealed and the
136 following is substituted in lieu thereof (*Effective from passage*):

137 (a) Notwithstanding any other provision of the general statutes,
138 any mutual savings bank or mutual savings and loan association may
139 reorganize so as to become a mutual holding company by: (1) (A) In
140 the case of a mutual savings bank, causing a reorganized savings
141 institution to be incorporated and organized as a capital stock savings
142 bank in accordance with section 36a-193, or (B) in the case of a mutual
143 savings and loan association, causing a reorganized savings institution
144 to be incorporated and organized as a capital stock savings and loan
145 association in accordance with section 36a-193; and (2) transferring to
146 the reorganized savings institution a substantial part of the assets of
147 such mutual savings bank or mutual savings and loan association and
148 causing the reorganized savings institution to assume a substantial
149 part of the liabilities of such mutual savings bank or mutual savings

150 and loan association, including all of its depository liabilities. Upon
151 such transfer and assumption, persons who prior thereto held
152 depository rights with respect to or other rights as creditors of such
153 mutual savings bank or mutual savings and loan association shall have
154 such rights solely with respect to the reorganized savings institution,
155 and the corresponding liability or obligation of the mutual savings
156 bank or mutual savings and loan association to such persons shall be
157 assumed by the reorganized savings institution. Persons who had
158 ownership, liquidation or voting rights with respect to the mutual
159 savings bank or mutual savings and loan association shall continue to
160 have such rights solely with respect to the mutual savings bank or
161 mutual savings and loan association in its reorganized form as a
162 mutual holding company.

163 (b) (1) Notwithstanding any other provision of the general statutes,
164 any mutual savings bank or mutual savings and loan association may
165 reorganize so as to form a mutual holding company by: (A) Causing a
166 nonstock corporation to be organized under the laws of this state; (B)
167 (i) in the case of a mutual savings bank, causing such nonstock
168 corporation to form a reorganized savings institution by organizing a
169 capital stock savings bank in accordance with section 36a-193, or (ii) in
170 the case of a mutual savings and loan association, causing such
171 nonstock corporation to form a reorganized savings institution by
172 organizing a capital stock savings and loan association in accordance
173 with section 36a-193; (C) causing such nonstock corporation to acquire
174 a majority of the ordinary voting shares of such reorganized savings
175 institution; and (D) merging the mutual savings bank or mutual
176 savings and loan association with and into such reorganized savings
177 institution in accordance with the provisions of subdivision (2) of this
178 subsection and section 36a-125, as amended, except that subsections
179 (e), (f) and (i) of section 36a-125, as amended, shall not apply.

180 (2) Upon application by the constituent banks, and upon receipt of a
181 copy of the agreement of merger, the commissioner shall determine
182 whether the terms of the merger are reasonable and in accordance with
183 law and sound public policy. The commissioner, if the commissioner

184 so determines, shall approve the merger. The commissioner shall not
185 approve the merger of the mutual savings bank or mutual savings and
186 loan association with and into the reorganized savings institution if:
187 (A) The merger would be unfair or prejudicial to the depositors of the
188 mutual savings bank or mutual savings and loan association; (B) the
189 interest of the public will not be served by the merger; (C) disapproval
190 is necessary to prevent unsafe and unsound banking practices; or (D)
191 the financial or managerial resources of the constituent banks do not
192 warrant approval of the merger. After approval of the merger by the
193 commissioner, a copy of the agreement and a copy of the
194 commissioner's approval shall be filed in the office of the Secretary of
195 the State. Upon completion of the merger, the nonstock corporation
196 shall be a mutual holding company and persons who had ownership,
197 liquidation or voting rights with respect to the mutual savings bank or
198 mutual savings and loan association shall continue to have such rights
199 solely with respect to such mutual holding company.

200 (c) A reorganization of a mutual savings bank or mutual savings
201 and loan association pursuant to sections 36a-192 to 36a-199, inclusive,
202 as amended by this act, shall be approved by two-thirds of the
203 governing board of the mutual savings bank or mutual savings and
204 loan association. No such approval shall be required of creditors of, or
205 persons having ownership, liquidation or voting rights with respect to,
206 a mutual savings bank. The reorganization of a mutual savings and
207 loan association shall also be approved by a majority of the depositors
208 present and voting at a meeting called for the purpose of considering
209 such a reorganization.

210 (d) A reorganization of a mutual savings bank pursuant to this
211 section shall require approval by (1) a majority of all the incorporators of
212 the mutual savings bank, provided the mutual savings bank shall, at
213 the time of such vote, have no fewer than twenty-five incorporators
214 unless otherwise permitted by the commissioner based on restrictions
215 contained in the charter or certificate of incorporation of the mutual
216 savings bank, and (2) a majority of the independent incorporators of the
217 mutual savings bank, provided the total number of independent

218 corporators shall at the time of such vote constitute no less than sixty
219 per cent of all corporators. Such approval shall be obtained at a
220 meeting held in accordance with the charter or certificate of
221 incorporation or the bylaws of the mutual savings bank. For purposes
222 of this subsection, an independent corporator means a corporator who
223 is not an employee, officer, director, trustee or significant borrower of
224 the mutual savings bank.

225 (e) A mutual savings bank proposing to reorganize shall, prior to
226 the meeting required by subsection (d) of this section, provide the
227 corporators with informational material regarding the plan of
228 reorganization, which informational material shall have been filed
229 with and approved by the commissioner before being distributed to
230 the corporators, and which informational material shall include
231 disclosures summarizing the plan of reorganization, the distribution of
232 shares and compensation plans proposed for management.

233 (f) The mutual savings bank proposing to reorganize shall provide
234 the commissioner with the following information with respect to the
235 corporators eligible to vote at the meeting required by subsection (d) of
236 this section:

237 (1) The number of corporators who (A) are not employees, officers,
238 directors or trustees of the mutual savings bank, (B) are employees, but
239 not officers, directors or trustees of the mutual savings bank, and (C)
240 are officers, directors or trustees of the mutual savings bank;

241 (2) A description of any outstanding loan relationships, within the
242 five-year period prior to the date of the required meeting, between the
243 mutual saving bank and any of its corporators who are not employees,
244 officers, directors or trustees of the mutual savings bank; and

245 (3) A description of any commercial relationships, other than loan
246 relationships described in subdivision (2) of this subsection, within the
247 five-year period prior to the date of the required meeting, between the
248 mutual savings bank and any of the corporators who are not
249 employees, officers, directors or trustees of the mutual savings bank.

250 For purposes of this subdivision, the term "commercial relationships"
251 means any sale or lease of real or personal property and any provision
252 of commercial services.

253 (g) A mutual savings bank proposing to reorganize shall file with
254 the commissioner a certificate of the secretary of the mutual savings
255 bank certifying that a meeting of the corporators has been held and
256 that the plan of reorganization has been approved by the corporators
257 in accordance with the requirements of subsection (d) of this section.

258 ~~[(d)]~~ (h) (1) A mutual savings bank or mutual savings and loan
259 association proposing to reorganize pursuant to sections 36a-192 to
260 36a-199, inclusive, as amended by this act, shall provide the
261 commissioner with prior written notice of the proposed
262 reorganization. The notice shall contain such relevant information as
263 the commissioner may require.

264 (2) Unless the commissioner disapproves the formation of the
265 proposed mutual holding company within sixty days after the
266 commissioner's receipt of notice of the proposed reorganization or, by
267 written notice issued within such sixty-day period to the mutual
268 savings bank or mutual savings and loan association proposing to
269 reorganize, extends for another thirty days the period during which
270 such disapproval may be issued, the mutual savings bank or mutual
271 savings and loan association may proceed with such reorganization. If
272 the commissioner extends the period during which such disapproval
273 may be issued but within such extension period does not disapprove
274 the proposed reorganization, the mutual savings bank or mutual
275 savings and loan association may proceed with such reorganization.

276 (3) The commissioner may disapprove any proposed mutual
277 holding company formation only if: (A) The formation of the proposed
278 mutual holding company would be unfair or prejudicial to the
279 depositors of the mutual savings bank or mutual savings and loan
280 association proposing to reorganize; (B) the interest of the public will
281 not be served by the formation of the proposed mutual holding

282 company; (C) such disapproval is necessary to prevent unsafe or
283 unsound banking practices; (D) the financial or managerial resources
284 of the mutual savings bank or mutual savings and loan association
285 proposing to reorganize do not warrant approval of such proposal; or
286 (E) the mutual savings bank or mutual savings and loan association
287 proposing to reorganize fails to furnish any information required
288 under subdivision (1) of this subsection or under subsections (e) to (g),
289 inclusive, of this section.

290 (4) In connection with the reorganization of a mutual savings bank
291 or mutual savings and loan association into a mutual holding company
292 under subsection (a) of this section, the mutual holding company may
293 retain assets to the extent that such assets are not then required to be
294 transferred to the reorganized savings institution in order to satisfy
295 capital or reserve requirements of any applicable state or federal law.

296 (5) Investment of the assets of a mutual holding company shall be
297 subject to (A) all of the limitations not inconsistent with sections 36a-
298 192 to 36a-199, inclusive, as amended by this act, and applicable to a
299 mutual savings bank or mutual savings and loan association, as the
300 case may be, under the laws of this state; and (B) any limitations of
301 federal law, in effect from time to time, which expressly apply to such
302 investments when made by (i) a mutual savings bank or mutual
303 savings and loan association, or (ii) a holding company of a capital
304 stock savings bank or capital stock savings and loan association, as the
305 case may be.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

BA Joint Favorable Subst.