

§121.4. Addition of directors and executive officers of troubled state- chartered institutions and holding companies

A. If a state chartered financial institution or holding company whose lead institution is state chartered is in troubled condition as defined by Subsection D of this Section, such financial institution or holding company may file an application with the commissioner of financial institutions seeking permission to add one or more new directors or employ one or more new executive officers. The addition of a new director or employment of a new executive officer shall be allowed only with permission of the commissioner.

B. An application form may be developed by the commissioner, or the commissioner may accept a standardized form utilizing the criteria established by the appropriate federal regulator of the institution or holding company. The application must be filed at least thirty days prior to the proposed effective date of the addition of the director or employment of the executive officer.

C. The commissioner shall issue a written notice approving or disapproving the addition or employment of any new officers or directors not later than forty-five days following the date the application was filed with the commissioner.

However, this period of time may be extended for a reasonable period of time upon a showing of good cause by the commissioner that additional information is required for a determination to be made upon the application. The commissioner shall give written notice of his reasons for any extension.

D. For purposes of this Section, "troubled condition" means that a state-chartered financial institution or holding company meets any one of the following criteria:

(1) Has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Rating Systems (UFIRS).

(2) Is subject to a proceeding initiated by the appropriate state or federal insurer for termination or suspension of deposit insurance.

(3) Is subject to a cease and desist order or written agreement issued by either the commissioner or the appropriate federal regulatory agency that requires action to improve the financial condition of the financial institution or holding company, or is subject to a proceeding initiated by the commissioner or the appropriate federal regulatory agency, which contemplates the issuance of an order that requires action to improve the financial condition of the financial institution or holding company, unless otherwise informed in writing by the commissioner.

(4) Is informed in writing by the commissioner or the appropriate federal regulatory agency that it is in troubled condition for purposes of the requirements of this Subsection on the basis of its most recent report of condition, report of examination, or other information available to the commissioner.

E. The commissioner may adopt rules to prescribe conditions under which the prior notice requirement of Subsection A of this Section may be waived in the

event of extraordinary circumstances. Such waivers shall not affect the authority of the commissioner to issue notices of disapproval of such additions or employment of such individuals within thirty days after each such waiver.

F. The commissioner shall issue a notice of disapproval with respect to an application submitted pursuant to this Section, if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the institution or in the best interests of the public to permit the individual to be employed by or associated with the state-chartered financial institution or holding company.

Acts 2001, No. 628, §1, eff. June 22, 2001.