

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE

CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

– FINANCIAL INSTITUTIONS

ARTICLE 4. CREDIT UNIONS

R20-4-401. Fidelity Bond Coverage

- A. A credit union shall have a fidelity bond in the form and in the amount required to maintain federal insurance on its accounts.
- B. A fidelity bond purchased by a credit union to comply with this Section shall include faithful-performance-of-duty coverage.
- C. A credit union shall purchase its fidelity bond from an insurer that holds a certificate of authority from the Director to transact surety business in Arizona.

ARTICLE 10. SAFE DEPOSIT AND SAFEKEEPING CODE

R20-4-1001. Notice of Change of Location of Safe Deposit Repository

- A. A corporation or association that moves a repository shall give written notice of the location change to the Director and to its customers.
 - 1. A corporation or association shall provide notice of the location change to the Director by mailing the notice required under this subsection by first class mail no less than 30 days before the scheduled moving date. The corporation or association shall include a copy of the notice to customers required under subsection (B).
 - 2. A corporation or association shall provide notice of the location change to its customers by:
 - a. Publishing notice of the change of location in:
 - i. An English language newspaper of general circulation in the county where the repository will be closed,
 - ii. In a weekly newspaper for two consecutive publications, or
 - iii. In a daily newspaper for three consecutive days; and
 - b. Publishing the notice no more than 90 days, and no less than 30 days, before the scheduled moving date.
- B. The corporation or association shall include all the following information in the notice:
 - 1. The date the corporation or association intends to move the repository,
 - 2. The earliest date a customer can remove contents and transact other business related to the move,
 - 3. The latest date a customer can remove contents and transact other business related to the move,
 - 4. The street address of the repository to be closed, and
 - 5. The street address of the new repository.

ARTICLE 11. PUBLIC DEPOSITORIES FOR PUBLIC MONIES

R20-4-1101. Capital Structure of Banks; Defined

“Capital structure” as the term is applied to banks under Article 2.1, Chapter 2, Title 35, Arizona Revised Statutes, means the sum of the following reserves and capital accounts of the institution as stated in the institution’s report of condition required by the supervisory banking authority for the year end next preceding the institution’s bid for deposit:

1. Reserve for bad debt losses on loans,
2. Other reserves on loans,
3. Reserves on securities,
4. Capital notes and debentures,
5. Preferred stock -- total par value,
6. Common stock -- total par value,
7. Surplus,
8. Undivided profits, and
9. Reserve for contingencies and other capital reserves.

ARTICLE 16. ACQUIRING CONTROL OF FINANCIAL INSTITUTIONS

R20-4-1601. Definitions

In addition to the definitions provided in A.R.S. § 6-141, the following terms apply to this Article unless the context otherwise requires:

“Acquiring party” means a person who intends to acquire control of a bank, trust company, savings and loan association, or controlling person under A.R.S. Title 6, Chapter 1, Article 4.

“Bank” has the meaning stated in A.R.S. § 6-101.

“Director” has the meaning stated in A.R.S. § 6-101(7).

“Savings and loan association” means a person required to possess a permit issued by the Director under A.R.S. Title 6, Chapter 3.

“Target company” means a bank, savings and loan association, trust company, or controlling person to be acquired by an acquiring party.

“Trust company” has the meaning stated in A.R.S. § 6-851.

R20-4-1602. Application for Approval to Acquire Control of Financial Institution

A. An applicant seeking approval to acquire control of a bank, savings and loan association, or controlling person of a bank or savings and loan association, under A.R.S. Title 6, Chapter 1, Article 4, shall file with the Director copies of all application documents filed with federal regulatory agencies in connection with the planned acquisition of control.

B. As used in this subsection, “executive officer” includes the chairman of the board, president, each vice president, cashier, secretary, treasurer, and every other person who participates in major policymaking functions of the applicant. Under A.R.S. § 6-145(A), an applicant seeking approval to acquire control of a trust company or controlling person of a trust company, under A.R.S. Title 6, Chapter 1, Article 4 shall supply all information the Director requires under this subsection. The Director may require an applicant to supplement or amend its application based on issues raised by the initial submission. The initial application shall consist of the following items:

1. A copy of the signed purchase agreement;
2. The applicant’s audited financial statement;

3. A personal history statement, on a form supplied by the Department, for each executive officer and each director of the acquiring party;
4. Each executive officer's and each director's personal financial statement;
5. A full set of fingerprints for each executive officer and each director; and
6. A copy of each executive officer's and each director's driver's license.

ARTICLE 17. ARIZONA INTERSTATE BANK AND SAVINGS AND LOAN ASSOCIATION ACT

R20-4-1701. Definitions

In addition to the definitions provided in A.R.S. § 6-321, the following terms apply to this Article unless the context otherwise requires:

“Applicant” means an out-of-state financial institution that intends to acquire control of an in-state financial institution.

“Director” has the meaning stated in A.R.S. § 6-101(7).

R20-4-1702. Notice to the Director of Intent to Acquire Control of an In-state Financial Institution; Surrender of an Acquired Financial Institution's Charter

- A. An applicant shall give written notice of an acquisition to the Director in the form of a courtesy copy of its federal application. The acquiring entity shall ensure that the notice is delivered to the Director not less than ten days before the effective date of the acquisition. No other application is required under the provisions of A.R.S. Title 6, Chapter 2, Article 7, the Arizona Interstate Bank and Savings and Loan Association Act. The Director may impose conditions on an acquisition under the authority of A.R.S. §§ 6-324 and 6-328.
- B. An acquired in-state financial institution shall surrender, by delivery to the Director, all permits and certificates issued by the Director within ten days after the effective date of the acquisition unless the acquired institution intends to continue operating, after the acquisition, as a stand-alone subsidiary under the authority of its existing Arizona banking permit.

R20-4-1704. Public Notice

- A. An applicant shall transmit to the Director one copy of each notice and the publisher's affidavit of publication required by the Federal Reserve Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.
- B. An applicant shall provide the Director copies of any protests known to have been received by the Federal Reserve Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.