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GUIDELINES

**FOR**

**NEW CHARTER APPLICATIONS**

**Utilizing the Interagency Charter and Federal Deposit Insurance Application**

**(Cannot be used for a Trust Company Charter)**

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 Note: Sample Bylaws are in a separate file not directly attached to this document. The Interagency

Charter and Federal Deposit Insurance application is available from the Federal Deposit Insurance Corporation (FDIC). A link to the FDIC website is provided on page 20.

September 2012

# INSTRUCTIONS FOR FILING THE PENSYLVANIA NEW CHARTER APPLICATION UTILIZING THE INTERAGENCY CHARTER AND FEDERAL DEPOSIT INSURANCE APPLICATION:

The Pennsylvania Department of Banking and Securities will accept the Application For Permission To Establish A State-Chartered Institution (the “State Application”) alone for any organizing group which is seeking to charter a State-Chartered Bank, Bank and Trust Company, or Savings Bank. However, at the discretion of the applicant, the Department will accept the Interagency Charter and Federal Deposit Insurance application (the “Interagency Application”) filed with the Federal Deposit Insurance Corporation (“FDIC”) as an attachment to the State Application which will serve as a replacement for many of the attachments required in the State Application.

To file the State Application utilizing the Interagency Application, the applicant must provide the following information:

1. Submit the State Application following the General Instructions provided in the Guidelines For New Charter Applications Utilizing the Interagency Charter and Financial Deposit Insurance Application.
2. Submit the Interagency Application, and all related attachments, as an attachment to State Application. Trust Company charters must use the State Application only, and follow the instructions in the Guidelines for New Charter Applications.
3. Comply with the following instructions and information needed by the Department, which are not specifically addressed in the Interagency Application:
	1. 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. See 7P.S. § 1001-1011.
	2. There must be a minimum of three incorporators who subscribe to at least $1,000 par value of the proposed institutions stock. See 7P.S. § 1002.
	3. Submit an affidavit pursuant to Section 1003 of the Code regarding organizational expenses and prohibition of promoters’ fees. See 7P.S. § 1003.
	4. The Articles of Incorporation must follow the requirements in Section 1004 of the Code and must be submitted with the application. See 7P.S. § 1004.
	5. The filing fee for a Pennsylvania state charter is $10,000. The fee which should be made payable to the Department of State for filing the Articles of Incorporation is $125. See 7P.S. 1005.
	6. Notice of publication – the applicant must advertise in accordance with Sections 1006 and 109 of the Code. See 7P.S. §§ 109,1006.
	7. 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 regarding Capital, Surplus and Expense Fund. See P.S. § 1010. The Department may require a higher level of capital than the minimum, if such higher amount is warranted based on analysis of the proposed business plan and other relevant application information.
	8. 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. See 7P.S. § 112.
	9. Sample bylaws are available from the Department to provide guidance to the applicant in establishing bylaws that comply with the Code. See page 16 of these guidelines.
	10. The following charters are available pursuant to Pennsylvania law and may be applied for through the Interagency Charter Application: a bank, bank & trust company, and savings bank. 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.
	11. 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.
	12. 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 the applicant satisfactorily research and has determined that no environmental hazards are located on the proposed premises.
	13. The applicant’s incorporators should sign the Representation pages in the State Application rather than the OCC Certifications.
	14. The applicant does not need to file the Oath of Bank Director or Oath of Savings Association Director forms included in the Interagency Application. The State has similar Oath of Director forms which will be made available to the applicant.

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

## GENERAL INSTRUCTIONS

These instructions have been compiled to assist you in the preparation of the required documents necessary to complete an application for approval to charter a State-chartered institution. It is essential you first attain familiarity with the contents herein.

**Pa. Banking Code Requirements:**

Chapter 10, Sections 1001-1011, detail the Code requirements for incorporation and authorization of the institution. Section 1004 specifically defines the contents and requirement of the "Articles of Incorporation," otherwise known as "Attachment I" to the application.

Section 1102 - Minimum Capital, and Section 109 - Advertisements (see page 9 & 10) define additional requirements, outside of Chapter 10, of the Banking Code of 1965 as amended. While the above noted Sections of the Banking Code are the most directly applicable Sections to the Chartering process, however, the Banking Code is applicable to the proposed institution in its entirety. A copy of the Banking Code is available on the Department’s website at [www.dobs.state.pa.us](http://www.dobs.state.pa.us)

The applicant shall have an advertisement published in a newspaper of general circulation and a legal journal pursuant the requirements of Section 1006 and 109 of the Banking Code of 1965.

**Application for Permission to Establish a State-Chartered Institution utilizing the Interagency Charter and Federal Deposit Insurance Application:**

A basic four-page form which includes the nine (9) "Representations of Incorporators," the "Eighth" of which lists and enumerates the documents and data required with the application in the form of attachments thereto.

The originals of said application and Attachments thereto must be submitted in triplicate, except for the Interagency Biographical and Financial Reports, which are part of the Interagency Charter and Federal Deposit Insurance application (the “Interagency Application”). Only one copy of each of these reports is required for each of the proposed officers, directors and/or incorporators of the institution. To cover the cost of the background investigation conducted on each individual filing an Interagency Biographical Report, a check aggregating an amount equal to $10.00 times the number of Reports submitted should accompany the application. Such check is to be made payable to the **"Commonwealth of Pennsylvania."**

At such time as the Application for Permission to Establish a State-Chartered Institution (the “State Application”) and all required attachments have been completed and executed, including the Interagency Charter and Federal Deposit Insurance application, they must be filed in the office of the Secretary of Banking and Securities. The Stock Subscription Agreements shall be completed but no cash shall be accepted for the subscriptions until such time as approval has been given by the Department of Banking and Securities and a Certificate of Incorporation has been issued. If all attachments to the application and financial reports do not accompany the original filing, the Application will not be acted upon in any manner by the Secretary of Banking and Securities until the filing is complete.

**Filing Fees**

The fee for filing a State Application is Ten Thousand Dollars ($10,000) payable to the Pennsylvania Department of Banking and Securities and must be attached to the application. Upon completion of the Department of Banking and Securities investigation, the costs of such investigation will be billed to the incorporators; and payment must be made immediately.

A check in the amount of One Hundred Dollars ($125) payable to the Pennsylvania Department of State for filing Articles of Incorporation with that Department must also accompany the application.

We trust the foregoing will be of benefit to you in understanding the procedure involved in the filing of your application. We very strongly urge that all documents filed with this Department be thoroughly checked in advance in order to eliminate discrepancies or return for clarification.

### APPLICATION FOR PERMISSION

### TO ESTABLISH A

### STATE-CHARTERED INSTITUTION

## Utilizing the Interagency Charter and Federal Deposit Insurance Application

##### To The SECRETARY OF BANKING AND SECURITIES

##### COMMONWEALTH OF PENNSYLVANIA

#### HARRISBURG, PA 17101-2290 (Date)

#### Dear Secretary:

 We, the undersigned incorporators, propose to organize a \* under the provisions of Chapter 10 of the Pennsylvania Banking Code of 1965, as amended.

 In support of this application, we hereby make the following statements and representations and submit information on the several factors enumerated in Section 1007 of the Banking Code:

Name of Proposed Institution

Location

 (Street Address) (City, Borough, Township) (Zip Code)

County of

 That said institution be authorized to issue shares of common capital stock, each share

having a par value of $ , and shares of preferred capital stock, each share having a par value of
$ .

 That the consideration received by said institution for the shares issued by it be allocated as follows:

 Consideration Aggregate

 Per Share Consideration

 Capital $ $

 Paid-In Surplus

 Expense Fund \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_

 $\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_\_\_

That of

 (Full Name) (Street Address)

 ,

(City, Borough, Township) (County) (State) (Zip Code)

act as sole and exclusive agent to represent and appear for the undersigned incorporators before the Secretary of Banking and Securities and receive all correspondence and documents in respect to this application.

\*Designate one: Bank - Trust Company - Bank and Trust Company

## REPRESENTATIONS

 THE UNDERSIGNED INCORPORATORS, for the purpose of inducing the Secretary of Banking and Securities to permit the organization of said institution, upon the terms and conditions set forth in this application and the Interagency Charter and Federal Deposit Insurance Application or upon such other or additional terms and conditions as may be lawfully required by the Secretary of Banking and Securities, and with the intention that the Secretary of Banking and Securities shall rely upon the following, do hereby jointly and severally represent and warrant to the Secretary of Banking and Securities as follows:

 FIRST, the undersigned incorporators, as directors or shareholders of the said institution or otherwise, will not vote for or in any other manner approve of or consent to any payment from the organization expense fund for obtaining subscriptions to the capital stock of said institution nor shall any organization expense be paid out of any other funds of the said institution.

 SECOND, the undersigned incorporators have not directly or indirectly paid to or received from any person, partnership, association, or corporation, any money or other thing of value as a fee, commission, or other compensation for any service rendered or to be rendered, or for any property transferred or to be transferred, in connection with the organization of said institution except as follows (If none, so state):

 Date Amount

Name(s) of Payor(s) Name(s) of Payee(s) Reason for Payment Paid Paid

 THIRD, the undersigned incorporators are not directly or indirectly party to any written or oral agreement or understanding to directly or indirectly pay to or receive from any person, partnership, association, or corporation any money or thing of value as a fee, commission, or other compensation for a service rendered or to be rendered, or for any property transferred or to be transferred, in connection with the organization of said institution except as follows (If none, so state):

 Date and Terms of Amount to

 Name(s) of Payor(s) Name(s) of Payee(s) Agreement(s) be Paid

 FOURTH, the undersigned incorporators are not acting in this application as representatives of or on behalf of any person, partnership, association, or corporation undisclosed to the Secretary of Banking and Securities.

**REPRESENTATIONS**

 FIFTH, the undersigned incorporators are not directly or indirectly party to any written or oral agreement or understanding providing for the undersigned incorporators or any other person, partnership, association, or corporation not party to any of the annexed Stock Subscription Agreements, to directly or indirectly purchase any stock of said institution or providing for the sale, pledge, transfer, or other disposition of any stock in the said institution to be legally or equitably owned by the undersigned incorporators to or for the benefit of any person, partnership, association, or corporation, except as follows (If none, so state):

Name(s) of Undersigned Name(s) of Other Party(s) Date and

 Party to the Agreement to the Agreement Terms of Agreement

 SIXTH, the undersigned incorporators are not directly or indirectly party to any written or oral agreement or understanding, undisclosed to the Secretary of Banking and Securities, providing for the sale of the assets of said institution to, or merging or consolidating the said institution with, any other financial institution.

 SEVENTH, the undersigned incorporators, as directors or officers of the said institution or otherwise, have not been convicted of fraud involving any financial institution or of a felony, except as might be enumerated in the annexed Biographical Reports.

 EIGHTH, the undersigned incorporators have annexed to this application those attachments listed and enumerated below incorporating expressly by reference the information set forth therein within this application:

 Attachment I - Articles of Incorporation (proposed)

 II - Bylaws (proposed)

 III - List of Stock Subscribers

 IV - Stock Subscription Agreements

V - Form Affidavit of Incorporators Pursuant to 7 P.S. § 1003(b)

VI - Interagency Charter and Federal Deposit Insurance Application

**REPRESENTATIONS**

 NINTH, the undersigned incorporators acknowledge any misrepresentation or omission of a material fact with respect to the foregoing application and representation or with respect to any other documents or papers submitted by the undersigned incorporators to the Secretary of Banking and Securities in connection with the organization of said institution shall, unless expressly waived by the Secretary of Banking and Securities, constitute fraud in the inducement and be grounds for the denial of the State institution charter requested herein.

 IN WITNESS WHEREOF, the Undersigned incorporators have hereunto set our hands and seals on the date set forth above.

Signature Signature

Typed Name Typed Name

& Address: & Address:

Signature Signature

Typed Name Typed Name

& Address: & Address:

Signature Signature

Typed Name Typed Name

& Address: & Address:

COMMONWEALTH OF PENNSYLVANIA )

 ) SS:

County of ,)

 The foregoing Application for Permission To Establish A State-Chartered Institution and Representations of Incorporators was subscribed and sworn to before me this day of 20 , by the following persons:

Witness my hand an official seal.

My commission expires:

 (SEAL)

 Notary Public

**ARTICLES OF INCORPORATION**

**INSTRUCTIONS**

The proposed Articles of Incorporation shall contain the information required in Section 1004 of the Banking Code of 1965, as amended. See 7P.S. § 1004. Refer to the Pennsylvania Banking Code Statutes Sections reprinted in this document.

ATTACHMENT I

PROPOSED BYLAWS FOR (Name of Institution)

This attachment shall contain the proposed bylaws for the institution.

Refer to "PA. DEPARTMENT OF BANKING AND SECURITIES SAMPLE BYLAWS" located on the Department of Banking Web site.

ATTACHMENT II

**LIST OF STOCK SUBSCRIBERS**

Name

Residence Number of % of

and Shares Total

Citizenship Occupation Subscribed Shares

 **INSTRUCTIONS**

1 - The above attachment shall be completed with respect to each subscriber for stocks.

2 - In the event a person subscribes to more than five percent of the total authorized capital stock of the proposed institution, then the following information must also be included:

 (a) Past and present connection with any other

 institution, other than as a customer.

 (b) If the stock purchase is to be financed, the

 name and address of lender, the amount of the loan,

 the terms of the loan and collateral, if any, must

 be set forth in detail.

3 - Attach additional pages if more space is necessary. For the purpose of this attachment, a "person" shall be deemed to include both a husband and wife if they are subscribing to and wish to hold the stock in joint tenancy.

ATTACHMENT III

**INSTRUCTIONS**

Attachment V shall consist of duly executed stock subscription agreements for 100% of the capital stock of the proposed institution.

The Stock Subscription Agreement for each subscriber shall be set forth essentially as follows:

 **STOCK SUBSCRIPTION AGREEMENT**

For good and valuable consideration, the undersigned hereby subscribes for that amount of capital stock of
(Name of Proposed Institution) as set forth opposite my signature. I understand the proposed institution is being organized pursuant to the Pennsylvania Banking Code of 1965, as amended. I further agree to accept the number of shares of capital stock set forth opposite my signature and agree to pay $ per share in cash upon demand prior to or commensurate with the granting of a charter to the proposed institution.

 Number Amount of

 Stock Subscriber of Shares Subscription Date

NOTE: One such Agreement may be obtained from each stock subscribed separately or jointly executed by all of the subscribers, if desired.

ATTACHMENT IV

**COMMONWEALTH OF PENNSYLVANIA**

**Department of Banking and Securities**

**Corporate Applications Division**

**(717) 783-2253**

**Form Affidavit of Incorporators**

**Pursuant to 7 P.S. § 1003(b)**

We, the undersigned incorporators of **[the institution]** (the “Institution”), affirm the Institution has not paid, nor will it 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, including reasonable brokers’ fees, commissions and underwriting costs, necessary for its organization.

Further, the following expenses were incurred, or are to be incurred, in connection with the organization of the Institution, subscriptions for its shares and the sale of its shares:

**[List organizational expenses]**

These statements are made by the respective persons below subject to the penalties of 18 Pa.C.S.A. § 4903, relating to false swearing. The information in this Affidavit is stated to the best knowledge, information and belief of the respective persons below.

IN WITNESS WHEREOF, the undersigned majority of incorporators of **[the institution]** have caused this affidavit to be executed:

**[Signatures, typed names and addresses are required of a majority of the incorporators.]**

The foregoing Affidavit of Incorporators of **[the institution]** was subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_.

Witness my hand and official seal.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ My Commission Expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(Signature of Notary Public)

SEAL

ATTACHMENT V

**INTERAGENCY CHARTER AND FEDERAL DEPOSIT INSURANCE APPLICATION**

# This attachment shall contain the Interagency Application filed with the Federal Deposit Insurance Corporation, with all required attachments. Refer to Instructions for filing the Pennsylvania New Charter Application utilizing the Interagency Charter and Federal Deposit Insurance Application on pages 1 and 2. A copy of the Interagency Charter and Federal Deposit Insurance Application, Business Plan Guidelines, and the Interagency Biographical and Financial Reports can be obtained from the Federal Deposit Insurance Corporation

<http://www.fdic.gov/formsdocuments/InteragencyCharter-InsuranceApplication.pdf>.

<http://www.fdic.gov/formsdocuments/Bio-FinReport.pdf>.