



Bureau of Residential Finance  
Thrift Division

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[Corporate Governance  
Informal Action (Written Unanimous Consent)  
Savings Banks]

July 22, 2002

Mr. []  
[]  
[]  
Chicago, Illinois []

Re: Savings Bank Act  
Informal Action of Shareholders

Dear Mr. []:

You have inquired, on behalf of your client, whether the Savings Bank Act (SBA) permits the sole savings bank shareholder, a savings bank holding company, to act by written unanimous consent in lieu of formal shareholder vote pursuant to an annual or special shareholders meeting.

Neither the SBA, 205 ILCS 205, nor the Savings Bank Rules (Rules), 38 IAC Part 1075, speak directly to the matter of whether the sole shareholder of a savings bank may act by written unanimous consent. However, the SBA contemplates that savings banks may employ generally accepted procedures for corporate governance, unless the SBA, regulation or supervisory considerations require otherwise. Specifically, savings banks may look to procedures that are authorized for Illinois business corporations in the absence of guidance from the SBA and Rules. Section 1008(b) of the SBA states:

If [the SBA] or [the Rules] adopted under [the SBA] fail to provide specific guidance in matters of corporate governance, the provisions of the Business Corporation Act [805 ILCS 5] may be used.

205 ILCS 205/1008(b).

In this connection, the Business Corporation Act (BCA), as described below, permits shareholders of an Illinois

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business corporation to take action informally by written unanimous consent. Specifically, section 7.10 of the BCA states:

Informal action by shareholders. (a) Unless otherwise provided in the articles of incorporation or Section 12.10 of this Act [BCA], any action required by this Act to be taken at any annual or special meeting of the shareholders of a corporation, or any other action which may be taken at a meeting of the shareholders, may be taken without a meeting and without a vote, if a consent in writing, setting forth the action so taken, shall be signed (i) by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voting or (ii) by all of the shareholders entitled to vote with respect to the subject matter thereof. If such consent is signed by less than all of the shareholders entitled to vote, then such consent shall become effective only if at least 5 days prior to the execution of the consent a notice in writing is delivered to all the shareholders entitled to vote with respect to the subject matter thereof and, after the effective date of the consent, prompt notice of the taking of the corporation action without a meeting by less than unanimous written consent shall be delivered in writing to those shareholders who have not consented in writing.

(b) In the event that the action which is consented to is such as would have required the filing of a certificate under any other Section of this Act if such action had been voted on by the shareholders at a meeting thereof, the certificate filed under such other Section shall state, in lieu of any statement required by such Section concerning any vote of shareholders, that written consent has been delivered in accordance with the provisions of this Section and that written notice has been delivered as provided in this Section.

805 ILCS 5/7.20

Based on the authority in section 1008(b) of the SBA, as described above, a savings bank's holding company and sole shareholder may act by written unanimous consent in a manner consistent with section 7.10 of the BCA.

Prior to the shareholder acting by written unanimous consent, the Thrift Division requests the opportunity to review the proposed documentation for this action. You may send the documents to me.

I hope the foregoing is responsive to your inquiry. If I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

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[]  
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Robert A. Stearn  
Senior Counsel