

2012 Kansas Statutes

17-6706. Merger or consolidation of domestic and foreign nonstock corporations; service of process upon surviving or resulting corporation. (a) Any one or more nonstock corporations of this state may merge or consolidate with one or more other nonstock corporations of any other state or states of the United States or of the District of Columbia, if the laws of such other jurisdiction permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction. The constituent corporations may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new nonstock corporation formed by the consolidation, which may be a corporation of the state of incorporation of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. In addition, any one or more nonstock corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more nonstock corporations of this state if the surviving or resulting corporation will be a corporation of this state, and if the laws under which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction.

(b) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state: (1) The terms and conditions of the merger or consolidation; (2) the mode of carrying the same into effect; (3) the manner, if any, of converting the memberships of each of the constituent corporations into memberships of the corporation surviving or resulting from such merger or consolidation, or of cancelling some or all of such memberships; (4) such other details and provisions as shall be deemed desirable; and (5) such other provisions or facts as shall then be required to be stated in articles of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the surviving or resulting corporation and that can be stated in the case of a merger or consolidation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement shall be adopted, approved and executed by each of the constituent corporations in accordance with the laws under which it is formed and, in the case of a Kansas corporation, in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6705, and amendments thereto, with respect to the merger of nonstock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of subsection (c) of K.S.A. 17-6702, and amendments thereto, shall apply to a merger under this section, and the reference to "stockholder" shall be deemed to include "member" hereunder.

(d) If the corporation surviving or resulting from the merger or consolidation is to be governed by the laws of any state other than this state, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent corporation of this state, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation, and shall irrevocably appoint the secretary of state as its agent to accept service of process in any such suit or other proceedings and shall specify the address to which a copy of such process shall be mailed by the secretary of state. Service of such process shall be made by personally delivering to and leaving with the secretary of state duplicate copies of such process. The secretary of state shall forthwith send by registered mail one of such copies to such surviving or resulting corporation at its address specified, unless such surviving or resulting corporation shall thereafter have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated.

(e) The provisions of subsection (e) of K.S.A. 17-6701, and amendments thereto, shall apply to a merger under this section, if the corporation surviving the merger is a corporation of this state.

History: L. 1972, ch. 52, § 84; L. 1988, ch. 99, § 44; Revived and amend., L. 1988, ch. 100, § 44; L. 1992, ch. 270, § 19; L. 1993, ch. 163, § 7; L. 1999, ch. 39, § 14; L. 2000, ch. 39, § 33; L. 2004, ch. 143, § 54; Jan. 1, 2005.