



Ohio Revised Code

Section 1776.70 Certificate of merger or consolidation.

Effective: January 30, 2014

Legislation: House Bill 72 - 130th General Assembly

(A) Upon the adoption by each constituent entity of an agreement of merger or consolidation pursuant to section 1776.68 or 1776.69 of the Revised Code, the resulting entity shall file a certificate of merger or consolidation with the secretary of state, unless the only constituent entities that are domestic entities are partnerships, and in the case of a consolidation, the resulting entity is a domestic partnership, in which case the filing of a certificate of merger or consolidation is optional. Any certificate shall be on a form the secretary of state prescribes, signed by an authorized representative of each constituent entity, and set forth only the information this section requires.

(B)(1) The certificate of merger or consolidation shall set forth all of the following:

(a) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(b) A statement that each constituent entity has complied with all of the laws under which it exists and that the laws permit the merger or consolidation;

(c) The name and mailing address of the person or entity that is to provide, in response to any written request made by a shareholder, partner, or other equity holder of a constituent entity, a copy of the agreement of merger or consolidation;

(d) The effective date of the merger or consolidation, which date shall be on or after the date of the filing of the certificate;

(e) The signature of the representative or representatives authorized to sign the certificate on behalf of each constituent entity and the office held or the capacity in which the representative is acting;

(f) A statement that the agreement of merger or consolidation is authorized on behalf of each constituent entity and that each person who signed the certificate on behalf of each entity is



authorized to do so;

(g) In the case of a merger, a statement that one or more specified constituent entities will be merged into a specified surviving entity or, in the case of a consolidation, a statement that the constituent entities will be consolidated into a new entity;

(h) The name and form of the surviving entity in the case of a merger or the name and form of the new entity in the case of a consolidation;

(i) In the case of a merger, if the surviving entity is a foreign entity not licensed to transact business in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served;

(j) In the case of a consolidation, the name and address of the statutory agent upon whom any process, notice, or demand against any constituent entity or the new entity may be served.

(2) In the case of a consolidation into a new domestic corporation, limited liability company, or limited partnership, the articles of incorporation, the articles of organization, or the certificate of limited partnership of the new domestic entity shall be filed with the certificate of consolidation.

(3) In the case of a merger into a domestic corporation, limited liability company, or limited partnership, any amendments to the articles of incorporation, articles of organization, or certificate of limited partnership of the surviving domestic entity shall be filed with the certificate of merger.

(4) If the surviving or new entity is a foreign entity that desires to transact business in this state as a foreign corporation, limited liability company, limited partnership, or limited liability partnership, the certificate of merger or consolidation shall be accompanied by the information required by division (B)(7), (8), (9), or (10) of section 1776.69 of the Revised Code.

(5) If a domestic corporation or a foreign corporation licensed to transact business in this state is a constituent entity and the surviving or new entity resulting from the merger or consolidation is not a domestic corporation or a foreign corporation that is to be licensed to transact business in this state, the certificate of merger or consolidation shall be accompanied by the affidavits, receipts,



certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code, with respect to each domestic constituent corporation, and by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code, with respect to each foreign constituent corporation licensed to transact business in this state.

(C) If any constituent entity in a merger or consolidation is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, there also shall be filed in the proper office all documents that are required to be filed in connection with the merger or consolidation by the laws of that state or by that chapter.

(D)(1) Upon the filing of a certificate of merger or consolidation and other filings as described in division (C) of this section, or at any later date that the certificate of merger or consolidation specifies, the merger or consolidation is effective, subject to the limitation specified in division (B)(6) of section 1776.68 of the Revised Code.

(2) If domestic partnerships are the only domestic entities that are constituent entities or the resulting entity in a merger or consolidation, and the agreement of merger or consolidation provides for a means of determining when the merger becomes effective, other than based upon the filing of a certificate of merger, the merger becomes effective at the time determined in accordance with the agreement of merger or consolidation.

(E)(1) Upon request and payment of the fee division (K)(2) of section 111.16 of the Revised Code specifies, the secretary of state shall furnish a certificate setting forth the name and form of entity of each constituent entity and the states under the laws of which each constituent entity existed prior to the merger or consolidation, the name and the form of entity of the surviving or new entity and the state under the laws of which the surviving entity exists or the new entity is to exist, the date of filing of the certificate of merger or consolidation with the secretary of state, and the effective date of the merger or consolidation.

(2) The certificate of the secretary of state, or a copy of the certificate of merger or consolidation certified by the secretary of state, may be filed for record in the office of the county recorder of any county in this state and, if filed, shall be recorded in the official records of that county. For that recording, the county recorder shall charge and collect the same fee as in the case of deeds.