



Ohio Revised Code

Section 1701.792 Conversion of domestic corporation into another entity.

Effective: January 1, 2008

Legislation: House Bill 134 - 127th General Assembly

(A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic corporation may be converted into a domestic or foreign entity other than a nonprofit corporation or a domestic corporation. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converted entity will exist.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, the form of the converted entity, and the jurisdiction of formation of the converted entity;

(b) If the converted entity is a domestic entity, the complete terms of all documents required under the applicable chapter of the Revised Code to form the converted entity;

(c) If the converted entity is a foreign entity, all of the following:

(i) The complete terms of all documents required under the law of its formation to form the converted entity;

(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment of the secretary of state as the agent of the converted entity to accept service of process in this state to enforce against the converted entity any obligation of the converting corporation or to enforce the rights of a dissenting shareholder of the converting corporation;

(iii) If the converted entity desires to transact business in this state, the information required to qualify or to be licensed under the applicable chapter of the Revised Code.



(d) All other statements and matters required to be set forth in the declaration of conversion by the applicable chapter of the Revised Code, if the converted entity is a domestic entity, or by the laws under which the converted entity will be formed, if the converted entity is a foreign entity;

(e) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting corporation into, or substituting the interests or shares in the converting corporation for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted entity.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion;

(2) A provision authorizing, prior to the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code, the converting corporation to abandon the proposed conversion by action of the directors of the converting corporation or by the same vote as was required to adopt the declaration of conversion;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting corporation at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) The directors of the domestic converting corporation must approve the declaration of conversion



to effect the conversion, and the declaration of conversion must be adopted by the shareholders of the domestic converting corporation, at a meeting held for the purpose.

(E) Notice of each meeting of shareholders of a domestic converting corporation at which a declaration of conversion is to be submitted shall be given to all shareholders of that corporation, whether or not they are entitled to vote, and shall be accompanied by a copy or a summary of the material provisions of the declaration of conversion.

(F) The vote required to adopt a declaration of conversion at a meeting of the shareholders of a domestic converting corporation is the affirmative vote of the holders of shares of that corporation entitling them to exercise at least two-thirds of the voting power of the corporation on the proposal or a different proportion as provided in the articles, but not less than a majority, or, if the conversion is to a foreign corporation, a different proportion as the articles provide for a merger or consolidation, and the affirmative vote of the holders of shares of any particular class as required by the articles of the converting corporation.

If the declaration of conversion would have an effect that, if accomplished through an amendment to the articles, would entitle the holders of shares of any particular class of a domestic converting corporation to vote as a class on the adoption of an amendment as provided in division (B) of section 1701.71 of the Revised Code, the declaration of conversion also must be adopted by the affirmative vote of the holders of at least two-thirds of the shares of such class, or a different proportion as the articles provide, but not less than a majority. However, if the declaration of conversion would have an effect that, if accomplished through an amendment to the articles, would entitle the holders of shares of any particular class of a domestic converting corporation to vote as a class on the adoption of an amendment pursuant to division (B)(2) or (4) of section 1701.71 of the Revised Code solely because those shares are to be converted into or substituted for the same number of shares of a class of a different corporation having express terms identical in all material respects to those of the class of shares so converted or substituted, the declaration of conversion does not need to be adopted by the affirmative vote of the holders of shares of that particular class voting as a class.

If the declaration of conversion would authorize any particular corporate action that under any applicable provision of law or the articles could be authorized only by or pursuant to a specified



vote of shareholders, the declaration of conversion also must be adopted by the same affirmative vote as required for such action.

(G)(1) At any time before the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code, the conversion may be abandoned by the directors of the converting corporation, if the directors are authorized to do so by the declaration of conversion, or by the same vote of the shareholders as was required to adopt the declaration of conversion.

(2) The declaration of conversion may contain a provision authorizing the directors of the converting corporation to amend the declaration of conversion at any time before the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code, except that, after the adoption of the declaration of conversion by the stockholders of the converting corporation, the directors may not amend the declaration of conversion to do any of the following:

(a) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or any other property to be received by the shareholders of the converting corporation in conversion of, or substitution for, their shares;

(b) Alter or change any term of the organizational documents of the converted entity except for alterations or changes that are adopted with the vote or action of the persons, the vote or action of which would be required for the alteration or change after the conversion;

(c) Alter or change any other terms and conditions of the declaration of conversion if any of the alterations or changes, alone or in the aggregate, materially and adversely would affect the holders of any class or series of shares of the converting corporation.