



Ohio Revised Code

Section 1701.82 Conditions following merger or consolidation.

Effective: April 7, 2005

Legislation: Senate Bill 80 - 125th General Assembly

(A) When a merger or consolidation becomes effective, all of the following apply:

(1) The separate existence of each constituent entity other than the surviving entity in a merger shall cease, except that whenever a conveyance, assignment, transfer, deed, or other instrument or act is necessary to vest property or rights in the surviving or new entity, the officers, general partners, or other authorized representatives of the respective constituent entities shall execute, acknowledge, and deliver those instruments and do those acts. For these purposes, the existence of the constituent entities and the authority of their respective officers, directors, general partners, or other authorized representatives is continued notwithstanding the merger or consolidation.

(2) In the case of a consolidation, the new entity exists when the consolidation becomes effective and, if it is a domestic corporation, the articles contained in or provided for in the agreement of consolidation shall be its original articles. In the case of a merger in which the surviving entity is a domestic corporation, the articles of the domestic surviving corporation in effect immediately prior to the time the merger becomes effective shall continue as its articles after the merger except as otherwise provided in the agreement of merger.

(3) The surviving or new entity possesses all assets and property of every description, and every interest in the assets and property, wherever located, and the rights, privileges, immunities, powers, franchises, and authority, of a public as well as of a private nature, of each constituent entity, and, subject to the limitations specified in section 2307.97 of the Revised Code, all obligations belonging to or due to each constituent entity, all of which are vested in the surviving or new entity without further act or deed. Title to any real estate or any interest in the real estate vested in any constituent entity shall not revert or in any way be impaired by reason of such merger or consolidation.

(4) Subject to the limitations specified in section 2307.97 of the Revised Code, the surviving or new entity is liable for all the obligations of each constituent entity, including liability to dissenting shareholders. Any claim existing or any action or proceeding pending by or against any constituent



entity may be prosecuted to judgment, with right of appeal, as if the merger or consolidation had not taken place, or the surviving or new entity may be substituted in its place.

(5) Subject to the limitations specified in section 2307.97 of the Revised Code, all the rights of creditors of each constituent entity are preserved unimpaired, and all liens upon the property of any constituent entity are preserved unimpaired, on only the property affected by those liens immediately prior to the effective date of the merger or consolidation. If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, then the former general partner shall have no liability for any obligation incurred after the merger or consolidation except to the extent that a former creditor of the constituent partnership in which the former general partner was a partner extends credit to the surviving or new entity reasonably believing that the former general partner continued as a general partner of the surviving or new entity.

(B) If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, the provisions of division (B) of section 1782.434 of the Revised Code shall apply.

(C) In the case of a merger of a domestic constituent corporation into a foreign surviving corporation, limited liability company, or limited partnership that is not licensed or registered to transact business in this state or in the case of a consolidation of a domestic constituent corporation into a new foreign corporation, limited liability company, or limited partnership, if the surviving or new entity intends to transact business in this state and the certificate of merger or consolidation is accompanied by the information described in division (B)(4) of section 1701.81 of the Revised Code, then, on the effective date of the merger or consolidation, the surviving or new entity shall be considered to have complied with the requirements for procuring a license or for registering to transact business in this state as a foreign corporation, limited liability company, or limited partnership, as the case may be. In such a case, a copy of the certificate of merger or consolidation certified by the secretary of state constitutes the license certificate prescribed by the laws of this state for a foreign corporation transacting business in this state or the application for registration prescribed for a foreign limited partnership or limited liability company.

(D) Any action to set aside any merger or consolidation on the ground that any section of the



Revised Code applicable to the merger or consolidation has not been complied with shall be brought within ninety days after the effective date of that merger or consolidation or be forever barred.

(E) As used in this section, "corporation" or "entity" applies to both domestic and foreign corporations and entities where the context so permits. In the case of a foreign constituent entity or a foreign new entity, this section is subject to the laws of the state under the laws of which the entity exists or in which it has property.