



Ohio Revised Code

Section 1745.461 Merger or consolidation into entity other than domestic unincorporated nonprofit association.

Effective: April 12, 2021

Legislation: Senate Bill 276

(A)(1) Pursuant to an agreement of merger between the constituent entities as provided in this section, a domestic unincorporated nonprofit association and, if so provided, one or more additional domestic or foreign entities may be merged into a surviving entity other than a domestic unincorporated nonprofit association. Pursuant to an agreement of consolidation, a domestic unincorporated nonprofit association together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic unincorporated nonprofit association to be formed by that consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(2) To effect a merger or consolidation under this section, the manager or managers of each constituent unincorporated nonprofit association shall approve an agreement of merger or consolidation to be signed by the manager, the chairperson, the president, or a vice-president and by the secretary or an assistant secretary or, if there are no officers, by an authorized manager. The agreement of merger or consolidation shall be approved or otherwise authorized by or on behalf of each other constituent entity in accordance with the laws under which it exists.

(3) The agreement 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) In the case of a merger, that one or more specified constituent entities will be merged into a specified surviving foreign entity or surviving domestic entity other than a domestic unincorporated nonprofit association or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or domestic entity other than a domestic unincorporated nonprofit association. The name of the surviving or new entity may be the same as or similar to that



of any constituent entity.

(c) The terms of the merger or consolidation and the mode of carrying those terms into effect;

(d) If the surviving or new entity is a foreign unincorporated nonprofit association, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1745.46 of the Revised Code if the surviving or new unincorporated nonprofit association were a domestic unincorporated nonprofit association;

(e) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity in that state;

(f) All statements and matters required to be set forth in an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(g) The consent of the surviving or the new entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new entity any obligation of any domestic constituent unincorporated nonprofit association. Such service shall be made upon the secretary of state by leaving duplicate copies of such process, together with an affidavit of the plaintiff or one of the plaintiff's attorneys, showing the last known address of such association, and a fee of up to five dollars that shall be included as taxable costs in the case of judicial proceedings. Upon receipt of such process, affidavit, and fee, the secretary of state shall immediately give notice to the association at the address specified in the affidavit and forward to such address by certified mail, with a request for return receipt, a copy of such process.

(h) If the surviving or new entity is a foreign unincorporated nonprofit association that desires to transact business in this state as a foreign unincorporated nonprofit association, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state;



- (i) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;
- (j) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state;
- (k) If the surviving or new entity is a foreign unincorporated association that desires to transact business in this state as a foreign unincorporated association, a statement to that effect, together with all of the information, if any, required by the secretary of state when a foreign unincorporated association registers to transact business in this state.
- (4) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.
- (B) A merger or consolidation pursuant to this section in which a public benefit association is one of the constituent entities shall be subject to, and shall comply with, the provisions of divisions (B)(1)(b), (2), (3), and (4) of section 1745.46 of the Revised Code.