



Ohio Revised Code

Section 1705.37 [Repealed Effective 2/11/2022 - See R.C. 1706.83] Merger or consolidation into entity other than domestic limited liability company.

Effective: July 1, 1994

Legislation: Senate Bill 74

(A) Pursuant to an agreement of merger between the constituent entities as provided in this section, a domestic limited liability company and one or more additional domestic or foreign entities may be merged into a surviving entity other than a domestic limited liability company. Pursuant to an agreement of consolidation between the constituent entities as provided in this section, a domestic limited liability company and one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic limited liability company. The merger or consolidation must be permitted by the chapter of the Revised Code under which each constituent domestic entity exists and by the laws under which each foreign constituent entity exists.

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

- (1) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;
- (2) In the case of a merger, that one or more specified constituent entities will be merged into a specified surviving foreign or domestic entity other than a domestic limited liability company;
- (3) In the case of a consolidation, that one or more specified constituent entities will be consolidated into a new foreign or domestic entity other than a domestic limited liability company;
- (4) If the surviving or new entity is a foreign limited liability company, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1705.36 of the Revised Code if the surviving or new entity were a domestic limited liability company;
- (5) The name and the form of entity of the surviving or new entity, which name may be the same as or similar to that of any constituent corporation or constituent limited liability company, 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;

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

(7) The consent of the surviving or new entity to be sued and served with process, notices, and demands in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any action or proceeding in this state to enforce against the surviving or new entity any obligation of any constituent domestic limited liability company or the rights of a dissenting member of any constituent domestic limited liability company;

(8) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, 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, as required when a foreign corporation applies for a license to transact business in this state;

(9) 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;

(10) 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 of the Revised Code when a foreign limited liability company registers to transact business in this state.

(C) Consistent with the laws under which the surviving entity exists or the new entity is to exist, the agreement of merger or consolidation also may set forth any additional provisions permitted by the laws of any state under the laws of which any constituent entity exists.



(D) To effect the merger or consolidation, the agreement of merger or consolidation shall be adopted by the managers and members of each constituent domestic limited liability company in the same manner and with the same notice to and vote or action of managers, members, or particular classes or groups of members as is required by section 1705.36 of the Revised Code. The agreement of merger or consolidation also shall be approved or otherwise authorized by or on behalf of each other constituent entity in accordance with the laws under which it exists.

(E) At any time before the filing of the certificate of merger or consolidation, the merger or consolidation may be abandoned by the managers of any constituent limited liability company, the directors of any constituent corporation, or the comparable representatives of any other constituent entity if the managers, directors, or other representatives are authorized to do so by the agreement of merger or consolidation. The agreement of merger or consolidation may contain a provision authorizing the managers of any constituent limited liability company in which the management is not reserved to its members, the members of any constituent limited liability company, the directors of any constituent corporation, or the comparable representatives of any other constituent entity to amend the agreement of merger or consolidation at any time before the filing of the certificate of merger or consolidation, except that, after the adoption of the agreement of merger or consolidation by the members of any constituent domestic limited liability company, the managers of a constituent domestic limited liability company in which the management is not reserved to its members are not authorized to amend the agreement of merger or consolidation to do any of the following:

(1) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or other property to be received by the members of the constituent domestic limited liability company in conversion of or in substitution for their interests;

(2) If the surviving or new entity is a limited liability company, alter or change any term of the operating agreement of the surviving or new limited liability company, except for any alterations or changes that otherwise could be adopted by the managers of the surviving or new limited liability company if its management is not reserved to its members;

(3) If the surviving or new entity is a corporation or any other entity other than a limited liability company, alter or change any term of the articles of incorporation or comparable instrument of the surviving or new corporation or other entity, except for alterations or changes that otherwise could



be adopted by the directors or comparable representatives of the surviving or new corporation or other entity;

(4) Alter or change any other terms and conditions of the agreement of merger or consolidation if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the members of any class or group of members of a constituent domestic limited liability company.