

RCW 23B.11A.020 Merger. (1) By complying with this chapter, one or more domestic corporations may merge with one or more domestic corporations or other entities in accordance with a plan of merger, resulting in a surviving entity.

(2) By complying with the provisions of this chapter applicable to other entities, an other entity may be a party to a merger with a domestic corporation, but only if the merger is permitted by the organic law of the other entity.

(3) If the organic law or organic rules of a domestic other entity do not provide procedures for the approval of a merger, a plan of merger may nonetheless be approved by the unanimous consent of all of the interest holders of that other entity, and the merger may thereafter be effected as provided in the other provisions of this chapter. For the purposes of applying this chapter in such a case:

(a) The other entity, its interest holders, interests, and organic rules taken together will be deemed to be a domestic corporation, shareholders, shares, and articles of incorporation, respectively, and vice versa as the context may require; and

(b) If the business and affairs of the other entity are managed by a person or persons that are not identical to the interest holders, that group will be deemed to be the board of directors.

(4) The plan of merger must include:

(a) As to each party to the merger, its name, jurisdiction of organization, and type of entity;

(b) The surviving entity's name, jurisdiction of organization, and type of entity;

(c) The manner and basis of converting the shares of each merging domestic corporation and interests of each merging other entity into shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, or other property, or of canceling some or all of such shares or interests, or any combination of the foregoing; and

(d) Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic rules of any such party.

(5) In addition to the requirements of subsection (4) of this section, a plan of merger may contain amendments to the articles of incorporation or public organic record of any party to the merger that will be the surviving entity, a restatement that includes one or more amendments to the surviving entity's articles of incorporation or public organic record, and any other provision not prohibited by law.

(6) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 23B.01.200(3).

(7) A plan of merger may be amended only with the consent of each party to the merger, except as provided in the plan of merger. An amendment to a plan of merger that has previously been approved by a party's shareholders or interest holders must be approved:

(a) In the same manner as the plan was approved, if the plan of merger does not provide for the manner in which it may be amended; or

(b) In the manner provided in the plan of merger, except that shareholders or interest holders that were entitled to vote on or consent to approval of the plan of merger are entitled to vote on or consent to any amendment of the plan of merger that will change:

(i) The amount or kind of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests,

cash, or other property to be received under the plan of merger by the shareholders or interest holders of any party to the merger;

(ii) The articles of incorporation of any domestic corporation, or the organic rules of any other entity, that will be the surviving entity of the merger, unless (A) the change constitutes an amendment to the articles of incorporation or organic rules of the surviving entity that would be permitted without approval of shareholders or interest holders by RCW 23B.10.020 or by comparable provisions of the organic law of any such other entity, or (B) the shareholders or interest holders that were entitled to vote on or consent to approval of the plan of merger will not continue as or become shareholders or interest holders of the surviving entity; or

(iii) Any of the other terms or conditions of the plan of merger if the change would adversely affect such shareholders or interest holders in any material respect. [2024 c 22 s 2.]