

2023 Kansas Statutes

17-6707. Merger or consolidation of domestic stock and nonstock corporations. (a) Any one or more nonstock corporations of this state, whether or not organized for profit, may merge or consolidate with one or more stock corporations of this state, whether or not organized for profit. The constituent corporations may merge into a single surviving corporation, which may be any one of the constituent corporations, or they may consolidate into a new resulting corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving constituent corporation or the resulting corporation may be organized for profit or not organized for profit and may be a stock corporation or a nonstock corporation.

(b) The board of directors of each stock corporation that desires to merge or consolidate and the governing body of each nonstock corporation that desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;
- (3) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;
- (4) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;
- (5) the manner, if any, of converting the shares of stock of a stock corporation and the memberships or membership interests of a nonstock corporation into shares or other securities of a stock corporation or memberships or membership interests of a nonstock corporation surviving or resulting from such merger or consolidation or of cancelling some or all of such shares or memberships or membership interests, and, if any shares of any such stock corporation or memberships or membership interests of any such nonstock corporation are not to remain outstanding, to be converted solely into shares or other securities of the stock corporation or memberships or membership interests of the nonstock corporation surviving or resulting from such merger or consolidation or to be cancelled, the cash, property, rights or securities of any other corporation or entity that the holders of shares of any such stock corporation or memberships or membership interests of any such nonstock corporation are to receive in exchange for, or upon conversion of such shares or memberships or membership interests, and the surrender of any certificates evidencing them and such cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of any stock corporation or memberships or membership interests of any nonstock corporation surviving or resulting from such merger or consolidation; and
- (6) such other details or provisions as are deemed desirable, including, without limiting the generality of this subsection, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto.

Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. "Facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement required by subsection (b), in the case of each constituent stock corporation, shall be adopted, approved, certified and executed by each constituent

corporation in the same manner as is provided in K.S.A. 17-6701, and amendments thereto, and, in the case of each constituent nonstock corporation, shall be adopted, approved, certified and executed by each of such constituent corporations in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger of stock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger under this section, and the reference in such sentence to "stockholder" shall include "member" as used in this section.

(d) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section and K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock corporation participating in a merger under this section.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that, for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(f) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired, but a stock corporation may be merged into a charitable nonstock corporation that shall continue as the surviving corporation.

History: L. 1972, ch. 52, § 85; L. 1988, ch. 99, § 45; Revived and amended, L. 1988, ch. 100, § 45; L. 1992, ch. 270, § 20; L. 1999, ch. 39, § 15; L. 2000, ch. 39, § 34; L. 2004, ch. 143, § 55; L. 2016, ch. 110, § 74; L. 2023, ch. 66, § 34; July 1.