

Act No. 410
Public Acts of 1994
Approved by the Governor
December 29, 1994
Filed with the Secretary of State
December 29, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Rep Randall

ENROLLED HOUSE BILL No. 5719

AN ACT to amend sections 701 702 703 705 and 706 of Act No 23 of the Public Acts of 1993 entitled An act to provide for the organization and regulation of limited liability companies to prescribe their duties rights powers immunities and liabilities to prescribe the powers and duties of certain state departments and agencies and to provide for penalties and remedies being sections 450 4701 450 4702 450 4703 450 4705 and 450 4706 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Sections 701 702 703 705 and 706 of Act No 23 of the Public Acts of 1993 being sections 450 4701 450 4702 450 4703 450 4705 and 450 4706 of the Michigan Compiled Laws are amended to read as follows

Sec 701 (1) A domestic limited liability company may merge with another limited liability company or any other business entity pursuant to a plan of merger approved as provided in section 702

(2) The plan of merger shall set forth all of the following

(a) The name of each constituent company and the name of the surviving company

(b) The terms and conditions of the proposed merger including the manner and basis of converting the membership interests in the limited liability company into membership interests in the surviving company or into cash or other property or into a combination thereof

(c) A statement of any amendment to the articles of organization of the surviving company to be effected by the merger or any restatement of the articles or a statement that no changes are to be made in the articles of the surviving company

(d) Other provisions with respect to the proposed merger that the constituent companies consider necessary or desirable

Sec 702 (1) The plan of merger shall be submitted to the members of the constituent company for approval and approval shall be by unanimous consent of the members of the constituent company unless an operating agreement of the constituent company otherwise provides

(2) If an operating agreement of the constituent company provides for approval by less than unanimous consent and the merger is approved a dissenting member may withdraw from the limited liability company and receive the distributions provided for in section 305

Sec 703 (1) After a plan of merger is approved a certificate of merger shall be executed as provided in section 103 and filed on behalf of each constituent company The certificate shall set forth all of the following

(a) The statements required by section 701(2)(a) and (c)

(b) A statement that the plan of merger has been approved by the members of the constituent company in accordance with section 702(1)

(c) The effective date of the merger if later than the date of filing of the certificate of merger

(2) The certificate of merger shall become effective in accordance with section 104

Sec 705 (1) One or more foreign limited liability companies may merge with 1 or more domestic limited liability companies or any other business entity if both of the following are satisfied

(a) The merger is permitted by the law of the jurisdiction under whose law each foreign constituent company is organized and each foreign constituent company complies with that law in effecting the merger

(b) Each domestic limited liability constituent company complies with the provisions of sections 701 through 703

(2) If the surviving company is to be governed by the laws of a jurisdiction other than this state it shall comply with the provisions of this act with respect to foreign limited liability companies if it is to transact business in this state

(3) The surviving company is liable for and is subject to service of process in a proceeding in this state for the enforcement of any obligation of a domestic limited liability constituent company including any obligation to a member of the domestic limited liability constituent company who has dissented from the merger and withdrawn pursuant to section 702(2)

Sec 706 Unless the plan of merger provides otherwise at any time before the effective date of a certificate of merger the merger may be abandoned in accordance with the procedure set forth in the plan of merger or if none is set forth by the unanimous consent of the members of the limited liability company that is a constituent entity unless the operating agreement of the limited liability company provides otherwise If a certificate of merger has been filed by a constituent company it shall file a certificate of abandonment within 10 days after the abandonment but not later than the effective date of the certificate of merger

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor