



HOUSE BILL No. 5719

September 13 1994, Introduced by Rep Randall and referred to the Committee on Business and Finance

A bill to amend sections 701, 702, 703, 705, and 706 of Act No 23 of the Public Acts of 1993, entitled "Michigan limited liability company act," 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

1 Section 1 Sections 701 702 703 705 and 706 of Act
2 No 23 of the Public Acts of 1993, being sections 450 4701,
3 450 4702 450 4703, 450 4705 and 450 4706 of the Michigan
4 Compiled Laws, are amended to read as follows

5 Sec 701 (1) ~~Two or more~~ A domestic limited liability
6 ~~companies~~ COMPANY may merge WITH ANOTHER LIMITED LIABILITY COM-
7 PANY OR ANY OTHER BUSINESS ENTITY pursuant to a plan of merger
8 approved as provided in section 702

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

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

5 (b) The terms and conditions of the proposed merger, includ-
6 ing the manner and basis of converting the membership interests
7 in ~~each~~ THE limited liability company into membership interests
8 in the surviving company, or into cash or other property or into
9 a combination thereof

10 (c) A statement of any amendment to the articles of organi-
11 zation of the surviving company to be effected by the merger or
12 any restatement of the articles, or a statement that no changes
13 are to be made in the articles of the surviving company

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

16 Sec 702 (1) The plan of merger shall be submitted to the
17 members of ~~each~~ THE constituent company for approval and
18 approval shall be by unanimous consent of the members of ~~each~~
19 THE constituent company, unless an operating agreement of ~~a~~ THE
20 constituent company otherwise provides

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

26 Sec 703 (1) After a plan of merger is approved, a
27 certificate of merger shall be executed as provided in

1 section 103 and filed on behalf of each constituent company The
2 certificate shall set forth all of the following

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

4 (b) A statement that the plan of merger has been approved by
5 the members of ~~each~~ THE constituent company in accordance with
6 section 702(1)

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

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

11 Sec 705 (1) One or more foreign limited liability com-
12 panies may merge with 1 or more domestic limited liability com-
13 panies OR ANY OTHER BUSINESS ENTITY if both of the following are
14 satisfied

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

19 (b) Each domestic LIMITED LIABILITY constituent company com-
20 plies with the provisions of sections 701 through 703

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

25 (3) The surviving company is liable for, and is subject to
26 service of process in a proceeding in this state for the
27 enforcement of any obligation of a domestic LIMITED LIABILITY

1 constituent company, including any obligation to a member of the
2 domestic LIMITED LIABILITY constituent company who has dissented
3 from the merger and withdrawn pursuant to section 702(2)

4 Sec 706 Unless the plan of merger provides otherwise at
5 any time before the effective date of a certificate of merger
6 the merger may be abandoned in accordance with the procedure set
7 forth in the plan of merger or, if none is set forth, by the
8 unanimous consent of the members of ~~each~~ THE limited liability
9 company that is a constituent entity, unless the operating agree-
10 ment of the limited liability company provides otherwise If a
11 certificate of merger has been filed by a constituent company, it
12 shall file a certificate of abandonment within 10 days after the
13 abandonment but not later than the effective date of the certifi-
14 cate of merger