

**48-3a-1026 Effect of merger.**

- (1) When a merger becomes effective:
  - (a) the surviving entity continues or comes into existence;
  - (b) each merging entity that is not the surviving entity ceases to exist;
  - (c) all property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;
  - (d) all debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity;
  - (e) except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;
  - (f) if the surviving entity exists before the merger:
    - (i) all its property continues to be vested in it without transfer, reversion, or impairment;
    - (ii) it remains subject to all its debts, obligations, and other liabilities; and
    - (iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in it;
  - (g) the name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;
  - (h) if the surviving entity exists before the merger:
    - (i) its public organic record, if any, is amended as provided in the statement of merger; and
    - (ii) its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;
  - (i) if the surviving entity is created by the merger:
    - (i) its public organic record, if any, is effective; and
    - (ii) its private organic rules are effective; and
  - (j) the interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under Section 48-3a-1008 and the merging entity's organic law.
- (2) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.
- (3) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.
- (4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is as follows:
  - (a) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective.
  - (b) The person does not have interest holder liability under the organic law of the domestic merging entity for any debt, obligation, or other liability that arises after the merger becomes effective.
  - (c) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred and the surviving entity were the domestic merging entity.

- (d) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the organic rules of the domestic merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred.
- (5) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity as provided in Section 16-17-301.
- (6) When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

Enacted by Chapter 412, 2013 General Session