

302A.621 MERGER OF SUBSIDIARY.

Subdivision 1. **When authorized; contents of plan.** If either the parent or the subsidiary is a domestic corporation, a parent that is a domestic or foreign corporation or limited liability company owning at least 90 percent of the outstanding shares of each class and series of a subsidiary that is a domestic or foreign corporation or limited liability company directly, or indirectly through related organizations, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, may merge the subsidiary into itself or into any other subsidiary at least 90 percent of the outstanding shares of each class and series of which is owned by the parent directly, or indirectly through related organizations, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, without a vote of the shareholders or other owners of itself or any subsidiary or may merge itself, or itself and one or more of the subsidiaries, into one of the subsidiaries under this section. A resolution approved by the affirmative vote of a majority of the directors or other members of the governing body of the parent present shall set forth a plan of merger that contains:

(1) the name of the subsidiary or subsidiaries, the name of the parent and the name of the surviving organization;

(2) the manner and basis of converting the shares or other ownership interests of the subsidiary or subsidiaries or parent into securities or other ownership interests of the parent, subsidiary, or of another corporation or, in whole or in part, into money or other property;

(3) if the parent is a constituent organization but is not the surviving organization in the merger, a provision for the pro rata issuance of shares or other ownership interests of the surviving organization to the holders of shares or other ownership interests of the parent on surrender of any certificates for shares or other ownership interests of the parent; and

(4) if the surviving organization is a subsidiary, a statement of any amendments to the articles of the surviving organization that will be part of the merger.

Subd. 2. **Notice to shareholders of subsidiary.** If the subsidiary is a domestic corporation, notice of the action, including a copy of the plan of merger, shall be given to each shareholder, other than the parent and any subsidiary, of each such subsidiary that is a constituent corporation in the merger before, or within ten days after, the effective date of the merger.

Subd. 2a. **Approval of parent's shareholders; when required.** (a) Notwithstanding subdivision 1:

(1) if the parent is a domestic corporation and the conditions of section 302A.613, subdivision 3, are not met with respect to the parent, then the resolution is not effective unless it is also approved by the affirmative vote of the holders of a majority of the voting power of all shares of the parent entitled to vote at a regular or special meeting held in accordance with section 302A.613; and

(2) if the parent is a limited liability company or a foreign corporation and not the surviving organization in the merger, then the resolution is not effective unless it is also approved in accordance with the laws under which the parent is organized or incorporated.

(b) Notwithstanding paragraph (a), if the parent is a constituent corporation and the surviving corporation in the merger, it may change its corporate name, without shareholder approval, by the inclusion of a provision to that effect in the resolution of merger setting forth the plan of merger

that is approved by the affirmative vote of a majority of the directors of the parent present. Upon the effective date of the merger, the parent's corporate name shall be changed.

Subd. 3. **Articles of merger; contents of articles.** Articles of merger shall be prepared that contain:

(1) the plan of merger;

(2) the number of outstanding shares or other ownership interests of each class and series of each subsidiary that is a constituent organization in the merger, other than the classes or series that, absent this section, would otherwise not be entitled to vote on the merger, and the number of shares of each class and series or other ownership interests of the subsidiary or subsidiaries, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, owned by the parent directly, or indirectly through related organizations; and

(3) a statement that the plan of merger has been approved by the parent under this section.

Subd. 4. **Articles signed, filed.** The articles of merger shall be signed on behalf of the parent and filed with the secretary of state.

Subd. 5. **Certificate.** The secretary of state shall issue a certificate of merger to the parent or its legal representative or, if the parent is a constituent organization but is not the surviving organization in the merger, to the surviving organization or its legal representative.

Subd. 6. **Rights of dissenting shareholders.** In the event all of the stock of one or more domestic subsidiaries that is a constituent corporation in a merger under this section is not owned by the parent directly, or indirectly through related organizations, immediately prior to the merger, the shareholders of each subsidiary that is a domestic corporation have dissenters' rights under sections 302A.471 (without regard to section 302A.471, subdivision 3) and 302A.473. If the parent is a constituent corporation but is not the surviving corporation in the merger, and the articles of incorporation of the surviving corporation immediately after the merger differ from the articles of incorporation of the parent immediately prior to the merger in a manner that would entitle a shareholder of the parent to dissenters' rights under section 302A.471, subdivision 1, paragraph (a), if the articles of incorporation of the surviving corporation constituted an amendment to the articles of incorporation of the parent, that shareholder of the parent has dissenters' rights as provided under sections 302A.471 and 302A.473. Except as provided in this subdivision, sections 302A.471 and 302A.473 do not apply to any merger effected under this section.

Subd. 7. **Nonexclusivity.** A merger among a parent and one or more subsidiaries or among two or more subsidiaries of a parent may be accomplished under sections 302A.611, 302A.613, and 302A.615 instead of this section, in which case this section does not apply.

History: 1981 c 270 s 93; 1991 c 49 s 19; 1993 c 17 s 50; 1997 c 10 art 1 s 28; 1999 c 85 art 1 s 13,14; 2002 c 311 art 1 s 21-24; 2006 c 250 art 1 s 36-41