

362.541 Articles of merger.

- (1) After a plan of merger is approved by each domestic or foreign limited partnership, limited liability company, or corporation that is a party to the merger, the surviving domestic or foreign limited partnership, limited liability company, or corporation shall deliver to the Secretary of State for filing articles of merger duly executed by each party to the merger setting forth:
 - (a) The name of jurisdiction of formation or organization of each constituent business entity which is to merge;
 - (b) The plan of merger;
 - (c) The name of the surviving business entity;
 - (d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and
 - (e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:
 1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and
 2. Appoints the Secretary of State as its agent for service of process in any such proceedings. The surviving entity shall specify the address to which a copy of process shall be mailed to it by the Secretary of State.
- (2) The merger shall take effect on the later of the date of the filing of the articles of merger or the date set forth in the articles of merger, in which case it shall not be later than ninety (90) days after the date on which the articles of merger were filed.
- (3) Upon the merger taking effect, if the surviving entity in the merger is a foreign limited partnership or limited liability company, the entity shall be deemed:
 - (a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or rights of dissenting shareholders of each domestic corporation party to the merger;
 - (b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS 271B; and
 - (c) To agree, to the extent required by Section 200 of the Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise as if the transaction had not taken place.
- (4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable provisions of the Kentucky Revised Statutes and for any domestic corporation party to the merger in accordance

with KRS Chapter 271B.

- (5) The filing of articles of merger shall act as a certificate of cancellation as described in KRS 362.419 for a domestic limited partnership that is not the surviving entity of the merger and that partnership's certificate of limited partnership shall be canceled upon the effective date of the articles of merger.
- (6) The Secretary of State shall receive a fee of fifty dollars (\$50) for the filing of each articles of merger.

Effective: June 26, 2007

History: Repeal the prior repeal contained in 2006 Ky. Acts ch. 149, sec. 239, which was to have been effective January 1, 2008, 2007 Ky. Acts ch. 137, sec. 180, effective June 26, 2007. -- Repealed 2006 Ky. Acts ch. 149, sec. 239, effective January 1, 2008. -- Created 1994 Ky. Acts ch. 389, sec. 114, effective July 15, 1994.