WEST VIRGINIA CODE: §31B-9-906

§31B-9-906. Effect of merger.

(a) When a merger takes effect:

(1) The separate existence of each limited liability company and other entity that is a party to the merger, other than the surviving entity, terminates;

(2) All property owned by each of the limited liability companies and other entities that are party to the merger vests in the surviving entity;

(3) All debts, liabilities and other obligations of each limited liability company and other entity that is party to the merger become the obligations of the surviving entity;

(4) An action or proceeding pending by or against a limited liability company or other party to a merger may be continued as if the merger had not occurred or the surviving entity may be substituted as a party to the action or proceeding; and

(5) Except as prohibited by other law, all the rights, privileges, immunities, powers and purposes of every limited liability company and other entity that is a party to a merger become vested in the surviving entity.

(b) The Secretary of State is an agent for service of process in an action or proceeding against the surviving foreign entity to enforce an obligation of any party to a merger if the surviving foreign entity fails to appoint or maintain an agent designated for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the designated office. Upon receipt of process, the Secretary of State shall send a copy of the process by registered or certified mail, return receipt requested, to the surviving entity at the address set forth in the articles of merger. Service is effected under this subsection at the earliest of:

(1) The date the company receives the process, notice or demand;

(2) The date shown on the return receipt, if signed on behalf of the company; or

(3) Five days after its deposit in the mail, if mailed postpaid and correctly addressed.

(c) A member of the surviving limited liability company is liable for all obligations of a party to the merger for which the member was personally liable before the merger.

(d) Unless otherwise agreed, a merger of a limited liability company that is not the surviving entity in the merger does not require the limited liability company to wind up its business under this chapter or pay its liabilities and distribute its assets pursuant to this chapter.

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(e) Articles of merger serve as articles of dissolution for a limited liability company that is not the surviving entity in the merger.

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