WEST VIRGINIA CODE: §31D-11-1106

§31D-11-1106. Articles of merger or share exchange.

(a) After a plan of merger or share exchange has been adopted and approved as required by this chapter, articles of merger or share exchange are to be executed on behalf of each party to the merger or share exchange by any officer or other duly authorized representative. The articles are to set forth:

(1) The names of the parties to the merger or share exchange and the date on which the merger or share exchange occurred or is to be effective;

(2) If the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation;

(3) If the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each separate voting group in the manner required by this chapter and the articles of incorporation;

(4) If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

(5) As to each foreign corporation and each other entity that was a party to the merger or share exchange, a statement that the plan and the performance of its terms were duly authorized by all action required by the laws under which the corporation or other entity is organized, or by which it is governed, and by its articles of incorporation or organizational documents.

(b) Articles of merger or share exchange are to be delivered to the Secretary of State for filing by the survivor of the merger or the acquiring corporation in a share exchange and take effect upon issuance by the Secretary of State of a certificate of merger to the survivor corporation.

(c) The Secretary of State shall withhold the issuance of any certificate of merger in the case where the new or surviving corporation will be a foreign corporation which has not qualified to conduct affairs or do or transact business or hold property in this state until the receipt by the Secretary of State of a notice from the Tax Commissioner and Bureau of Employment Programs to the effect that all taxes due from said corporation under the provisions of chapter eleven of this code, including, but not limited to, taxes withheld under the provisions of section seventy-one, article twenty-one, chapter eleven of this code, all business and

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occupation taxes, motor carrier and transportation privilege taxes, gasoline taxes, consumers sales taxes and any and all license franchise or other excise taxes and corporate net income taxes and employment security payments levied or assessed against the corporation seeking to dissolve have been paid or that the payment has been provided for, or until the Secretary of State received a notice from the Tax Commissioner or Bureau of Employment Programs stating that the corporation in question is not subject to payment of any taxes or to the making of any employment security payments or assessments.

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