WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1953

ENROLLED

HOUSE BILL No. 403

(By Mr. Snyder)

PASSED March 5, 1953

In Effect from Passage

403
AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section sixty-three-a thereof, and adding thereto a new section, designated section sixty-three-a-1, relating to the consolidation and merger of corporations, to provide for the merger of domestic corporations with foreign corporations upon each complying with the laws of the state under which it was formed; and providing for the merger of a parent corporation and wholly owned subsidiary by act of their respective boards of directors.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by reenacting section sixty-three-a thereof, and add-
ing thereto a new section, designated sixty-three-a-1, to read
as follows:

Section 63-a. Consolidation or Merger With Foreign
Corporation.—Any one or more corporations organized
under the provisions of this chapter, or existing under
the laws of this state, may consolidate or merge with one
or more other corporations organized under the laws of
any other state or states of the United States of America,
if the laws under which said other corporation or corpora-
tions are formed shall permit such consolidation or mer-
er. The constituent corporations may merge into a single
corporation, which may be any one of said constituent
corporations, or they may consolidate to form a new cor-
poration, which may be a corporation of the state of in-
corporation of any one of said constituent corporations
as shall be specified in the agreement hereinafter required.
All the constituent corporations shall enter into an agree-
ment in writing which shall prescribe the terms and con-
ditions of the consolidation or merger, the mode of carry-
ing the same into effect, the manner of converting the
shares of each of said constituent corporations into shares
or other securities of the corporation resulting from or
surviving such consolidation or merger if such corporations have shares, and such other details and provisions as shall be deemed necessary or proper. There shall also be set forth in said agreement such other facts as shall then be required to be set forth in certificates of incorporation by the laws of the state, which are stated in said agreement to be the laws that shall govern said resulting or surviving corporation and that can be stated in the case of a consolidation or merger. Said agreement shall be authorized, adopted, approved, signed and acknowledged by each of said constituent corporations in accordance with the laws under which it is formed and, in the case of a West Virginia corporation, in the manner provided in section sixty-three of this article. The agreement so authorized, adopted, approved, signed and acknowledged shall be filed in the office of the secretary of state and a copy thereof, certified by the secretary of state, shall be recorded as provided in section sixty-three of this article with respect to the consolidation or merger of corporations of this state; and said agreement, when so recorded, shall thenceforth be taken and deemed to be the
agreement and act of consolidation or merger of said constituent corporations for all purposes of the laws of this state.

Wherever the laws of another state than West Virginia are selected as the laws which shall govern the merged or consolidated corporation, such surviving corporation shall comply with the provisions of section seventy-nine, article one, of chapter thirty-one, as last amended, before it holds property or transacts business in this state, and thereafter shall comply with the laws of this state with respect to foreign corporations holding property or transacting business in this state.

Sec. 63-a-1. Merger of Parent Corporation and Wholly Owned Subsidiary; Proceedings for.—In addition to the method of merger and consolidation provided in section sixty-three of this article, any corporation now or hereafter organized under the provisions of this chapter or existing under the laws of this state, for the purpose of carrying on any kind of business, owning all the stock of any other corporation now or hereafter organized under the provisions of this chapter or existing under the laws
of this state, or now or hereafter organized under the
laws of any other state of the United States of America,
if the laws under which said other corporation is formed
shall permit a merger as herein provided, may file in the
office of the secretary of state a certificate of such owner-
ship in its name and under its corporate seal, signed by
its president or a vice-president, and its secretary or
treasurer or assistant secretary or assistant treasurer, and
setting forth a copy of the resolution of its board of di-
rectors to merge such other corporation, and to assume
all of its obligations, and the date of the adoption thereof;
and a certified copy of said certificate shall be recorded in
the office of the clerk of the county court of the county
in which the principal place of business of the parent
corporation is located, and if the other corporation is also
a West Virginia corporation and its principal place of
business is located in a different county, another certified
copy of said certificate shall be recorded in the office of
the clerk of the county court of such other county. There-
upon, all of the estate, property, rights, privileges and
franchises of such other corporation shall vest in and be
held and enjoyed by such parent corporation as fully and
entirely and without change or diminution as the same
were before held and enjoyed by such other corporation,
and be managed and controlled by such parent corpora-
tion, and except as hereinafter in this section provided,
in its name, but subject to all liabilities and obligations of
such other corporation and the rights of all creditors
thereof. The parent corporation shall not thereby acquire
power to engage in any business, or to exercise any right,
privilege or franchise, of a kind which it could not law-
fully engage in or exercise under the provisions of the
law by or pursuant to which such parent corporation is
organized. The parent corporation shall be deemed to
have assumed all the liabilities and obligations of the
merged corporation, and shall be liable in the same man-
er as if it had itself incurred such liability and obliga-
tions. Any plan of consolidation or merger which requires
or contemplates any changes other than those herein spe-
cifically authorized with respect to the parent corpora-
tion, shall be accomplished under the provisions of section
sixty-three of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 11th day of March, 1953.

[Signature]
Governor

[Stamp]
Not in the Office of the Secretary of State

MAR 11 1953
D. PITT O'BRIEN, Secretary of State