

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



ENROLLED

HOUSE BILL No. 403

(By Mr. Snyder)



PASSED March 5 1953

In Effect from Passage



403

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House Bill No. 403
(By MR. SNYDER)

[Passed March 5, 1953; in effect from passage.]

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 corporations are formed shall permit such consolidation or merger. 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 corporation, which may be a corporation of the state of incorporation of any one of said constituent corporations as shall be specified in the agreement hereinafter required. All the constituent corporations shall enter into an agreement in writing which shall prescribe the terms and conditions of the consolidation or merger, the mode of carrying 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

21 surviving such consolidation or merger if such corpora-
22 tions have shares, and such other details and provisions
23 as shall be deemed necessary or proper. There shall also
24 be set forth in said agreement such other facts as shall
25 then be required to be set forth in certificates of incorpora-
26 tion by the laws of the state, which are stated in said
27 agreement to be the laws that shall govern said resulting
28 or surviving corporation and that can be stated in the
29 case of a consolidation or merger. Said agreement shall
30 be authorized, adopted, approved, signed and acknowl-
31 edged by each of said constituent corporations in accord-
32 ance with the laws under which it is formed and, in the
33 case of a West Virginia corporation, in the manner pro-
34 vided in section sixty-three of this article. The agreement
35 so authorized, adopted, approved, signed and acknowl-
36 edged shall be filed in the office of the secretary of state
37 and a copy thereof, certified by the secretary of state, shall
38 be recorded as provided in section sixty-three of this ar-
39 ticle with respect to the consolidation or merger of cor-
40 porations of this state; and said agreement, when so re-
41 corded, shall thenceforth be taken and deemed to be the

42 agreement and act of consolidation or merger of said con-
43 stituent corporations for all purposes of the laws of this
44 state.

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

 Sec. 63-a-1. *Merger of Parent Corporation and Wholly*
2 *Owned Subsidiary; Proceedings for.*—In addition to the
3 method of merger and consolidation provided in section
4 sixty-three of this article, any corporation now or here-
5 after organized under the provisions of this chapter or
6 existing under the laws of this state, for the purpose of
7 carrying on any kind of business, owning all the stock of
8 any other corporation now or hereafter organized under
9 the provisions of this chapter or existing under the laws

10 of this state, or now or hereafter organized under the
11 laws of any other state of the United States of America,
12 if the laws under which said other corporation is formed
13 shall permit a merger as herein provided, may file in the
14 office of the secretary of state a certificate of such owner-
15 ship in its name and under its corporate seal, signed by
16 its president or a vice-president, and its secretary or
17 treasurer or assistant secretary or assistant treasurer, and
18 setting forth a copy of the resolution of its board of di-
19 rectors to merge such other corporation, and to assume
20 all of its obligations, and the date of the adoption thereof;
21 and a certified copy of said certificate shall be recorded in
22 the office of the clerk of the county court of the county
23 in which the principal place of business of the parent
24 corporation is located, and if the other corporation is also
25 a West Virginia corporation and its principal place of
26 business is located in a different county, another certified
27 copy of said certificate shall be recorded in the office of
28 the clerk of the county court of such other county. There-
29 upon, all of the estate, property, rights, privileges and
30 franchises of such other corporation shall vest in and be

31 held and enjoyed by such parent corporation as fully and
32 entirely and without change or diminution as the same
33 were before held and enjoyed by such other corporation,
34 and be managed and controlled by such parent corpora-
35 tion, and except as hereinafter in this section provided,
36 in its name, but subject to all liabilities and obligations of
37 such other corporation and the rights of all creditors
38 thereof. The parent corporation shall not thereby acquire
39 power to engage in any business, or to exercise any right,
40 privilege or franchise, of a kind which it could not law-
41 fully engage in or exercise under the provisions of the
42 law by or pursuant to which such parent corporation is
43 organized. The parent corporation shall be deemed to
44 have assumed all the liabilities and obligations of the
45 merged corporation, and shall be liable in the same man-
46 ner as if it had itself incurred such liability and obliga-
47 tions. Any plan of consolidation or merger which requires
48 or contemplates any changes other than those herein spe-
49 cifically authorized with respect to the parent corpora-
50 tion, shall be accomplished under the provisions of section
51 sixty-three of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. M. Turkey
Chairman Senate Committee

A. Ambler
Chairman House Committee

Originated in the House of Delegates

Takes effect from _____ passage.

Edward Myers
Clerk of the Senate

J. Atchiff
Clerk of the House of Delegates

Ralph G. Burn
President of the Senate

W. S. Jones
Speaker House of Delegates

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

William C. Mauland
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE
OF THE VIRGINIA MAR 11 1953
D. PITT O'BRIEN,
SECRETARY OF STATE