

### **275.365 Effect of merger.**

A merger shall have the following effects:

- (1) The constituent business entities that are parties to the merger shall be a single entity, which shall be the entity designated in the plan of merger as the surviving business entity.
- (2) Each party to the merger, except the surviving business entity, shall cease to exist.
- (3) The surviving business entity shall possess all the rights, privileges, immunities, and powers of each constituent business entity and shall be subject to all the restrictions, disabilities, and duties of each of the constituent entities to the extent the rights, privileges, immunities, powers, restrictions, disabilities, and duties are applicable to the type of business entity that is the surviving business entity.
- (4) All property, real, personal, and mixed, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other choses in action, and all and every other interest of, belonging to, or due to each of the constituent business entities shall be vested in the surviving business entity without further act or deed.
- (5) The title to all real estate and any interest therein, vested in any constituent business entity shall not revert or be in any way impaired by reason of the merger.
- (6) The surviving entity shall thenceforth be liable for all liabilities and obligations of each of the constituent business entities merged, and any claim existing or action or proceeding pending by or against any constituent business entity may be prosecuted as if the merger had not taken place, or the surviving business entity may be substituted in the action.
- (7) Neither the rights of creditors nor any liens on the property of any constituent business entity shall be impaired by the merger.
- (8) The interests in a limited liability company or other business entities that are to be converted or exchanged into interests, other securities, cash, obligations, or other property under the terms of the plan of merger are so converted and the former holders thereof are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.
- (9) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a merger, as the case may be, shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the merger takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the merger takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a merger shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the merger takes effect.
- (10) If the surviving business entity is a limited liability company, such amendments to the articles of organization and the operating agreement thereof set forth in the plan of merger or the articles of merger, subject to KRS 275.200, shall be effective.

- (11) If the surviving business entity is a limited liability company, the written operating agreement provided for in the plan of merger, if any, shall be binding upon each member in that limited liability company, but any provision thereof obligating a member to make a contribution to the limited liability company is subject to KRS 275.200.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 133, sec. 42, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 341, sec. 41, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 389, sec. 73, effective July 15, 1994.