

SENATE BILL 2443  
By Cohen

AN ACT to amend Tennessee Code Annotated, Title 48, Chapters 18 and 21, relative to business corporations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 48-18-304(a), is amended in the first sentence by deleting the words "this section" and by substituting instead the language "§ 48-16-401".

SECTION 2. Tennessee Code Annotated, Section 48-21-104(h)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) In a merger, the corporation's separate corporate existence does not cease as a result of the merger and, except for amendments enumerated in § 48-20-102, its charter will not differ from the charter before the merger; and

SECTION 3. Tennessee Code Annotated, Section 48-21-105, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A parent corporation owning at least ninety percent (90%) of the outstanding voting shares of each class and series of a domestic or foreign subsidiary corporation or units of a domestic or foreign subsidiary limited partnership may either (1) merge the subsidiary corporation or limited partnership into the parent corporation, or (2) merge the parent corporation into the subsidiary corporation or limited partnership, or (3) merge two (2) or more such subsidiary corporations or subsidiary limited partnerships with and into each other.

(b) The board of directors of the parent corporation shall adopt a plan of merger that sets forth:

(1) The name of the parent corporation owning at least ninety percent (90%) of the outstanding voting shares of the subsidiary corporation or units of the limited partnership and the name of the subsidiary corporation(s) or limited partnership(s) to be a party to the merger, and the name of the corporation or limited partnership that is to survive the merger, which corporation or limited partnership is designated in this section as the “surviving entity”;

(2) The terms and conditions of the merger;

(3) The manner and basis of converting the shares of each corporation or units of the subsidiary limited partnership into shares, units, obligations or other securities of the surviving entity or of any other corporation or limited partnership or into cash or other property or any combination of the foregoing; and

(4) Such other provisions with respect to the proposed merger as the board considers necessary or desirable.

(c) No vote of the shareholders of a subsidiary corporation or approval of the partners of a subsidiary limited partnership shall be required with respect to such a merger. If the parent corporation will be the surviving entity, no vote of its shareholders shall be required. If the subsidiary corporation or limited partnership will be the surviving entity, the approval of the shareholders of the parent corporation shall be obtained in the manner provided in § 48-21-104.

(d) The parent corporation shall mail a copy or summary of the plan of merger to each shareholder of record of a subsidiary corporation or partner of a subsidiary limited partnership who has not waived such mailing in writing.

(e) The parent corporation may not deliver articles of merger to the secretary of state for filing until at least one (1) month after the date a copy of the plan of merger was

mailed to each shareholder of a subsidiary corporation or partner of a subsidiary limited partnership who did not waive the mailing requirement.

(f) Articles of merger under this section may not contain amendments to the charter of the surviving entity, if a corporation (except for amendments enumerated in § 48-20-102).

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.