

## **501A.1101 Merger and consolidation.**

1. *Authorization.* Unless otherwise prohibited, cooperatives organized under the laws of this state, including cooperatives organized under this chapter or traditional cooperatives, may merge or consolidate with each other, an Iowa limited liability company under the provisions of section 490A.1207, or other business entities organized under the laws of another state by complying with the provisions of this section and the law of the state where the surviving or new business entity will exist. A cooperative shall not merge or consolidate with a business entity organized under the laws of this state, other than a traditional cooperative, unless the law governing the business entity expressly authorizes merger or consolidation with a cooperative. This subsection does not authorize a foreign business entity to do any act not authorized by the law governing the foreign business entity.

2. *Plan.* To initiate a merger or consolidation of a cooperative, a written plan of merger or consolidation shall be prepared by the board or by a committee selected by the board to prepare a plan. The plan shall state all of the following:

a. The names of the constituent domestic cooperative, the name of any Iowa limited liability company that is a party to the merger, to the extent authorized under section 490A.1207, and any foreign business entities.

b. The name of the surviving or new domestic cooperative, Iowa limited liability company as required by section 490A.1207, or other foreign business entity.

c. The manner and basis of converting membership or ownership interests of the constituent domestic cooperative, the Iowa limited liability company that is a party as provided in section 490A.1207, or foreign business entity into membership or ownership interests in the surviving or new domestic cooperative, the surviving Iowa limited liability company as authorized in section 490A.1207, or foreign business entity.

d. The terms of the merger or consolidation.

e. The proposed effect of the merger or consolidation on the members and patron members of each constituent domestic cooperative.

f. For a consolidation, the plan shall contain the articles of the entity or organizational documents to be filed with the state in which the entity is organized or, if the surviving organization is an Iowa limited liability company, the articles of organization.

3. *Notice.* The following shall apply to notice:

a. The board shall mail or otherwise transmit or deliver notice of the merger or consolidation to each member. The notice shall contain the full text of the plan, and the time and place of the meeting at which the plan will be considered.

b. A cooperative with more than two hundred members may provide the notice in the same manner as a regular members' meeting notice.

4. *Adoption of plan.*

a. A plan of merger or consolidation shall be adopted by a domestic cooperative as provided in this subsection.

b. The plan of merger or consolidation is adopted if all of the following apply:

(1) A quorum of the members eligible to vote is registered as being present or represented by mail vote or

alternative ballot at the meeting.

(2) The plan is approved by the patron members, or if otherwise provided in the articles or bylaws, is approved by a majority of the votes cast in each class of votes cast. For a domestic cooperative with articles or bylaws requiring more than a majority of the votes cast or other conditions for approval, the plan must be approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

*c.* After the plan has been adopted, articles of merger or consolidation stating the plan and that the plan was adopted according to this subsection shall be signed by the chairperson, vice chairperson, records officer, or documents officer of each cooperative merging or consolidating.

*d.* The articles of merger or consolidation shall be filed in the office of the secretary.

*e.* For a merger, the articles of the surviving domestic cooperative subject to this chapter are deemed amended to the extent provided in the articles of merger.

*f.* Unless a later date is provided in the plan, the merger or consolidation is effective when the articles of merger or consolidation are filed in the office of the secretary or the appropriate office of another jurisdiction.

*g.* The secretary shall issue a certificate of organization of the merged or consolidated cooperative.

5. *Effect of merger or consolidation.* For a merger that does not involve an Iowa limited liability company, the following shall apply to the effect of a merger:

*a.* After the effective date, the domestic cooperative, Iowa limited liability company, if party to the plan, and any foreign business entity that is a party to the plan become a single entity. For a merger, the surviving business entity is the business entity designated in the plan. For a consolidation, the new domestic cooperative, the Iowa limited liability company, if any, and any foreign business entity is the business entity provided for in the plan. Except for the surviving or new domestic cooperative, Iowa limited liability company, or foreign business entity, the separate existence of each merged or consolidated domestic or foreign business entity that is a party to the plan ceases on the effective date of the merger or consolidation.

*b.* The surviving or new domestic cooperative, Iowa limited liability company, or foreign business entity possesses all of the rights and property of each of the merged or consolidated business entities and is responsible for all their obligations. The title to property of the merged or consolidated domestic cooperative, Iowa limited liability company, or foreign business entity is vested in the surviving or new domestic cooperative, Iowa limited liability company, or foreign business entity without reversion or impairment of the title caused by the merger or consolidation.

*c.* If a merger involves an Iowa limited liability company, this subsection is subject to the provisions of section 490A.1207.

2005 Acts, ch 135, §81; 2006 Acts, ch 1010, §132