

published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission and may consider such price as a bid without a deposit or bond: PROVIDED, That where an emergency arises endangering the public safety, or threatening property damage, the commission may purchase materials or order work performed by others in addition to regularly employed personnel in any amount necessary without calling for bids after having taken precautions to secure the lowest price practicable under the circumstances.

Passed the House May 9, 1971.

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CHAPTER 221

[House Bill No. 800]

COOPERATIVE ASSOCIATIONS--

CONVERSION--MERGER

AN ACT Relating to cooperative associations; establishing procedures for conversion of a cooperative association to an ordinary business corporation or for merger with another cooperative association or ordinary business corporation; defining certain terms; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. For the purposes of this act a "domestic" cooperative association or "domestic" corporation is one formed under the laws of this state, and an "ordinary business" corporation is one formed or which could be formed under Title 23A RCW.

NEW SECTION. Sec. 2. (1) A cooperative association may be converted to a domestic ordinary business corporation pursuant to the following procedures:

(a) The board of trustees of the association shall, by

affirmative vote of not less than two-thirds of all such trustees, adopt a plan for such conversion setting forth:

(i) The reasons why such conversion is desirable and in the interests of the members of the association;

(ii) The proposed contents of articles of conversion with respect to items (ii) through (ix) of subparagraph (c) below; and

(iii) Such other information and matters as the board of trustees may deem to be pertinent to the proposed plan.

(b) After adoption by the board of trustees, the plan for conversion shall be submitted for approval or rejection to the members of the association at a special meeting of such members duly called and held. The notice of the meeting shall be accompanied by a full copy of the proposed plan for conversion or by a summary of its provisions. Members shall have the right to vote upon the proposal in person, or by written proxy, or by mail. If not less than two-thirds of all of the members of the association vote in favor thereof, the plan for conversion shall thereby be approved.

(c) Upon approval by the members of the association, the articles of conversion shall be executed in triplicate by the association by its president and by its secretary and verified by one of its officers and shall set forth:

(i) The dates and vote by which the plan for conversion was adopted by the board of trustees and members respectively;

(ii) The corporate name of the converted organization. The name shall comply with requirements for names of business corporations formed under Title 23A RCW, and shall not contain the term "cooperative";

(iii) The purpose or purposes for which the converted corporation is to exist;

(iv) The duration of the converted corporation;

(v) The capitalization of the converted corporation and the class or classes of shares of stock into which divided, together with the par value, if any, of such shares, in accordance with statutory requirements applicable to ordinary business corporations, and the basis upon which outstanding shares of the association are converted into shares of the converted corporation;

(vi) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the converted corporation;

(vii) The address of the converted corporation's initial registered office and its initial registered agent at such address;

(viii) The names and addresses of the persons who are to serve as directors of the converted corporation until the first annual meeting of shareholders of the converted corporation or until their successors are elected and qualify;

(ix) Any additional provisions, not inconsistent with law, provided for by the plan for conversion for the regulation of the internal affairs of the converted corporation, including any provision restricting the transfer of shares or which under Title 23A RCW is required or permitted to be set forth in bylaws.

(d) The executed triplicate originals of the articles of conversion shall be delivered to the secretary of state. If the secretary of state finds that the articles of conversion conform to law, he shall, when all the fees have been paid as in this section prescribed:

(i) Endorse on each of such originals the word "Filed", and the month, day and year of such filing;

(ii) File one of such originals in his office; and

(iii) Issue a certificate of conversion to which he shall affix one of such originals.

The certificate of conversion together with the original of the articles of conversion affixed thereto by the secretary of state, and the other remaining original shall be returned to the converted corporation. The remaining original shall be filed in the office of the county auditor of the county in which the converted corporation's registered office is situated. The original affixed to the certificate of conversion shall be retained by the converted corporation.

(e) Upon filing the articles of conversion the converted corporation shall pay, and the secretary of state and county auditor shall collect, the same filing and license fees as for filing with them respectively of articles of incorporation of a newly formed business corporation similarly capitalized.

(2) Upon issuance by the secretary of state of the certificate of conversion, the conversion of the cooperative association to an ordinary business corporation shall become effective; the articles of conversion shall thereafter constitute and be treated in like manner as articles of incorporation; and the converted corporation shall be subject to all laws applicable to corporations formed under Title 23A RCW, and shall not thereafter be subject to laws applying only to cooperative associations. The converted corporation shall constitute and be deemed to constitute a continuation of the corporate substance of the cooperative association and the conversion shall in no way derogate from the rights of creditors of the former association.

(3) A member of the cooperative association who dissents from the plan for conversion shall have the same right of dissent and payment and in accordance with the same applicable procedures, as are provided for dissenting shareholders with respect to merger of ordinary business corporations under chapter 23A.24 RCW.

NEW SECTION. Sec. 3. (1) A cooperative association may merge

with one or more domestic cooperative associations, or with one or more domestic ordinary business corporations, in accordance with the procedures and subject to the conditions set forth or referred to in this section.

(2) If the merger is into another domestic cooperative association, the board of trustees of each of the associations shall approve by vote of not less than two-thirds of all the trustees, a plan of merger setting forth:

- (a) The names of the associations proposing to merge;
- (b) The name of the association which is to be the surviving association in the merger;
- (c) The terms and conditions of the proposed merger;
- (d) The manner and basis of converting the shares of each merging association into shares or other securities or obligations of the surviving association;
- (e) A statement of any changes in the articles of association of the surviving association to be effected by such merger; and
- (f) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

(3) Following approval by the boards of trustees, the plan of merger shall be submitted to a vote of the members of each of the associations at special meetings of the members called for the purpose. The notice of the meeting shall be in writing stating the purpose or purposes of the meeting and include or be accompanied by a copy or summary of the plan of merger. At the meeting members may vote upon the proposed merger in person, or by proxy, or by mailed ballot. The affirmative vote of not less than two-thirds of all of the members of the association shall be required for approval of the plan of merger.

(4) Upon approval by the members of the associations proposing to merge, articles of merger shall be executed in triplicate by each association by its president and by its secretary and verified by one of the officers of each association signing such articles, and shall set forth:

- (a) The plan of merger;
- (b) As to each association, the number of members and number of shares outstanding; and
- (c) As to each association, the number of members who voted for and against such plan, respectively.

(5) Triplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this section prescribed:

- (a) Endorse on each of such originals the word "Filed", and the month, day and year of such filing;

(b) File one of such originals in his office; and
(c) Issue a certificate of merger to which he shall affix one of such originals.

(6) The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state, and the other remaining original, shall be returned to the surviving association or its representative. Such remaining original shall then be filed in the office of the county auditor of the county in which the principal place of business of the surviving association is located. If the principal place of business of the merged association has been located in a different county from that of the surviving association, a copy of the articles of merger, certified by the secretary of state, shall likewise be filed with the county auditor of such different county.

(7) For filing articles of merger hereunder the secretary of state and county auditor shall charge and collect the same fees, respectively, as apply to filing of articles of merger of ordinary business corporations.

(8) If the plan of merger is for merger of the cooperative association into a domestic ordinary business corporation, the association shall follow the same procedures as hereinabove provided for merger of domestic cooperative associations and the ordinary business corporation shall follow the applicable procedures set forth in chapter 23A.20 RCW.

(9) At any time prior to filing of the articles of merger, the merger may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger.

(10) A member of a cooperative association, or shareholder of the ordinary business corporation, who dissents from the plan of merger shall have the same right of dissent and payment and in accordance with the same applicable procedures, as are provided for dissenting shareholders with respect to merger of ordinary business corporations under chapter 23A.24 RCW.

NEW SECTION. Sec. 4. (1) Upon issuance of the certificate of merger by the secretary of state, the merger of the cooperative association into another cooperative association or ordinary business corporation, as the case may be, shall be effected.

(2) When merger has been effected:

(a) The several parties to the plan of merger shall be a single cooperative association or corporation, as the case may be, which shall be that cooperative association or corporation designated in the plan of merger as the survivor.

(b) The separate existence of all parties to the plan of merger, except that of the surviving cooperative association or corporation, shall cease.

(c) If the surviving entity is a cooperative association, it shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a cooperative association organized under chapter 23.86 RCW. If the surviving entity is an ordinary business corporation, it shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized or existing under Title 23A RCW.

(d) Such surviving cooperative association or corporation, as the case may be, shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, both public and private of each of the merging organizations, to the extent that such rights, privileges, immunities, and franchises are not inconsistent with the corporate nature of the surviving organization; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the organizations so merged shall be taken and deemed to be transferred to and vested in such surviving cooperative association or corporation, as the case may be, without further act or deed; and the title to any real estate, or any interest therein, vested in any such merged cooperative association shall not revert or be in any way impaired by reason of such merger.

(3) The surviving cooperative association or corporation, as the case may be, shall, after the merger is effected, be responsible and liable for all the liabilities and obligations of each of the organizations so merged; and any claim existing or action or proceeding pending by or against any of such organizations may be prosecuted as if the merger had not taken place and the surviving cooperative association or corporation may be substituted in its place. Neither the right of creditors nor any liens upon the property of any cooperative association or corporation party to the merger shall be impaired by the merger.

(4) The articles of association of the surviving cooperative association or the articles of incorporation of the surviving ordinary business corporation, as the case may be, shall be deemed to be amended to the extent, if any, that changes in such articles are stated in the plan of merger.

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