

**302A.613 PLAN APPROVAL.**

Subdivision 1. **Board approval; notice to shareholders.** A resolution containing the plan of merger or exchange shall be approved by the affirmative vote of a majority of the directors present at a meeting of the board of each constituent corporation and shall then be submitted at a regular or a special meeting to the shareholders of (i) each constituent corporation, in the case of a plan of merger, and (ii) the corporation whose shares will be acquired by the acquiring organization in the exchange, in the case of a plan of exchange. If shareholders holding any class or series of stock of the corporation are entitled to vote on the plan of merger or exchange pursuant to this section, written notice shall be given to every shareholder of a corporation, whether or not entitled to vote at the meeting, not less than 14 days nor more than 60 days before the meeting, in the manner provided in section 302A.435 for notice of meetings of shareholders. The written notice shall state that a purpose of the meeting is to consider the proposed plan of merger or exchange. A copy or short description of the plan of merger or exchange shall be included in or enclosed with the notice. If the merger or exchange is with a domestic or foreign limited liability company, the plan of merger or exchange must also be approved in the manner required by the laws of the state under which the limited liability company is organized.

Subd. 2. **Approval by owners.** (a) At the meeting a vote of the owners shall be taken on the proposed plan. The plan of merger or exchange is adopted when approved by the affirmative vote of the holders of a majority of the voting power of all shares entitled to vote and, if the merger or exchange is with a domestic or foreign limited liability company, when approved in the manner required by the laws of the state under which the limited liability company is organized. Except as provided in paragraph (b), a class or series of shares of the corporation is entitled to vote as a class or series if any provision of the plan would, if contained in a proposed amendment to the articles, entitle the class or series of shares to vote as a class or series and, in the case of an exchange, if the class or series is included in the exchange.

(b) A class or series of shares of the corporation is not entitled to vote as a class or series if the plan of merger or exchange effects a cancellation or exchange of all shares of the corporation of all classes and series that are outstanding immediately prior to the merger or exchange and shareholders of shares of that class or series are entitled to obtain payment for the fair value of their shares under section 302A.471, or would have the right to obtain payment for their shares absent the exception set forth in paragraph (c) of section 302A.471, subdivision 3, in the event of the merger or exchange.

Subd. 3. **When approval by shareholders not required.** Notwithstanding the provisions of subdivisions 1 and 2, submission of a plan of merger to a vote at a meeting of shareholders of a surviving corporation is not required if:

(a) The articles of the corporation will not be amended in the transaction;

(b) Each holder of shares of the corporation that were outstanding immediately before the effective time of the transaction will hold the same number of shares with identical rights immediately thereafter;

(c) The voting power of the outstanding shares of the corporation entitled to vote immediately after the merger, plus the voting power of the shares of the corporation entitled to vote issuable on conversion of, or on the exercise of rights to purchase, securities issued in the transaction, will not exceed by more than 20 percent, the voting power of the outstanding shares of the corporation entitled to vote immediately before the transaction; and

(d) The number of participating shares of the corporation immediately after the merger, plus the number of participating shares of the corporation issuable on conversion of, or on the exercise of rights to purchase,

securities issued in the transaction, will not exceed by more than 20 percent, the number of participating shares of the corporation immediately before the transaction. "Participating shares" are outstanding shares of the corporation that entitle their holders to participate without limitation in distributions by the corporation.

**History:** *1981 c 270 s 91; 1982 c 497 s 55,56; 1987 c 203 s 6; 1991 c 49 s 18; 1993 c 17 s 48,49; 1997 c 10 art 3 s 8,9; 1999 c 85 art 1 s 12; 2000 c 264 s 9; 2006 c 250 art 1 s 34,35*