

Topic: Reinstatement after Admin. Dissolution question
 Question by: Dave Nichols
 Jurisdiction: West Virginia
 Date: March 14, 2014

Jurisdiction	Question(s)
	Can a corporation that has been administratively dissolved for more than 2 years be merged into an existing corporation as a method of "winding up" the activities of the dissolved corporation? Has anyone run into this type of request before? If so, did you allow the dissolved corporation to be merged into an existing one? Any thoughts or guidance anyone can give will be much appreciated.
Manitoba	
Corporations Canada	
Alabama	
Alaska	
Arizona	
Arkansas	
California	
Colorado	
Connecticut	In Connecticut an entity must be active in order to participate in a merger. So it would have to reinstate first before being merged into the proposed surviving entity. Because it is already beyond the two-year reinstatement window, perhaps the entity could seek a Special Act of Reinstatement from the legislature if there is no other way to revive it through reinstatement under your laws?
Delaware	
District of Columbia	In the District of Columbia we have also adopted the latest Model business Corporation Act. If entity is dissolved (voluntarily or not) we will not allow it to file statement of merger or do any other filings. Entity will need to reinstate before filing merger. We do not have time limitation to reinstatement. Entity can reinstate any time if it was "admin" dissolved.
Florida	
Georgia	

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Hawaii	In Hawaii, a dissolved entity is not allowed to be a party in a merger.
Idaho	
Illinois	
Indiana	Indiana requires business entities to have an active status to participate in a merger. The reinstatement would have to be done prior to the merger. Indiana does not have a limitation regarding reinstating business entities – although I think it would be a good thing considering business id theft.
Iowa	
Kansas	
Kentucky	
Louisiana	
Maine	
Maryland	
Massachusetts	<p>In Massachusetts a domestic profit corporation must be in good standing in order to merge out of existence. The corporation must file the last 10 fiscal year annual reports in order to be in good standing.</p> <p>In the facts you presented the administratively dissolved corporation would be required to file the annual reports due and then file an application for reinstatement prior to filing the merger. Only once the entity is reinstated will it be able to file a merger.</p>
Michigan	In Michigan, there is no statutory limitation on when a corporation can renew their corporate existence after being automatically dissolved; however, the renewal would have to be done before the merger could occur.
Minnesota	
Mississippi	
Missouri	
Montana	<p>In Montana a company that has been administratively dissolved may reinstate up to 5 years from the date of dissolution.</p> <p>However, for a merger, the company would have to be in good standing, so they could reinstate and merge out of existence if they wished, but as long as they are not an active company, there couldn't be any merger between an active and inactive company.</p>
Nebraska	

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Nevada	Nevada allows for the reinstatement or revival of a dissolved entity indefinitely after the dissolution. Since a dissolved entity does not exist, it would have to reinstate or revive in order to be a party to a merger.
New Hampshire	
New Jersey	
New Mexico	
New York	In NY only existing corporations may participate in a merger.
North Carolina	
North Dakota	
Ohio	
Oklahoma	
Oregon	In Oregon, there is a relatively new law that allows dissolved companies to merge as part of winding up the affairs, see ORS 60.637(1)(e). http://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors060.html There is no time limit on when this has to be done.
Pennsylvania	
Rhode Island	In the State of Rhode Island, a business corporation would have to be active and in good standing in order to formally file articles of merger. Business Corporations have 10-years from the date of revocation to reinstate through our office. After the 10-year period they must petition either the General Assembly or Superior Court for relief.
South Carolina	
South Dakota	
Tennessee	
Texas	

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Utah	Although Leslie's survey does not include Utah (we're one of the weird states that don't have a secretary of state), Utah had this issue many years ago. Working with our attorney general's office and our Division of Securities, it was determined that merging a dissolved corporation did NOT wind down business...it continued in its new iteration with the merged company. Therefore, we do not allow dissolved or expired entities to merge.
Vermont	
Virginia	
Washington	
West Virginia	
Wisconsin	
Wyoming	

Additional comments:

Hi Dave (and everyone):

We just did a survey that might help you with your question.

NASS Survey on Administrative Dissolution of Business Entities

Released: March 2014

Leslie Reynolds

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Full text of email:

Everyone,
In West Virginia, we adopted the Model Business Corporation Act in 2002, including language now in W.Va. State Code §31D-14-1422(a) which reads in part:
"A corporation administratively dissolved under section one thousand four hundred twenty-one of this article may apply to the secretary of state for reinstatement within two years after the effective date of dissolution."

Here's the situation:

Can a corporation that has been administratively dissolved for more than 2 years be merged into an existing corporation as a method of "winding up" the activities of the dissolved corporation? Has anyone run into this type of request before? If so, did you allow the dissolved corporation to be merged into an existing one? Any thoughts or guidance anyone can give will be much appreciated.

Thanks,
-dave

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