

Article 11.

Merger.

**§ 55A-11-01. Approval of plan of merger.**

(a) Subject to the limitations set forth in G.S. 55A-11-02, one or more nonprofit corporations may merge into another nonprofit corporation, if the plan of merger is approved as provided in G.S. 55A-11-03.

(b) The plan of merger shall set forth:

- (1) The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;
- (2) The terms and conditions of the merger; and
- (3) The manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or part.

(c) The plan of merger may set forth:

- (1) Any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the merger; and
- (2) Other provisions relating to the merger.

(d) The provisions of the plan of merger, other than the provisions referred to in subdivisions (b)(1) and (c)(1) of this section, may be made dependent on facts objectively ascertainable outside the plan of merger if the plan of merger sets forth the manner in which the facts will operate upon the affected provisions. The facts may include any of the following:

- (1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.
- (2) A determination or action by the corporation or by any other person, group, or body.
- (3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 400, s. 5; 2005-268, s. 38.)

**§ 55A-11-02. Limitations on mergers by charitable or religious corporations.**

(a) Without the prior approval of the superior court in a proceeding in which the Attorney General has been given written notice, a charitable or religious corporation may merge only with any of the following:

- (1) A charitable or religious corporation.
- (2) A foreign corporation that would qualify under this Chapter as a charitable or religious corporation.
- (3) A wholly owned foreign or domestic corporation (business or nonprofit) which is not a charitable or religious corporation, or an unincorporated entity, provided the charitable or religious corporation is the survivor in the merger and continues to be a charitable or religious corporation after the merger.
- (4) A business or nonprofit corporation (foreign or domestic) other than a charitable or religious corporation, or an unincorporated entity, provided that:
  - (i) on or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets (including goodwill) of the charitable or religious corporation or the fair market

value of the charitable or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under G.S. 55A-14-03(a)(1) and (2) had it dissolved; (ii) it shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and (iii) the merger is approved by a majority of directors of the charitable or religious corporation who are not and will not become members, as "member" is defined in G.S. 55A-1-40(16) or G.S. 57D-1-03, partners, limited partners, or shareholders in or directors, managers, officers, employees, agents, or consultants of the survivor in the merger.

(b) At least 30 days before consummation of any merger of a charitable or religious corporation pursuant to subdivision (a)(4) of this section, notice, including a copy of the proposed plan of merger, shall be delivered to the Attorney General. This notice shall include all the information the Attorney General determines is required for a complete review of the proposed transaction. The Attorney General may require an additional 30-day period to review the proposed transaction by providing written notice to the charitable or religious corporation prior to the expiration of the initial notice period. During this 30-day period, the transaction may not be finalized.

(c) Without the prior written consent of the Attorney General, or approval of the superior court in a proceeding in which the Attorney General has been given notice, no member of a charitable or religious corporation may receive or retain any property as a result of a merger other than an interest as a member, as "member" is defined in G.S. 55A-1-40(16), in the survivor of the merger. The Attorney General may consent to the transaction, or the court shall approve the transaction, if it is fair and not contrary to the public interest. (1993, c. 398, s. 1; c. 553, s. 83(a); 1995, c. 400, s. 6; 1999-204, s. 1; 1999-369, s. 2.4; 2013-157, s. 5.)

### **§ 55A-11-03. Action on plan.**

(a) Unless this Chapter, the articles of incorporation, bylaws, or the board of directors or members (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, a plan of merger to be adopted shall be approved for each constituent corporation:

- (1) By the board;
- (2) By the members entitled to vote thereon, if any, by two-thirds of the votes cast or a majority of the votes entitled to be cast on the plan of merger, whichever is less; and
- (3) In writing by any person or persons whose approval is required by a provision of the articles of incorporation authorized by G.S. 55A-10-30 for an amendment to the articles of incorporation or bylaws.

(b) If the corporation does not have members entitled to vote thereon, the merger shall be approved by a majority of the directors then in office. The corporation shall provide at least five days' written notice of any directors' meeting at which the approval will be considered. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

(c) The board may condition its approval of the proposed merger, and the members entitled to vote thereon may condition their approval of the merger, on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board seeks to have the plan approved by the members entitled to vote thereon at a membership meeting, the corporation shall give notice of the membership meeting to those members in accordance with G.S. 55A-7-05. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles of incorporation and bylaws that will be in effect immediately after the merger takes effect.

(e) If the board seeks to have the plan approved by the members entitled to vote thereon by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles of incorporation and bylaws that will be in effect immediately after the merger takes effect.

(f) Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation or bylaws, would entitle the class of members to vote as a class on the proposed amendment under G.S. 55A-10-04 or G.S. 55A-10-22. The plan is approved by a class of members by two-thirds of the votes cast by the class or a majority of the votes entitled to be cast by the class, whichever is less.

(g) After a merger is adopted but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned, subject to any contractual rights, as provided in the plan of merger, or, if there is no such provision, as determined by the board of directors without further action by the members or other persons who approved the plan of merger. (1955, c. 1230; 1993, c. 398, s. 1; 2005-268, s. 39.)

#### **§ 55A-11-04. Articles of merger.**

(a) After a plan of merger has been authorized as required by this Chapter, the surviving corporation shall deliver to the Secretary of State for filing articles of merger setting forth:

- (1) The name and state or country of incorporation of each merging corporation.
- (2) The name of the merging corporation that will survive the merger and, if the surviving corporation is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address.
- (3) If the surviving corporation is a domestic corporation, any amendment to the articles of incorporation of the corporation provided in the plan of merger.
- (4) A statement that the plan of merger has been approved by each merging corporation in the manner required by law.

(a1) If the plan of merger is amended after the articles of merger have been filed but before the articles of merger become effective and any statement in the articles of merger becomes incorrect as a result of the amendment, the surviving corporation shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger correcting the incorrect statement. If the articles of merger are abandoned after the articles of merger are filed but before the articles of merger become effective, the surviving

corporation shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment reflecting abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(d) In the case of a merger pursuant to G.S. 55A-11-06 or G.S. 55A-11-08, references in subsections (a) and (a1) of this section to "corporation" shall include a domestic corporation, a foreign nonprofit corporation, a domestic business corporation, and a foreign business corporation as applicable. (1955, c. 1230; 1967, c. 823, s. 22; 1993, c. 398, s. 1; 2005-268, s. 40; 2006-264, s. 44(d).)

**§ 55A-11-05. Effect of merger.**

(a) When a merger pursuant to G.S. 55A-11-01, 55A-11-06, or 55A-11-08 takes effect:

(1) Each other merging corporation merges into the surviving corporation and the separate existence of each merging corporation except the surviving corporation ceases.

(2) The title to all real estate and other property owned by each merging corporation is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger.

(3) The surviving corporation has all liabilities and obligations of each merging corporation.

(4) A proceeding pending by or against any merging corporation may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for a merging corporation whose separate existence ceases in the merger.

(5) If a domestic corporation survives the merger, its articles of incorporation are amended to the extent provided in the articles of merger.

(6) If a foreign corporation or a foreign business corporation survives the merger, it is deemed:

a. To agree that it may be served with process in this State in any proceeding for enforcement (i) of any obligation of any merging domestic corporation and (ii) of any obligation of the surviving foreign corporation or foreign business corporation arising from the merger.

b. To have appointed the Secretary of State as its agent for service of process in any proceeding for enforcement as specified in sub-subdivision a. of this subdivision. Service of process on the Secretary of State shall be made by delivering to, and leaving with, the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process on behalf of a surviving foreign corporation or foreign business corporation in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving foreign corporation or foreign business corporation. If the surviving foreign corporation or foreign business corporation is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office

designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office, or if there is no principal office on file, its registered office. If the surviving foreign corporation or foreign business corporation is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 55A-11-04(a)(2).

The merger shall not affect the liability or absence of liability of any member of a merging corporation for acts, omissions, or obligations of any merging corporation made or incurred prior to the effectiveness of the merger.

(b) In the case of a merger pursuant to G.S. 55A-11-06 or G.S. 55A-11-08, references in subsection (a) of this section to "corporation" shall include a domestic corporation, a foreign nonprofit corporation, a domestic business corporation, and a foreign business corporation, as applicable. (1955, c. 1230; 1967, c. 950, s. 2; 1993, c. 398, s. 1; 1999-369, s. 2.5; 2005-268, s. 41; 2006-264, s. 44(e).)

#### **§ 55A-11-06. Merger with foreign corporation.**

(a) Except as provided in G.S. 55A-11-02, one or more foreign corporations may merge with one or more domestic nonprofit corporations if:

- (1) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;
- (2) The foreign corporation complies with G.S. 55A-11-04 if it is the surviving corporation of the merger; and
- (3) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation of the merger, with G.S. 55A-11-04.

(b) Repealed by Session Laws 2005, c. 268, s. 42.

(c) This section does not limit the power of a foreign corporation to acquire all or part of the memberships of one or more classes of a domestic nonprofit corporation through a voluntary exchange or otherwise. (1973, c. 314, s. 4; 1985 (Reg. Sess., 1986), c. 801, s. 39; 1993, c. 398, s. 1; 1995, c. 400, s. 7; 2001-387, ss. 36, 37; 2005-268, s. 42; 2006-226, s. 16(c); 2006-264, s. 44(f).)

#### **§ 55A-11-07. Devises and gifts.**

Any devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent corporation and that takes effect or remains payable after the merger, inures to the survivor in the merger unless the will or other instrument otherwise specifically provides. (1993, c. 398, s. 1; 1999-369, s. 2.6; 2011-284, s. 53.)

#### **§ 55A-11-08. Merger with business corporation.**

(a) One or more domestic or foreign business corporations may merge with one or more domestic nonprofit corporations if:

- (1) Each domestic business corporation complies with the applicable provisions of G.S. 55-11-01, 55-11-03, and 55-11-04;
- (2) In a merger involving one or more foreign business corporations, the merger is permitted by the law of the state or country under whose law each foreign

business corporation is incorporated and each foreign business corporation complies with that law in effecting the merger;

- (3) The domestic or foreign business corporation complies with G.S. 55A-11-04 if it is the surviving corporation; and
- (4) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation, with G.S. 55A-11-04.

(b) Repealed by Session Laws 2005, c. 268, s. 43.

(c) This section does not limit the power of a domestic or foreign business corporation to acquire all or part of the memberships of one or more classes of a domestic nonprofit corporation through a voluntary exchange or otherwise. (1995, c. 400, s. 8; 2001-387, ss. 38, 39; 2005-268, s. 43.)

### **§ 55A-11-09. Merger with unincorporated entity.**

(a) As used in this section, "business entity" means a domestic business corporation (including a professional corporation as defined in G.S. 55B-2), a foreign business corporation (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State.

(b) One or more domestic nonprofit corporations may merge with one or more unincorporated entities and, if desired, one or more foreign nonprofit corporations, domestic business corporations, or foreign business corporations if:

- (1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each of the other merging business entities;
- (2) Each merging domestic nonprofit corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection; and
- (3) The merger complies with G.S. 55A-11-02, if applicable.

(c) Each merging domestic nonprofit corporation and each other merging business entity shall approve a written plan of merger containing all of the following:

- (1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs.
- (2) The name of the merging business entity that shall survive the merger.
- (3) The terms and conditions of the merger.
- (4) The manner and basis of converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity, or into cash or other property in whole or in part, or of cancelling the interests.
- (5) If the surviving business entity is a domestic nonprofit corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

(c1) The plan of merger may contain other provisions relating to the merger.

(c2) The provisions of the plan of merger, other than the provisions referred to in subdivisions (1), (2), and (5) of subsection (c) of this section, may be made dependent on facts objectively ascertainable outside the plan of merger if the plan of merger sets forth the manner in

which the facts will operate upon the affected provisions. The facts may include any of the following:

- (1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.
- (2) A determination or action by the domestic nonprofit corporation or by any other person, group, or body.
- (3) The terms of, or actions taken under, an agreement to which the domestic nonprofit corporation is a party, or any other agreement or document.

(c3) In the case of a merging domestic nonprofit corporation, approval of the plan of merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. If any member of a merging domestic nonprofit corporation has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of G.S. 55A-11-03, approval of the plan of merger by the domestic nonprofit corporation shall require the affirmative vote or written consent of the member. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

(c4) After a plan of merger has been approved by a domestic nonprofit corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors.

(d) After a plan of merger has been approved by each merging domestic nonprofit corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) Repealed by Session Laws 2005, c. 268, s. 45.
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs.
- (3) The name of the merging business entity that will survive the merger and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address.
- (3a) If the surviving business entity is a domestic corporation, any amendment to its articles of incorporation as provided in the plan of merger.
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law.
- (5) Repealed by Session Laws 2005, c. 268, s. 45.

If the plan of merger is amended after the articles of merger have been filed but before the articles of merger become effective, and any statement in the articles of merger becomes incorrect as a result of the amendment, the surviving business entity shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger correcting the incorrect statement. If the articles of merger are abandoned after the articles of merger are filed but before the articles of merger become effective, the surviving business entity

shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment reflecting abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

- (1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;
- (2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;
- (3) The surviving business entity has all liabilities of each merging business entity;
- (4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;
- (5) If a domestic nonprofit corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the articles of merger;
- (6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the plan of merger or, in the case of former holders of shares in a domestic business corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and
- (7) If the surviving business entity is not a domestic business corporation, the surviving business entity is deemed to agree that it will promptly pay to the shareholders of any merging domestic business corporation exercising appraisal rights the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic business corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

(e1) If the surviving business entity is not a domestic limited liability company, a domestic business corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic business corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the appraisal rights of shareholders of



any merging domestic business corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section.

(f) This section does not apply to a merger that does not include a merging unincorporated entity. (1999-369, s. 2.7; 2000-140, s. 48; 2001-387, ss. 40, 41, 42; 2001-487, s. 62(f); 2005-268, ss. 44, 45, 46; 2007-385, s. 3; 2011-347, ss. 13, 14; 2018-45, s. 29.)

**§ 55A-11-10. Merger with certain charitable or religious corporation or hospital authority.**

(a) A hospital authority created by a city may merge into a charitable or religious corporation having its principal office in the county in which the city is located, under a plan of merger approved by the city and the county and by a majority of the members of the board of commissioners of such authority and by or for the corporation as provided in G.S. 55A-11-03.

This section applies only to the merger of a hospital authority formed by a city in a county with a population of less than 150,000 as of the most recent U.S. Census and either (i) a charitable or religious corporation formed on or before September 29, 2005 having its principal office located in such county as of September 29, 2005, or (ii) a hospital authority formed after September 29, 2005 by the county in which the city is located.

(b) A hospital authority created by a city may merge into a hospital authority created by the county in which the city is located, pursuant to a plan of merger approved by the city and the county and by a majority of the members of the board of commissioners of each authority.

(c) The plan of merger shall include all of the following:

- (1) The name of the city hospital authority and the charitable or religious corporation or the county hospital authority planning to merge and the name of the surviving charitable or religious corporation or county hospital authority into which such city hospital authority plans to merge.
- (2) The terms and conditions of the merger.
- (3) Any amendments to the articles or certificate of incorporation or bylaws of the surviving charitable or religious corporation or the surviving county hospital authority to be effected by the merger.
- (4) Other provisions relating to the merger.

(d) After the plan of merger is approved, the surviving charitable or religious corporation or the surviving county hospital authority shall deliver to the Secretary of State for filing articles of merger that include all of the following:

- (1) The plan of merger.
  - (2) In the case of a merger of a city hospital authority into a charitable or religious corporation, a statement that the plan of merger was approved by the city and by a majority of the members of the board of commissioners of the city hospital authority and the statements required under G.S. 55A-11-04(a)(2), (3), or (4); or
  - (3) In the case of a merger of a city hospital authority into a county hospital authority, a statement that the plan of merger was approved by the city and the county and a majority of each of the boards of commissioners of the authorities.
- (e) A merger takes effect upon the effective date of the articles of merger.
- (f) Certificates of merger shall also be registered as provided in G.S. 47-18.1.
- (g) All of the following shall occur upon an effective merger under this section:
- (1) The separate existence of the city hospital authority that merges into the charitable or religious corporation or into the county hospital authority ceases.
  - (2) The title to all real estate and other property owned by the hospital authority is vested in the surviving charitable or religious corporation or in the surviving county hospital authority without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger.
  - (3) The surviving charitable or religious corporation or the surviving county hospital authority has all liabilities and obligations of the city hospital authority and the charitable or religious corporation or the county hospital authority party to the merger.
  - (4) A proceeding pending by or against the city hospital authority and the charitable or religious corporation or the county hospital authority party to the merger may be continued as if the merger did not occur or the surviving charitable or religious corporation or the surviving county hospital authority may be substituted in the proceeding for the city hospital authority whose existence ceased.
  - (5) The articles or certificate of incorporation and bylaws of the surviving charitable or religious corporation or the surviving county hospital authority are amended to the extent provided in the plan of merger.
  - (6) Any devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a city hospital authority that has merged into a charitable or religious corporation or into a county hospital authority and that takes effect or remains payable after the merger, inures to the surviving charitable or religious corporation or the surviving county hospital authority unless the will or other instrument otherwise specifically provides.

(h) A merger pursuant to the provisions of this section will not be deemed to be a sale or conveyance of a hospital facility under or pursuant to G.S. 131E-8, 131E-13, or 131E-14 of the Municipal Hospital Act (Part 1, Article 2, Chapter 131E of the General Statutes) and G.S. 131E-13(d) will not be applicable to such merger. (2005-449, ss. 1, 2; 2011-284, s. 54.)