

HOUSE BILL No. 5315

October 18, 2005, Introduced by Reps. Marleau, Huizenga, Vander Veen, Baxter, Wenke, Taub and Tobocman and referred to the Committee on Commerce.

A bill to amend 1972 PA 284, entitled
"Business corporation act,"
by amending section 735 (MCL 450.1735), as amended by 1997 PA 118.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 735. (1) One or more foreign corporations may merge or
2 enter into a share exchange with 1 or more domestic corporations if
3 **ALL OF** the following **THAT** apply **ARE MET**:

4 (a) In a merger, the merger is permitted by the law of the
5 state or country under whose law each foreign corporation is
6 incorporated and each foreign corporation complies with that law in
7 effecting the merger. If the parent corporation in a merger
8 conducted pursuant to section 711 is a foreign corporation, it
9 shall comply, notwithstanding the provisions of the laws of its

1 jurisdiction of incorporation, with ~~all~~ **BOTH** of the following:

2 (i) Section 711(2) with respect to notice to shareholders of a
3 domestic subsidiary corporation that is a party to the merger.

4 (ii) Section 712 with respect to the certificate of merger.

5 ~~—— (iii) The applicable provisions of section 1021 or 1035 if the~~
6 ~~foreign corporation is authorized to transact business in this~~
7 ~~state.~~

8 (b) In a share exchange, the corporation whose shares will be
9 acquired is a domestic corporation, whether or not a share exchange
10 is permitted by the law of the state or country under whose law the
11 acquiring corporation is incorporated.

12 (c) Each domestic corporation complies with the applicable
13 provisions of sections 701 through 713.

14 **(D) EACH FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS**
15 **IN THIS STATE COMPLIES WITH SECTION 1021 OR 1035, AS APPLICABLE.**

16 (2) If the surviving corporation of a merger or the acquiring
17 corporation in a share exchange is to be governed by the laws of a
18 jurisdiction other than this state, it shall comply with the
19 provisions of this act with respect to foreign corporations if it
20 is to transact business in this state. The surviving corporation in
21 a merger is liable, and is subject to service of process in a
22 proceeding in this state, for the enforcement of an obligation of a
23 domestic corporation that is party to the merger, and in a
24 proceeding for the enforcement of a right of a dissenting
25 shareholder of a domestic corporation against the surviving
26 corporation.

27 (3) This section does not limit the power of a foreign

1 corporation to acquire all or part of the shares of 1 or more
2 classes or series of a domestic corporation through a voluntary
3 exchange or otherwise.