

[S.C. Code Ann. § 33-31-1102.]

§ 33-31-1102. Limitations on mergers by public benefit or religious corporations:
South Carolina Nonprofit Corporation Act of 1994

(a) Without the prior approval of the court of common pleas of Richland County in a proceeding in which the Attorney General has been given written notice, a public benefit or religious corporation may merge only with:

(1) a public benefit or religious corporation;

(2) a foreign corporation that would qualify under this chapter as a public benefit or religious corporation;

(3) a foreign or domestic business; mutual benefit corporation; or a corporation chartered directly by special act of the General Assembly, a city, county, or other governmental unit other than the Secretary of State, provided the public benefit or religious corporation is the surviving corporation and continues to be a public benefit or religious corporation after the merger; or,

(4) a foreign or domestic business or mutual benefit corporation, provided that:

(i) on or before 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 public benefit corporation or religious corporation or the fair market value of the public benefit corporation 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 Section 33-31-1406(a)(5) and (6) 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 public benefit or religious corporation who are not and will not become members or shareholders in or officers, employees, agents, or consultants of the surviving corporation.

(b) At least twenty days before consummation of a merger of a public benefit corporation or a religious corporation pursuant to subsection (a)(4), notice, including a copy of the proposed plan of merger, must be delivered to the Attorney General.

(c) No member of a public benefit or religious corporation may receive or keep anything as a result of a merger other than a membership or membership in the surviving public benefit or religious corporation.

(d) Where approval or consent is required by this section, it must be given if the transaction is consistent with the purposes of the public benefit or religious corporation or is otherwise in the public interest.