

14A:10-5 and 7

February 2, 1966

LEGISLATIVE HISTORY OF R.S. 14A:10-5 and 7  
(Merger of parent corporation and subsidiary)

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L. 1952, Chapter 33, Sect. 1 - S63

"same or similar nature".

Introduced January 28 by Mr. Young.  
Not amended during passage.  
Statement on bill. (copy of bill enclosed).

Enclosed is a copy of the Delaware Statute, 8 Del. C. § 253, and a note on this (N.J.) law from the "Annual Survey of the Law of N.J. 1951-1952," 7 Rutgers Law Review 180-181, Fall 1952.

Amended by:

L. 1967, Chapter 117, § 1 -S456  
Introduced April 10 by Sen. Lynch.  
No statement on the bill.  
Not amended during passage.  
No hearings or reports were located.

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## SENATE, No. 456

## STATE OF NEW JERSEY

INTRODUCED APRIL 10, 1967

By Senator LYNCH

Referred to Committee on Business Affairs

AN ACT to amend "An act concerning corporations, and supplementing chapter 12 of Title 14 of the Revised Statutes," approved April 16, 1952 (P. L. 1952, c. 33).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

3 1. Section 1 of the act of which this act is amendatory is amended  
4 to read as follows:

5 1. Any corporation, except as hereinafter in this section speci-  
6 fied, now or hereafter organized under any law or laws of this  
7 State for the purpose of carrying on any kind of business, owning  
8 **[all the stock]** *at least 90% of the outstanding shares of each class*  
9 *of stock* of any other corporation of this State or owning **[all the**  
10 **stock]** *at least 90% of the outstanding shares of each class of stock*  
11 *of any other corporation now or hereafter organized under the*  
12 *laws of any other State of the United States of America if the*  
13 *laws of the State under which said corporation of another State*  
14 *is formed shall permit a merger as herein provided, may merge*  
15 *into itself said other corporation (hereinafter called the "sub-*  
16 *subsidiary"), notwithstanding that said corporations may not have*  
17 *been organized for the purpose of carrying on business of the*  
18 *same or a similar nature, by filing in the office of the Secretary of*  
19 *State a certificate of such ownership and merger in its name and*  
20 *under its corporate seal, signed by its president or a vice-president,*  
21 *and its secretary or treasurer or assistant secretary or assistant*  
22 *treasurer, and setting forth a copy of the resolution of its board*  
23 *of directors to merge [such other corporation] the subsidiary*  
24 *and to assume all obligations of [such other corporation] the sub-*  
25 *subsidiary and the date of the adoption thereof; provided that, if the*  
26 *parent corporation does not own all the outstanding stock of the*  
27 *subsidiary said resolution shall state the terms and conditions of*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

1 *the merger, including the securities, cash or other consideration*  
2 *to be issued, paid or delivered by the parent corporation upon*  
3 *surrender of each share of the subsidiary not owned by the parent*  
4 *corporation. [Thereupon] Upon the filing of such certificate of*  
5 *ownership and merger, all of the estate, property, rights, privileges*  
6 *and franchises of [such other corporation] the subsidiary shall*  
7 *vest in and be held and enjoyed by such parent corporation as fully*  
8 *and entirely and without change or diminution as the same were*  
9 *before held and enjoyed by [such other corporation] the sub-*  
10 *subsidiary, and be managed and controlled by such parent corpora-*  
11 *tion, in its name, but subject to all liabilities and obligations of*  
12 *[such other corporation] the subsidiary and the rights of all*  
13 *creditors thereof. The parent corporation shall not thereby ac-*  
14 *quire power to engage in any business, or to exercise any right,*  
15 *privilege or franchise, of a kind which it could not lawfully engage*  
16 *in or exercise under its certificate of incorporation or charter in*  
17 *effect immediately prior to such merger. The parent corporation*  
18 *shall be deemed to have assumed all the liabilities and obligations*  
19 *of the [merged corporation] subsidiary, and shall be liable in the*  
20 *same manner as if it had itself incurred such liabilities and obliga-*  
21 *tions. [The provisions of sections 14:12-6 and 14:12-7 of the*  
22 *Revised Statutes shall not apply to any merger effected under*  
23 *this section.]*

24 *If the corporations to be merged hereunder are both corporations*  
25 *organized under the laws of this State and, immediately prior to*  
26 *the merger, the parent corporation does not own all the outstanding*  
27 *stock of the subsidiary, the parent corporation shall, within 10 days*  
28 *after the filing of the aforesaid certificate of ownership and merger*  
29 *in the office of the Secretary of State, notify each minority stock-*  
30 *holder of the subsidiary of the filing of such certificate, the terms*  
31 *and conditions of the merger, and such stockholder's right to object*  
32 *and receive payment for his stock as hereinafter provided. The*  
33 *notice shall be sent by registered mail, return receipt requested,*  
34 *addressed to the stockholder at his last known address as it appears*  
35 *on the books of the subsidiary. If any such stockholder shall within*  
36 *20 days after the date of mailing of the notice object in writing to*  
37 *said merger and demand in writing from the parent corporation*  
38 *payment for his stock, the parent corporation shall, within 30 days*  
39 *after the expiration of said 20-day period, pay to him the full mar-*  
40 *ket value of his stock without regard to any depreciation or appre-*  
41 *ciation thereof in consequence of the merger. If during said 30-day*  
42 *period the parent corporation and the objecting stockholder fail*  
43 *to agree as to such value of his stock, such stockholder or the parent*

1 corporation may, within 30 days after the expiration of said 30-day  
2 period, apply for the appointment of appraisers to determine such  
3 value as provided in section 14:12-6 of the Revised Statutes, all  
4 the pertinent provisions of which section shall be applicable, except  
5 that nothing herein or in said section contained shall be deemed to  
6 confer any right of dissent and appraisal upon any stockholder of  
7 the parent corporation.

8 The provisions of this section shall not apply to any rail-  
9 road, turnpike, insurance, canal or banking companies, savings  
10 banks, or other corporations intended to derive profit from the loan  
11 or use of money.

12 Whenever the parent corporation or the [other corporation to  
13 be merged into the parent corporation, as herein provided,] sub-  
14 sidiary is a public utility as defined in Title 48 of the Revised  
15 Statutes, the merger shall not be effective unless the approval  
16 thereof by the Board of Public Utility Commissioners shall first  
17 be had and obtained.

18 2. This act shall take effect immediately.