



CERTIFICATE OF MERGER

General Information

The attached Certificate of Merger (Form OBE MERGER-1) may be used for the following mergers:

- **LIMITED LIABILITY COMPANY MERGERS:** Mergers involving only limited liability companies in which one or more California limited liability companies is a party to the merger;
- **LIMITED PARTNERSHIP MERGERS:** Mergers involving only limited partnerships in which one or more California limited partnerships is a party to the merger; and
- **INTERSPECIES MERGERS:** Mergers involving “other business entities” in which one or more California corporations, limited liability companies, limited partnerships, or partnerships is a party to the merger. [The term “other business entity” is defined in California Corporations Code sections [174.5](#), [5063.5](#), [12242.5](#), [15611\(v\)](#), [15911.01\(k\)](#), [16901\(12\)](#) and [17001\(ac\)](#).]

Upon the filing of the Certificate of Merger by the Secretary of State, the separate existence of the disappearing domestic or qualified/registered business entity shall cease in California.

Statutory filing provisions are found in California Corporations Code sections [1113\(g\)](#) (stock corporations); [6019.1](#) (nonprofit public benefit corporations); [8019.1](#) (nonprofit mutual benefit corporations); [9640](#) (nonprofit religious corporations); [12540.1](#) (consumer cooperative corporations); [15678.4](#) and [15911.14](#) (limited partnerships); [16915\(b\)](#) (general partnerships and limited liability partnerships); and [17552](#) (limited liability companies). One or more business entities can merge only if each entity is authorized by the laws under which it is organized to effect the merger and at least one California domestic entity is involved.

There are a variety of filing requirements based not only on the types of entities involved in the merger, but also the domicile of the entities merging and whether or not any foreign (out of state) entities are qualified to transact business in the State of California. It is not feasible to provide information and sample documents for each set of circumstances. Documents must be drafted in accordance with applicable law, dependent upon the particular circumstances of the entities involved. Due to the complexity of merger transactions, it is recommended that the advice of private legal counsel, specializing in business entity matters, be sought regarding the specific needs of the merging entities.

When preparing merger documents, regardless of the type of merger, be sure the entity name included in the documents is exactly as it appears on the records of the California Secretary of State, including entity endings, punctuation and abbreviations. For mergers in which a California corporation or a qualified foreign corporation is a party to the merger, prior to filing please verify the status of the corporation(s) being merged as merger documents **cannot** be filed on behalf of suspended/forfeited corporations. (California Revenue and Taxation Code sections [23301](#) and [23775](#).)

ADDITIONAL INFORMATION

If the surviving entity is a foreign limited liability company or foreign other business entity and a California (domestic) limited liability company is one of the disappearing entities: The surviving entity shall file with the Secretary of State (1) an agreement that it may be served in this state in a proceeding for the enforcement of an obligation of any constituent entity and in a proceeding to enforce the rights of any holder of a dissenting interest or dissenting shares in a constituent domestic limited liability company or domestic other business entity; (2) an irrevocable appointment of the Secretary of State as its agent for service of process, and an address to which process may be forwarded; and (3) an agreement that it will promptly pay the holder of any dissenting interest or dissenting share in a constituent domestic limited liability company or domestic other business entity the amount to which that person is entitled under California law. (California Corporations Code section 17555(g)(1), (2) and (3).)

If a disappearing entity is a registered (domestic or foreign) limited liability partnership: The filing of a Certificate of Merger shall have no effect on the registered status of the entity on the records of the Secretary of State's office. To withdraw the registration, a [Notice of Status Change \(Form LLP-4\)](#) must be filed with the Secretary of State. (California Corporations Code sections 16954 and 16960.) Form LLP-4, along with filing information and instructions, is available on the Secretary of State's website at <http://www.sos.ca.gov/business/>.

If no California entity is a party to the merger (all parties are foreign entities whether qualified or not): The Certificate of Merger may not be filed in California. If a disappearing entity in the merger is qualified or registered in California, to surrender or cancel the entity, it will be necessary to file a:

- 1) [Certificate of Surrender](#) – for foreign corporations;
- 2) [Certificate of Cancellation \(Form LLC-4/7\)](#) – for foreign limited liability companies;
- 3) [Certificate of Cancellation \(Form LP-4/7\)](#) – for foreign limited partnerships; or
- 4) [Notice of Status Change \(Form LLP-4\)](#) – for foreign limited liability partnerships.

The forms, along with pertinent filing information and instructions, are available on the Secretary of State's website at <http://www.sos.ca.gov/business/>.

FEES: The fee for filing a Certificate of Merger (Form OBE MERGER-1) is \$150.00 for interspecies mergers, \$70.00 for mergers involving only limited liability companies and \$70.00 for mergers involving only limited partnerships. A \$15.00 special handling fee is applicable for processing documents delivered in person to the Sacramento office. The special handling fee must be remitted separately for each submittal and will be retained whether the document is filed or rejected. The preclearance and/or expedited filing of a document *within a guaranteed time frame* can be requested for an additional fee (in lieu of the special handling fee). Please refer to the Secretary of State's website at <http://www.sos.ca.gov/business/precexp.htm> for detailed information regarding preclearance and expedited filing services. The special handling fee or preclearance and expedited filing services are not applicable to documents submitted by mail. Check(s) should be made payable to the Secretary of State.

COPIES: The Secretary of State will certify two copies of the filed merger documents without charge, provided that the copies are submitted to the Secretary of State with the documents to be filed. Any additional copies submitted will be certified upon request and payment of the \$8.00 per copy certification fee.

WHERE TO FILE: The merger document(s) can be mailed to Secretary of State, Document Filing Support Unit, 1500 11th Street, 3rd Floor, Sacramento, CA 95814 or delivered in person to the Sacramento office. Merger documents are only filed in the Secretary of State's Sacramento office. Please refer to the Secretary of State file number(s) when submitting document(s) for filing to ensure proper application. For easier completion, the Certificate of Merger (Form OBE MERGER-1) is available on the Secretary of State's website at <http://www.sos.ca.gov/business/> and can be viewed, filled in and printed from your computer. If you are not completing the form online, please type or legibly print in black or blue ink.

SIGNATORY REQUIREMENTS

A Certificate of Merger (Form OBE MERGER-1) shall be executed and acknowledged by each constituent other business entity as set forth in California Corporations Code section [1113\(g\)\(1\) or \(2\)](#), [6019.1\(f\)](#), [8019.1\(g\)](#), [12540.1\(g\)](#), [15678.4\(a\)](#), [15911.14\(a\)](#), [16915\(b\)](#) or [17552\(a\)](#). The following table clarifies these signatory requirements:

Entity Type	Domestic or Foreign	Signatories
Corporations	Domestic and Foreign	Executed and acknowledged by the chairperson of the board, president or a vice president and also by its secretary or an assistant secretary.
Limited Liability Companies	Domestic	Executed and acknowledged by all managers of the limited liability company (unless a lesser number is specified in the articles of organization or operating agreement).
	Foreign	Executed and acknowledged by one or more managers.
Limited Partnerships	Domestic	Executed and acknowledged by all general partners (unless a lesser number is provided in the certificate of limited partnership or limited partnership agreement).
	Foreign	Executed and acknowledged by one or more general partners.
General Partnerships and Limited Liability Partnerships	Domestic	Executed and acknowledged by two partners (unless a lesser number is provided in the partnership agreement).
	Foreign	Executed and acknowledged by one or more general partners.
Business Trusts; Real Estate Investment Trusts; Unincorporated Associations	Domestic and Foreign	Executed by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons.

If the certificate is signed by an attorney-in-fact, the signature should be followed by the words “attorney-in-fact for (name of the person).”

If the certificate is signed by an entity, the person who signs on behalf of the entity should note their name and position/title, the exact entity name and the entity’s relation to the merging entity. Example: If a limited liability company (“Smith LLC”) is the manager of a merging limited liability company, the signature of the person signing on behalf of Smith LLC should be reflected as Joe Smith, Manager of Smith LLC, Manager.

If the certificate is signed by a trust, the trustee should sign as follows: _____, trustee for _____ trust (including the date of the trust, if applicable). Example: Mary Todd, trustee of the Lincoln Family Trust (U/T/A 5/1/94).

If a constituent other business entity in the merger is a limited partnership, and the certificate is filed by any person other than the general partner(s), the signature must be followed by the words “signature pursuant to Section _____ ” identifying the appropriate statutory authority. (California Corporations Code section [15625\(c\)](#) or [15902.05\(d\)](#).)

INSTRUCTIONS FOR COMPLETING THE CERTIFICATE OF MERGER (FORM OBE MERGER-1)

For easier completion, this form is available on the Secretary of State's website at <http://www.sos.ca.gov/business/> and can be viewed, filled in and printed from your computer. The completed form can be mailed to Secretary of State, Document Filing Support Unit, 1500 11th Street, 3rd Floor, Sacramento, CA 95814 or delivered in person to the Sacramento office. If you are not completing this form online, please type or legibly print in black or blue ink. This form is filed only in the Sacramento office.

LEGAL AUTHORITY: Statutory filing provisions are found in California Corporations Code sections [1113\(g\)](#), [6019.1](#), [8019.1](#), [9640](#), [12540.1](#), [15678.4](#), [15911.14](#), [16915\(b\)](#) and [17552](#). All statutory references are to the California Corporations Code, unless otherwise indicated. **Note:** If a limited partnership governed by the Uniform Limited Partnership Act of 2008 (Act of 2008) is a party to the merger, signing the Certificate of Merger (Form OBE MERGER-1) constitutes an affirmation under penalty of perjury that the facts stated in the document are true. (Section [15902.08\(b\)](#).)

- The Certificate of Merger (Form OBE MERGER-1) may be used for mergers between: (1) limited liability companies only, in which a one or more California limited liability companies are a party to the merger; (2) limited partnerships only, in which one or more California limited partnerships are a party to the merger; or (3) other business entities (i.e., interspecies mergers), in which one or more California corporations, limited liability companies, limited partnerships or partnerships are a party to the merger. [The term "other business entity" is defined in Sections [174.5](#), [5063.5](#), [12242.5](#), [15611\(v\)](#), [15911.01\(k\)](#), [16901\(12\)](#) and [17001\(ac\)](#).]
- It is recommended that legal counsel be consulted prior to submitting the Certificate of Merger (Form OBE MERGER-1) to ensure that all issues are appropriately addressed.

ACT OF 2008: A California limited partnership is subject to the Act of 2008: (1) if it was formed on or after January 1, 2008; or (2) if it was formed prior to January 1, 2008, and has elected to be governed by the Act of 2008. All registered foreign limited partnerships, regardless of when they registered in California, are subject to the Act of 2008. Effective January 1, 2010, all California limited partnerships will be subject to the Act of 2008. The Act of 2008 can be found in the California Corporations Code commencing with Section [15900](#).

FEES: The fee for filing the Certificate of Merger (Form OBE MERGER-1) is: (1) \$150.00 for interspecies mergers; (2) \$70.00 for mergers involving only limited liability companies; and (3) \$70.00 for mergers involving only limited partnerships. There is an additional \$15.00 special handling fee for processing a document delivered in person to the Sacramento office. The special handling fee must be remitted separately for each submittal and will be retained whether the document is filed or rejected. The preclearance and/or expedited filing of a document within a guaranteed time frame can be requested for an additional fee (in lieu of the special handling fee). Please refer to the Secretary of State's website at <http://www.sos.ca.gov/business/precexp.htm> for detailed information regarding preclearance and expedited filing services. The special handling fee or preclearance and expedited filing services are not applicable to documents submitted by mail. Check(s) should be made payable to the Secretary of State.

COPIES: The Secretary of State will certify two copies of the filed document without charge, provided that the copies are submitted to the Secretary of State with the document to be filed. Any additional copies submitted will be certified upon request and payment of the \$8.00 per copy certification fee.

ADDITIONAL INFORMATION & FILING REQUIREMENTS: Please refer to the attached "[Certificate of Merger - General Information](#)" document for additional information and requirements for filing a Certificate of Merger.

Complete the Certificate of Merger (Form OBE MERGER-1) as follows:

Items 1-8. Enter the following information for the surviving entity (Items 1-4) and the disappearing entity (Items 5-8): The exact name of the entity, the type of entity (e.g., corporation, limited liability company, limited partnership, etc.), the file number issued to the entity by the California Secretary of State (if any), and the jurisdiction (state or country) under which the entity was organized. If more than one entity is disappearing, attach additional pages with the required information.

Item 9. This statement is required by statute and must not be altered. If a vote was required pursuant to the applicable law, specify the class and the number of outstanding interests of each class entitled to vote on the merger **and** the percentage vote required for each class. Attach additional pages, if necessary.

- Item 10.** If equity securities of a parent party are to be issued in the merger, check the applicable statement regarding the vote of the shareholders of the parent party. Only one box may be checked.
- Item 11.** If the surviving entity in the merger is a domestic limited liability company, limited partnership or registered general partnership, enter any requisite changes to the information set forth in the surviving entity's Articles of Organization, Certificate of Limited Partnership or Statement of Partnership Authority resulting from the merger, if any, and include the text of each amendment adopted. Attach additional pages, if necessary. (Sections [15678.4](#), [15911.14](#), [16915](#) and [17552](#).)
- Item 12.** If a disappearing entity in the merger is a domestic limited liability company, limited partnership or partnership, enter the address of the principal place of business of the surviving entity. Item 12 should not be completed when the merger is between entities of the same type where there is a surviving domestic entity (e.g., a disappearing domestic or foreign limited liability company merging into a surviving domestic limited liability company). (Sections [15678.4](#), [15911.14](#), [16915](#) and [17552](#).)
- Item 13.** Enter any other information required to be stated in the Certificate of Merger by the laws under which each party to the merger was organized. Attach additional pages, if necessary.
- Item 14.** Set forth the statutory authority or other basis under which each foreign corporation or other business entity is authorized by law to effect the merger.
- Item 15.** Enter a valid future effective date of the Certificate of Merger, if any. If none is indicated, the merger shall be effective upon filing with the California Secretary of State, or as otherwise provided by law.
- Item 16.** This statement confirms that attachments to the Certificate of Merger, if any, are incorporated by reference.
- Item 17.** The Certificate of Merger must be signed and acknowledged by each constituent other business entity as set forth in Sections [1113\(g\)\(1\)](#) or [\(2\)](#), [6019.1\(f\)](#), [8019.1\(g\)](#), [12540.1\(g\)](#), [15678.4\(a\)](#), [15911.14\(a\)](#), [16915\(b\)](#) or [17552\(a\)](#). If additional signature space is necessary, the acknowledged signature(s) may be made on an attachment to the Certificate of Merger. Note: If a constituent other business entity is a business trust, real estate investment trust or an unincorporated association, set forth the provision of law or other basis for the authority of the person signing.

Any attachments to the Certificate of Merger are incorporated by reference and made part of the Certificate of Merger. All attachments should be 8 ½" x 11", one-sided and legible.

