

*at entrances to theaters, hotels, motion picture theaters,* or prohibit other than one-way traffic upon certain highways, and may regulate the use of the highways by processions or assemblages, and may regulate the kinds and classes of traffic and its turning on certain highways at all or certain hours, and may regulate the transportation by motor vehicles of passengers for compensation within the limits of a city, or from points in the city to points beyond the city limits, and make and enforce regulations for the operation of such vehicles not inconsistent with this act, and designate certain streets upon which such vehicles may be operated:

Provided, however, That any regulations of the kinds and classes of traffic on State highway routes within cities shall be subject to the approval of the Secretary of Highways, first had and obtained.

Local authorities may designate any highway or any part of a highway under their jurisdiction a "Play Highway" and may close such designated highway to general traffic where interference to traffic will not be serious. Such highways or portions of highways shall be used for play purposes and shall be clearly designated by appropriate signs, specifying the hours between which such highways shall be closed to general traffic.

APPROVED—The 30th day of June, A. D. 1951.

JOHN S. FINE

No. 201

AN ACT

Providing for the merger of certain existing railroad corporations into street passenger railway corporations; setting forth the procedure to be followed; the effect of the merger upon property and franchises; and defining the rights, powers and privileges of the surviving company.

Railroad corporations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Merger Authorized.—It shall be lawful for any railroad corporation heretofore formed under the act, approved the fourth day of April, 1868 (Pamphlet Laws 62), entitled "An Act to authorize the formation and regulation of railroad corporations," its amendments and supplements, which conducts its transportation operations through the use of electric power exclusively, whose lines of railroad do not exceed fifty miles in length and are entirely within the Commonwealth of Pennsylvania, and which owns at least 90% of the outstanding capital stock of a street passenger railway corporation now or hereafter organized under any act of Assembly authorizing the formation of such corpora-

tions, to merge its corporate rights, franchises, powers and privileges (whether acquired by gift, purchase, condemnation, municipal grant, or otherwise) with and into those of such street passenger railway corporation so that, by virtue of this act, such corporations may merge, and so that all the property rights, franchises and privileges then by law vested in either of such corporations so merged shall be transferred to and vested in such street passenger railway corporation into which such merger shall be made as the surviving corporation in the manner provided in this act.

Section 2. Approval of Plan of Merger.—

(a) The board of directors of each of the corporations which desire to merge shall, by resolution adopted by at least a majority vote of all of the members of each board, approve a plan of merger, setting forth the terms and conditions of the merger and mode of carrying the same into effect, the manner and basis of converting the shares of each corporation into shares or other securities or obligations of the surviving corporation, and such other details and provisions as are deemed necessary.

(b) The board of directors of each corporation, upon approving such plan of merger, shall, by resolution, direct that the plan be submitted to a vote of the shareholders of such corporation entitled to vote thereon at an annual or special meeting of the shareholders. Written notice shall, not less than thirty days before such annual or special meeting, be given to each shareholder of record of such corporation, whether or not entitled to vote on such plan, unless the plan of merger contemplates an increase in the aggregate of the authorized capital stock of the merging corporations, in which event sixty days' notice of such meeting shall be given to each shareholder. The notice shall state the place, day, hour and purpose of the meeting, and a copy or a summary of the plan of merger shall be included in or enclosed with such notice.

(c) The plan of merger shall be approved upon receiving the affirmative vote of the holders of at least sixty-six and two-thirds per centum of the outstanding shares entitled to vote thereon of each of the merging corporations, unless any class of shares of any of such corporations is entitled to vote thereon as a class, in which event, as to such corporation, the plan of merger shall be approved upon receiving the affirmative vote of the holders of at least sixty-six and two-thirds per centum of the outstanding shares of each class of shares entitled to vote thereon as a class and the affirmative vote of the holders of at least sixty-six and two-thirds per centum of all outstanding shares entitled to vote thereon.

Section 3. Articles of Merger.—Upon the approval of the plan of merger by the shareholders of the corporations desiring to merge, articles of merger shall be executed under the seal of each corporation, signed and verified by two duly authorized officers of each corporation, and shall set forth:

(1) The name and location of the registered office of the surviving corporation;

(2) The time and place of the meeting of the shareholders of each corporation at which the plan of merger was adopted, the kind and period of notice given to the shareholders, and the total vote by which the plan was adopted;

(3) Any changes desired to be made in the articles of the surviving corporation;

(4) The number, names and addresses of the persons to be the first directors of the surviving corporation;

(5) The plan of merger.

Section 4. Advertisement.—Each of the merging corporations shall advertise its intention to file articles of merger with the Department of State, one time in two newspapers published in the English language, one of which shall be a newspaper of general circulation and the other the legal newspaper, if any, designated by the rules of the court for the publication of legal notices; otherwise, in two newspapers of general circulation published in the county in which the initial registered office of the corporation is to be located. Where there is but one newspaper of general circulation published in any county, advertisement in such newspaper shall be sufficient. Advertisement shall appear at least three days prior to the day on which the articles of merger are presented to the Department of State, and shall set forth briefly:

(1) The name and the location of the registered office of each of the corporations intending to merge;

(2) The name and the location of the proposed registered office of the surviving corporation;

(3) A statement that the articles of merger are to be filed under the provisions of this act;

(4) The time when the articles of merger will be delivered to the Department of State.

Section 5. Filing of Articles of Merger.—

(a) The articles of merger shall be submitted to the Pennsylvania Public Utility Commission, which commission shall, unless it finds that the proposed merger is detrimental to the interests of the riding public, issue to the surviving corporation a Certificate of Public Convenience authorizing the ownership and operation of all of the transportation facilities then owned and operated by each of the merging corporations.

(b) The articles of merger and proof of the advertise-

ment required by the preceding section shall be delivered to the Department of State. If the Department of State finds that such articles conform to this act and that the Pennsylvania Public Utility Commission has issued an appropriate order or Certificate of Public Convenience, it shall forthwith, but not prior to the day specified in the advertisement required by the preceding section, endorse its approval thereon; and upon payment of the filing fee for issuing a certificate of merger, it shall file the articles and issue to the surviving corporation or its representative a certificate of merger, to which shall be attached a copy of the approved articles.

Section 6. *Effective Date of Merger.*—Upon the approval of the certificate of merger by the Department of State, the merger shall be effective. The certificate of merger shall be conclusive evidence of the performance of all conditions precedent to such merger and the existence of the surviving corporation, except as against the Commonwealth.

Section 7. *Effect of Merger.*—Upon the merger becoming effective, the corporations which are parties to the plan of merger shall be a single corporation, which shall be that corporation designated in the plan of merger as the surviving corporation. The separate existence of all corporations parties to the plan of merger shall cease, except that of the surviving corporation. All the property, real, personal and mixed, and all of the rights, rights of way, franchises, municipal and other grants, powers and privileges of each of the corporations parties to the plan of merger, and all debts due, on whatever account, to any of them, including subscriptions to shares, and other choses in action belonging to any of them, shall be taken and deemed to be transferred to and vested in the surviving corporation without further act or deed; and thereafter, the surviving corporation may own, hold, enjoy and exercise all of the same as fully as could have the corporation entitled thereof prior to the merger, but the surviving corporation shall not thereafter, by virtue of the provisions of said act, approved the 4th day of April, 1868 (Pamphlet Laws 62), or its supplements or amendments, acquire any rights, rights of way, franchises, municipal or other grants, powers or privileges not belonging to either of the merging corporations prior to the merger which it could not acquire as a street passenger railway, and the surviving corporation shall not, by virtue of the merger, acquire authority to engage in any business or exercise any right which a corporation may not be formed under the laws of the Commonwealth to engage in or exercise. The surviving corporation shall thenceforth be responsible for all liabilities and obligations of each of the corporations so merged, but the liabilities of the merging

corporations or of their shareholders, directors or officers shall not be affected, nor shall the rights of the creditors thereof, or of any persons dealing with such corporations, or any liens upon the property of such corporations, be impaired by such merger, and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgment as if such merger had not taken place, or the surviving corporation may be proceeded against or substituted in its place. The articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the articles of merger, and the aggregate amount of the net assets of the merging corporations which was available for the payment of dividends immediately prior to such merger, to the extent that the value thereof is not transferred to stated capital by the issuance of shares or otherwise, shall continue to be available for the payment of dividends by such surviving corporation.

Section 8. Rights of Dissenting Shareholders.—

(a) If any shareholder of any corporation which becomes a party to a plan of merger shall file with such corporation, prior to the vote at the meeting of shareholders at which the plan of merger is submitted to a vote, a written objection to such plan of merger, and shall not vote in favor thereof, and such shareholder, within twenty days after the merger was effected, shall also make written demand on the surviving corporation for the payment of the fair value of his shares \* without regard to any depreciation or appreciation thereof in consequence of the merger, the surviving corporation shall pay to such shareholder the fair value of his shares, upon surrender of the share certificate or certificates representing his shares. The demand of the shareholder shall state the number and class of the shares owned by him. Unless a shareholder files such written objection and also makes such demand within the twenty-day period, he shall be conclusively presumed to have consented to the merger and shall be bound by the terms thereof. If, within thirty days after the date on which such merger was effected, the value of such shares shall be agreed upon between the dissenting shareholder and the surviving corporation, payment thereof shall be made in cash within ninety days after the date on which such merger was effected, upon the surrender of the share certificate or certificates representing his shares. Upon payment of the agreed value, the dissenting shareholder shall cease to have any interest in such shares or in the corporation.

(b) If, within such period of thirty days, the shareholder and the surviving corporation do not so agree,

\* "the merger" deleted from original.

then the dissenting shareholder may, within sixty days after the expiration of the thirty-day period, apply by petition to the court of common pleas in equity within the county in which the registered office of the surviving corporation is situated for the appointment by the court of three disinterested persons to appraise the fair value of his shares without regard to any depreciation or appreciation thereof in consequence of the merger. The award of the appraisers or of a majority of them shall be submitted to the court for determination, and the judgment of the court thereon shall be final and conclusive. The costs of such appraisal, including a reasonable fee to the appraisers, shall be fixed by the court, and shall be borne by the surviving corporation unless, in the opinion of the court, the action of any shareholder in refusing the offer of the corporation has been arbitrary, vexatious, or in bad faith, in which case the costs shall be assessed in the discretion of the court. The award shall be payable only upon and simultaneously with the surrender to the surviving corporation of the share certificate or certificates representing the shares of the dissenting shareholder. If the award shall not be paid by the surviving corporation within thirty days after the order of the court thereon, the amount of the award shall be a judgment against the surviving corporation and may be collected as other judgments in such court are by law collectible. Upon the payment of the award or judgment, the dissenting shareholder shall cease to have any interest in such shares or in the surviving corporation. Such shares may be held and disposed of by the surviving corporation as it may see fit. Unless the dissenting shareholder shall file a petition within the time herein limited, such shareholder and all persons claiming under him shall be conclusively presumed to have approved and ratified the merger and shall be bound by the terms thereof.

(c) The rights and remedies at law or in equity of any shareholder who desires to object to or to dissent from any merger shall be limited to those prescribed under this section, and such rights and remedies under this section shall be exclusive.

(d) A copy of this section shall be enclosed with the written notice mentioned in subsection (b) of section 2 of this act, and said written notice shall state that this section sets forth the exclusive rights and remedies of shareholders who object to the plan of merger.

Section 9. All acts and parts of acts are hereby repealed insofar as they are inconsistent with the provisions of this act.

Acts and parts  
of acts incon-  
sistent herewith  
repealed.

APPROVED—The 30th day of June, A. D. 1951.

JOHN S. FINE