

CT CORPORATION SYSTEM

293707

CORPORATION(S) NAME

~~Levitz Furniture Incorporated Merging into: Levitz Furniture Corporation~~
Levitz Furniture Incorporated Merging into: Levitz Furniture Corporation

Merge

FILED
01 FEB 26 PM 1:42
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

- | | | |
|--|---|---|
| <input type="checkbox"/> Profit | <input type="checkbox"/> Amendment | <input checked="" type="checkbox"/> Merger |
| <input type="checkbox"/> Nonprofit | | |
| <input type="checkbox"/> Foreign | <input type="checkbox"/> Dissolution/Withdrawal | <input type="checkbox"/> Mark |
| | <input type="checkbox"/> Reinstatement | |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Annual Report | <input type="checkbox"/> Other |
| <input type="checkbox"/> LLC | <input type="checkbox"/> Name Registration | <input type="checkbox"/> Change of RA |
| <input checked="" type="checkbox"/> Certified Copy | <input type="checkbox"/> Fictitious Name | <input type="checkbox"/> UCC |
| | <input type="checkbox"/> Photocopies | <input type="checkbox"/> CUS |
| <input type="checkbox"/> Call When Ready | <input type="checkbox"/> Call If Problem | <input type="checkbox"/> After 4:30 |
| <input checked="" type="checkbox"/> Walk In | <input type="checkbox"/> Will Wait | <input checked="" type="checkbox"/> Pick Up |
| <input type="checkbox"/> Mail Out | | |

Name

Availability

Document

Examiner

Updater

Verifier

W.P. Verifier

2/27/01

Order#: 3645793

Ref#:

600003783456--5

-02/27/01--01116--004

Amount: \$ *****78.75 *****78.75

660 East Jefferson Street
Tallahassee, FL 32301
Tel. 850 222 1092
Fax 850 222 7615

JME

ARTICLES OF MERGER
Merger Sheet

MERGING:

LEVITZ FURNITURE INCORPORATED, a Delaware corporation not authorized
to transact business in Florida

INTO

LEVITZ FURNITURE CORPORATION, a Florida entity, 293707

File date: February 26, 2001

Corporate Specialist: Annette Ramsey



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

February 22, 2001

CT Corporation System
660 East Jefferson St.
Tallahassee, FL 32301

SUBJECT: LEVITZ FURNITURE CORPORATION
Ref. Number: 293707

We have received your document for LEVITZ FURNITURE CORPORATION, however, upon receipt of your document no check was enclosed. Please send a check or money order payable to the Department of State for \$78.75.

For each corporation, the document must contain the date of adoption of the plan of merger or share exchange by the shareholders or by the board of directors when no vote of the shareholders is required.

If shareholder approval was not required, a statement to that effect must be contained in the merger for each applicable corporation.

If you have any questions concerning the filing of your document, please call (850) 487-6907.

Annette Ramsey
Corporate Specialist

Letter Number: 901A00011292

Date added. Please file, but do not backdate. Thank you!

Ramsey CT
RECEIVED
91 FEB 26 PM 4:42
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER (Profit Corporations)

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, F.S.

First: The name and jurisdiction of the surviving corporation:

[illegible]

Levitz Furniture Corporation Florida

Second: The name and jurisdiction of each merging corporation:

<u>Name</u>	<u>Jurisdiction</u>
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Levitz Furniture Incorporated Delaware

Third: The Plan of Merger is attached.

Fourth: The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State

QR / / (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days in the future.)

Fifth: Adoption of Merger by surviving corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on _____

The Plan of Merger was adopted by the board of directors of the surviving corporation on February 26, 2001 and shareholder approval was not required.

Sixth: Adoption of Merger by merging corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on _____

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on _____ and shareholder approval was not required.

(Attach additional sheets if necessary)

Seventh: SIGNATURES FOR EACH CORPORATION

[illegible]

PLAN OF MERGER

(Non Subsidiaries)

The following plan of merger is submitted in compliance with section 607.1101, F.S. and in accordance with the laws of any other applicable jurisdiction of incorporation.

First: The name and jurisdiction of the surviving corporation:

Name

Jurisdiction

Levitz Furniture Corporation

Florida

Second: The name and jurisdiction of each merging corporation:

Name

Jurisdiction

Levitz Furniture Incorporated

Delaware

Third: The terms and conditions of the merger are as follows:

See attached Agreement and Plan of Merger

Fourth: The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in whole or in part, into cash or other property and the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations, or other securities of the surviving or any other corporation or, in whole or in part, into cash or other property are as follows:

See attached Agreement and Plan of Merger

(Attach additional sheets if necessary)

THE FOLLOWING MAY BE SET FORTH IF APPLICABLE:

Amendments to the articles of incorporation of the surviving corporation are indicated below or attached as an exhibit:

OR

Restated articles are attached:

Other provisions relating to the merger are as follows:

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Agreement"), dated as of February 26, 2001, is by and between Levitz Furniture Incorporated, a Delaware corporation ("LFI"), and Levitz Furniture Corporation, a Florida corporation ("LFC").

WITNESSETH

WHEREAS, LFI is the sole stockholder of LFC;

WHEREAS, the Board of Directors of LFI and the Board of Directors and the sole stockholder of LFC have approved and adopted this Agreement; and

WHEREAS, the Merger (as defined below) is in accordance with and pursuant to the Third Amended Joint Reorganization Plan of LFI and its subsidiaries, dated October 30, 2000 (the "Plan"), under chapter 11 of title 11 of the United States Code, and the order, dated December 14, 2000, of the United States Bankruptcy Court of the District of Delaware confirming the Plan, in the case *In re Levitz Furniture Incorporated, et al.* (Case No. 97-1842 (MFW)), and is intended to constitute a reorganization qualifying for tax-free treatment under Section 368(a) of the Internal Revenue Code as 1986, as amended (the "Code").

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

THE MERGER

1.1 The Merger; Surviving Corporation. On the terms and subject to the conditions set forth in this Agreement, at the Effective Time (as defined in Section 1.2 below), LFI shall be merged with and into LFC (the "Merger"), pursuant to Sections 252 and 303 of the General Corporation Law of the State of Delaware (the "DGCL") and Section 607.1104 of Title XXXVI, Chapter 607 of the Florida Statutes (the "Florida Code"), and the separate existence of LFI shall cease. LFC shall be the surviving entity (the "Surviving Corporation") and shall continue to be governed by the Florida Code. The Merger shall have the effects set forth in the DGCL and the Florida Code.

1.2 Effective Time. The Merger shall become effective (the "Effective Time") upon filing of a certificate and/or articles of merger with respect to the merger (the "Certificate of Merger") with (a) the Secretary of State of the State of Delaware and (b) the Secretary of State of

the State of Florida. The Certificates of Merger shall be filed at such time as LFI and LFC shall direct.

ARTICLE II

THE SURVIVING CORPORATION

2.1 Name. The name of the Surviving Corporation shall continue to be Levitz Furniture Corporation.

2.2 Certificate of Incorporation and Bylaws; Defined Terms. The Certificate of Incorporation and Bylaws of LFC immediately prior to the Effective Time shall be the Certificate of Incorporation and Bylaws of the Surviving Corporation, respectively, unless and until amended in accordance with their terms and applicable law and such Certificate of Incorporation.

2.3 Directors and Officers. The directors of LFC immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the Certificate of Incorporation and Bylaws of the Surviving Corporation and until his or her successor is duly elected and qualified or until his or her earlier resignation or removal. The officers of LFC immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, each to hold office in accordance with the Certificate of Incorporation and Bylaws of the Surviving Corporation and until his or her successor is duly appointed and qualified or until his or her earlier resignation or removal.

ARTICLE III

EFFECT ON CAPITAL STOCK

3.1 Conversion of Shares. At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof (i) each share of common stock, par value \$0.01 per share, of LFI issued and outstanding immediately prior to the Effective Time shall be changed and converted into and shall be one fully paid and non assessable share of Common Stock, par value \$.40 per share, of LFC and (ii) each share of common stock, par value \$0.01 per share, of LFC issued and outstanding immediately prior to the Effective Time shall be cancelled.

ARTICLE IV

EFFECTS OF THE MERGER

4.1 Transfer, Conveyance and Assumption. At the Effective Time, LFC shall continue in existence as the Surviving Corporation and, without further transfer, shall succeed to and possess all the rights, privileges and powers of LFI, and all the assets and property of whatever kind and character of LFI shall vest in the Surviving Corporation without further act or deed. At the Effective Time, LFC, as the Surviving Corporation, shall thereafter be liable for all of the liabilities and obligations of LFI without any further act or deed, and any claim or judgment against LFI may be enforced against the Company, as the Surviving Corporation.

ARTICLE V

MISCELLANEOUS

5.1 Entire Agreement. This Agreement contains the parties' entire understanding and agreement with respect to its subject matter, and any and all conflicting or inconsistent discussions, agreements, promises, representations and statements, if any, between the parties or their representatives that are not incorporated in this Agreement shall be null and void and are merged into this Agreement.

5.2 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original, but all of which together shall constitute a single agreement.

5.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to conflicts of law principles.

5.4 Headings. The various section headings are inserted for purposes of reference only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

5.5 Severability. The provisions of this Agreement shall be severable, and any invalidity, unenforceability or illegality of any provision or provisions of this Agreement shall not affect any other provision or provisions of this Agreement, and each term and provision of this Agreement shall be construed to be valid and enforceable to the full extent permitted by law.

5.6 Plan of Reorganization. This Agreement shall constitute a plan of reorganization within the meaning of Section 368 of the Code.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

LEVITZ FURNITURE INCORPORATED

By: Edward P. Zimmer
Name: EDWARD P. ZIMMER
Title: VICE PRESIDENT

LEVITZ FURNITURE CORPORATION

By: Edward P. Zimmer
Name: EDWARD P. ZIMMER
Title: VICE PRESIDENT