

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**SENATE BILL 136  
RATIFIED BILL**

**AN ACT TO CLARIFY THE LAW GOVERNING DISSENTERS' RIGHTS WITH  
REGARD TO MAJORITY CONSENT ACTION.**

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 55-13-02(a) reads as rewritten:

"(a) In addition to any rights granted under Article 9, a shareholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

- (1) Consummation of a plan of merger to which the corporation (other than a parent corporation in a merger whose shares are not affected under G.S. 55-11-04) is a party unless (i) approval by the shareholders of that corporation is not required under G.S. 55-11-03(g) or (ii) such shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for such shares;
- (2) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, unless such shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for such shares;
- (2a) Consummation of a plan of conversion pursuant to Part 2 of Article 11A of this Chapter;
- (3) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than as permitted by G.S. 55-12-01, including a sale in dissolution, but not including a sale pursuant to court order or a sale pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed in cash to the shareholders within one year after the date of sale;
- (4) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it (i) alters or abolishes a preferential right of the shares; (ii) creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares; (iii) alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities; (iv) excludes or limits the right of the shares to vote on any matter, or to cumulate ~~votes;~~votes, other than an amendment of the articles of incorporation permitting action without meeting to be taken by less than all shareholders entitled to vote, without advance notice, or both, as provided in G.S. 55-7-04; (v) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under G.S. 55-6-04; or (vi) changes the corporation into a nonprofit corporation or cooperative organization; or
- (5) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares."

**SECTION 2.** This act becomes effective October 1, 2003.  
In the General Assembly read three times and ratified this the 27<sup>th</sup> day of  
May, 2003.

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Marc Basnight  
President Pro Tempore of the Senate

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Richard T. Morgan  
Speaker of the House of Representatives

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Michael F. Easley  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2003