§ 55-11-06. Effect of merger or share exchange.

(a) When a merger pursuant to G.S. 55-11-01, 55-11-04, 55-11-07, or 55-11-09, or 55-11-20 takes effect:

(1) Each other merging corporation merges into the surviving corporation and the separate existence of each merging corporation except the surviving corporation ceases.

(2) The title to all real estate and other property owned by each merging corporation is vested in the surviving corporation without reversion or impairment.

(3) The surviving corporation has all liabilities of each merging corporation.

(4) A proceeding pending by or against any merging corporation may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for a merging corporation whose separate existence ceases in the merger.

(5) If a domestic corporation survives the merger, its articles of incorporation are amended to the extent provided in the articles of merger.

(6) The shares of each merging corporation that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into the right to receive cash or other property are thereupon converted, and the former holders of the shares are entitled only to the rights provided to them in the plan of merger or, in the case of former holders of shares in a domestic corporation, any right they may have under Article 13 of this Chapter.

(7) If a foreign corporation or foreign nonprofit corporation survives the merger, it is deemed:

a. To agree that it will promptly pay to shareholders of any merging domestic corporation exercising appraisal rights the amount, if any, to which they are entitled under Article 13 of this Chapter and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

b. To agree that it may be served with process in this State in any proceeding for enforcement (i) of any obligation of any merging domestic corporation, (ii) of the appraisal rights of shareholders of any merging domestic corporation under Article 13 of this Chapter, and (iii) of any obligation of the surviving foreign corporation or foreign nonprofit corporation arising from the merger.

c. To have appointed the Secretary of State as its agent for service of process in any proceeding for enforcement as specified in sub-subdivision b. of this subdivision. Service of process on the Secretary of State shall be made by delivering to, and leaving with, the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process on behalf of a surviving foreign corporation or foreign nonprofit corporation in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving foreign corporation or foreign nonprofit corporation. If the surviving foreign corporation or foreign nonprofit corporation is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the

Secretary of State that is authorized by law to designate the principal office, or, if there is no principal office on file, its registered office. If the surviving foreign corporation or foreign nonprofit corporation is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 55-11-05(a).

(b) When a share exchange for the acquisition of shares of a domestic corporation pursuant to G.S. 55-11-02 or G.S. 55-11-07 takes effect:

(1) The shares of the acquired corporation are exchanged as provided in the plan of share exchange, and the former holders of the shares are entitled only to the exchange rights provided in the plan of share exchange or any right they may have under Article 13 of this Chapter.

(2) If the acquiring corporation is not a domestic corporation, it is deemed to agree that it will promptly pay to shareholders of the acquired corporation exercising appraisal rights the amount, if any, to which they are entitled under Article 13 of this Chapter and otherwise to comply with the requirements of Article 13 as if it were an acquiring domestic corporation in the share exchange.

(3) If the acquiring corporation is not a domestic corporation, the acquiring corporation is deemed:

a. To agree that it may be served with process in this State in any proceeding for enforcement (i) of the appraisal rights of shareholders of the acquired corporation under Article 13 of this Chapter and (ii) of any obligation of the acquiring corporation arising from the share exchange; and

b. To have appointed the Secretary of State as its agent for service of process in any proceeding for enforcement as specified in sub-subdivision a. of this subdivision. Service of process on the Secretary of State shall be made by delivering to, and leaving with, the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process on behalf of an acquiring corporation in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the acquiring corporation. If the acquiring corporation is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the acquiring corporation is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 55-11-05(a).

(c) In the case of a merger pursuant to G.S. 55-11-07 or G.S. 55-11-09 or a share exchange pursuant to G.S. 55-11-07, references in subsections (a) and (b) of this section to "corporation " shall include a domestic corporation, a domestic nonprofit corporation, a foreign corporation, and a foreign nonprofit corporation as applicable. (1925, c. 77, s. 1; 1943, c. 270; G.S., s. 55-166; 1955, c. 1371, s. 1; 1967, c. 950, s. 1; 1989, c. 265, s. 1; 1999-369, s. 1.7; 2005-268, s. 23; 2006-264, s. 44(c); 2011-347, ss. 6, 7; 2014-102, s. 6(b); 2018-45, s. 19.)