§ 55-7-31. Shareholders' agreements.

(a) An agreement between two or more shareholders, if in writing and signed by the parties thereto, may provide that in the exercise of any voting rights of shares held by the parties, including any vote with respect to directors, the shares shall be voted as provided by the agreement, or as the parties may agree, or as determined in accordance with any procedure (including arbitration) specified in the agreement. A voting agreement created under this subsection is not subject to the provisions of G.S. 55-7-30 and is specifically enforceable.

(b) Except for public corporations, an agreement among the shareholders of a corporation that complies with this section and does any or all of the following is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this Chapter:

(1) Eliminates the board of directors or restricts the discretion or powers of the board of directors.

(2) Governs the authorization or making of distributions, whether or not in proportion to ownership of shares, subject to the limitations in G.S. 55-6-40.

(3) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal.

(4) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by among any of them, including use of weighted voting rights or director proxies.

(5) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between or among the corporation and any shareholder, director, officer, or employee of the corporation.

(6) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders.

(7) Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency.

(8) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship between or among the shareholders, the directors, and the corporation and is not contrary to public policy.

(c) Repealed by Session Laws 2018-45, s. 6, effective October 1, 2018.

(d) Both of the following requirements apply to an agreement authorized by subsection (b) of this section:

(1) The agreement shall be set forth (i) in the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement or (ii) in a written document that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation.

(2) The agreement is subject to amendment only by all persons who are shareholders at the time of the amendment unless the agreement provides otherwise.

(e) The existence of an agreement authorized by subsection (b) of this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by G.S. 55-6-26(b). If, at the time of the agreement, the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares

who, at the time of purchase, did not have knowledge of the existence of the agreement is entitled to rescission of the purchase. A purchaser is deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection shall be commenced within the earlier of 90 days after discovery of the existence of the agreement or two years after the time of purchase of the shares.

(f) An agreement authorized by subsection (b) of this section shall cease to be effective when the corporation becomes a public corporation. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

(g) The existence or performance of an agreement authorized by subsection (b) of this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(h) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by subsection (b) of this section if no shares have been issued when the agreement is made.

(i) A written agreement between all or less than all of the shareholders, whether solely between themselves or between one or more of them and a party who is not a shareholder, is not invalid as between the parties thereto on the ground that it relates to the conduct of the affairs of the corporation so as to limit the discretion or powers of the board of directors. The effect of the agreement is to relieve the directors of, and impose upon the person or persons in whom the discretion or powers are vested, liability for managerial acts or omissions that are imposed on directors to the extent and so long as the discretion or powers of the board of directors in its management of corporate affairs is controlled by the agreement.

(j) Any limits on the duration of any agreement authorized by this section shall be set forth in the agreement. A voting agreement authorized by subsection (a) of this section that became effective prior to October 1, 2018, is valid as between the parties thereto for not more than 10 years after its effective date or, if later, the effective date of the most recent extension or renewal of the voting agreement, unless it is amended after October 1, 2018, to provide otherwise by agreement of the parties thereto. An amendment to a voting agreement under this subsection shall bind only those parties signing it. (1955, c. 1371, s. 1; 1973, c. 469, s. 29; 1981 (Reg. Sess., 1982), c. 1163; 1989, c. 265, s. 1; 2018-45, s. 6.)