

April 12, 1999

**S 835. REVISE LAW GOVERNING MERGERS. TO CLARIFY THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES.** As title indicates, adds new 55-11-10 and 55A-11-09 to specify procedure and rules governing merger by domestic or domestic nonprofit corporation with unincorporated entity. Defines unincorporated entity as domestic or foreign limited liability company, domestic or foreign limited partnership and any other partnerships, including limited liability partnerships. Amends various sections in GS Ch. 55, 55A and 57C to specify what is to be done when survivor of merger is unincorporated entity. Adds new article 9A to GS Ch. 57C regulating conversion of domestic limited liability company to domestic limited liability partnership and merger of domestic limited liability corporation with other business entities. Adds similar new Part 7 to Article 2 of GS Ch. 59 to regulate conversion of domestic partnership to domestic limited liability company or domestic limited partnership, as well as merger with other business entities. Adds new Part 10A to Art. 5 of GS Ch. 59 regulating conversion of domestic limited partnership to domestic limited liability company, as well as merge by such partnerships with other business entities. Effective October 1, 1999 and applicable to contracts entered into or mergers, consolidations or conversions effective on or after that date.

**Intro. by Clodfelter.**

Ref. to Judiciary I

GS 55, 55A, 57C, 59, 47, 105

April 26, 1999

**S 835. REVISE LAW GOVERNING MERGERS.** Intro. 04/12/99 . Senate committee substitute makes the following changes to 1st edition:

(1) Changes title to "AN ACT TO CLARIFY THE LAW GOVERNING MERGERS, CONSOLIDATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES";

(2) Adds new Part VI to bill and adds new GS 58-10-10 (Mutual to Stock Insurance Conversion). Requires advance approval Insurance Comm'r before such a conversion may occur. Forbids the Comm'r from approving conversion unless (a) it is fair to policyholders; (b) it is adopted by board of directors and approved by a vote of not less than two-thirds of the members at a meeting called for the purpose of approving the plan; (c) each policyholder's equity is determinable under a formula approved by the Comm'r; (d) a policyholder is entitled to vote and participate in stock purchase if policyholder was such on date plan was adopted by board; (e) policyholder receives preemptive right to acquire proportionate share of proposed capital stock; (f) plan must provide for payment to each policyholder of holder's entire equity in insurer; cash payment may not exceed 50% of a holder's equity; (g) shares must be offered to policyholders at a rate not to exceed that of shares offered to others; (h) Comm'r finds that insurer's management has not sought to limit or reduce the number of policyholders entitled to participate in plan or secure an advantage for managers; and (i) the insurer's capital and surplus are not less than that required of a domestic stock insurer, are reasonable in relation to company's liabilities, and adequate to meet its financial needs.

Allows Comm'r to schedule a public hearing on the proposed conversion. May also retain, at mutual insurer's expense, various experts to assist in review of plan. Prohibits director, officer, or employee from receiving a free or some compensation or promoting or assisting with conversion or with the distribution of assets or capital.

(3) Adds new Part VII to bill and adds new GS 55A-13-02(b)(3) (Homeowner Association Refunds). Provides that a nonprofit corporation whose membership is limited to owners and occupants of property in a condominium, cooperative housing corporation or other real property development may distribute excess or surplus membership dues, fees, or assessments after payment of common expenses and prepayment of reserves. Provides that refunds must be proportionate to the funds collected.

(4) Changes effective date of act to Oct. 1, 1999, and applies to contracts entered into and mergers, consolidations, or conversions effective on or after that date.

June 30, 1999

**S 835. REVISE LAW GOVERNING MERGERS.** Intro. 4/12/99. House committee substitute makes the following changes to 2nd edition. Changes title to "AN ACT TO REVISE THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES; TO ALLOW CONVERSION OF A MUTUAL INSURANCE COMPANY TO A STOCK INSURANCE COMPANY; AND TO PERMIT HOMEOWNER ASSOCIATIONS TO DISTRIBUTE SURPLUS FUNDS." Amends GS 55-1-20(f) to provide that a document submitted by an unincorporated entity, a nonprofit corporation, a domestic, or a foreign limited liability company must be executed by a person authorized to do so (i) pursuant to GS 57C-1-20(f) if a domestic or foreign limited liability company, (ii) pursuant to GS 59-204 if a domestic or foreign limited partnership, or (iii) pursuant to GS 59-73.7(a)(4) if any other partnership. Makes conforming change to GS 59-204. Relocates definition of "surviving entity" for each entity. Makes stylistic change to subheading on Chap. 57C, Art. 9A. Deletes references to Act names in GS 59-73.2. Adds provision at GS 59-73.7(c) for \$10 fee to Sec'y of State each time process is served on Sec'y of State under this part. Adds provision for retention of fees by Dep't of Sec'y of State for fiscal years 1999-2000, 2000-2001, and 2001-2002. Changes effective date from October 1, 1999 to January 1, 2000.

July 5, 1999

**S 835. REVISE LAW CONCERNING MERGERS.** Intro. 4/12/99. House committee substitute makes the following changes to 3rd edition. Deletes provision in previous version for retention of fees by Sec'y of State.

July 12, 1999

**S 835. REVISE LAW GOVERNING MERGERS.** Intro. 4/12/99. House amendment makes the following changes to 4th edition. Changes effective date from January 1, 2000 to December 15, 1999. Adds provision that bill's amendment to GS 105-228.29 expires on July 1, 2000, to be replaced at that time by comparable amendment to GS 105-228.29(7) (as enacted by S.L. 1999-28). Repeals Sec. 3 of S.L. 1999-189 (comparable to bill's amendment of GS 57C-2-34).

July 13, 1999

**S 835. REVISE LAW GOVERNING MERGERS.** Intro. 4/12/99. House amendment makes the following changes to 4th edition. Specifies that section of bill that enacts new GS 58-10-10 dealing with conversion of domestic mutual insurer to domestic stock insurer becomes effective Oct. 1, 1999.