

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 853

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S853-ATG-86 [v.1]

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Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Date _____, 2014

Senator Barringer

1 moves to amend the bill on page 1, line 10, by rewriting the line to read:

2 "SECTION 1(a). G.S. 7A-27(a) reads as rewritten:";

3
4 and on page 1, line 26, by rewriting the line to read:

5 "SECTION 1(b). Appeals pursuant to G.S. 7A-27(a)(2) and G.S. 7A-27(a)(3)
6 shall";

7
8 and on page 2, line 6, by rewriting the line to read:

9 "SECTION 3(a). G.S. 7A-45.4 reads as rewritten:";

10
11 and on page 2, lines 25-29, by rewriting those lines to read:

12 "(3) ~~Antitrust law, except claims based solely on unfair competition under~~
13 ~~G.S. 75-1.1.~~Disputes involving antitrust or unfair competition law, including
14 disputes arising under Chapter 75 of the General Statutes, that do not arise
15 solely under G.S. 75-1.1 or Article 2 of Chapter 75 of the General Statutes.";

16
17 and on page 2, lines 33-36, by rewriting those lines to read:

18 "(5) ~~Intellectual property law, including software licensing disputes.~~Disputes
19 involving the ownership, use, licensing, lease, installation or performance of
20 intellectual property, including computer software, software applications,
21 information technology and systems, data and data security,
22 pharmaceuticals, biotechnology products, and bioscience technologies.";

23
24 and on page 4, line 25, by rewriting the line to read:

25 "SECTION 3(b). Nothing in this section is intended to permit actions for personal";

26
27 and on page 5, line 31, by rewriting the line to read:

28 "SECTION 6(a). Article 11 of Chapter 55 of the General Statutes is amended by";

29
30 and on page 5, lines 36-39, by rewriting those lines to read:

31 "(2) "Constituent corporation" means the original corporation incorporated under
32 the laws of this State or limited-liability company organized under the laws



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1 of this State that is a party to a merger that is intended to create a holding
2 company structure under a plan of merger that satisfies the requirements of
3 this section.";

4
5 and on page 5, lines 40-44, by rewriting those lines to read:

6 "(3) "Holding company" means a corporation incorporated under the laws of this
7 State or limited-liability company organized under the laws of this State that
8 from its incorporation or organization until consummation of a merger
9 governed by this section was at all times a direct or indirect wholly owned
10 subsidiary of the constituent corporation and whose capital stock is issued in
11 the merger.";

12
13 and on page 5, line 48, through page 6, line 2, by rewriting those lines to read:

14 "(6) "Surviving entity" means the corporation incorporated under the laws of this
15 State or limited-liability company organized under the laws of this State that
16 is the surviving entity in a merger of a constituent corporation with or into a
17 single direct or indirect wholly owned subsidiary of the constituent
18 corporation, which immediately following the merger is a direct or indirect
19 wholly owned subsidiary of the holding company.".

20
21 and on page 8, line 37, by rewriting the line to read:

22 "SECTION 6(b). G.S. 55-11-06(a) reads as rewritten";

23
24 and on page 8, line 42, by rewriting the line to read:

25 "SECTION 7(a). Article 26A of Chapter 1 of the General Statutes reads as
26 rewritten:";

27
28 and on page 10, line 11, by rewriting the line to read:

29 "SECTION 7(b). G.S. 1-81.1 reads as rewritten";

30
31 and on page 10, line 31, by rewriting the line to read:

32 "SECTION 7(c). G.S. 1A-1, Rule 42, reads as rewritten:";

33
34 and on page 11, line 29, by rewriting the line to read:

35 "SECTION 7(d). G.S. 1A-1, Rule 62, reads as rewritten:";

36
37
38 and on page 12, line 35, by rewriting the line to read:

39 "SECTION 7(e). G.S. 7A-27 reads as rewritten:";

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1 and on page 13, lines 14-15, by rewriting those lines to read:

2 "appeal is authorized by statute."

3 **SECTION 7.6.** G.S. 105-241.17 reads as rewritten:

4 "**§ 105-241.17. Civil action challenging statute as unconstitutional.**

5 A taxpayer who claims that a tax statute is unconstitutional may bring a civil action in the
6 Superior Court of Wake County to determine the taxpayer's liability under that statute if all of
7 the conditions in this section are met. In filing an action under this section, a taxpayer must
8 follow the procedures ~~for a mandatory business case set forth in G.S. 7A-45.4(b) through (f).~~
9 set forth in G.S. 1-267.1. The conditions for filing a civil action are:

- 10 (1) The taxpayer exhausted the prehearing remedy by receiving a final
11 determination after a review and a conference.
- 12 (2) The taxpayer commenced a contested case at the Office of Administrative
13 Hearings.
- 14 (3) The Office of Administrative Hearings dismissed the contested case petition
15 for lack of jurisdiction because the sole issue is the constitutionality of a
16 statute and not the application of a statute.
- 17 (4) The taxpayer has paid the amount of tax, penalties, and interest the final
18 determination states is due.
- 19 (5) The civil action is filed within two years of the dismissal."

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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