

**§ 55-1-63. Action on ratification.**

(a) The quorum and voting requirements applicable to a ratifying action by the board of directors under G.S. 55-1-62(a) are the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time the ratifying action is taken.

(b) If the ratification of the defective corporate action requires approval by the shareholders under G.S. 55-1-62(c), and, if the approval is to be given at a meeting, the corporation shall notify each holder of valid and putative shares, whether or not entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of the defective corporate action, provided that notice shall not be required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider ratification of a defective corporate action and shall be accompanied by (i) a copy of the action taken by the board of directors in accordance with G.S. 55-1-62(a) or (ii) the information required by subdivisions (1) through (4) of subsection (a) of G.S. 55-1-62. The notice shall also include a statement that any claim that the ratification of the defective corporate action and any putative shares issued as a result of the defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within 120 days from the applicable validation effective time.

(c) Except as provided in subsection (d) of this section with respect to the voting requirements to ratify the election of a director, the quorum and voting requirements applicable to the approval by the shareholders required by G.S. 55-1-62(c) are the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time of the shareholder approval.

(d) The approval by shareholders to ratify the election of a director requires that the votes cast within the voting group favoring the ratification of the election exceed the votes cast opposing the ratification of the election at a meeting at which a quorum is present.

(e) Putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under G.S. 55-1-62(c), and without giving effect to any ratification of putative shares that becomes effective as a result of the vote, shall neither be entitled to vote nor counted for quorum purposes in any vote to approve the ratification of any defective corporate action.

(f) If the approval under this section of putative shares would result in an over issue, in addition to the approval required by G.S. 55-1-62, approval of an amendment to the articles of incorporation under Article 10 of this Chapter to increase the number of shares of an authorized class or series, or to authorize the creation of a class or series of shares so there would be no over issue, shall also be required. (2018-45, s. 3.)