

charter in a way which alters the contract rights, as expressly set forth in the charter, of any outstanding stock and substantially adversely affects the stockholder's rights, unless the right to do so is reserved by the charter of the corporation.

(b) (1) Fair value is determined as of the close of business:

(i) With respect to a merger under § 3-106 of this title of a 90 percent or more owned subsidiary into its parent, on the day [the Department accepted the articles of merger for record] NOTICE IS GIVEN OR WAIVED UNDER § 3-106; or

(ii) With respect to any other transaction, on the day the stockholders voted on the transaction objected to.

(2) Fair value may not include any appreciation or depreciation which directly or indirectly results from the transaction objected to or from its proposal.

(c) A stockholder may not demand the fair value of his stock and is bound by the terms of the transaction if:

(1) The stock is listed on a national securities exchange:

(I) WITH RESPECT TO A MERGER UNDER § 3-106 OF THIS TITLE OF A 90 PERCENT OR MORE OWNED SUBSIDIARY INTO ITS PARENT, ON THE DATE NOTICE IS GIVEN OR WAIVED UNDER § 3-106; OR

(II) WITH RESPECT TO ANY OTHER TRANSACTION, on the record date for determining stockholders entitled to vote on the transaction objected to; or

(2) The stock is that of the successor in a merger, unless:

(i) The merger alters the contract rights of the stock as expressly set forth in the charter, and the charter does not reserve the right to do so; or

(ii) The stock is to be changed or converted in whole or in part in the merger into something other than EITHER stock in the successor or cash, scrip, or other rights or interests arising out of provisions for the treatment of fractional shares of stock in the successor.

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(a) A stockholder of a corporation who desires to receive payment of the fair value of his stock under this