

# ASSEMBLY, No. 2162

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# STATE OF NEW JERSEY

## 217th LEGISLATURE

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PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Clarifies scope of corporate by-laws; provides that by-laws may include forum selection clause.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning corporate by-laws and amending N.J.S.14A:2-  
2 9.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. N.J.S.14A:2-9 is amended to read as follows:

8 14A:2-9 (1) The initial by-laws of a corporation shall be adopted  
9 by the board at its organization meeting. Thereafter, the board shall  
10 have the power to make, alter and repeal by-laws unless such power  
11 is reserved to the shareholders in the certificate of incorporation,  
12 but by-laws made by the board may be altered or repealed, and new  
13 by-laws made, by the shareholders. The shareholders may prescribe  
14 in the by-laws that any by-law made by them shall not be altered or  
15 repealed by the board.

16 (2) The initial by-laws of a corporation adopted by the board at  
17 its organization meeting shall be deemed to have been adopted by  
18 the shareholders for purposes of this act.

19 (3) Any provision which this act requires or permits to be set  
20 forth in the by-laws may be set forth in the certificate of  
21 incorporation with equal force and effect.

22 (4) The by-laws may contain any provision, not inconsistent  
23 with law or the certificate of incorporation, relating to the business  
24 of the corporation, the conduct of its affairs, and its rights or power  
25 or the rights or power of its shareholders, directors, officers or  
26 employees.

27 (5) (a) Without limiting subsection (4) of this section, the by-  
28 laws may provide that the federal and State courts in New Jersey  
29 shall be the sole and exclusive forum for:

30 (i) any derivative action or proceeding brought on behalf of the  
31 corporation;

32 (ii) any action by one or more shareholders asserting a claim of  
33 a breach of fiduciary duty owed by a director or officer, or former  
34 director or officer, to the corporation or its shareholders, or a breach  
35 of the certificate of incorporation or by-laws;

36 (iii) any action brought by one or more shareholders asserting a  
37 claim against the corporation or its directors or officers, or former  
38 directors or officers, arising under the certificate of incorporation or  
39 the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq.;

40 (iv) any other State law claim, including a class action asserting  
41 a breach of a duty to disclose, or a similar claim, brought by one or  
42 more shareholders against the corporation, its directors or officers,  
43 or its former directors or officers; or

44 (v) any other claim brought by one or more shareholders which  
45 is governed by the internal affairs or an analogous doctrine.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

