

ASSEMBLY, No. 2975

STATE OF NEW JERSEY 217th LEGISLATURE

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SYNOPSIS

Permits corporation to impose reasonable limitations or conditions on use or distribution of books and records by shareholders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/6/2018)

1 AN ACT concerning corporate books and records and amending
2 N.J.S.14A:5-28.

3

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:5-28 is amended to read as follows:

8 14A:5-28. Books and records; right of inspection.

9 (1) Each corporation shall keep books and records of account
10 and minutes of the proceedings of its shareholders, board and
11 executive committee, if any. Unless otherwise provided in the
12 bylaws, such books, records and minutes may be kept outside this
13 State. The corporation shall keep at its principal office, its
14 registered office, or at the office of its transfer agent, a record or
15 records containing the names and addresses of all shareholders, the
16 number, class and series of shares held by each and the dates when
17 they respectively became the owners of record thereof. Any of the
18 foregoing books, minutes or records may be in written form or in
19 any other form capable of being converted into readable form
20 within a reasonable time. A corporation shall convert into readable
21 form without charge any such records not in such form, upon the
22 written request of any person entitled to inspect them.

23 (2) Upon the written request of any shareholder, the corporation
24 shall mail to such shareholder its balance sheet as at the end of the
25 preceding fiscal year, and its profit and loss and surplus statement
26 for such fiscal year.

27 (3) Any person who shall have been a shareholder of record of a
28 corporation for at least six months immediately preceding his
29 demand, or any person holding, or so authorized in writing by the
30 holders of, at least 5% of the outstanding shares of any class or
31 series, upon at least five days' written demand shall have the right
32 for any proper purpose to examine in person or by agent or attorney,
33 during usual business hours, its minutes of the proceedings of its
34 shareholders and record of shareholders and to make extracts
35 therefrom, at the places where the same are kept pursuant to
36 subsection 14A:5-28(1).

37 (4) Nothing herein contained shall impair the power of any
38 court, upon proof by a shareholder of proper purpose, irrespective
39 of the period of time during which the shareholder shall have been a
40 shareholder of record, and irrespective of the number of shares held
41 by him, to compel the production for examination by such
42 shareholder of the books and records of account, minutes, and
43 record of shareholders of a corporation. The court may, in its
44 discretion prescribe any limitations or conditions with reference to
45 the inspection, or award any other or further relief as the court may

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.

1 deem just and proper. The court may order books, documents and
2 records, pertinent extracts therefrom, or duly authenticated copies
3 thereof, to be brought within this State and kept in this State upon
4 whatever terms and conditions as the order may prescribe. In any
5 action for inspection the court may proceed summarily.

6 (5) Holders of voting trust certificates representing shares of the
7 corporation shall be regarded as shareholders for the purpose of this
8 section.

9 (6) A corporation may impose reasonable limitations or
10 conditions on the use or distribution of requested materials provided
11 to a demanding shareholder: (a) pursuant to either subsection
12 14A:5-28(2) or 14A:5-28(3); or (b) prior to the order of a court
13 pursuant to subsection 14A:5-28(4).

14 (cf: P.L.1988, c.94, s.22)

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16 2. This act shall take effect immediately.

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STATEMENT

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21 Under current law, corporations are required to maintain certain
22 books and records and provide access to those books and records to
23 requesting shareholders in certain circumstances. This bill modifies
24 current law to allow corporations to impose reasonable limitations
25 or conditions on the use or distribution of these requested materials.
26 The bill preserves the ultimate authority of a court to decide and
27 order relief in actions brought by shareholders for inspection of
28 corporate books and records.

29 Due to significant changes in technology that have occurred and
30 the related ease by which materials may now be used and
31 disseminated, the sponsor has proposed this bill to allow
32 corporations to continue a common practice, which has developed,
33 to condition the receipt of requested materials on, for example, the
34 demanding shareholder agreeing to customary confidentiality
35 obligations. However, the bill is not intended to provide a
36 corporation with a right to deny access to a demanding shareholder
37 of materials which the demanding shareholder is otherwise entitled.

38 This bill is a proposal of The New Jersey Corporate and Business
39 Law Study Commission.