

P.L. 2021, CHAPTER 238, *approved September 28, 2021*

Assembly, No. 1178

1 AN ACT concerning corporate recordkeeping and blockchain
2 technology and amending N.J.S.14A:5-28 and P.L.2009, c.176.

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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: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, or on an
15 electronic network, a record or records containing the names and
16 addresses of all shareholders, the number, class and series of shares
17 held by each and the dates when they respectively became the
18 owners of record thereof. Any of the foregoing books, minutes or
19 records may be in written form or in any other form capable of
20 being converted into readable form within a reasonable time,
21 including on an electronic network. A corporation shall convert
22 into readable form without charge any such records not in such
23 form, upon the written request of any person entitled to inspect
24 them.

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

29 (3) Any person who shall have been a shareholder of record of a
30 corporation for at least six months immediately preceding his
31 demand, or any person holding, or so authorized in writing by the
32 holders of, at least 5% of the outstanding shares of any class or
33 series, upon at least five days' written demand shall have the right
34 for any proper purpose to examine in person or by agent or attorney,
35 during usual business hours, its minutes of the proceedings of its
36 shareholders and record of shareholders and to make extracts
37 therefrom, at the places where the same are kept pursuant to
38 subsection 14A:5-28(1). If the records are kept on an electronic
39 network, the corporation shall convert any records so kept into a
40 clearly legible form upon the request of any person entitled to the
41 records in the timeframe required pursuant to this subsection.

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 (4) Nothing herein contained shall impair the power of any
2 court, upon proof by a shareholder of proper purpose, irrespective
3 of the period of time during which the shareholder shall have been a
4 shareholder of record, and irrespective of the number of shares held
5 by him, to compel the production for examination by such
6 shareholder of the books and records of account, minutes, and
7 record of shareholders of a corporation. The court may, in its
8 discretion prescribe any limitations or conditions with reference to
9 the inspection, or award any other or further relief as the court may
10 deem just and proper. The court may order books, documents and
11 records, pertinent extracts therefrom, or duly authenticated copies
12 thereof, to be brought within this State and kept in this State upon
13 whatever terms and conditions as the order may prescribe. In any
14 action for inspection the court may proceed summarily.

15 (5) Holders of voting trust certificates representing shares of the
16 corporation shall be regarded as shareholders for the purpose of this
17 section.

18 (6) A corporation may impose reasonable limitations or
19 conditions on the use or distribution of requested materials provided
20 to a demanding shareholder: (a) pursuant to either subsection
21 14A:5-28(2) or 14A:5-28(3); or (b) prior to the order of a court
22 pursuant to subsection 14A:5-28(4).

23 As used in this section, "electronic network" means one or more
24 electronic networks or databases, including one or more distributed
25 electronic networks or databases that utilize blockchain technology,
26 administered by or on the behalf of the corporation.

27 (cf: P.L.2017, c.364, s.1)

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29 2. Section 2 of P.L.2009, c.176 (C.14A:1-8.1) is amended to
30 read as follows:

31 2. (1) Any notice required or permitted pursuant to the
32 provisions of N.J.S.14A:1-1 et seq., or by a certificate of
33 incorporation or by-laws or any resolution of directors or
34 shareholders, may be provided by electronic transmission as
35 follows:

36 (a) Any notice to shareholders given by the corporation pursuant
37 to any provision of N.J.S.14A:1-1 et seq., or by a certificate of
38 incorporation or by-laws or any resolution of directors or
39 shareholders, shall be effective if given by a form of electronic
40 transmission consented to by the shareholder to whom the notice is
41 given.

42 (i) Any consent given pursuant to paragraph (a) of this
43 subsection shall be revocable by the shareholder by written notice,
44 and not electronic transmission, to the corporation.

45 (ii) Any consent given pursuant to paragraph (a) of this
46 subsection shall be deemed revoked if: (A) the corporation is unable
47 to deliver by electronic transmission two consecutive notices given
48 by the corporation in accordance with the shareholder's consent; and

1 (B) that inability becomes known to the secretary or an assistant
2 secretary of the corporation or to the transfer agent, or other person
3 responsible for the giving of notice following the second missed
4 delivery; provided, however, the inadvertent failure to treat that
5 inability as a revocation shall not invalidate any meeting or other
6 action.

7 (b) Any notice to shareholders given by the corporation pursuant
8 to any provision of N.J.S.14A:1-1 et seq., or by a certificate of
9 incorporation or by-laws or any resolution of directors or
10 shareholders, shall be deemed given:

11 (i) if by facsimile telecommunication, when directed to a
12 number at which the shareholder has consented to receive notice;

13 (ii) if by electronic mail, when directed to an electronic mail
14 address at which the shareholder has consented to receive notice;

15 (iii) if by a posting on an electronic network together with
16 separate notice to the shareholder of that specific posting, upon the
17 later of (A) that posting; or (B) the giving of the separate notice; or

18 (iv) if by any other form of electronic transmission, when
19 directed to the shareholder.

20 (c) An affidavit of the secretary or an assistant secretary or of
21 the transfer agent or other agent of the corporation that the notice
22 has been given by a form of electronic transmission shall, in the
23 absence of fraud, be prima facie evidence that the notice has been
24 given.

25 (d) For purposes of this section, "electronic transmission" means
26 any form of communication, not directly involving the physical
27 transmission of paper, including the use of, or participation in, an
28 electronic network pursuant to N.J.S.14A:5-28, that creates a record
29 that may be retained, retrieved and reviewed by a recipient, and that
30 may be directly reproduced in paper form by that recipient through
31 an automated process.

32 (2) This section shall not apply to notices required or permitted
33 pursuant to N.J.S.14A:6-5, N.J.S.14A:7-3, N.J.S.14A:12-10,
34 N.J.S.14A:12-12 or N.J.S.14A:14-15.

35 (cf: P.L.2009, c.176, s.2)

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37 3. This act shall take effect immediately.
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43 Permits corporations to use blockchain technology for certain
recordkeeping requirements.