

CHAPTER 238

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

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

1. N.J.S.14A:5-28 is amended to read as follows:

Books and records; right of inspection.

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

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

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

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

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

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

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

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

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

C.14A:1-8.1 Provision of certain notices by electronic transmission.

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

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

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

(ii) Any consent given pursuant to paragraph (a) of this subsection shall be deemed revoked if: (A) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with the shareholder's consent; and (B) that inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice following the second missed delivery; provided, however, the inadvertent failure to treat that inability as a revocation shall not invalidate any meeting or other action.

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

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

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

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

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

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

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

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

3. This act shall take effect immediately.

Approved September 28, 2021.