

CHAPTER 176

AN ACT concerning certain corporate notices, amending N.J.S.14A:1-8 and supplementing chapter 1 of Title 14A of the New Jersey Statutes.

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

1. N.J.S.14A:1-8 is amended to read as follows:

Notices.

14A:1-8. In computing the period of time for the giving of any notice required or permitted by this act, or by a certificate of incorporation or by-laws or any resolution of directors or shareholders, the day on which the notice is given shall be excluded, and the day on which the matter noticed is to occur shall be included. If notice is given by mail, the notice shall be deemed to be given when deposited in the mail addressed to the person to whom it is directed at his last address as it appears on the records of the corporation, with postage prepaid thereon. Any notice required or permitted to be given under this act by electronic transmission as defined in section 2 of P.L.2009, c.176 (C.14A:1-8.1), mail or by certified mail, return receipt requested, may be given by personal delivery to the person to whom it is directed.

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, 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 January 11, 2010.