

CHAPTER 41

AN ACT concerning business corporations and amending N.J.S.14A:5-1, N.J.S.14A:5-4, and N.J.S.14A:11-1.

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

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

Place of shareholders' meetings.

14A:5-1. Place of shareholders' meetings.

(1) Meetings of shareholders of every corporation organized for any purpose under any general or special law of this State may, unless otherwise provided by law, be held at such place, within or without this State, as may be provided in the by-laws or as may be fixed by the board pursuant to authority granted by the by-laws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation.

(2) A shareholder may participate in a meeting of shareholders by means of remote communication to the extent the board authorizes that participation. Participation by means of remote communication shall be subject to those guidelines and procedures as the board adopts, and shall be in conformity with subsection 14A:5-1(3).

(3) A shareholder participating in a meeting of shareholders by means of remote communication shall be deemed present and shall be entitled to vote at the meeting if the corporation has implemented reasonable measures to:

- (a) verify that each person participating remotely is a shareholder; and
- (b) provide each shareholder participating remotely with a reasonable opportunity to participate in the meeting, including an opportunity to vote on matters submitted to the shareholders, and to read or hear the proceedings of the meeting substantially concurrently with those proceedings.

2. N.J.S.14A:5-4 is amended to read as follows:

Notice of shareholders' meetings.

14A:5-4. Notice of shareholders' meetings.

(1) Except as otherwise provided in this act, written notice of the time, place and purpose or purposes of every meeting of shareholders shall be given not less than 10 nor more than 60 days before the date of the meeting, either personally or by mail, to each shareholder of record entitled to vote at the meeting. If the board has authorized participation by shareholders by means of remote communication pursuant to section 14A:5-1, the notice to that class or series of shareholders shall describe the means of remote communication to be used.

(2) When a meeting is adjourned to another time or place, it shall not be necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and at the adjourned meeting only such business is transacted as might have been transacted at the original meeting. However, if after the adjournment the board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record on the new record date entitled to notice under subsection 14A:5-4(1).

3. N.J.S.14A:11-1 is amended to read as follows:

Right of shareholder to dissent.

14A:11-1. Right of shareholder to dissent.

(1) Any shareholder of a domestic corporation shall have the right to dissent from any of the following corporate actions

(a) Any plan of merger or consolidation to which the corporation is a party, provided that, unless the certificate of incorporation otherwise provides

(i) a shareholder shall not have the right to dissent from any plan of merger or consolidation with respect to shares

(A) of a class or series which is listed on a national securities exchange or is held of record by not less than 1,000 holders on the record date fixed to determine the shareholders entitled to vote upon the plan of merger or consolidation; or

(B) for which, pursuant to the plan of merger or consolidation, he will receive (x) cash, (y) shares, obligations or other securities which, upon consummation of the merger or consolidation, will either be listed on a national securities exchange or held of record by not less than 1,000 holders, or (z) cash and such securities;

(ii) a shareholder of a surviving corporation shall not have the right to dissent from a plan of merger, if the merger did not require for its approval the vote of such shareholders as provided in section 14A:10-5.1 or in subsection 14A:10-3(4), 14A:10-7(2) or 14A:10-7(4);

(iii) a shareholder of a corporation shall not have the right to dissent from a plan of merger, if the merger did not require, for its approval, the vote of the shareholders as provided in subsection (6) of N.J.S.14A:10-3; or

(b) Any sale, lease, exchange or other disposition of all or substantially all of the assets of a corporation not in the usual or regular course of business as conducted by such corporation, other than a transfer pursuant to subsection (4) of N.J.S.14A:10-11, provided that, unless the certificate of incorporation otherwise provides, the shareholder shall not have the right to dissent

(i) with respect to shares of a class or series which, at the record date fixed to determine the shareholders entitled to vote upon such transaction, is listed on a national securities exchange or is held of record by not less than 1,000 holders; or

(ii) from a transaction pursuant to a plan of dissolution of the corporation which provides for distribution of substantially all of its net assets to shareholders in accordance with their respective interests within one year after the date of such transaction, where such transaction is wholly for

(A) cash; or

(B) shares, obligations or other securities which, upon consummation of the plan of dissolution will either be listed on a national securities exchange or held of record by not less than 1,000 holders; or

(C) cash and such securities; or

(iii) from a sale pursuant to an order of a court having jurisdiction.

(2) Any shareholder of a domestic corporation shall have the right to dissent with respect to any shares owned by him which are to be acquired pursuant to section 14A:10-9.

(3) A shareholder may not dissent as to less than all of the shares owned beneficially by him and with respect to which a right of dissent exists. A nominee or fiduciary may not dissent on behalf of any beneficial owner as to less than all of the shares of such owner with respect to which the right of dissent exists.

(4) A corporation may provide in its certificate of incorporation that holders of all its shares, or of a particular class or series thereof, shall have the right to dissent from specified

corporate actions in addition to those enumerated in subsection 14A:11-1(1), in which case the exercise of such right of dissent shall be governed by the provisions of this Chapter.

(5) A shareholder entitled to dissent from a corporate action as enumerated in subsection 14A:11-1(1) or as specified pursuant to a corporation's certificate of incorporation shall not have the right to challenge a corporate action from which a shareholder has a right to dissent, regardless of whether the shareholder actually exercised the right to dissent as to that action, except that a shareholder may challenge a corporate action that was:

(a) not effectuated in accordance with the applicable provisions of this Chapter or the corporation's certificate of incorporation; or

(b) procured as a result of fraud, material misrepresentation, or other deceptive means.

4. This act shall take effect on the 90th day following enactment.

Approved April 1, 2013.