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AB-1780 Corporations: shareholders' meetings: remote communication. (2021-2022)

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Assembly Bill No. 1780

CHAPTER 951

An act to amend Section 600 of the Corporations Code, relating to corporations.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1780, Chen. Corporations: shareholders' meetings: remote communication.

Existing law authorizes and regulates the formation and operation of a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, nonprofit religious corporation, or cooperative corporation.

With respect to the above-described corporations, existing law authorizes meetings of shareholders to be held at any place within or without this state as may be stated in or fixed in accordance with the bylaws. However, if no other place is stated or so fixed, existing law authorizes stakeholder meetings to be held at the principal executive office of the corporation. Existing law prohibits a corporation from conducting a meeting of shareholders solely by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication unless all of the shareholders consent, the board determines it is necessary or appropriate because of an emergency, as defined, or the meeting is conducted on or before June 30, 2022.

This bill would authorize a corporation to conduct a meeting of shareholders solely by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication if the meeting is conducted on or before December 31, 2025, as specified, and includes a live audiovisual feed for the duration of the meeting. The bill would provide that a de minimis disruption of an audio, visual, or audiovisual feed does not require a corporation to end a shareholder meeting under, or render the corporation out of compliance with, the above-described provisions.

Existing law requires a corporation to implement reasonable measures when it conducts a meeting of shareholders solely by those means of remote communication, including verifying that each person participating remotely is a shareholder or proxyholder.

This bill would instead require a corporation to verify that a person who has voted remotely is a shareholder or proxyholder.

This bill would incorporate additional changes to Section 600 of the Corporations Code proposed by SB 1202 to be operative only if this bill and SB 1202 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 600 of the Corporations Code is amended to read:

600. (a) Meetings of shareholders may be held at any place within or without this state as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, shareholder meetings shall be held at the principal executive office of the corporation. Subject to any limitations in the articles or bylaws of the corporation, if authorized by the board of directors in its sole discretion, and subject to those guidelines and procedures as the board of directors may adopt, shareholders not physically present in person or by proxy at a meeting of shareholders may, by electronic transmission by and to the corporation (Sections 20 and 21), electronic video screen communication, conference telephone, or other means of remote communication, participate in a meeting of shareholders, be deemed present in person or by proxy, and vote at a meeting of shareholders, subject to subdivision (e).

(b) An annual meeting of shareholders shall be held for the election of directors on a date and at a time stated in or fixed in accordance with the bylaws. However, if the corporation is a regulated management company, a meeting of shareholders shall be held as required by the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.). Any other proper business may be transacted at the annual meeting. For purposes of this subdivision, "regulated management company" means a regulated investment company as defined in Section 851 of the federal Internal Revenue Code.

(c) If there is a failure to hold the annual meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the organization of the corporation or after its last annual meeting, the superior court of the proper county may summarily order a meeting to be held upon the application of any shareholder after notice to the corporation giving it an opportunity to be heard. The shares represented at the meeting, either in person or by proxy, and entitled to vote thereat shall constitute a quorum for the purpose of the meeting, notwithstanding any provision of the articles or bylaws or in this division to the contrary. The court may issue any orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of shareholders entitled to vote, and the form of notice of the meeting.

(d) Special meetings of the shareholders may be called by the board, the chairperson of the board, the president, the holders of shares entitled to cast not less than 10 percent of the votes at the meeting, or any additional persons as may be provided in the articles or bylaws.

(e) A meeting of the shareholders may be conducted, in whole or in part, by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication if the corporation implements reasonable measures: (1) to provide shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting concurrently with those proceedings, (2) if any shareholder or proxyholder votes or takes other action at the meeting by means of electronic transmission to the corporation, electronic video screen communication, conference telephone, or other means of remote communication, to maintain a record of that vote or action in its books and records, and (3) to verify that each person who has voted remotely is a shareholder or proxyholder. A corporation shall not conduct a meeting of shareholders solely by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication unless one or more of the following conditions apply: (A) all of the shareholders consent; (B) the board determines it is necessary or appropriate because of an emergency, as defined in paragraph (5) of subdivision (i) of Section 207; or (C) notwithstanding the absence of consent from all shareholders pursuant to (A) or subdivision (b) of Section 20, the meeting is conducted on or before December 31, 2025, and includes a live audiovisual feed for the duration of the meeting. A de minimis disruption of an audio, visual, or audiovisual feed does not require a corporation to end a shareholder meeting under, or render the corporation out of compliance with, this subdivision.

SEC. 1.5. Section 600 of the Corporations Code is amended to read:

600. (a) Meetings of shareholders may be held at any place within or without this state as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, shareholder meetings shall be held at the principal office of the corporation. Subject to any limitations in the articles or bylaws of the corporation, if authorized by the board of directors in its sole discretion, and subject to those guidelines and procedures as the board of directors may adopt, shareholders not physically present in person or by proxy at a meeting of shareholders may, by electronic transmission by and to the corporation (Sections 20 and 21), electronic video screen communication, conference telephone, or other means of remote communication, participate in a meeting of shareholders, be deemed present in person or by proxy, and vote at a meeting of shareholders, subject to subdivision (e).

(b) An annual meeting of shareholders shall be held for the election of directors on a date and at a time stated in or fixed in accordance with the bylaws. However, if the corporation is a regulated management company, a meeting of shareholders shall be held as required by the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.). Any other proper business may be transacted at the annual meeting. For purposes of this subdivision, "regulated management company" means a regulated investment company as defined in Section 851 of the federal Internal Revenue Code.

(c) If there is a failure to hold the annual meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the organization of the corporation or after its last annual meeting, the superior court

of the proper county may summarily order a meeting to be held upon the application of any shareholder after notice to the corporation giving it an opportunity to be heard. The shares represented at the meeting, either in person or by proxy, and entitled to vote thereat shall constitute a quorum for the purpose of the meeting, notwithstanding any provision of the articles or bylaws or in this division to the contrary. The court may issue any orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of shareholders entitled to vote, and the form of notice of the meeting.

(d) Special meetings of the shareholders may be called by the board, the chairperson of the board, the president, the holders of shares entitled to cast not less than 10 percent of the votes at the meeting, or any additional persons as may be provided in the articles or bylaws.

(e) A meeting of the shareholders may be conducted, in whole or in part, by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication if the corporation implements reasonable measures: (1) to provide shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting concurrently with those proceedings, (2) if any shareholder or proxyholder votes or takes other action at the meeting by means of electronic transmission to the corporation, electronic video screen communication, conference telephone, or other means of remote communication, to maintain a record of that vote or action in its books and records, and (3) to verify that each person who has voted remotely is a shareholder or proxyholder. A corporation shall not conduct a meeting of shareholders solely by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication unless one or more of the following conditions apply: (A) all of the shareholders consent; (B) the board determines it is necessary or appropriate because of an emergency, as defined in paragraph (5) of subdivision (i) of Section 207; or (C) notwithstanding the absence of consent from all shareholders pursuant to (A) or subdivision (b) of Section 20, the meeting is conducted on or before December 31, 2025, and includes a live audiovisual feed for the duration of the meeting. A de minimis disruption of an audio, visual, or audiovisual feed does not require a corporation to end a shareholder meeting under, or render the corporation out of compliance with, this subdivision.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 600 of the Corporations Code proposed by both this bill and Senate Bill 1202. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 600 of the Corporations Code, and (3) this bill is enacted after Senate Bill 1202, in which case Section 1 of this bill shall not become operative.