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SENATE BILL DRS45217-MV-20

Short Title: Nonprofit Electronic Business/Remote Meetings. (Public)

Sponsors: Senators Galey, Perry, and Lazzara (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO AUTHORIZE NONPROFIT CORPORATIONS TO CONDUCT BUSINESS  
ELECTRONICALLY AND HOLD REMOTE MEETINGS, EXCEPT AS LIMITED BY  
THE NONPROFIT, TO MAKE CHANGES RELATED TO REMOTE MEETINGS FOR  
CONDOMINIUM ASSOCIATIONS AND HOMEOWNER ASSOCIATIONS, AND TO  
MAKE TECHNICAL CHANGES IN THE SURROUNDING LANGUAGE.

The General Assembly of North Carolina enacts:

**PART I. AUTHORIZE NONPROFIT CORPORATIONS TO CONDUCT BUSINESS  
ELECTRONICALLY AND HOLD REMOTE MEETINGS, EXCEPT AS LIMITED BY  
THE NONPROFIT**

**SECTION 1.** G.S. 55A-1-70 reads as rewritten:

**"§ 55A-1-70. Electronic transactions.**

(a) A corporation may conduct a transaction by electronic means, except as limited by its articles of incorporation or bylaws or by action of its board of directors.

(b) Prior to conducting an electronic transaction with a person that is a member, delegate, officer, or director of the corporation, the corporation shall obtain agreement from the person to conduct the transaction by electronic means and shall inform the person how to revoke the agreement.

(c) For purposes of applying Article 40 of Chapter 66 of the General Statutes to transactions under this Chapter, a corporation ~~may agree that~~ conducts an electronic transaction in accordance with this section is deemed to have agreed to conduct a the transaction by electronic means through provision in its articles of incorporation or bylaws or by action of its board of directors means."

**SECTION 2.** G.S. 55A-2-07 reads as rewritten:

**"§ 55A-2-07. Emergency bylaws.**

...

(d) An emergency exists for purposes of this section if ~~a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event~~ a natural or manmade disaster impedes the ability of the corporation's board of directors or members to comply with one or more provisions of the corporation's bylaws."

**SECTION 3.** G.S. 55A-7-01 reads as rewritten:

**"§ 55A-7-01. Annual and regular meetings.**

(a) A corporation having members with the right to vote for directors shall hold a meeting of ~~such the~~ members annually.



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(b) A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

(c) ~~Annual~~ Unless the board of directors determines to hold the meeting solely by means of remote communication in accordance with G.S. 55A-7-09(c), annual and regular membership meetings may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual and regular meetings shall be held at the corporation's principal office.

...."

**SECTION 4.** G.S. 55A-7-02 reads as rewritten:

**"§ 55A-7-02. Special meeting.**

(a) A corporation with members shall hold a special meeting of ~~members~~ members in any of the following circumstances:

- (1) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or ~~bylaws~~ or bylaws.
- (2) Within 30 days after the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

...

(c) ~~Special~~ Unless the board of directors determines to hold the meeting solely by means of remote communication in accordance with G.S. 55A-7-09(c), special meetings of members may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

...."

**SECTION 5.** G.S. 55A-7-04 reads as rewritten:

**"§ 55A-7-04. Action by written consent.**

(a) Action required or permitted by this Chapter to be taken at a meeting of members may be taken without a meeting if the action is taken by all members entitled to vote on the action. The action shall be evidenced by one or more written consents describing the action taken, signed before or after such action by all members entitled to vote ~~thereon~~ on the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. ~~To the extent the corporation has agreed pursuant to G.S. 55A-1-70, Except as limited by the articles of incorporation or bylaws, a member's consent to action taken without a meeting may be in electronic form and delivered by electronic means.~~

...."

**SECTION 6.** G.S. 55A-7-05 reads as rewritten:

**"§ 55A-7-05. Notice of meeting.**

(a) A corporation shall give notice of meetings of members by any means that is fair and reasonable and consistent with its bylaws.

(b) Any notice that conforms to the requirements of subsection (c) is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are ~~considered; provided, however, that~~ considered. However, notice of matters referred to in subdivision (c)(2) of this section shall be given as provided in subsection (c) of this section.

(c) Notice is fair and reasonable ~~if it conforms to all of the following~~ if it conforms to all of the following:

- (1) The corporation gives notice to all members entitled to vote at the meeting of the ~~place~~ place, if any, date, and time of each annual, regular, and special meeting of members no fewer than 10, or, if notice is mailed by other than first class, registered or certified mail, no fewer than 30, nor more than 60 days before the meeting ~~date~~ date.

(2) Notice of an annual or regular meeting includes a description of any matter or matters that shall be approved by the members under G.S. 55A-8-31, 55A-8-55, 55A-10-03, 55A-10-21, 55A-11-04, 55A-12-02, or ~~55A-14-02; and~~ 55A-14-02.

(3) Notice of special meeting includes a description of the matter or matters for which the meeting is called.

(c1) If the board of directors has authorized participation by means of remote communication pursuant to G.S. 55A-7-09 for members of any class, the notice to the members of that class shall describe the means of remote communication to be used. For meetings to be held solely by means of remote communication pursuant to G.S. 55A-7-09(c), the notice to all members entitled to vote at the meeting shall describe the means of remote communication to be used.

(d) Unless the bylaws require otherwise, if an annual, regular, or special meeting of members is adjourned to a different date, time, or ~~place,~~ place, if any, notice need not be given of the new date, time, or ~~place,~~ place, if any, if the ~~new date, time, or place is~~ following are announced at the meeting before ~~adjournment~~ adjournment:

(1) The new date, time, or place, if any.

(2) If the meeting is to be continued solely or partly by means of remote communication, a description of the means of remote communication.

If a new record date for the adjourned meeting is or must be fixed under G.S. 55A-7-07, however, notice of the adjourned meeting shall be given under this section to the members of record entitled to vote at the meeting as of the new record date.

(e) When giving notice of an annual, regular, or special meeting of members, a corporation shall give notice of a matter a member intends to raise at the meeting ~~if~~ if all of the following apply:

~~(1) Requested~~ The corporation is requested in writing to do so by a person or persons entitled to call a special meeting pursuant to ~~G.S. 55A-7-02; and~~ G.S. 55A-7-02.

(2) The request is received by the secretary or president of the corporation at least 10 days before the corporation gives notice of the meeting."

**SECTION 7.** Article 7 of Chapter 55 of the General Statutes is amended by adding a new section to read:

**"§ 55A-7-09. Remote participation in meetings; meetings held solely by remote participation.**

(a) Members of any class may participate in any meeting of members by means of remote communication to the extent the board of directors authorizes the participation for that class. Participation as a member by means of remote communication is subject to any guidelines and procedures the board of directors adopts and the requirements of subsection (b) of this section.

(b) Members participating by means of remote communication are deemed present and may vote at the meeting if the corporation has implemented reasonable measures to do all of the following:

(1) Verify that each person participating remotely as a member is a member.

(2) Provide the members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate and to read or hear the proceedings of the meeting, substantially concurrently with the proceedings.

(c) Unless member meetings held solely by means of remote communication are prohibited by the articles of incorporation or the bylaws, the board of directors may, in its sole discretion, determine that any meeting of members shall not be held at any place and shall instead be held solely by means of remote communication, but only if the corporation implements the measures specified in subsection (b) of this section."

SECTION 8. G.S. 55A-7-20 reads as rewritten:

"§ 55A-7-20. Members' list for meeting.

...

(b) Beginning two business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, the list of members shall be available for inspection by any member for the purpose of communication with other members concerning the meeting. The list shall be available (i) at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held for inspection by any member for the purpose of communication with other members concerning the meeting, or (ii) on a reasonably accessible electronic network, provided that the information required to gain access to the list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that the information is available only to shareholders of the corporation. A member, personally or by or with his-the member's representatives, is entitled on written demand to inspect and, subject to the limitations of G.S. 55A-16-02(c) and G.S. 55A-16-05 and at his-the member's expense, to copy the list at a reasonable time during the period it is available for inspection.

(c) ~~The~~ If the meeting is to be held at a place, the corporation shall make the list of members available at the meeting, and any member, personally or by or with his-the member's representatives, is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then the list shall also be open to inspection during the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting.

(d) If the corporation refuses to allow a member or his-the member's representative to inspect or copy the list of members as permitted in subsections (b) and (c) of this section, the superior court of the county where a corporation's principal office ~~(or, office, or, if there is none in this State, its registered office)-office,~~ is located, on application of the member, after notice is given to the corporation and upon such further evidence, notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances, may summarily order the inspection or copying at the corporation's expense. The court may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs, including reasonable attorneys' fees, incurred to obtain the order.

...."

SECTION 9. G.S. 55A-8-21 reads as rewritten:

"§ 55A-8-21. Action without meeting.

(a) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more written consents signed by each director before or after such action, describing the action taken, and included in the minutes or filed with the corporate records reflecting the action taken. ~~To the extent the corporation has agreed pursuant to G.S. 55A-1-70, Except as limited by the~~ articles of incorporation or bylaws, a director's consent to action taken without meeting may be in electronic form and delivered by electronic means.

...."

PART II. CHANGES RELATED TO REMOTE MEETINGS OF CONDOMINIUM ASSOCIATIONS AND PLANNED COMMUNITIES

SECTION 10. G.S. 47C-3-108 reads as rewritten:

"§ 47C-3-108. Meetings.

(a) A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by unit

owners having twenty percent (20%) or any lower percentage specified in the bylaws of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner, or sent by electronic means, including by ~~electronic mail over the Internet, to an electronic mailing address designated in writing by the unit owner.~~ email, to any unit owner who has agreed pursuant to G.S. 55A-1-70. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

...

(c) Except as otherwise provided for in the bylaws, meetings of the association and executive ~~board-board~~, other than meetings held by means of remote communication, shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised."

**SECTION 11.** G.S. 47F-3-108 reads as rewritten:

**"§ 47F-3-108. Meetings.**

(a) A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner, or sent by electronic means, including by ~~electronic mail over the Internet, to an electronic mailing address designated in writing by the lot owner.~~ email, to any lot owner who has agreed pursuant to G.S. 55A-1-70. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

...

(c) Except as otherwise provided in the bylaws, meetings of the association and the executive ~~board-board~~, other than meetings held by means of remote communication, shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised."

### **PART III. EFFECTIVE DATE AND APPLICABILITY**

**SECTION 12.** This act is effective when it becomes law and applies to meetings noticed on or after that date.