

## **IC 23-1-29**

### **Chapter 29. Meetings of Shareholders**

#### **IC 23-1-29-1**

##### **Annual meetings; remote communication**

Sec. 1. (a) Unless directors are elected by written consent instead of at an annual meeting as permitted by section 4 of this chapter, a corporation shall hold a meeting of the shareholders annually at a time stated in or fixed in accordance with the bylaws. However, if a corporation's articles of incorporation authorize shareholders to cumulate the shareholder's votes when electing directors as provided under IC 23-1-30-9, directors may not be elected by less than unanimous consent.

(b) Annual shareholders' meetings may be held in or out of Indiana at the place stated in or fixed in accordance with the bylaws. The bylaws may provide that the meeting will not be held in any place but may, instead, be held solely by means of remote communication. If no place is stated in or fixed in accordance with the bylaws, the board of directors:

- (1) except as provided in subdivision (2), shall determine in the board's sole discretion the location of the annual meeting; or
- (2) may determine that the meeting will not be held at any place, but may instead be held solely by means of remote communication.

(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

(d) If provided for in the bylaws or authorized by the board of directors, and subject to any guidelines and procedures the board of directors adopts, shareholders not physically present at an annual meeting of shareholders may:

- (1) participate in the annual meeting of shareholders by means of remote communication; and
- (2) if the conditions under subsection (e) are met, be considered present in person and vote at the annual meeting of shareholders, whether the meeting is held at a designated place or solely by means of remote communication.

(e) With respect to an annual meeting at which a shareholder may participate by remote communication, the corporation shall:

- (1) implement reasonable measures to verify that each shareholder considered present and permitted to vote at the annual meeting by means of remote communication is that shareholder or the shareholder's proxy;
- (2) implement reasonable measures to provide a shareholder described in subdivision (1) with a reasonable opportunity to participate in the annual meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting and communicate with

the other persons present at the meeting substantially concurrently with the proceedings; and

(3) maintain a record of any votes cast or actions taken by a shareholder who participated in an annual meeting by remote communication.

*As added by P.L.149-1986, SEC.13. Amended by P.L.133-2009, SEC.19; P.L.119-2015, SEC.10.*

## **IC 23-1-29-2**

### **Special meetings, remote communication**

Sec. 2. (a) A corporation with more than fifty (50) shareholders must hold a special meeting of shareholders on call of its board of directors or the person or persons (including, but not limited to, shareholders or officers) specifically authorized to do so by the articles of incorporation or bylaws. If such corporation's articles of incorporation require the holding of a special meeting on the demand of its shareholders, but do not specify the percentage of votes entitled to be cast on an issue necessary to demand such special meeting, the board of directors may establish such percentage in the corporation's bylaws. Absent adoption of such a bylaw provision, the demand for a special meeting must be made by the holders of all of the votes entitled to be cast on an issue.

(b) A corporation with fifty (50) or fewer shareholders must hold a special meeting of shareholders:

(1) on call of its board of directors or the person or persons (including, but not limited to, shareholders or officers) specifically authorized to do so by the articles of incorporation or bylaws; or

(2) if the holders of at least twenty-five percent (25%) 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 such corporation's secretary one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(c) Special shareholders' meetings may be held in or out of Indiana at the place stated in or fixed in accordance with the bylaws or solely by remote communication if the bylaws so specify. If the bylaws do not state or fix the location of special meetings, a special meeting must be held at a location determined by the board of directors or the board of directors may, in its sole discretion, determine that the meeting will not be held at any place, but may instead be held solely by means of remote communication as provided in subsection (f).

(d) If not otherwise fixed under section 3 or 7 of this chapter, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(e) Only business within the purpose or purposes described in the meeting notice required by section 5(c) of this chapter may be conducted at a special shareholders' meeting.

(f) If provided for in the bylaws or authorized by the board of

directors, and subject to any guidelines and procedures the board of directors adopts, shareholders not physically present at a special meeting of shareholders may:

- (1) participate in a special meeting of shareholders by means of remote communication; and
- (2) if the conditions under subsection (g) are met, be considered present in person and vote at the special meeting of shareholders, whether the meeting is held at a designated place or solely by means of remote communication.

(g) With respect to a special meeting at which a shareholder may participate by remote communication, the corporation shall:

- (1) implement reasonable measures to verify that each shareholder considered present and permitted to vote at the special meeting by means of remote communication is that shareholder or the shareholder's proxy;
- (2) implement reasonable measures to provide a shareholder described in subdivision (1) with a reasonable opportunity to participate in the special meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting and communicate with the other persons present at the meeting substantially concurrently with the proceedings; and
- (3) maintain a record of any votes cast or actions taken by a shareholder who participated in a special meeting by remote communication.

*As added by P.L.149-1986, SEC.13. Amended by P.L.227-1989, SEC.1; P.L.133-2009, SEC.20; P.L.119-2015, SEC.11.*

### **IC 23-1-29-3**

#### **Court-ordered meetings**

Sec. 3. The circuit or superior court of the county where a corporation's principal office (or, if none in Indiana, its registered office) is located may order a meeting to be held and may fix the time and place of the meeting, which shall be conducted in accordance with the corporation's articles of incorporation and bylaws:

- (1) on application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting; or
- (2) on application of a shareholder who signed a demand for a special meeting valid under section 2 of this chapter if:
  - (A) notice of the special meeting was not given within sixty (60) days after the date the demand was delivered to the corporation's secretary; or
  - (B) the special meeting was not held in accordance with the notice.

*As added by P.L.149-1986, SEC.13.*

#### **IC 23-1-29-4**

##### **Action taken without a meeting; consent of shareholders; notice to nonvoting shareholders**

Sec. 4. (a) Action required or permitted by this article to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one (1) or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action, bearing the date of signature, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) This subsection does not apply to a corporation that has a class of voting shares registered with the United States Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934. Unless otherwise provided in the articles of incorporation, any action required or permitted by this article to be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in writing setting forth the action taken are signed by the holders of outstanding shares having at least the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The written consent must bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) If not otherwise fixed under section 7 of this chapter, and if prior board action is not required with respect to the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting is the first date on which a signed written consent is delivered to the corporation. If not otherwise fixed under section 7 of this chapter, and if prior board action is required with respect to the action to be taken without a meeting, the record date is the close of business on the day the resolution of the board taking the prior action is adopted. A written consent to take a corporate action is not valid unless, not later than sixty (60) days after the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by sufficient shareholders to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporate action are delivered to the corporation.

(d) A consent signed in accordance with this section has the effect of a vote taken at a meeting and may be described as a vote in any document. Unless the:

- (1) consent specifies a different prior or subsequent effective date; or
- (2) articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation

of written consents;  
the action taken by written consent is effective when written consents signed by sufficient shareholders to take the action are delivered to the corporation.

(e) If this article requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the action not more than ten (10) days after:

(1) written consents sufficient to take the action have been delivered to the corporation; or

(2) the date that tabulation of the written consents has been completed under an authorization as described in subsection (d).

The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this article, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f) If action is taken by less than unanimous written consent of the voting shareholders, the corporation must give its nonconsenting voting shareholders written notice of the action not more than ten (10) days after:

(1) written consents sufficient to take the action have been delivered to the corporation; or

(2) the date that tabulation of the written consents has been completed under an authorization as described in subsection (d).

The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this article, would have been required to be sent to voting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(g) The notice requirements of subsections (e) and (f) do not delay the effectiveness of actions taken by written consent, and a failure to comply with the notice requirements does not invalidate actions taken by written consent. However, this subsection does not limit the power of a court to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give timely notice.

(h) An electronic transmission may be used to consent to an action if the electronic transmission contains or is accompanied by information from which the corporation can determine the date on which the electronic transmission was signed and that the electronic transmission was authorized by the shareholder, the shareholder's agent, or the shareholder's attorney in fact.

(i) Unless otherwise determined by a resolution of the board, delivery of a written consent to the corporation under this section is delivery to the corporation's registered agent at its registered office or to the secretary of the corporation at its principal office.

*As added by P.L.149-1986, SEC.13. Amended by P.L.107-1987, SEC.7; P.L.133-2009, SEC.21.*

#### **IC 23-1-29-4.5**

#### **Repealed**

*(As added by P.L.213-2003, SEC.1. Repealed by P.L.133-2009, SEC.42.)*

#### **IC 23-1-29-5**

#### **Notice of meetings**

Sec. 5. (a) A corporation shall, not less than ten (10) days and not more than sixty (60) days before the date of each annual or special shareholders' meeting, notify shareholders of all the following:

- (1) The date, time, and place, if the meeting will be located at a place, of the annual or special shareholders' meeting.
- (2) The means of remote communication, if any, by which shareholders may be considered present in person and vote at the meeting.

Unless this article or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting.

(b) Unless this article or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

(c) Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(d) If not otherwise fixed under section 7 of this chapter, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the close of business on the day before the first notice is delivered to shareholders.

(e) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place, if any, if the:

- (1) new date, time, or place; and
- (2) means of remote communication, if any, by which shareholders may be considered to be present in person and vote at the adjourned meeting;

are announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 7 of this chapter, however, notice of the adjourned meeting must be given under this section to persons who are shareholders as of the new record date.

(f) A corporation may give notice of a shareholders' meeting under this section by mailing the notice, postage prepaid, through the United States Postal Service, using any class or form of mail, if:

- (1) the shares to which the notice relates are of a class of securities that is registered under the Exchange Act (as defined in IC 23-1-43-9); and
- (2) the notice and the related proxy or information statement required under the Exchange Act (as defined in IC 23-1-43-9) are available to the public, without cost or password, through

the corporation's Internet web site not fewer than thirty (30) days before the shareholders' meeting.  
*As added by P.L.149-1986, SEC.13. Amended by P.L.178-2005, SEC.2; P.L.119-2015, SEC.12.*

#### **IC 23-1-29-6**

##### **Waiver of notice**

Sec. 6. (a) A shareholder may waive any notice required by this article, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be:

- (1) in writing;
- (2) signed by the shareholder entitled to the notice; and
- (3) delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A shareholder's attendance at a meeting or participation by remote communication in a meeting in accordance with this chapter:

- (1) waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and
- (2) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

*As added by P.L.149-1986, SEC.13. Amended by P.L.133-2009, SEC.22; P.L.119-2015, SEC.13.*

#### **IC 23-1-29-7**

##### **Fixing of record date**

Sec. 7. (a) The bylaws may fix or provide the manner of fixing the record date for one (1) or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

(b) A record date fixed under this section may not be more than seventy (70) days before the meeting or action requiring a determination of shareholders.

(c) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

(d) If a court orders a meeting adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

*As added by P.L.149-1986, SEC.13.*