

IC 28-13-6

Chapter 6. Voting by Shareholders

IC 28-13-6-1

Shareholders' list; requisites and necessity; inspection and copying

Sec. 1. (a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all the corporation's shareholders who are entitled to notice of a shareholders' meeting.

The list must:

- (1) be arranged by voting group;
- (2) be arranged by class or series of shares within each voting group; and
- (3) show the address of and number of shares held by each shareholder.

(b) The shareholders' list must be available for inspection by any shareholder entitled to vote at the meeting, beginning five (5) business days before the date of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, or the shareholder's agent or attorney authorized in writing, is entitled on written demand to inspect and to copy the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection if the following requirements are met:

- (1) The shareholder's demand is made in good faith and for a proper purpose.
- (2) The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect.
- (3) The records are directly connected with the shareholder's purpose.

(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, or the shareholder's agent or attorney authorized in writing, is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a shareholder, or the shareholder's agent or attorney authorized in writing, to inspect or copy the shareholders' list during the period specified in subsection (b), the circuit or superior court of the county where a corporation's principal office is located, on application of the shareholder, may order the inspection or copying.

(e) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

(f) The use and distribution of any information acquired from inspection or copying the shareholders' list under the rights granted by this section are restricted solely to the proper purpose described with particularity under subsection (b).

(g) In addition to the inspection rights described in this section, a shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, the record of shareholders, if the shareholder:

- (1) meets the requirements of subsection (b); and
- (2) gives the corporation written notice of the shareholder's demand at least five (5) business days before the date the shareholder wishes to inspect and copy the record.

As added by P.L.14-1992, SEC.163.

IC 28-13-6-2

Voting of shares

Sec. 2. (a) Except as provided in subsections (b), (c), (d), and (e) or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, is entitled to one (1) vote on each matter voted on at a shareholders' meeting.

(b) Absent special circumstances, the shares of a corporation are not entitled to vote if the shares are owned, directly or indirectly, by a second corporation, domestic or foreign, and the corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(c) Subsection (b) does not limit the power of a corporation to vote any shares, including its own shares, held by the corporation in or for an employee benefit plan or in any other fiduciary capacity.

(d) Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a corporation, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

(e) A mutual savings association or mutual savings bank may establish the rights of its voting parties in its articles of incorporation or articles of conversion.

(f) A member or a shareholder of a mutual savings bank or a mutual savings association that has not established the rights of its voting parties under subsection (e) is entitled at a members' or shareholders' meeting to cast one (1) vote for each one hundred dollars (\$100) or fraction of one hundred dollars (\$100) of the total amount paid on all deposits in the member's name or all shares standing in the shareholder's name on the books of the mutual savings bank or mutual savings association. Each borrowing member is entitled to cast one (1) vote as a borrower. A person may not, except as proxy, cast more than fifty (50) votes at an election held by the mutual savings bank or mutual savings association.

As added by P.L.14-1992, SEC.163. Amended by P.L.42-1993, SEC.94; P.L.176-1996, SEC.29; P.L.192-1997, SEC.27; P.L.79-1998, SEC.90; P.L.215-1999, SEC.9.

IC 28-13-6-3

Proxy voting

Sec. 3. (a) A shareholder may vote the shareholder's shares in person or by proxy.

(b) A shareholder may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, either personally or by the shareholder's attorney-in-fact.

(c) An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for eleven (11) months unless a shorter or longer period is expressly provided in the appointment form.

(d) An appointment of a proxy is revocable by the shareholder unless the appointment form conspicuously states that the appointment form is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of the following:

- (1) A pledgee.
- (2) A person who purchased or agreed to purchase the shares.
- (3) A creditor of the corporation who extended the corporation credit under terms requiring the appointment.
- (4) An employee of the corporation whose employment contract requires the appointment.
- (5) A party to a voting agreement created under IC 28-13-7-2.

(e) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

(f) An appointment made irrevocable under subsection (d) is revoked when the interest with which it is coupled is extinguished.

(g) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if:

- (1) the transferee did not know of the appointment's existence when the transferee acquired the shares; and
- (2) the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(h) Subject to section 5 of this chapter and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

As added by P.L.14-1992, SEC.163.

IC 28-13-6-4**Beneficial owner of shares; recognition procedure; disclosure procedure; sanctions to ensure compliance**

Sec. 4. (a) A corporation may establish a recognition procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder.

The extent of this recognition may be determined in the recognition procedure.

(b) A corporation may establish a disclosure procedure by which the names of beneficial owners of the corporation's shares shall, to the extent not prohibited by law, be disclosed to the corporation. A corporation may not establish a procedure requiring disclosure of the names of the beneficial owners of a private trust created in good faith and not for the purpose of circumventing a disclosure procedure adopted pursuant to this section. The corporation may adopt reasonable sanctions to ensure compliance with its disclosure procedure, including:

- (1) prohibiting the voting of;
- (2) providing for mandatory or optional reacquisition of; or
- (3) the withholding or payment into escrow of dividends with respect to;

shares as to which the beneficial owner's name is not disclosed as required by the disclosure procedure.

As added by P.L.14-1992, SEC.163.

IC 28-13-6-5

Acceptance or rejection of vote, consent, waiver, or proxy appointment; validity of signature

Sec. 5. (a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of the corporation's shareholder, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if any of the following are met:

- (1) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity.
- (2) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.
- (3) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.
- (4) The name signed purports to be that of a pledgee, a beneficial owner, or an attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the

corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment.

(5) Two (2) or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name of at least one (1) of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(c) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on the vote, consent, waiver, or proxy appointment or about the signatory's authority to sign for the shareholder.

(d) The corporation and the corporation's officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in accordance with the standards of this section are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.
As added by P.L.14-1992, SEC.163.

IC 28-13-6-6

Separate voting group; action on matter at meeting by less than group majority vote; quorum required for approval; law governing election of directors

Sec. 6. (a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or this article require a greater number, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a share is represented for any purpose at a meeting, the share is considered present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter other than the election of directors by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this article require a greater number of affirmative votes.

(d) The election of directors is governed by section 9 of this chapter.

(e) Any number of members represented either in person or by proxy constitutes a quorum of members at a regular or special members meeting of a mutual savings bank or a mutual savings association.

As added by P.L.14-1992, SEC.163. Amended by P.L.122-1994, SEC.120; P.L.79-1998, SEC.91.

IC 28-13-6-7

Quorum for voting requirement for shareholders comprising voting groups

Sec. 7. (a) If the articles of incorporation or this article provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in section 6 of this chapter.

(b) If the articles of incorporation or this article provide for voting by two (2) or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in section 6 of this chapter. A matter may be voted on by one (1) voting group even though no vote is taken by another voting group entitled to vote on the matter.

As added by P.L.14-1992, SEC.163.

IC 28-13-6-8

Greater quorum or voting requirements; shareholders or voting groups; provision by articles

Sec. 8. The articles of incorporation may provide for a greater quorum or voting requirement for shareholders or voting groups of shareholders than is provided for by this article.

As added by P.L.14-1992, SEC.163.

IC 28-13-6-9

Directors; election by plurality of votes

Sec. 9. Directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

As added by P.L.14-1992, SEC.163.