

ACT No. 57

2017 Regular Session

HOUSE BILL NO. 310

BY REPRESENTATIVES REYNOLDS AND FOIL

(On Recommendation of the Louisiana State Law Institute)

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AN ACT

To amend and reenact R.S. 12:1-140(25B), 1-402(C), 1-727(A), 1-728(A), 1-1435(I), 1-1436(E) and (F), and 1-1444(A)(2) and (F)(1) and to enact R.S. 12:1-742.2 and 1-742.3, relative to corporations; to provide relative to quorum and voting requirements; to provide for the reservation of a terminated corporation's name; to provide with respect to shareholder meetings for the election of directors; to provide for personal jurisdiction over nonresident directors; to provide for venue in derivative proceedings; to provide with respect to an oppressed shareholder's right to withdraw and the judicial determination of fair value and payment terms; to provide for the reinstatement of a terminated corporation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 12:1-140(25B), 1-402(C), 1-727(A), 1-728(A), 1-1435(I), 1-1436(E) and (F), and 1-1444(A)(2) and (F)(1) are hereby amended and reenacted and R.S. 12:1-742.2 and 1-742.3 are hereby enacted to read as follows:

§1-140. Definitions

In this Chapter:

* * *

(25B) "Votes entitled to be cast", when used in specifying the proportion of votes required to provide a shareholder quorum or approval of an action, means the number of votes in a voting group that would be cast at a meeting at which all shares in the voting group were present and voting.

* * *

1 §1-402. Reserved name

2 * * *

3 C. A terminated corporation's name is reserved by operation of law for ~~three~~
4 five years after the effective date of the corporation's termination.

5 * * *

6 §1-727. Greater quorum or voting requirements

7 A. The articles of incorporation may provide for a greater voting requirement
8 for shareholders, or voting groups of shareholders, than is provided for by this
9 Chapter. The articles of incorporation may make a quorum requirement for
10 shareholders, or for a voting group of shareholders, greater or lesser than that
11 provided by this Chapter, but the requirement may not be lower than shares having
12 twenty-five percent of the ~~shares entitled to vote~~ votes entitled to be cast on a matter.

13 * * *

14 §1-728. ~~Voting~~ Quorum and voting for directors; cumulative voting

15 A. Unless otherwise provided in the articles of incorporation, directors are
16 elected by a plurality of the votes cast by the shares entitled to vote in the election
17 at a meeting at which a quorum is present. If a quorum is not present at an annual
18 meeting or at a special meeting called for the election of directors, the shareholders
19 present at the meeting in person or by proxy may, by a majority of the votes cast on
20 the matter, adjourn the meeting to the next day, at the place and time specified in the
21 approved motion to adjourn. The shareholders present in person or by proxy at the
22 meeting to which the earlier meeting is adjourned shall constitute a quorum for the
23 purpose of electing directors, even if a quorum would not otherwise be present.

24 * * *

25 §1-742.2. Jurisdiction over a director

26 A court may exercise personal jurisdiction over a nonresident who is or has
27 been a director of a domestic corporation as to a cause of action arising from a
28 breach by the nonresident of a duty owed to the corporation or its shareholders
29 because of the nonresident's position as a director.

1 §1-742.3. Venue in derivative proceeding

2 A derivative proceeding shall be brought in the parish where the registered
3 office of the corporation is located.

4 * * *

5 §1-1435. Oppressed shareholder's right to withdraw

6 * * *

7 I. A corporation's obligation to purchase ~~of~~ a withdrawing shareholder's
8 shares as provided in this Section or R.S. 12:1-1436 is subject to ~~the rules on any~~
9 limitation or requirement respecting a corporation's acquisition of its own shares
10 ~~provided in~~ as imposed by R.S. 12:1-631, and to the limitations on distribution
11 ~~imposed by R.S. 12:1-640, or any other provision of state or federal law applicable~~
12 to the corporation, including any order, plan, directive, or enforcement action issued
13 by an administrative or regulatory agency pursuant to state or federal law.

14 * * *

15 §1-1436. Judicial determination of fair value and payment terms for withdrawing
16 shareholder's shares

17 * * *

18 E. If at the conclusion of the trial the court finds that the corporation has
19 proved that ~~a full payment in cash of the fair value of the withdrawing shareholder's~~
20 ~~shares would violate the provisions of R.S. 12:1-640~~ its payment of the judgment
21 rendered in accordance with Subsection D of this Section would violate a limitation
22 or requirement as described in R.S. 12:1-1435(I) or cause undue harm to the
23 corporation or its creditors, the court shall ~~not render the judgment specified in~~
24 ~~Subsection D of this Section, but shall instead~~ render a final judgment that, by itself
25 or in conjunction with earlier orders or partial judgments of the court, provides relief
26 as close in value and effect as feasible to that contemplated by Subsection D of this
27 Section, but adjusted as necessary to avoid the relevant violation or undue harm.
28 ~~does both of the following:~~

1 §1-1444. Reinstatement of terminated corporation

2 A. A terminated corporation may be reinstated if the corporation satisfies
3 both of the following conditions:

4 * * *

5 (2) It requests reinstatement in accordance with this Section no later than
6 ~~three~~ five years after the effective date of its articles or certificate of termination.

7 * * *

8 F. The secretary of state shall file the articles of reinstatement only if both
9 of the following conditions are satisfied:

10 (1) The articles are delivered for filing to the secretary of state within ~~three~~
11 five years after the effective date of the articles or certificate of termination for the
12 corporation.

13 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____