

## LAWS OF NEW YORK, 2020

## CHAPTER 122

1 AN ACT to amend the business corporation law, the not-for-profit corpo-  
2 ration law, and the religious corporations law, in relation to provid-  
3 ing for the remote conduct of certain practices and procedures relat-  
4 ing to board meetings; and providing for the repeal of such provisions  
5 upon the expiration thereof  
6

7 Became a law June 17, 2020, with the approval of the Governor.

8 Passed by a majority vote, three-fifths being present.  
9

10 The People of the State of New York, represented in Senate and Assem-  
11 ably, do enact as follows:  
12

13 Section 1. Paragraph (b) of section 708 of the business corporation  
14 law, as amended by chapter 296 of the laws of 1977, is amended to read  
15 as follows:

16 (b) Unless otherwise restricted by the certificate of incorporation or  
17 the by-laws, any action required or permitted to be taken by the board  
18 or any committee thereof may be taken without a meeting if all members  
19 of the board or the committee consent in writing to the adoption of a  
20 resolution authorizing the action. The resolution and the written  
21 consents thereto by the members of the board or committee shall be filed  
22 with the minutes of the proceedings of the board or committee. For the  
23 duration of the state disaster emergency declared by executive order two  
24 hundred two that began on March seventh, two thousand twenty, notwith-  
25 standing any provision of law to the contrary, the written consent of a  
26 member may be made electronically, where such consent is submitted via  
27 electronic mail along with information from which it can be reasonably  
28 determined that the transmission was authorized by such member.

29 § 2. Paragraph (a) of section 602 of the business corporation law is  
30 amended to read as follows:

31 (a) Meetings of shareholders may be held at such place, within or  
32 without this state, as may be fixed by or under the by-laws, or if not  
33 so fixed, [~~at the office of the corporation in this state~~] as determined  
34 by the board of directors. For the duration of the state disaster emer-  
35 gency declared by executive order two hundred two that began on March  
36 seventh, two thousand twenty, if, pursuant to this paragraph or the  
37 by-laws of the corporation, the board of directors is authorized to  
38 determine the place of a meeting of shareholders, the board of directors  
39 may, in its sole discretion, determine that the meeting be held solely  
40 by means of electronic communication, the platform/service of which  
41 shall be the place of the meeting for purpose of this article.

42 § 3. Paragraph (a) of section 603 of the not-for-profit corporation  
43 law is amended to read as follows:

44 (a) Meetings of members may be held at such place, within or without  
45 this state, as may be fixed by or under the by-laws or, if not so fixed,  
46 [~~at the office of the corporation in this state~~] as determined by the  
47 board of directors. For the duration of the state disaster emergency  
48 declared by executive order two hundred two that began on March seventh,  
49 two thousand twenty, the board of directors may, in its sole discretion,  
50

51 EXPLANATION--Matter in *italics* is new; matter in brackets [-] is old law  
52 to be omitted.

3 determine that meetings of members be held partially or solely by means  
4 of electronic communication, the electronic service and/or platform by  
5 which the meeting is held shall be the place of the meeting for purposes  
6 of this article if a meeting is held solely by means of electronic  
7 communication. Meetings conducted partially or solely by means of elec-  
8 tronic communications in reliance upon this paragraph and any member's  
9 electronic participation in such meetings shall be subject to those  
10 guidelines and procedures as the board adopts, provided the board shall  
11 implement reasonable measures to: (1) verify that each person partic-  
12 ipating electronically is a member or a proxy of a member; (2) provide  
13 each member participating electronically with a reasonable opportunity  
14 to participate in the meeting, including an opportunity to propose,  
15 object to, and vote upon a specific action to be taken by the members,  
16 and to see, read or hear the proceedings of the meeting substantially  
17 concurrently with those proceedings; and (3) record and maintain a  
18 record of any votes or other actions taken by electronic communication  
19 at the meeting.

20 § 4. Section 605 of the not-for-profit corporation law, paragraph (a)  
21 as amended by chapter 549 of the laws of 2013, is amended to read as  
22 follows:

23 § 605. Notice of meeting of members.

24 (a) Whenever under the provisions of this chapter members are required  
25 or permitted to take any action at a meeting, written notice shall state  
26 the place, date and hour of the meeting, for the duration of the state  
27 disaster emergency declared by executive order two hundred two that  
28 began on March seventh, two thousand twenty, the means of electronic  
29 communication, if any, by which members may participate in the  
30 proceedings of the meeting pursuant to paragraph (a) of section six  
31 hundred three of this article and, unless it is an annual meeting, indi-  
32 cate that it is being issued by or at the direction of the person or  
33 persons calling the meeting. Notice of a special meeting shall also  
34 state the purpose or purposes for which the meeting is called. A copy of  
35 the notice of any meeting shall be given, personally, by mail, or by  
36 facsimile telecommunications or by electronic mail, to each member enti-  
37 tled to vote at such meeting. If the notice is given personally, by  
38 first class mail or by facsimile telecommunications or by electronic  
39 mail, it shall be given not less than ten nor more than fifty days  
40 before the date of the meeting; if mailed by any other class of mail, it  
41 shall be given not less than thirty nor more than sixty days before such  
42 date. If mailed, such notice is given when deposited in the United  
43 States mail, with postage thereon prepaid, directed to the member at his  
44 address as it appears on the record of members, or, if he shall have  
45 filed with the secretary of the corporation a written request that  
46 notices to him be mailed to some other address, then directed to him at  
47 such other address. If sent by facsimile telecommunication or mailed  
48 electronically, such notice is given when directed to the member's fax  
49 number or electronic mail address as it appears on the record of  
50 members, or, to such fax number or other electronic mail address as  
51 filed with the secretary of the corporation. Notwithstanding the forego-  
52 ing, such notice shall not be deemed to have been given electronically  
53 (1) if the corporation is unable to deliver two consecutive notices to  
54 the member by facsimile telecommunication or electronic mail; or (2) the  
55 corporation otherwise becomes aware that notice cannot be delivered to  
56 the member by facsimile telecommunication or electronic mail. An affida-  
57 vit of the secretary or other person giving the notice or of a transfer

58 agent of the corporation that the notice required by this section has  
1 3 CHAP. 122  
2

3 been given shall, in the absence of fraud, be prima facie evidence of  
4 the facts therein stated. Whenever a corporation has more than five  
5 hundred members, the notice may be served by publication in a newspaper  
6 published in the county in the state in which the principal office of  
7 the corporation is located, once a week for three successive weeks next  
8 preceding the date of the meeting, provided that the corporation shall  
9 also prominently post notice of such meeting on the homepage of any  
10 website maintained by the corporation continuously from the date of  
11 publication through the date of the meeting. A corporation shall send  
12 notice of meetings by first class mail to any member who requests in  
13 writing that such notices be delivered by such method.

14 (b) When a meeting is adjourned to another time or place, it shall not  
15 be necessary, unless the by-laws require otherwise, to give any notice  
16 of the adjourned meeting if the time and place to which the meeting is  
17 adjourned and, for the duration of the state disaster emergency declared  
18 by executive order two hundred two that began on March seventh, two  
19 thousand twenty, the means of electronic communications, if any, by  
20 which members may participate in the proceedings of the meeting pursuant  
21 to paragraph (a) of section six hundred three of this article are  
22 announced at the meeting at which the adjournment is taken, and at the  
23 adjourned meeting any business may be transacted that might have been  
24 transacted on the original date of the meeting. However, if after the  
25 adjournment the board fixes a new record date for the adjourned meeting,  
26 a notice of the adjourned meeting shall be given to each member of  
27 record on the new record date entitled to notice under paragraph (a) of  
28 this section.

29 (c) Nothing required in paragraphs (a) or (b) of this section shall  
30 limit, restrict or supersede other forms of voting and participation.

31 § 5. The religious corporations law is amended by adding a new section  
32 28 to read as follows:

33 § 28. Meetings for the duration of the state disaster emergency  
34 declared by executive order two hundred two that began on March seventh,  
35 two thousand twenty; electronic communication. For the duration of the  
36 state disaster emergency declared by executive order two hundred two  
37 that began on March seventh, two thousand twenty, notwithstanding any  
38 provision of law, certificate of incorporation or by-laws to the contra-  
39 ry, if the board of trustees of a religious corporation is authorized to  
40 determine the place of trustee meetings or corporate meetings, the board  
41 of trustees may, in its sole discretion, determine that the meeting  
42 shall be held solely by means of electronic communication, the electron-  
43 ic service and/or platform through which the meeting is held shall be  
44 the place of the meeting for purposes of this chapter.

45 § 6. This act shall take effect immediately and shall expire and be  
46 deemed repealed December 31, 2021.

47  
48 The Legislature of the STATE OF NEW YORK ss:

49 Pursuant to the authority vested in us by section 70-b of the Public  
50 Officers Law, we hereby jointly certify that this slip copy of this  
51 session law was printed under our direction and, in accordance with such  
52 section, is entitled to be read into evidence.

53  
54 ANDREA STEWART-COUSINS  
55 Temporary President of the Senate

CARL E. HEASTIE  
Speaker of the Assembly