302A.436 REMOTE COMMUNICATIONS FOR SHAREHOLDER MEETINGS.

Subdivision 1. MS 2000 [Renumbered subd 2]

Subdivision 1. **Construction and application.** This section shall be construed and applied to:

(1) facilitate remote communication consistent with other applicable law; and

(2) be consistent with reasonable practices concerning remote communication and with the continued expansion of those practices.

Subd. 2. MS 2000 [Renumbered subd 3]

Subd. 2. **Shareholder meetings held solely by means of remote communication.** To the extent authorized in the articles or bylaws and determined by the board, a regular or special meeting of shareholders may be held solely by any combination of means of remote communication through which the shareholders may participate in the meeting, if notice of the meeting is given to every holder of shares entitled to vote required by this chapter for a meeting, and if the number of shares held by the shareholders participating in the meeting would be sufficient to constitute a quorum at a meeting. Participation by a shareholder by that means constitutes presence at the meeting in person or by proxy if all the other requirements of section 302A.449 are met.

Subd. 3. MS 2000 [Renumbered subd 7]

Subd. 3. **Participation in shareholder meetings by means of remote communication.** To the extent authorized in the articles or bylaws and determined by the board, a shareholder not physically present in person or by proxy at a regular or special meeting of shareholders may, by means of remote communication, participate in a meeting of shareholders held at a designated place. Participation by a shareholder by that means constitutes presence at the meeting in person or by proxy if all the other requirements of section 302A.449 are met.

Subd. 4. **Requirements for meetings held solely by means of remote communication and for participation by means of remote communication.** In any meeting of shareholders held solely by means of remote communication under subdivision 2 or in any meeting of shareholders held at a designated place in which one or more shareholders participate by means of remote communication under subdivision 3:

(1) the corporation shall implement reasonable measures to verify that each person deemed present and entitled to vote at the meeting by means of remote communication is a shareholder; and

(2) the corporation shall implement reasonable measures to provide each shareholder participating by means of remote communication with a reasonable opportunity to participate in the meeting, including an opportunity to:

(i) read or hear the proceedings of the meeting substantially concurrently with those proceedings;

(ii) if allowed by the procedures governing the meeting, have the shareholder's remarks heard or read by other participants in the meeting substantially concurrently with the making of those remarks; and

(iii) if otherwise entitled, vote on matters submitted to the shareholders.

Subd. 5. **Notice to shareholders.** (a) Any notice to shareholders given by the corporation under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the shareholder to whom the notice is given is effective when given. The notice is deemed given:

(1) if by facsimile communication, when directed to a telephone number at which the shareholder has consented to receive notice;

(2) if by electronic mail, when directed to an electronic mail address at which the shareholder has consented to receive notice;

(3) if by a posting on an electronic network on which the shareholder has consented to receive notice, together with separate notice to the shareholder of the specific posting, upon the later of:

(i) the posting; and

(ii) the giving of the separate notice; and

(4) if by any other form of electronic communication by which the shareholder has consented to receive notice, when directed to the shareholder.

An affidavit of the secretary, other authorized officer, or authorized agent of the corporation, that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit.

(b) Consent by a shareholder to notice given by electronic communication may be given in writing or by authenticated electronic communication. The corporation is entitled to rely on any consent so given until revoked by the shareholder, provided that no revocation affects the validity of any notice given before receipt by the corporation of revocation of the consent.

Subd. 6. **Revocation.** Any ballot, vote, authorization, or consent submitted by electronic communication under this chapter may be revoked by the shareholder submitting the ballot, vote, authorization, or consent so long as the revocation is received by an officer of the corporation at or before the meeting or before an action without a meeting is effective according to section 302A.441.

Subd. 7. **Waiver.** Waiver of notice by a shareholder of a meeting by means of authenticated electronic communication may be given in the manner provided in section 302A.435, subdivision 4. Participation in a meeting by means of remote communication described in subdivisions 2 and 3 is a waiver of notice of that meeting, except where the shareholder objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at the meeting and does not participate in the consideration of the item at that meeting.

History: *1991 c 49 s 9; 2002 c 311 art 1 s 17*