



House of Representatives

General Assembly

File No. 702

January Session, 2011

House Bill No. 6590

House of Representatives, May 3, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 33-699 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (a) A corporation shall notify shareholders of the date, time and
5 place of each annual and special shareholders' meeting no fewer than
6 ten nor more than sixty days before the meeting date. The notice shall
7 include the record date for determining the shareholders entitled to
8 vote at the meeting, if such date is different than the record date for
9 determining shareholders entitled to notice of the meeting. If the board
10 of directors has authorized participation by means of remote
11 communication pursuant to section 2 of this act for any class or series
12 of shareholders, the notice to such class or series of shareholders shall
13 describe the means of remote communication to be used. Unless
14 sections 33-600 to 33-998, inclusive, as amended by this act, or the

15 certificate of incorporation requires otherwise, the corporation is
16 required to give notice only to shareholders entitled to vote at the
17 meeting as of the record date for determining the shareholders entitled
18 to notice of the meeting.

19 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) Shareholders of any class
20 or series may participate in any meeting of shareholders by means of
21 remote communication to the extent the board of directors authorizes
22 such participation for such class or series. Participation by means of
23 remote communication shall be subject to such guidelines and
24 procedures as the board of directors adopts, and shall be in conformity
25 with subsection (b) of this section.

26 (b) Shareholders participating in a shareholders' meeting by means
27 of remote communication shall be deemed present and may vote at
28 such a meeting if the corporation has implemented reasonable
29 measures: (1) To verify that each person participating remotely is a
30 shareholder, and (2) to provide such shareholders a reasonable
31 opportunity to participate in the meeting and to vote on matters
32 submitted to the shareholders, including an opportunity to
33 communicate, and to read or hear the proceedings of the meeting,
34 substantially concurrent with such proceedings.

35 Sec. 3. Subsection (b) of section 33-697 of the general statutes is
36 repealed and the following is substituted in lieu thereof (*Effective*
37 *October 1, 2011*):

38 (b) The court may fix the time and place of the meeting, determine
39 the shares entitled to participate in the meeting, specify a record date
40 or dates for determining shareholders entitled to notice of and to vote
41 at the meeting, prescribe the form and content of the meeting notice,
42 fix the quorum required for specific matters to be considered at the
43 meeting, or direct that the votes represented at the meeting constitute a
44 quorum for action on those matters, and enter other orders necessary
45 to accomplish the purpose or purposes of the meeting.

46 Sec. 4. Subsection (e) of section 33-699 of the general statutes is

47 repealed and the following is substituted in lieu thereof (*Effective*
48 *October 1, 2011*):

49 (e) Unless the bylaws require otherwise, if an annual or special
50 shareholders' meeting is adjourned to a different date, time or place,
51 notice need not be given of the new date, time or place if the new date,
52 time or place is announced at the meeting before adjournment. If a
53 new record date for the adjourned meeting is or must be fixed under
54 section 33-701, as amended by this act, however, notice of the
55 adjourned meeting must be given under this section to [persons who
56 are shareholders as of the new record date] shareholders entitled to
57 vote at such adjourned meeting as of the record date fixed for notice of
58 such adjourned meeting.

59 Sec. 5. Section 33-701 of the general statutes is repealed and the
60 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

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

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

75 (d) If a court orders a meeting adjourned to a date more than one
76 hundred twenty days after the date fixed for the original meeting, it
77 may provide that the original record date [continues] or dates continue

78 in effect or it may fix a new record date or dates.

79 (e) The record date for a shareholders' meeting fixed by or in the
80 manner provided in the bylaws or by the board of directors shall be
81 the record date for determining shareholders entitled both to notice of
82 and to vote at the shareholders' meeting, unless in the case of a record
83 date fixed by the board of directors and to the extent not prohibited by
84 the bylaws, the board, at the time it fixes the record date for
85 shareholders entitled to notice of the meeting, fixes a later record date
86 on or before the date of the meeting to determine the shareholders
87 entitled to vote at the meeting.

88 Sec. 6. Section 33-704 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2011*):

90 (a) After fixing a record date for a meeting, a corporation shall
91 prepare an alphabetical list of the names of all its shareholders who are
92 entitled to notice of a shareholders' meeting. [The] If the board of
93 directors fixes a different record date under subsection (e) of section
94 33-701, as amended by this act, to determine the shareholders entitled
95 to vote at the meeting, a corporation also shall prepare an alphabetical
96 list of the names of all its shareholders who are entitled to vote at the
97 meeting. A list shall be arranged by voting group, and within each
98 voting group by class or series of shares, and show the address of and
99 number of shares held by each shareholder.

100 (b) The shareholders' list for notice shall be available for inspection
101 by any shareholder, beginning two business days after notice of the
102 meeting is given for which the list was prepared and continuing
103 through the meeting, at the corporation's principal office or at a place
104 identified in the meeting notice in the city where the meeting will be
105 held. A shareholders' list for voting must be similarly available for
106 inspection promptly after the record date for voting. A shareholder, his
107 agent or attorney is entitled on written demand to inspect and, subject
108 to the requirements of subsection [(c)] (d) of section 33-946, as
109 amended by this act, to copy [the] a list, during regular business hours
110 and at his expense, during the period it is available for inspection.

111 (c) The corporation shall make the [shareholders] list of
112 shareholders entitled to vote available at the meeting, and any
113 shareholder, his agent or attorney is entitled to inspect the list at any
114 time during the meeting or any adjournment.

115 (d) If the corporation refuses to allow a shareholder or his agent or
116 attorney to inspect [the] a shareholders' list before or at the meeting, or
117 copy [the] a list as permitted by subsection (b) of this section, the
118 superior court for the judicial district where a corporation's principal
119 office or, if none in this state, its registered office, is located, on
120 application of the shareholder, may summarily order the inspection or
121 copying at the corporation's expense and may postpone the meeting
122 for which the list was prepared until the inspection or copying is
123 complete.

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

127 Sec. 7. Subsection (a) of section 33-784 of the general statutes is
128 repealed and the following is substituted in lieu thereof (*Effective*
129 *October 1, 2011*):

130 (a) Shareholders' action respecting a director's conflicting interest
131 transaction is effective for purposes of subdivision (2) of subsection (b)
132 of section 33-782 if a majority of the votes cast by the holders of all
133 qualified shares are in favor of the transaction after (1) notice to
134 shareholders describing the action to be taken respecting the
135 transaction, (2) provision to the corporation of the information referred
136 to in subsection (b) of this section, and (3) communication to the
137 shareholders entitled to vote on the transaction of the information that
138 is the subject of required disclosure, to the extent the information is not
139 known by them. In the case of shareholders' action at a meeting, the
140 shareholders entitled to vote shall be determined as of the record date
141 for notice of the meeting.

142 Sec. 8. Subsection (b) of section 33-856 of the general statutes is

143 repealed and the following is substituted in lieu thereof (*Effective*
144 *October 1, 2011*):

145 (b) Notwithstanding subsection (a) of this section, the availability of
146 appraisal rights under subdivisions (1), (2), (3) and (4) of subsection (a)
147 of this section shall be limited in accordance with the following
148 provisions:

149 (1) Appraisal rights shall not be available for the holders of shares of
150 any class or series of shares which is:

151 (A) A covered security under Section 18(b)(1)(A) or (B) of the
152 Securities Act of 1933, as amended;

153 (B) Traded in an organized market and has at least two thousand
154 shareholders and a market value of at least twenty million dollars,
155 exclusive of the value of such shares held by the corporation's
156 subsidiaries, senior executives, directors and beneficial shareholders
157 owning more than ten per cent of such shares; or

158 (C) Issued by an open-end management investment company
159 registered with the Securities and Exchange Commission under the
160 Investment Company Act of 1940 and may be redeemed at the option
161 of the holder at net asset value.

162 (2) The applicability of subdivision (1) of this subsection shall be
163 determined as of: (A) The record date fixed to determine the
164 shareholders entitled to receive notice of [, and to vote at,] the meeting
165 of shareholders to act upon the corporate action requiring appraisal
166 rights; or (B) the day before the effective date of such corporate action
167 if there is no meeting of shareholders.

168 (3) Subdivision (1) of this subsection shall not be applicable and
169 appraisal rights shall be available pursuant to subsection (a) of this
170 section for the holders of any class or series of shares who are required
171 by the terms of the corporate action requiring appraisal rights to accept
172 for such shares anything other than cash or shares of any class or any
173 series of shares of any corporation, or any other proprietary interest of

174 any other entity, that satisfies the standards set forth in subdivision (1)
175 of this subsection at the time the corporate action becomes effective.

176 (4) Subdivision (1) of this subsection shall not be applicable and
177 appraisal rights shall be available pursuant to subsection (a) of this
178 section for the holders of any class or series of shares where the
179 corporate action is an interested transaction.

180 Sec. 9. Section 33-946 of the general statutes is repealed and the
181 following is substituted in lieu thereof (*Effective October 1, 2011*):

182 (a) A shareholder of a corporation is entitled to inspect and copy,
183 during regular business hours at the corporation's principal office, any
184 of the records of the corporation described in subsection (e) of section
185 33-945 if he gives the corporation a signed written notice of his
186 demand at least five business days before the date on which he wishes
187 to inspect and copy.

188 (b) For any meeting of shareholders for which the record date for
189 determining shareholders entitled to vote at the meeting is different
190 than the record date for notice of the meeting, any person who
191 becomes a shareholder subsequent to the record date for notice of the
192 meeting and is entitled to vote at the meeting is entitled to obtain from
193 the corporation upon request the notice and any other information
194 provided by the corporation to shareholders in connection with the
195 meeting, unless the corporation has made such information generally
196 available to shareholders by posting it on its web site or by other
197 generally recognized means. Failure of a corporation to provide such
198 information does not affect the validity of action taken at the meeting.

199 [(b)] (c) A shareholder of a corporation is entitled to inspect and
200 copy, during regular business hours at a reasonable location specified
201 by the corporation, any of the following records of the corporation if
202 the shareholder meets the requirements of subsection [(c)] (d) of this
203 section and gives the corporation a signed written notice of his
204 demand at least five business days before the date on which he wishes
205 to inspect and copy: (1) Excerpts from minutes of any meeting of the

206 board of directors [, records of any action of] or a committee of the
207 board of directors while acting in place of the board of directors on
208 behalf of the corporation, minutes of any meeting of the shareholders
209 and records of action taken by the shareholders, [or] the board of
210 directors or a committee of the board without a meeting, to the extent
211 not subject to inspection under subsection (a) of this section; (2)
212 accounting records of the corporation; and (3) the record of
213 shareholders.

214 [(c)] (d) A shareholder may inspect and copy the records described
215 in subsection [(b)] (c) of this section only if: (1) His demand is made in
216 good faith and for a proper purpose; (2) he describes with reasonable
217 particularity his purpose and the records he desires to inspect; and (3)
218 the records are directly connected with his purpose.

219 [(d)] (e) The right of inspection granted by this section may not be
220 abolished or limited by a corporation's certificate of incorporation or
221 bylaws.

222 [(e)] (f) This section does not affect: (1) The right of a shareholder to
223 inspect records under section 33-704, as amended by this act, or, if the
224 shareholder is in litigation with the corporation, to the same extent as
225 any other litigant; (2) the power of a court, independently of sections
226 33-600 to 33-998, inclusive, as amended by this act, to compel the
227 production of corporate records for examination.

228 [(f)] (g) For purposes of this section, "shareholder" includes a
229 beneficial owner whose shares are held in a voting trust or by a
230 nominee on his behalf.

231 Sec. 10. Section 33-602 of the general statutes is repealed and the
232 following is substituted in lieu thereof (*Effective October 1, 2011*):

233 As used in sections 33-600 to 33-998, inclusive, as amended by this
234 act:

235 (1) "Address" means location as described by the full street number,
236 if any, street, city or town, state or country and not a mailing address

237 such as a post office box.

238 (2) "Authorized shares" means the shares of all classes a domestic or
239 foreign corporation is authorized to issue.

240 (3) "Certificate of incorporation" means the original certificate of
241 incorporation or restated certificate of incorporation, and all
242 amendments thereto, and all certificates of merger or consolidation. In
243 the case of a specially chartered corporation, "certificate of
244 incorporation" means the special charter of the corporation, including
245 any portions of the charters of its predecessor companies which have
246 continuing effect, and any amendments to the charter made by special
247 act or pursuant to general law. In the case of a corporation formed
248 before January 1, 1961, or of a specially chartered corporation,
249 "certificate of incorporation" includes those portions of any other
250 corporate instruments or resolutions of current application in which
251 are set out provisions of the sort which either (A) are required by
252 sections 33-600 to 33-998, inclusive, as amended by this act, to be
253 embodied in the certificate of incorporation, or (B) are expressly
254 permitted by sections 33-600 to 33-998, inclusive, as amended by this
255 act, to be operative only if included in the certificate of incorporation.
256 It also includes what were, prior to January 1, 1961, designated at law
257 as agreements of association, articles of incorporation, charters and
258 other such terms.

259 (4) "Conspicuous" means so written, displayed or presented that a
260 reasonable person against whom the writing is to operate should have
261 noticed it. For example, [printing] text in italics, [or] boldface, [or]
262 contrasting color, [or typing in] capitals or underlined [,] is
263 conspicuous.

264 (5) "Corporation" or "domestic corporation" means a corporation
265 with capital stock, which is not a foreign corporation, incorporated
266 under the laws of this state, whether general law or special act and
267 whether before or after January 1, 1997.

268 (6) "Deliver" or "delivery" means any method of delivery used in

269 conventional commercial practice including delivery by hand, mail,
270 commercial delivery and, if authorized in accordance with section 33-
271 603, as amended by this act, electronic transmission.

272 (7) "Distribution" means a direct or indirect transfer of money or
273 other property, except its own shares, or incurrence of indebtedness by
274 a corporation to or for the benefit of its shareholders in respect of any
275 of its shares. A distribution may be in the form of a declaration or
276 payment of a dividend; a purchase, redemption or other acquisition of
277 shares; a distribution of indebtedness; or otherwise.

278 (8) "Document" [includes anything delivered to the office of the
279 Secretary of the State for filing under sections 33-600 to 33-998,
280 inclusive] means (A) any tangible medium on which information is
281 inscribed, and includes any writing or written instrument, or (B) an
282 electronic record.

283 (9) "Effective date of notice" is defined in section 33-603, as amended
284 by this act.

285 (10) (A) "Electronic" means relating to technology having electrical,
286 digital, magnetic, wireless, optical, electromagnetic or similar
287 capabilities.

288 (B) "Electronic record" means information that is stored in an
289 electronic or other medium and is retrievable in paper form through an
290 automated process used in conventional commercial practice, unless
291 otherwise authorized in accordance with subsection (j) of section 33-
292 603, as amended by this act.

293 (C) "Electronic transmission" or "electronically transmitted" means
294 any form or process of communication not directly involving the
295 physical transfer of paper [that] or another tangible medium, which (i)
296 is suitable for the retention, retrieval and reproduction of information
297 by the recipient, and (ii) is retrievable in paper form by the recipient
298 through an automated process used in conventional commercial
299 practice, unless otherwise authorized in accordance with subsection (j)

300 of section 33-603, as amended by this act.

301 (11) "Employee" includes an officer but not a director. A director
302 may accept duties that make him also an employee.

303 (12) "Entity" includes a corporation and foreign corporation;
304 nonprofit corporation; profit and nonprofit unincorporated
305 association; business trust, estate, partnership, limited liability
306 company, trust and two or more persons having a joint or common
307 economic interest; and state, United States or foreign government.

308 (13) "Expenses" means reasonable expenses of any kind that are
309 incurred in connection with a matter including, but not limited to,
310 reasonable counsel fees.

311 (14) "Facts objectively ascertainable" outside of a plan or filed
312 document is defined in subsection (l) of section 33-608.

313 (15) "Foreign corporation" means a corporation incorporated under
314 a law other than the law of this state.

315 (16) "Governmental subdivision" includes authority, county, district
316 and municipality.

317 (17) "Includes" denotes a partial definition.

318 (18) "Individual" includes the estate of an incompetent or deceased
319 individual.

320 (19) "Means" denotes an exhaustive definition.

321 (20) "Notice" is defined in section 33-603, as amended by this act.

322 (21) "Person" includes individual and entity.

323 (22) "Principal office" of a domestic corporation means the address
324 of the principal office of such corporation in this state, if any, as the
325 same appears in the last annual report, if any, filed by such corporation
326 with the Secretary of the State. If no principal office so appears, the

327 corporation's "principal office" means the address in this state of the
328 corporation's registered agent for service as last shown on the records
329 of the Secretary of the State. In the case of a domestic corporation
330 which has not filed such an annual report or appointment of registered
331 agent for service, the "principal office" means the address of the
332 principal place of business of such corporation in this state, if any, and
333 if such corporation has no place of business in this state, its "principal
334 office" shall be the office of the Secretary of the State.

335 (23) "Proceeding" includes civil suit and criminal, administrative
336 and investigatory action.

337 (24) "Public corporation" means a corporation that has shares listed
338 on a national securities exchange or regularly traded in a market
339 maintained by one or more members of a national or affiliated
340 securities association.

341 (25) "Qualified director" is defined in section 33-605.

342 (26) "Record date" means the date established under sections 33-665
343 to 33-687, inclusive, as amended by this act, or sections 33-695 to 33-
344 727, inclusive, as amended by this act, on which a corporation
345 determines the identity of its shareholders and their shareholdings for
346 purposes of sections 33-600 to 33-998, inclusive, as amended by this
347 act. The determinations shall be made as of the close of business on the
348 record date unless another time for doing so is specified when the
349 record date is fixed.

350 (27) "Secretary" means the corporate officer to whom under the
351 bylaws or by the board of directors is delegated responsibility under
352 subsection (c) of section 33-763 for custody of the minutes of the
353 meetings of the board of directors and of the shareholders and for
354 authenticating records of the corporation.

355 (28) "Secretary of the State" means the Secretary of the State of
356 Connecticut.

357 (29) "Shares" means the units into which the proprietary interests in

358 a corporation are divided.

359 (30) "Shareholder" means the person in whose name shares are
360 registered in the records of a corporation or the beneficial owner of
361 shares to the extent of the rights granted by a nominee certificate on
362 file with a corporation.

363 (31) "Sign" or "signature" means, with present intent to authenticate
364 or adopt a document: (A) To execute or adopt a tangible symbol to a
365 document, and includes any manual, facsimile [,] or conformed [or
366 electronic] signature; or (B) to attach to or logically associate with an
367 electronic transmission an electronic sound, symbol or process, and
368 includes an electronic signature in an electronic transmission.

369 (32) "State", when referring to a part of the United States, includes a
370 state and commonwealth, and their agencies and governmental
371 subdivisions, and a territory and insular possession, and their agencies
372 and governmental subdivisions, of the United States.

373 (33) "Subscriber" means a person who subscribes for shares in a
374 corporation, whether before or after incorporation.

375 (34) "United States" includes any district, authority, bureau,
376 commission, department and other agency of the United States.

377 (35) "Voting group" means all shares of one or more classes or series
378 that under the certificate of incorporation or sections 33-600 to 33-998,
379 inclusive, as amended by this act, are entitled to vote and be counted
380 together collectively on a matter at a meeting of shareholders. All
381 shares entitled by the certificate of incorporation or said sections to
382 vote generally on the matter are for that purpose a single voting group.

383 (36) "Voting power" means the current power to vote in the election
384 of directors.

385 (37) "Writing" or "written" means any information in the form of a
386 document.

387 Sec. 11. Section 33-603 of the general statutes is repealed and the
388 following is substituted in lieu thereof (*Effective October 1, 2011*):

389 (a) Notice under sections 33-600 to 33-998, inclusive, as amended by
390 this act, shall be in writing unless oral notice is reasonable [under] in
391 the circumstances. [Notice by electronic transmission is written notice.]
392 Unless otherwise agreed between the sender and the recipient, words
393 in a notice or other communication under sections 33-600 to 33-998,
394 inclusive, as amended by this act, shall be in English.

395 (b) [Notice] A notice or other communication may be
396 [communicated in person, by mail or other] given or sent by any
397 method of delivery, [or by telephone, voice mail or other electronic
398 means] except that electronic transmissions must be in accordance
399 with this section. If these [forms of personal notice] methods of
400 delivery are impracticable, a notice or other communication may be
401 communicated by a newspaper of general circulation in the area where
402 published or by radio, television or other form of public broadcast
403 communication.

404 [(c) Written notice by a domestic or foreign corporation to its
405 shareholder, if in a comprehensible form, is effective (1) upon deposit
406 in the United States mail, as evidenced by the postmark, if mailed
407 postage prepaid and correctly addressed to the shareholder's address
408 shown in the corporation's current record of shareholders, or (2) when
409 electronically transmitted to the shareholder in a manner authorized
410 by the shareholder.]

411 [(d) Written notice to a domestic or foreign corporation] (c) Notice
412 or other communication to a domestic or foreign corporation
413 authorized to transact business in this state may be [addressed]
414 delivered to its registered agent at its registered office or to the
415 secretary of the corporation at its principal office shown in its most
416 recent annual report or, in the case of a foreign corporation that has not
417 yet delivered an annual report, in its application for a certificate of
418 authority.

419 [(e) Except as provided in subsection (c) of this section, written
420 notice, if in a comprehensible form, is effective at the earliest of the
421 following: (1) When received; (2) five days after its deposit in the
422 United States mail, if mailed postage prepaid and correctly addressed;
423 or (3) on the date shown on the return receipt, if sent by registered or
424 certified mail or a commercial delivery service, return receipt
425 requested, and the receipt is signed by or on behalf of the addressee.

426 (f) Oral notice is effective when communicated if communicated in a
427 comprehensible manner.]

428 (d) Notice or other communications may be delivered by electronic
429 transmission if (1) consented to by the recipient or authorized by
430 subsection (k) of this section, and (2) the electronic transmission
431 contains or is accompanied by information from which the recipient
432 can determine the date of the transmission and that the transmission
433 was authorized by the sender or the sender's agent or attorney-in-fact.

434 (e) Any consent under subsection (d) of this section may be revoked
435 by the person who consented by written or electronic notice to the
436 person to whom the consent was delivered. Any such consent is
437 deemed revoked if (1) the corporation is unable to deliver two
438 consecutive electronic transmissions given by the corporation in
439 accordance with such consent, and (2) such inability becomes known
440 to the secretary or an assistant secretary of the corporation or to the
441 transfer agent, or other person responsible for the giving of notice or
442 other communications; provided, the inadvertent failure to treat such
443 inability as a revocation shall not invalidate any meeting or other
444 action.

445 (f) Unless otherwise agreed between the sender and the recipient, an
446 electronic transmission is received when: (1) It enters an information
447 processing system that the recipient has designated or uses for the
448 purposes of receiving electronic transmissions or information of the
449 type sent, and from which the recipient is able to retrieve the electronic
450 transmission; and (2) it is in a form capable of being processed by that
451 system.

452 (g) Receipt of an electronic acknowledgement from an information
453 processing system described in subdivision (1) of subsection (f) of this
454 section establishes that an electronic transmission was received but, by
455 itself, does not establish that the content sent corresponds to the
456 content received.

457 (h) An electronic transmission is received under this section even if
458 no individual is aware of its receipt.

459 (i) Notice or other communication, if in a comprehensible form or
460 manner, is effective at the earliest of the following:

461 (1) If in physical form, the earliest of: (A) When it is actually
462 received; or (B) when it is left at: (i) A shareholder's address shown on
463 the corporation's record of shareholders maintained by the corporation
464 under subsection (c) of section 33-945; (ii) a director's residence or
465 usual place of business; or (iii) the corporation's principal place of
466 business;

467 (2) If mailed postage prepaid and correctly addressed to a
468 shareholder, upon deposit in the United States mail;

469 (3) If mailed by United States mail postage prepaid and correctly
470 addressed to a recipient other than a shareholder, the earliest of: (A)
471 When it is actually received; (B) if sent by registered or certified mail,
472 return receipt requested, the date shown on the return receipt signed
473 by or on behalf of the addressee; or (C) five days after it is deposited in
474 the United States mail;

475 (4) If an electronic transmission, when it is received as provided in
476 subsection (f) of this section; or

477 (5) If oral, when communicated.

478 (j) A notice or other communication may be in the form of an
479 electronic transmission that cannot be directly reproduced in paper
480 form by the recipient through an automated process used in
481 conventional commercial practice only if (1) the electronic transmission

482 is otherwise retrievable in perceivable form, and (2) the sender and the
483 recipient have consented in writing to the use of such form of
484 electronic transmission.

485 ~~[(g)]~~ (k) If sections 33-600 to 33-998, inclusive, as amended by this
486 act, prescribe [notice] requirements for notices or other
487 communications in particular circumstances, those requirements
488 govern. If a certificate of incorporation or bylaw prescribes [notice]
489 requirements for notices or other communications, not inconsistent
490 with this section or other provisions of said sections, those
491 requirements govern. The certificate of incorporation or bylaws may
492 authorize or require delivery of notices of meetings of directors by
493 electronic transmission.

494 [(h)] (l) In computing the period of time of any notice required or
495 permitted to be given by sections 33-600 to 33-998, inclusive, as
496 amended by this act, or under the provisions of the certificate of
497 incorporation or bylaws of a corporation or of a resolution of
498 shareholders or directors, the day on which the notice is given shall be
499 excluded, and the day on which the matter noticed is to occur shall be
500 included, in the absence of a contrary provision.

501 Sec. 12. Subsection (b) of section 33-661 of the general statutes is
502 repealed and the following is substituted in lieu thereof (*Effective*
503 *October 1, 2011*):

504 (b) If [a registered agent changes] the street address of [his] a
505 registered agent's business office changes, he may change the street
506 address of the registered office of any corporation for which he is the
507 registered agent by [notifying] delivering a signed written notice of the
508 change to the corporation [in writing of the change and signing, either
509 manually or in facsimile,] and delivering to the Secretary of the State
510 for filing a signed statement that complies with the requirements of
511 subsection (a) of this section and recites that the corporation has been
512 notified of the change.

513 Sec. 13. Subsection (d) of section 33-671 of the general statutes is

514 repealed and the following is substituted in lieu thereof (*Effective*
515 *October 1, 2011*):

516 (d) If a subscriber defaults in payment of money or property under
517 a subscription agreement entered into before incorporation, the
518 corporation may collect the amount owed as any other debt.
519 Alternatively, unless the subscription agreement provides otherwise,
520 the corporation may rescind the agreement and may sell the shares if
521 the debt remains unpaid more than twenty days after the corporation
522 sends a written demand for payment to the subscriber.

523 Sec. 14. Section 33-698 of the general statutes is repealed and the
524 following is substituted in lieu thereof (*Effective October 1, 2011*):

525 (a) Action required or permitted under any provision of sections 33-
526 600 to 33-998, inclusive, as amended by this act, to be taken at a
527 shareholders' meeting may be taken without a meeting if the action is
528 taken by all the shareholders entitled to vote on the action. The action
529 must be evidenced by one or more written consents bearing the date of
530 signature and describing the action taken, signed by all the
531 shareholders entitled to vote on the action and delivered to the
532 corporation for inclusion in the minutes or filing with the corporate
533 records.

534 (b) The certificate of incorporation may provide that any action
535 required or permitted by any provision of sections 33-600 to 33-998,
536 inclusive, as amended by this act, to be taken at a shareholders'
537 meeting may be taken without a meeting, and without prior notice, if
538 consents in writing setting forth the action so taken are signed by the
539 holders of outstanding shares having not less than the minimum
540 number of votes that would be required to authorize or take the action
541 at a meeting at which all shares entitled to vote on the action were
542 present and voted. The written consent shall bear the date of signature
543 of the shareholder who signs the consent and be delivered to the
544 corporation for inclusion in the minutes or filing with the corporate
545 records.

546 (c) If not otherwise fixed under section 33-701, as amended by this
547 act, and if prior board action is not required respecting the action to be
548 taken without a meeting, the record date for determining the
549 shareholders entitled to take action without a meeting shall be the first
550 date on which a signed written consent is delivered to the corporation.
551 If not otherwise fixed under section 33-701, as amended by this act,
552 and if prior board action is required respecting the action to be taken
553 without a meeting, the record date shall be the close of business on the
554 day the resolution of the board taking such prior action is adopted. No
555 written consent shall be effective to take the corporate action referred
556 to therein unless, within sixty days of the earliest date on which a
557 consent delivered to the corporation as required by this section was
558 signed, written consents signed by the holders of shares having
559 sufficient votes to take the action have been delivered to the
560 corporation. A written consent may be revoked by a writing to that
561 effect delivered to the corporation before unrevoked written consents
562 sufficient to take the corporate action are delivered to the corporation.

563 (d) A consent signed pursuant to the provisions of this section has
564 the effect of a vote taken at a meeting and may be described as such in
565 any document. Unless the certificate of incorporation, the bylaws or a
566 resolution of the board of directors provides for a reasonable delay to
567 permit tabulation of written consents, the action taken by written
568 consent shall be effective when written consents signed by the holders
569 of shares having sufficient votes to take the action are delivered to the
570 corporation.

571 (e) If any provision of sections 33-600 to 33-998, inclusive, as
572 amended by this act, requires that notice of a proposed action be given
573 to nonvoting shareholders and the action is to be taken by written
574 consent of the voting shareholders, the corporation must give its
575 nonvoting shareholders written notice of the action not more than ten
576 days after (1) written consents sufficient to take the action have been
577 delivered to the corporation, or (2) such later date that tabulation of
578 consents is completed pursuant to an authorization under subsection
579 (d) of this section. The notice must reasonably describe the action taken

580 and contain or be accompanied by the same material that, under any
581 provision of sections 33-600 to 33-998, inclusive, as amended by this
582 act, would have been required to be sent to nonvoting shareholders in
583 a notice of a meeting at which the proposed action would have been
584 submitted to the shareholders for action.

585 (f) If action is taken by less than unanimous written consent of the
586 voting shareholders, the corporation must give its nonconsenting
587 voting shareholders written notice of the action not more than ten days
588 after (1) written consents sufficient to take the action have been
589 delivered to the corporation, or (2) such later date that tabulation of
590 consents is completed pursuant to an authorization under subsection
591 (d) of this section. The notice must reasonably describe the action taken
592 and contain or be accompanied by the same material that, under any
593 provision of sections 33-600 to 33-998, inclusive, as amended by this
594 act, would have been required to be sent to voting shareholders in a
595 notice of a meeting at which the action would have been submitted to
596 the shareholders for action.

597 (g) The notice requirements in subsections (e) and (f) of this section
598 shall not delay the effectiveness of actions taken by written consent,
599 and a failure to comply with such notice requirements shall not
600 invalidate actions taken by written consent, provided this subsection
601 shall not be deemed to limit judicial power to fashion any appropriate
602 remedy in favor of a shareholder adversely affected by a failure to give
603 such notice within the required time period.

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

610 (i) Delivery of a written consent to the corporation under this
611 section is delivery to the corporation's registered agent at its registered
612 office or to the secretary of the corporation at its principal office.]

613 Sec. 15. Subsection (b) of section 33-706 of the general statutes is
614 repealed and the following is substituted in lieu thereof (*Effective*
615 *October 1, 2011*):

616 (b) A shareholder or his agent or attorney-in-fact may appoint a
617 proxy to vote or otherwise act for the shareholder by signing an
618 appointment form or by an electronic transmission of the appointment.
619 [An electronic transmission must contain or be accompanied by
620 information from which one can determine that the shareholder, the
621 shareholder's agent or the shareholder's attorney-in-fact authorized the
622 electronic transmission.]

623 Sec. 16. Section 33-722 of the general statutes is repealed and the
624 following is substituted in lieu thereof (*Effective October 1, 2011*):

625 No shareholder may commence a derivative proceeding until: (1) A
626 written demand has been made upon the corporation to take suitable
627 action; and (2) ninety days have expired from the date delivery of the
628 demand was made unless the shareholder has earlier been notified that
629 the demand has been rejected by the corporation or unless irreparable
630 injury to the corporation would result by waiting for the expiration of
631 the ninety-day period.

632 Sec. 17. Subsection (a) of section 33-773 of the general statutes is
633 repealed and the following is substituted in lieu thereof (*Effective*
634 *October 1, 2011*):

635 (a) A corporation may, before final disposition of a proceeding,
636 advance funds to pay for or reimburse the reasonable expenses
637 incurred in connection with the proceeding by an individual who is a
638 party to the proceeding because that individual is a member of the
639 board of directors if the director delivers to the corporation:

640 (1) A signed written affirmation of the director's good faith belief
641 that the relevant standard of conduct described in section 33-771 has
642 been met by the director or that the proceeding involves conduct for
643 which liability has been limited under a provision of the certificate of

644 incorporation as authorized by subdivision (4) of subsection (b) of
645 section 33-636; and

646 (2) A signed written undertaking to repay any funds advanced if the
647 director is not entitled to mandatory indemnification under section 33-
648 772 and it is ultimately determined under section 33-774 or 33-775 that
649 the director has not met the relevant standard of conduct described in
650 section 33-771.

651 Sec. 18. Subsection (a) of section 33-819 of the general statutes is
652 repealed and the following is substituted in lieu thereof (*Effective*
653 *October 1, 2011*):

654 (a) After a plan of merger or share exchange has been adopted and
655 approved as required by sections 33-600 to 33-998, inclusive, as
656 amended by this act, a certificate of merger or share exchange shall be
657 [executed] signed on behalf of each party to the merger or the share
658 exchange by any officer or other duly authorized representative of
659 such party. The certificate of merger or share exchange shall set forth:
660 (1) The names of the parties to the merger or the share exchange; (2)
661 the name of the corporation or other entity that will be the survivor of
662 the merger or that will acquire the shares or interests of the other party
663 to the share exchange; (3) the date on which the merger or the share
664 exchange is to be effective; (4) if the certificate of incorporation of the
665 survivor of a merger is amended, or if a new corporation is created as a
666 result of a merger, the amendments to the survivor's certificate of
667 incorporation or the certificate of incorporation of the new corporation;
668 (5) if the plan of merger or share exchange required approval by the
669 shareholders of a domestic corporation that was a party to the merger
670 or the share exchange, a statement that the plan was duly approved by
671 the shareholders and, if voting by any separate voting group was
672 required, by each such separate voting group, in the manner required
673 by sections 33-600 to 33-998, inclusive, as amended by this act, and the
674 certificate of incorporation; (6) if the plan of merger or share exchange
675 did not require approval by the shareholders of a domestic corporation
676 that was a party to the merger or the share exchange, a statement to

677 that effect; and (7) as to each foreign corporation and each other entity
678 that was a party to the merger or the share exchange, a statement that
679 the plan and the performance of its terms were duly authorized by all
680 action required by the law of the state or country under which the
681 corporation or other entity is organized or by which it is governed, and
682 by its certificate of incorporation or organizational documents.

683 Sec. 19. Subsection (b) of section 33-821a of the general statutes is
684 repealed and the following is substituted in lieu thereof (*Effective*
685 *October 1, 2011*):

686 (b) If a merger or a share exchange is abandoned under subsection
687 (a) of this section after a certificate of merger or share exchange has
688 been filed with the Secretary of the State but before the merger or the
689 share exchange has become effective, a statement that the merger or
690 the share exchange has been abandoned in accordance with this
691 section, [executed] signed on behalf of a party to the merger or the
692 share exchange by an officer or other duly authorized representative of
693 such party, shall be delivered to the Secretary of the State for filing
694 prior to the effective date of the merger or the share exchange. Any
695 such statement shall contain the name of each party to the merger or
696 the share exchange, the date the merger or the share exchange was to
697 become effective and the date the merger or the share exchange was
698 abandoned. Upon filing, the statement shall take effect and the merger
699 or the share exchange shall be deemed abandoned and shall not
700 become effective.

701 Sec. 20. Subsection (c) of section 33-860 of the general statutes is
702 repealed and the following is substituted in lieu thereof (*Effective*
703 *October 1, 2011*):

704 (c) Where any corporate action specified in subsection (a) of section
705 33-856 is to be approved by written consent of the shareholders
706 pursuant to section 33-698, as amended by this act:

707 (1) Written notice that appraisal rights are, are not or may be
708 available must be [given] sent to each record shareholder from whom a

709 consent is solicited at the time consent of such shareholder is first
710 solicited and, if the corporation has concluded that appraisal rights are
711 or may be available, must be accompanied by a copy of sections 33-855
712 to 33-872, inclusive, as amended by this act; and

713 (2) Written notice that appraisal rights are, are not or may be
714 available must be delivered together with the notice to nonvoting and
715 nonconsenting shareholders required by subsections (e) and (f) of
716 section 33-698, as amended by this act, may include the materials
717 described in section 33-862, as amended by this act, and, if the
718 corporation has concluded that appraisal rights are or may be
719 available, must be accompanied by a copy of sections 33-855 to 33-872,
720 inclusive, as amended by this act.

721 Sec. 21. Subsection (b) of section 33-861 of the general statutes is
722 repealed and the following is substituted in lieu thereof (*Effective*
723 *October 1, 2011*):

724 (b) If a corporate action specified in subsection (a) of section 33-856
725 is to be approved by less than unanimous written consent, a
726 shareholder who wishes to assert appraisal rights with respect to any
727 class or series of shares must not [execute] sign a consent in favor of
728 the proposed action with respect to that class or series of shares.

729 Sec. 22. Section 33-862 of the general statutes is repealed and the
730 following is substituted in lieu thereof (*Effective October 1, 2011*):

731 (a) If proposed corporate action requiring appraisal rights under
732 subsection (a) of section 33-856 becomes effective, the corporation must
733 [deliver] send a written appraisal notice and the form required by
734 subdivision (1) of subsection (b) of this section to all shareholders who
735 satisfied the requirements of section 33-861, as amended by this act. In
736 the case of a merger under section 33-818, the parent must deliver [a
737 written] an appraisal notice and form to all record shareholders who
738 may be entitled to assert appraisal rights.

739 (b) The appraisal notice must be [sent] delivered no earlier than the

740 date the corporate action specified in subsection (a) of section 33-856
741 became effective and no later than ten days after such date, and shall:

742 (1) Supply a form that (A) specifies the first date of any
743 announcement to shareholders made prior to the date the corporate
744 action became effective of the principal terms of the proposed
745 corporate action, (B) if such announcement was made, requires the
746 shareholder asserting appraisal rights to certify whether beneficial
747 ownership of those shares for which appraisal rights are asserted was
748 acquired before that date, and (C) requires the shareholder asserting
749 appraisal rights to certify that such shareholder did not vote for or
750 consent to the transaction;

751 (2) State:

752 (A) Where the form must be sent and where certificates for
753 certificated shares must be deposited and the date by which those
754 certificates must be deposited, which date may not be earlier than the
755 date for receiving the required form under subparagraph (B) of this
756 subdivision;

757 (B) A date by which the corporation must receive the form which
758 date may not be fewer than forty nor more than sixty days after the
759 date the appraisal notice [and form] under subsection (a) of this section
760 [are] is sent, and state that the shareholder shall have waived the right
761 to demand appraisal with respect to the shares unless the form is
762 received by the corporation by such specified date;

763 (C) The corporation's estimate of the fair value of the shares;

764 (D) That, if requested in writing, the corporation will provide, to the
765 shareholder so requesting, within ten days after the date specified in
766 subparagraph (B) of this subdivision, the number of shareholders who
767 return the forms by the specified date and the total number of shares
768 owned by them; and

769 (E) The date by which the notice to withdraw under section 33-863
770 must be received, which date must be within twenty days after the

771 date specified in subparagraph (B) of this subdivision; and

772 (3) Be accompanied by a copy of sections 33-855 to 33-872, inclusive,
773 as amended by this act.

774 Sec. 23. Subsection (b) of section 33-927 of the general statutes is
775 repealed and the following is substituted in lieu thereof (*Effective*
776 *October 1, 2011*):

777 (b) If a registered agent changes the street address of his business
778 office, he may change the street address of the registered office of any
779 foreign corporation for which he is the registered agent by notifying
780 the corporation in writing of the change and signing [, either manually
781 or in facsimile,] and delivering to the Secretary of the State for filing a
782 statement of change that complies with the requirements of subsection
783 (a) of this section and recites that the corporation has been notified of
784 the change.

785 Sec. 24. Subsection (d) of section 33-945 of the general statutes is
786 repealed and the following is substituted in lieu thereof (*Effective*
787 *October 1, 2011*):

788 (d) A corporation shall maintain its records in [written form] the
789 form of a document, including an electronic record, or in another form
790 capable of conversion into [written] paper form within a reasonable
791 time.

792 Sec. 25. Section 33-950 of the general statutes is repealed and the
793 following is substituted in lieu thereof (*Effective October 1, 2011*):

794 (a) Whenever notice [is] would otherwise be required to be given
795 under any provision of sections 33-600 to 33-998, inclusive, as
796 amended by this act, to [any] a shareholder, such notice [shall] need
797 not be [required to be] given if:

798 (1) [Notice] Notices to the shareholders of two consecutive annual
799 meetings, and all notices of meetings during the period between such
800 two consecutive annual meetings, have been sent to such shareholder

801 at such shareholder's address as shown on the records of the
802 corporation and have been returned undeliverable or could not be
803 delivered; or

804 (2) All, but not less than two, payments of dividends on securities
805 during a twelve-month period, or two consecutive payments of
806 dividends on securities during a period of more than twelve months,
807 have been sent to such shareholder at such shareholder's address as
808 shown on the records of the corporation and have been returned
809 undeliverable or could not be delivered.

810 (b) If any such shareholder delivers to the corporation a written
811 notice setting forth such shareholder's current address, the
812 requirement that notice be given to such shareholder shall be
813 reinstated.

814 Sec. 26. Section 33-997 of the general statutes is amended by adding
815 subsection (c) as follows (*Effective October 1, 2011*):

816 (NEW) (c) In the event that any provisions of sections 33-600 to 33-
817 998, inclusive, as amended by this act, are deemed to modify, limit or
818 supersede the federal Electronic Signatures in Global and National
819 Commerce Act, 15 USC 7001 et seq., the provisions of sections 33-600
820 to 33-998, inclusive, as amended by this act, shall control to the
821 maximum extent permitted by Section 102(a)(2) of that federal act.

822 Sec. 27. Subsection (c) of section 33-947 of the general statutes is
823 repealed and the following is substituted in lieu thereof (*Effective*
824 *October 1, 2011*):

825 (c) The corporation may comply at its expense with a shareholder's
826 demand to inspect the record of shareholders under subdivision (3) of
827 subsection [(b)] (c) of section 33-946, as amended by this act, by
828 providing the shareholder with a list of shareholders that was
829 compiled no earlier than the date of the shareholder's demand.

830 Sec. 28. Subsection (b) of section 33-948 of the general statutes is
831 repealed and the following is substituted in lieu thereof (*Effective*

832 *October 1, 2011*):

833 (b) If a corporation does not within a reasonable time allow a
 834 shareholder to inspect and copy any other record, the shareholder who
 835 complies with subsections [(b) and (c)] (c) and (d) of section 33-946, as
 836 amended by this act, may apply to the superior court for the judicial
 837 district where the corporation's principal office or, if none in this state,
 838 its registered office is located for an order to permit inspection and
 839 copying of the records demanded. The court shall dispose of an
 840 application under this subsection on an expedited basis.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	33-699(a)
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	33-697(b)
Sec. 4	<i>October 1, 2011</i>	33-699(e)
Sec. 5	<i>October 1, 2011</i>	33-701
Sec. 6	<i>October 1, 2011</i>	33-704
Sec. 7	<i>October 1, 2011</i>	33-784(a)
Sec. 8	<i>October 1, 2011</i>	33-856(b)
Sec. 9	<i>October 1, 2011</i>	33-946
Sec. 10	<i>October 1, 2011</i>	33-602
Sec. 11	<i>October 1, 2011</i>	33-603
Sec. 12	<i>October 1, 2011</i>	33-661(b)
Sec. 13	<i>October 1, 2011</i>	33-671(d)
Sec. 14	<i>October 1, 2011</i>	33-698
Sec. 15	<i>October 1, 2011</i>	33-706(b)
Sec. 16	<i>October 1, 2011</i>	33-722
Sec. 17	<i>October 1, 2011</i>	33-773(a)
Sec. 18	<i>October 1, 2011</i>	33-819(a)
Sec. 19	<i>October 1, 2011</i>	33-821a(b)
Sec. 20	<i>October 1, 2011</i>	33-860(c)
Sec. 21	<i>October 1, 2011</i>	33-861(b)
Sec. 22	<i>October 1, 2011</i>	33-862
Sec. 23	<i>October 1, 2011</i>	33-927(b)
Sec. 24	<i>October 1, 2011</i>	33-945(d)
Sec. 25	<i>October 1, 2011</i>	33-950
Sec. 26	<i>October 1, 2011</i>	33-997

Sec. 27	<i>October 1, 2011</i>	33-947(c)
Sec. 28	<i>October 1, 2011</i>	33-948(b)

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes various changes concerning remote participation in shareholder meetings, bifurcated record dates and electronic technology that deal with private industry and have no fiscal impact on state agencies.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 6590****AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT.****SUMMARY:**

This bill makes a number of changes to the statutes governing business corporations including:

1. allowing a corporation to set differing record dates for providing notice of a meeting to shareholders and for determining which shareholders are entitled to vote at the meeting;
2. allowing the board of directors to authorize, and set guidelines and procedures for, a class or series of shareholders to participate remotely in meetings;
3. expanding the use of electronic documents and technologies and establishing additional rules for their use; and
4. making minor and technical changes.

EFFECTIVE DATE: October 1, 2011

§§ 1 AND 3-9 — SEPARATE RECORD DATES FOR NOTICE AND VOTING***Bylaws (§§ 4-5)***

The bill allows a corporation's bylaws to fix separate record dates for determining when shareholders are entitled to notice of a meeting, demand a special meeting, or vote or take other action.

Under the bill, the record date for a shareholders' meeting set according to the bylaws or by the board is the record date for determining those entitled to notice of the meeting and to vote unless

the board sets (1) the record date for those entitled to notice and (2) a later record date on or before the meeting date to determine who is entitled to vote. The bill allows this only if the bylaws do not prohibit it.

The bill appears to allow setting different dates for different voting groups.

The bill also applies these provisions to notice requirements for an adjourned meeting.

Record Date for Certain Purposes (§§ 3 and 7-8)

The bill allows a court ordering a meeting to set a separate date for determining who is entitled to notice and who is entitled to vote. This applies when a shareholder applies to the court for a meeting when there has been no annual meeting or the shareholders demand a special meeting.

As under current law, for shareholders' action on a director's conflicting interest transaction, the bill specifies that shareholders entitled to vote are determined as of the record date for notice of the meeting.

The law provides that appraisal rights are not available for holders of certain classes or series related to certain transactions. The bill specifies that shareholders are determined based on the record date for notice.

Meeting Notices (§ 1)

The law requires corporations to notify shareholders of annual and special shareholders' meetings. The bill requires the notice to include the date for determining which shareholders are entitled to vote at the meeting, if the date is different from the date determining which shareholders are entitled to notice.

The bill requires the notice to a class or series of shareholders to describe how remote communication may be used if the board of

directors authorized the class or series to participate remotely (see below).

Shareholder Lists and Meeting Information (§§ 6 and 9)

The bill requires the board to prepare an alphabetical list of shareholders entitled to vote if it sets a date for voting that is different from the notice date. As for the list of those entitled to notice under current law, the bill requires a list of those entitled to vote to be available for inspection. It requires the list to be available promptly after the record date for voting.

The bill adds a provision for those who become shareholders entitled to vote after the record date for notice. It allows these shareholders to request and obtain from the corporation the notice and any information provided to shareholders for the meeting unless the information is generally available to shareholders on the corporation's website or by other generally recognized means. Under the bill, if a corporation fails to provide this information, it does not affect the validity of actions at the meeting.

§ 2 — REMOTE PARTICIPATION

The bill allows a class or series of shareholders to participate in a shareholders' meeting remotely if the board authorizes it, subject to guidelines and procedures adopted by the board. The bill deems shareholders who participate remotely to be present, and they may vote at the meeting if the corporation implements reasonable measures to:

1. verify that each person is a shareholder and
2. provide a reasonable opportunity for participation in the meeting and voting on matter submitted to the shareholders, including an opportunity to communicate and read or hear the proceedings substantially concurrent with the proceedings.

§ 9 — CORPORATE RECORDS

By law, shareholders can submit a written demand to inspect and

copy certain corporate records. The bill requires the demand to be signed.

Currently shareholders can request records of an action of a board committee acting in place of the board on behalf of the corporation. The bill instead allow shareholders to request excerpts from the minutes of a committee acting in place of the board on behalf of the corporation and records of action taken by a committee without a meeting.

§§ 10-11—DOCUMENTS AND NOTICES

Definitions (§ 10)

The bill changes a number of definitions that apply throughout the statutes governing business corporations regarding the use of electronic documents and technologies.

1. Under current law, something is “conspicuous” if it is written so that a reasonable person should notice it. The bill expands the definition to include something displayed or presented.
2. The bill restricts “delivery” by electronic transmission to means that satisfy the bill’s requirements (see below).
3. It expands the definition of a “document” from anything the law requires to be delivered to the secretary of the state to (a) any tangible medium on which information is inscribed, including a writing or written instrument and (b) an electronic record.
4. It defines an “electronic record” as information stored in an electronic or other medium that is retrievable in paper form through an automated process used in conventional commercial practice (unless otherwise authorized by the bill below). “Electronic” relates to technology with electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
5. Current law defines “electronic transmission” as any process of

communication not directly involving the physical transfer of paper that is suitable for retention, retrieval, and reproduction of information by the recipient. The bill adds a requirement that the communication be retrievable in paper form by the recipient through an automated process used in conventional commercial practice (unless otherwise authorized by the bill below).

6. Under current law, a “signature” includes a manual, fax, conformed, or electronic signature. The bill expands this to include, with present intent to authenticate or adopt a document, (a) executing or adopting a tangible symbol to a document, including a manual, fax, or conformed signature or (b) attaching to or logically associating with an electronic transmission an electronic sound, symbol, or process, including an electronic signature in an electronic transmission.
7. The bill defines “writing” as any information in a document.

Notices and Communications (§ 11)

Under current law, notice can be communicated in person; by mail or other delivery method; or by telephone, voicemail, or other electronic means. The bill applies these provisions to other communications as well, specifies that a notice or communication may be given by any delivery method, and sets requirements for electronic transmissions.

When Electronic Transmission is Allowed. Under the bill, a notice or communication may be by electronic transmission if the (1) recipient consents or, for notices of directors meetings, the certificate or incorporation or bylaws authorize or require it and (2) electronic transmission contains or is accompanied by information that allows the recipient to determine the transmission date and that it was authorized by the sender or the sender’s agent or attorney-in-fact.

Consent to Electronic Transmissions. The bill allows a person to revoke consent to receive electronic transmissions by written or electronic notice to the person to whom consent was delivered.

Consent is also deemed revoked if the (1) corporation cannot deliver two consecutive electronic transmissions with consent and (2) corporation's secretary, assistant secretary, transfer agent, or person responsible for giving notice or communication knows they have been unsuccessful (but inadvertently failing to treat this as revocation does not invalidate a meeting or other action).

When an Electronic Transmission is Received. Under current law, an electronic notice to shareholders is effective as authorized by the shareholder and notice to others is effective when received. Under the bill, any electronic transmission is received, unless the sender and recipient agree otherwise, when it (1) enters an information processing system the recipient designated or uses to receive electronic transmissions or information of the type sent and from which the recipient can retrieve it and (2) is in a form capable of being processed by that system. An electronic transmission is received even if no one is aware of it. Receipt of an electronic acknowledgment from the information processing system establishes that the transmission was received but does not on its own establish that the content sent corresponds to the content received.

Form of Electronic Transmissions. The bill allows a notice or communication to be in an electronic transmission that cannot be directly reproduced by the recipient in paper form by an automated process used in conventional commercial practice only if the (1) transmission is otherwise retrievable in perceivable form and (2) sender and recipient consent in writing to this form.

Mail Delivery. The bill retains the current rules for mail delivery of notice and extends them to other types of communications. Under current law, one way a notice is considered effective is when it is received. The bill adds specific rules regarding when a notice or communication in physical form is effective: the earliest of when it is (1) actually received or (2) left at a shareholder's address as listed in the corporate records, a director's residence or usual place of business, or the corporation's principal place of business.

As under current law for notices, the bill provides that laws that provide specific requirements for a communication prevail and that requirements in a certificate of incorporation or bylaws that are not inconsistent with these provisions govern.

Consenting to Action Without a Shareholders Meeting (§ 14)

The bill repeals specific provisions on consent to action without a shareholders' meeting by electronic transmission, thus applying the bill's general provisions on electronic communications. Under current law, electronic transmissions must contain or be accompanied by information that allows the corporation to determine the date the transmission was signed and that it was authorized by the shareholder or his or her agent or attorney-in-fact.

It also deletes a specific requirement that a written consent be delivered to the corporation's registered agent at its registered office or to the corporation's secretary at its principal office.

Proxies (§ 15)

The bill repeals specific provisions on appointing a proxy by electronic transmission, thus applying the bill's general provisions on electronic communications. Under current law, electronic transmissions must contain or be accompanied by information that allows the corporation to determine that it was authorized by the shareholder or his or her agent or attorney-in-fact.

§ 11 — USE OF ENGLISH IN NOTICES OR COMMUNICATIONS

The bill requires a notice or communication between a sender and recipient to be in English unless they agree otherwise.

§§ 12 & 23 — REGISTERED AGENTS CHANGING ADDRESS

Currently, a registered agent changing his or her address or a registered agent of a foreign corporation changing his or her business office address must sign a statement manually or in facsimile. The bill allows any type of signature authorized under the bill's definitions. It also requires the agent to "sign" the statement that current law

requires him or her to give to the secretary of the state.

§ 16 — DERIVATIVE ACTIONS

Under current law, a shareholder cannot begin a derivative proceeding (an action brought by a shareholder on behalf of the corporation) until there is a written demand on the corporation to take action and 90 days have passed since the demand was made. (But it can be earlier if the corporation notified the shareholder that it rejects the demand or irreparable injury to the corporation will result.) The bill starts the 90 day period from the date the demand was delivered.

§§ 17-19 — SIGNING DOCUMENTS

The law allows a board member to submit certain documents asking the corporation to pay in advance certain expenses related to a proceeding in which the corporation may indemnify the board member. The bill requires these documents to be signed.

The bill requires certain merger or share exchange documents to be signed rather than executed.

§ 22 — DELIVERY OF APPRAISAL NOTICES

The law requires corporations to send written appraisal notices regarding corporate actions requiring appraisal rights. The bill specifies that notice must be delivered, rather than sent, between the date the corporate action takes effect and 10 days later.

§ 25 — NO DUTY TO SEND NOTICES

The law does not require a corporation to send notices to a shareholder if notices or dividend payments to the shareholder have been returned undeliverable. The bill extends this rule to notices or payments that could not be delivered.

§ 26 — APPLICATION UNDER FEDERAL LAW

The bill specifies that Connecticut's business corporation law applies to the maximum extent permitted by federal law if any of Connecticut's provisions are deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act.

BACKGROUND***Electronic Signatures in Global and National Commerce Act***

Congress enacted the Electronic Signatures in Global and National Commerce Act to facilitate the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically (15 U.S.C. § 7001 *et seq.*).

This law (15 USC § 7002) allows a state statute to modify, limit, or supersede it only if the state law:

1. constitutes an enactment or adoption of the Uniform Electronic Transactions Act or
2. specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability if they satisfy certain standards and the state law makes specific reference to this act.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/15/2011)