

AN ACT

ENTITLED, An Act to authorize shareholders to vote and to make certain other communications by electronic means.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That subdivisions (33) and (34) of § 47-2-1 be amended to read as follows:

(33) "Vote" includes authorization by written or electronic document signed and transmitted by all of the persons, shareholders or directors, required to take the action described. The term also means the counterparts of a written or electronic document signed and transmitted by any of the persons taking the action described. Each counterpart constitutes the action of the persons signing and transmitting it, and all the counterparts, taken together, constitute one written action by all of the persons signing them;

(34) "Written action" means a written or electronic document signed and transmitted by all of the persons, shareholders or directors, required to take the action described. The term also means the counterparts of a written or electronic document signed and transmitted by any of the persons taking the action described. Each counterpart constitutes the action of the persons signing and transmitting it, and all the counterparts, taken together, constitute one written action by all of the persons signing them.

Section 2. That § 47-4-16 be amended to read as follows:

47-4-16. A shareholder may vote either in person or by proxy executed in writing or by electronic transmission by the shareholder or by the shareholder's duly authorized attorney in fact. No proxy is valid after eleven months from the date of its execution, unless otherwise provided in the proxy. A solicitation for proxies shall specifically state the matters for which proxies are sought, and no proxy may be voted on any matter not specified in the solicitation. If the vote is made by electronic transmission, the transmission shall either set forth or be submitted with information from which it

can be determined that the transmission was authorized by the shareholder or proxy holder.

Section 3. That § 47-5-10 be amended to read as follows:

47-5-10. If any notice is required to be given to any director of a corporation under the provisions of chapters 47-2 to 47-9, inclusive, or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing or by electronic transmission signed and transmitted by the person or persons entitled to such notice, whether before or after the time stated therein, is equivalent to the giving of such notice.

Section 4. That § 47-5-11 be amended to read as follows:

47-5-11. Unless otherwise provided by the articles of incorporation or bylaws, any action required by chapters 47-2 to 47-9, inclusive, to be taken at a meeting of the directors of a corporation, or any action which may be taken at a meeting of the directors or of a committee, may be taken without a meeting if a consent in writing or by electronic transmission, setting forth the action so to be taken, shall be signed and transmitted before such action by all of the directors, or all of the members of the committee, as the case may be. Such consent has the same effect as a unanimous vote.

Section 5. For the purposes of this Act, if an electronic signature is required or the term, signed, is used in connection with an electronic transmission, the term means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1216

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1216
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State