

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S2/2/21

A Bill

SENATE BILL 11

5 By: Senator D. Sullivan
6 By: Representative Gonzales
7

For An Act To Be Entitled

9 AN ACT TO ALLOW ARKANSAS CORPORATIONS AND ARKANSAS
10 BANKS TO HOLD ANNUAL OR SPECIAL SHAREHOLDER MEETINGS
11 REMOTELY; TO DECLARE AN EMERGENCY; AND FOR OTHER
12 PURPOSES.
13
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Subtitle

15 TO ALLOW ARKANSAS CORPORATIONS AND
16 ARKANSAS BANKS TO HOLD ANNUAL OR SPECIAL
17 SHAREHOLDER MEETINGS REMOTELY; AND TO
18 DECLARE AN EMERGENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 4-26-701(a), concerning shareholders'
25 meetings, is amended to read as follows:

26 (a)(1) ~~Meetings~~ A meeting of shareholders may be held at ~~such place, a~~
27 physical location or solely or partially by means of remote communication,
28 either within or without this state, or as ~~may be~~ provided in the bylaws. ~~In~~
29 ~~the absence of any such provision, all meetings shall be held at the~~
30 ~~registered office of the corporation.~~

31 (2)(A) A shareholders' meeting that is held solely by means of
32 remote communication or through a combination of remote communication and an
33 in-person meeting is permitted to the extent that:

34 (i) The corporation's board of directors authorizes
35 and adopts guidelines and procedures governing a remote shareholders'
36 meeting; and



1 (ii) Shareholders and proxy holders have the
2 capability to participate through a method of remote communication.

3 (B) The guidelines and procedures governing a remote
4 shareholders' meeting shall provide verified shareholders and proxy holders
5 who are not physically present at a shareholders' meeting to:

6 (i) Have a reasonable opportunity to participate in
7 the meeting;

8 (ii) Be deemed present at the meeting; and

9 (iii) Be permitted to vote on matters submitted at
10 the meeting.

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12 SECTION 2. Arkansas Code § 4-27-701(b) and (c), concerning the annual
13 shareholders' meeting of a corporation, are amended to read as follows:

14 (b)(1) Annual shareholders' meetings may be held at a physical
15 location or solely or partially by means of remote communication, in or out
16 of this state, at the a place stated in or fixed in accordance with according
17 to the bylaws of the corporation. If no place is stated in or fixed in
18 accordance with the bylaws, annual meetings shall be held at the
19 corporation's principal office.

20 (2)(A) An annual shareholders' meeting held solely by means of
21 remote communication or through a combination of remote communication and an
22 in-person meeting is allowed to the extent that:

23 (i) The corporation's board of directors authorizes
24 and adopts guidelines and procedures governing a remote annual shareholders'
25 meeting; and

26 (ii) Shareholders and proxy holders have the
27 capability to participate through a method of remote communication.

28 (B) The guidelines and procedures governing a remote
29 meeting shall provide verified shareholders and proxy holders who are not
30 physically present at a shareholders' meeting to:

31 (i) Have a reasonable opportunity to participate in
32 the meeting;

33 (ii) Be deemed present at the meeting; and

34 (iii) Be permitted to vote on matters submitted at
35 the meeting.

36 (c) The failure to hold an annual meeting at the time stated in or

1 ~~fixed in accordance with~~ according to a corporation's bylaws, or solely or
2 partially by means of remote communication, does not affect the validity of
3 any corporate action.

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5 SECTION 3. Arkansas Code § 4-27-702(c), concerning special
6 shareholders' meetings, is amended to read as follows:

7 (c)(1) Special shareholders' meetings may be held at a physical
8 location or solely or partially by means of remote communication, in or out
9 of this state at ~~the~~ a place stated in or fixed ~~in accordance with~~ according
10 to the bylaws of the corporation. ~~If no place is stated or fixed in~~
11 ~~accordance with the bylaws, special meetings shall be held at the~~
12 ~~corporation's principal office.~~

13 (2)(A) A meeting held solely by means of remote communication or
14 through a combination of remote communication and an in-person meeting is
15 allowed to the extent that:

16 (i) The corporation's board of directors authorizes
17 and adopts guidelines and procedures governing a remote annual shareholders'
18 meeting; and

19 (ii) Shareholders and proxy holders have the
20 capability to participate through a method of remote communication.

21 (B) The guidelines and procedures governing a remote
22 special shareholders' meeting shall provide verified shareholders and proxy
23 holders who are not physically present at a shareholders meeting to:

24 (i) Have a reasonable opportunity to participate in
25 the meeting;

26 (ii) Be deemed present at the meeting; and

27 (iii) Be permitted to vote on matters submitted at
28 the meeting.

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30 SECTION 4. Arkansas Code § 23-48-320(c) and (d), concerning voting at
31 a shareholders' meeting of a state bank, are amended to read as follows:

32 (c)(1) A stockholder may vote in person, ~~or~~ by written proxy, or by
33 means of remote communication according to subdivision (c)(3) of this
34 section.

35 (2) ~~No proxy shall~~ A proxy shall not be valid after eleven (11)
36 months from the date of its execution unless otherwise provided in the proxy,

1 but a proxy may be of indefinite duration if coupled with an interest.

2 (3) A stockholder participating in a meeting of stockholders by
 3 means of remote communication as provided in § 23-48-326(c) shall be deemed
 4 present and is entitled to vote at the meeting if the state bank has
 5 implemented reasonable measures to:

6 (A) Verify that each person participating remotely is a
 7 stockholder; and

8 (B) Provide each stockholder participating remotely with a
 9 reasonable opportunity to participate in the meeting, including an
 10 opportunity to vote on matters submitted to the stockholders.

11 (d)(1) For a state bank chartered on or before May 30, 1997, the
 12 ~~shareholders~~ stockholders of the state bank shall have cumulative voting
 13 privileges in the election of directors unless the articles of incorporation
 14 of the state bank otherwise provide.

15 (2) For a state bank chartered after May 30, 1997, there shall
 16 be no cumulative voting privilege unless the state bank's articles of
 17 incorporation so provide.

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 19 SECTION 5. Arkansas Code § 23-48-326 is amended to read as follows:

20 23-48-326. Application of Arkansas Business Corporation Act.

21 ~~(a) All state banks and subsidiary trust companies shall be subject to~~
 22 ~~current provisions of~~ A state bank and a subsidiary trust company are subject
 23 to the Arkansas Business Corporation Act of 1987, § 4-27-101 et seq., to the
 24 extent that those provisions are it is not in conflict with the provisions of
 25 the Arkansas Banking Code of 1997.

26 ~~(b) In the event that any provision of~~ If the Arkansas Business
 27 Corporation Act of 1987, § 4-27-101 et seq., is in conflict with any
 28 ~~provision of~~ the Arkansas Banking Code of 1997, then the provision of the
 29 Arkansas Banking Code of 1997 shall control.

30 (c) Annual or special shareholders' meetings may be held by
 31 corporations or banks solely or partially through remote communication if
 32 authorized by the corporation's or bank's board of directors.

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 34 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
 35 General Assembly of the State of Arkansas that the risk of exposure to
 36 coronavirus 2019 (COVID-19) or to severe acute respiratory syndrome

1 coronavirus 2 (SARS-CoV-2) or any of its mutations is causing delays in
2 conducting business due to the inability to hold in-person shareholders'
3 meetings; that allowing Arkansas corporations and banks to conduct
4 shareholders' meetings through remote communication, solely or partially, can
5 reduce the uncertainty for Arkansas corporations and banks and allow a
6 corporation or bank to continue to operate; and that this act is immediately
7 necessary to provide Arkansas corporations and banks with the ability to
8 conduct their corporate affairs without risk of exposure to coronavirus 2019
9 (COVID-19) or to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
10 or any of its mutations. Therefore, an emergency is declared to exist, and
11 this act being immediately necessary for the preservation of the public
12 peace, health, and safety shall become effective on:

13 (1) The date of its approval by the Governor;

14 (2) If the bill is neither approved nor vetoed by the Governor,
15 the expiration of the period of time during which the Governor may veto the
16 bill; or

17 (3) If the bill is vetoed by the Governor and the veto is
18 overridden, the date the last house overrides the veto.

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21 /s/D. Sullivan
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24 **APPROVED: 3/4/21**
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