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HOUSE BILL NO. 234

Offered January 13, 2016

Prefiled December 29, 2015

A *BILL to amend and reenact §§ 13.1-685 and 13.1-865 of the Code of Virginia, relating to corporations; action without board of directors meeting.*

Patron—Sullivan

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-685 and 13.1-865 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-685. Action without meeting of board of directors.

A. Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if ~~each director~~ *a sufficient number of directors constituting a quorum* signs a consent describing the action to be taken and *consenting to the action without a meeting and delivers it the consent* to the corporation, *unless the articles of incorporation or bylaws provide otherwise. Decisions made without a meeting shall comply with any quorum and voting requirements established in the articles of incorporation or bylaws.*

B. Action taken under this section is effective when the last director *sufficient to constitute a quorum* signs the consent unless the consent specifies a different effective date, in which event the action taken is effective as of the date specified therein provided the consent states the date of execution by each director.

C. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked written consents signed by all the directors.

D. Any person, whether or not then a director, may provide that a consent to action as a director shall be effective at a future time, including the time when an event occurs, but such future time shall not be more than 60 days after such provision is made. Any such consent shall be deemed to have been made for purposes of this section at the future time so specified for the consent to be effective, provided that (i) the person is a director at such future time and (ii) the person did not revoke the consent prior to such future time. Any such consent may be revoked, in the manner provided in subsection C, prior to its becoming effective.

E. For purposes of this section, a written consent and the signing thereof may be accomplished by one or more electronic transmissions, *including electronic mail.*

F. A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

§ 13.1-865. Action without meeting of board of directors.

A. Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if ~~each director~~ *a sufficient number of directors constituting a quorum* signs a consent describing the action to be taken and *consenting to the action without a meeting and delivers it the consent* to the corporation, *unless the articles of incorporation or bylaws provide otherwise. Decisions made without a meeting shall comply with any quorum and voting requirements established in the articles of incorporation or bylaws.*

B. Action taken under this section is effective when the last director *sufficient to constitute a quorum* signs the consent, unless the consent specifies a different effective date, in which event the action taken is effective as of the date specified therein provided the consent states the date of execution by each director.

C. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked written consents signed by all the directors.

D. Any person, whether or not then a director, may provide that a consent to action as a director shall be effective at a future time, including the time when an event occurs, but such future time shall not be more than 60 days after such provision is made. Any such consent shall be deemed to have been made for purposes of this section at the future time so specified for the consent to be effective, provided that (i) the person is a director at such future time and (ii) the person did not revoke the consent prior to such future time. Any such consent may be revoked, in the manner provided in subsection C, prior to its becoming effective.

E. For purposes of this section, a written consent and the signing thereof may be accomplished by

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59 one or more electronic transmissions, *including electronic mail*.

60 F. A consent signed under this section has the effect of action taken at a meeting of the board of
61 directors and may be described as such in any document.