

50% Shareholder Quorum Requirement

By-laws Section 1.02:

Amendments. These by-laws may be repealed or amended or new by-laws adopted by (a) the vote of the shareholders entitled to exercise a majority of the voting power at a meeting of shareholders, or (b) the written assent of shareholders entitled to exercise a majority of the voting power, filed with the Secretary, or (c) unanimous vote of all of the members of the Board of Directors, or (d) any other method or any other manner now or hereafter authorized or permitted by law; provided any by-law adopted by the Board of Directors may be repealed or amended by the Shareholders, and this Article may only be amended or repealed by the shareholders, who alone shall have the right to determine by whom and to what extent and in what manner the by-laws may be amended, or repealed, or new by-laws adopted; and provided further Sections 2.15, 2.16 and 6.01 of these by-laws (being the same sections designated as Section 2 of Article 1 and Section 1 and 2 of Article V of the original by-laws of this corporation) shall not be altered, amended, repealed except by the unanimous written consent or the vote of all the members. (underlining added)

By-laws Section 2.15:

Quorum of Shareholders. A majority of the shares issued, outstanding, in good standing represented either in person or by proxy shall constitute a quorum for the transaction of business. Each shareholder shall be entitled to one vote for each share standing in his name or the books of the Company, whether represented in person or by proxy. (emphasis added)

Corporations Code Section 7150(b):

By-laws may be adopted, amended or repealed by approval of the members (Section 5034);

Corporations Code Section 5034:

“Approval by (or approval of) the members” means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or written ballot in conformity with Section 5513, 7513, or 9413 or by the affirmative vote or written ballot of such greater proportion, including all of the votes of the memberships of any class, unit, or grouping of members as may be provided in the bylaws. . . . (emphasis added)

Corporations Code Section 7151(e):

The bylaws may require, for any or all corporate actions . . . the vote of a larger proportion of, or all of, the members Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws. (emphasis added)

Analysis

Corporations Code Sections 7150(b), 5034 and 7151(e) confirm that the Company's unanimous consent requirement for changing the 50% shareholder quorum provision is binding. Section 7150 governs the adoption, amendment or appeal of the bylaws of nonprofit mutual benefit corporations. Section 7150(b) provides, in relevant part, that "[b]ylaws may be adopted, amended or repealed by approval of the members" Section 5034 defines "approval of the members," as used in Section 7150(b), as "approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present . . . or by the affirmative vote or written ballot of such greater proportion, **including all of the votes of the membership of any class, unit, or grouping of members as may be provided in the bylaws** (emphasis added). Furthermore, Section 7151(e) provides that the bylaws of a nonprofit mutual benefit corporation may require for any or all corporate action "the vote of a larger proportion of, **or all of**, the members." (emphasis added.)