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CHAPTER 7.

 SHAREHOLDERS

ARTICLE 1.

 MEETINGS

**SECTION 33‑7‑101.** Annual meeting.

(a) A corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws or, in the alternative, may take such action as would be taken at an annual meeting by taking action by unanimous written consent under Section 33‑7‑104.

(b) Annual shareholders’ meetings may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings must be held at the corporation’s principal office.

(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation’s bylaws does not affect the validity of any corporate action.

**SECTION 33‑7‑102.** Special meeting.

(a) A corporation shall hold a special meeting of shareholders:

(1) on call of its board of directors or the person authorized to do so by the articles of incorporation or bylaws; or

(2) in the case of a corporation which is not a public corporation or of a public corporation which elects in its articles of incorporation, if the holders of at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation’s secretary one or more written demands for the meeting describing the purpose for which it is to be held.

(b) If not otherwise fixed under Section 33‑7‑103 or 33‑7‑107, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(c) Special shareholders’ meetings may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings must be held at the corporation’s principal office.

(d) Only business within the purpose described in the meeting notice required by Section 33‑7‑105(c) may be conducted at a special shareholders’ meeting.

**SECTION 33‑7‑103.** Court‑ordered meeting.

(a) The circuit court of the county where a corporation’s principal office (or, if none in this State, its registered office) is located may order a meeting to be held:

(1) on application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of nine months after the end of the corporation’s fiscal year or eighteen months after its last annual meeting; or

(2) on application of a shareholder who signed a demand for a special meeting valid under Section 33‑7‑102 if:

(i) notice of the special meeting was not given within thirty days after the date the demand was delivered to the corporation’s secretary; or

(ii) the special meeting was not held in accordance with the notice.

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

**SECTION 33‑7‑104.** Action without meeting.

(a) Action required or permitted by Chapters 1 through 20 of this Title to be taken at a shareholders’ meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) If not otherwise fixed under Section 33‑7‑103 or 33‑7‑107, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (a).

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(d) If Chapters 1 through 20 of this Title requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least ten days before the action is taken. The notice must contain or be accompanied by the same material that must be sent to nonvoting shareholders in a notice of meeting at which the proposed action is submitted to the shareholders for action.

**SECTION 33‑7‑105.** Notice of meeting.

(a) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders’ meeting no fewer than ten nor more than sixty days before the meeting date. Unless Chapters 1 through 20 of this Title or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting.

(b) Unless Chapters 1 through 20 of this Title or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of the purpose for which the meeting is called.

(c) Notice of a special meeting must include a description of the purpose for which the meeting is called.

(d) If not otherwise fixed under Section 33‑7‑103 or 33‑7‑107, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders’ meeting is the close of business on the day before the first notice is delivered to shareholders.

(e) Unless the bylaws require otherwise, if an annual or special shareholders’ meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, and place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under Section 33‑7‑107, however, notice of the adjourned meeting must be given under this section to persons who are shareholders as of the new record date.

**SECTION 33‑7‑106.** Waiver of notice.

(a) A shareholder may waive any notice required by Chapters 1 through 20 of this Title, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A shareholder’s attendance at a meeting:

(1) waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting;

(2) waives objection to consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

**SECTION 33‑7‑107.** Record date.

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

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

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

(d) If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

ARTICLE 2.

 VOTING

**SECTION 33‑7‑200.** Shareholders’ list for meeting.

(a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders’ meeting. The list must be arranged by voting group (and within each voting group by class or series of shares) and show the address of and number of shares held by each shareholder.

(b) The shareholders’ list must be available for inspection by any shareholder, beginning, in the case of corporations which are not public corporations, on the date on which notice of the meeting is given for which the list was prepared and, in the case of public corporations, not later than the fifth business day following such date, in either case, continuing through the meeting, at the corporation’s principal office or at place identified in the meeting notice in the city where the meeting is to be held. A shareholder, his agent, or attorney is entitled on written demand to inspect and, subject to the requirements of Section 33‑16‑102(c), to copy the list, during regular business hours and at his expense, during the period it is available for inspection.

(c) The corporation shall make the shareholders’ list available at the meeting, and any shareholder, his agent, or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a shareholder, his agent, or attorney to inspect the shareholders’ list before or at the meeting (or copy the list as permitted by subsection (b)), the circuit court of the county where a corporation’s principal office (or, if none in this State, its registered office) is located, on application of the shareholder, may summarily order the inspection or copying at the corporation’s expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(e) Refusal or failure to prepare or make available the shareholders’ list does not affect the validity of action taken at the meeting.

**SECTION 33‑7‑210.** Voting entitlement of shares.

(a) Except as provided in subsections (b) and (c), unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders’ meeting.

(b) Absent special circumstances, the shares of a corporation are not entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(c) Subsection (b) does not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(d) Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

**SECTION 33‑7‑220.** Proxies.

(a) A shareholder may vote his shares in person or by proxy.

(b) A shareholder or his agent or attorney in fact may appoint a proxy to vote or otherwise act for him, including giving waivers and consents, by signing an appointment form or by an electronic transmission of appointment. The electronic transmission must contain or be accompanied by sufficient information to determine that the transmission appointing the proxy is authorized. A proxy must have an effective date. If not dated by the person giving the proxy, the effective date of the proxy is the date on which it is received by the person appointed to serve as proxy, and that date must be noted by the appointee on the appointment form.

(c) An appointment of a proxy is effective when the appointment form or electronic transmission is received by the secretary or other officer or agent authorized to tabulate votes. Unless a time of expiration is otherwise specified, an appointment is valid for eleven months.

(d) An appointment of a proxy is revocable by the shareholder unless the appointment form or electronic transmission conspicuously states that it is irrevocable and the appointee is:

(1) a pledgee;

(2) a person who purchased or agreed to purchase the shares;

(3) a creditor of the corporation who extended it credit under terms requiring the appointment;

(4) an employee of the corporation whose employment contract requires the appointment; or

(5) a party to a voting agreement created under Section 33‑7‑310.

(e) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy’s authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority pursuant to the appointment.

(f) An appointment made irrevocable as provided by subsection (d) is revoked when the interest with which it is coupled is extinguished.

(g) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he did not know of its existence when he acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(h) Subject to Section 33‑7‑240 and to an express limitation on the proxy’s authority appearing on the face of the appointment form or electronic transmission, a corporation may accept the proxy’s vote or other action as that of the shareholder making the appointment.

(i) A proxy may not be solicited on the basis of any proxy statement or other communication, written or oral, containing a statement which, at the time and in light of the circumstances under which it was made, was false or misleading with respect to a material fact or which omits to state a material fact necessary to make the statements made not false or misleading.

(j) A copy, facsimile transmission, or other reliable reproduction of the appointment form or electronic transmission created pursuant to subsection (b) of this section may be substituted or used instead of the original appointment form or electronic transmission for all purposes for which the original appointment form or electronic transmission is used, except that the copy, facsimile transmission, or other reproduction must be a complete reproduction of the entire original appointment form or electronic transmission.

**SECTION 33‑7‑230.** Shares held by nominees.

(a) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

(b) The procedure may set forth:

(1) the types of nominees to which it applies;

(2) the rights or privileges that the corporation recognizes in a beneficial owner;

(3) the manner in which the procedure is selected by the nominee;

(4) the information that must be provided when the procedure is selected;

(5) the period for which selection of the procedure is effective; and

(6) other aspects of the rights and duties created.

**SECTION 33‑7‑240.** Corporation’s acceptance of votes.

(a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is entitled nevertheless to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(1) the shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) the name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(3) the name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(4) the name signed purports to be that of a pledgee, beneficial owner, or attorney‑in‑fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory’s authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment;

(5) two or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name of at least one of the co‑owners and the person signing appears to be acting on behalf of all the co‑owners.

(c) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory’s authority to sign for the shareholder.

(d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

**SECTION 33‑7‑250.** Quorum and voting requirements for voting groups.

(a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or Chapters 1 through 20 of this Title provides otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a share is represented for any purpose at a meeting, it is considered present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter (other than the election of directors) by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or Chapters 1 through 20 of this Title requires a greater number of affirmative votes.

(d) An amendment of the articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (a) or (c) is governed by Section 33‑7‑270.

(e) The election of directors is governed by Section 33‑7‑280.

**SECTION 33‑7‑260.** Action by single and multiple voting groups.

(a) If the articles of incorporation or Chapters 1 through 20 of this Title provides for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in Section 33‑7‑250.

(b) If the articles of incorporation or Chapters 1 through 20 of this Title provides for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in Section 33‑7‑250. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

**SECTION 33‑7‑270.** Greater quorum or voting requirements.

(a) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is provided for by Chapters 1 through 20 of this Title.

(b) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

(c) A corporation in existence on the effective date of Chapters 1 through 20 of this Title that has authorized a greater quorum or voting right for shareholders (or voting groups of shareholders) than is provided in Chapters 1 through 20 of this Title solely in its bylaws shall amend its articles of incorporation to meet the requirements of subsection (a) by January 1, 1991, in order for these shareholder voting rights to remain effective beyond that date.

**SECTION 33‑7‑280.** Voting for directors; cumulative voting.

(a) Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(b) Shareholders have a right to cumulate their votes for directors unless the articles of incorporation otherwise provide. The right to cumulate votes means that the shareholders are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.

(c) Shares otherwise entitled to vote cumulatively may not be voted cumulatively at a particular meeting unless:

(1) the meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or

(2) a shareholder who has the right to cumulate his votes shall either (1) give written notice of his intention to the president or other officer of the corporation not less than forty‑eight hours before the time fixed for the meeting, which notice must be announced in the meeting before the voting, or (2) announce his intention in the meeting before the voting for directors commences; and all shareholders entitled to vote at the meeting shall without further notice be entitled to cumulate their votes. If cumulative voting is to be used, persons presiding may, or if requested by any shareholder shall, recess the meeting for a reasonable time to allow deliberation by shareholders, not to exceed two hours.

(d) The articles of a corporation may not be amended to remove cumulative voting if the votes cast against the amendment would be sufficient to elect a director to the board of directors if cumulatively voted at an election of the entire board of directors, or, if there are classes of directors, at an election of a director of any class of directors.

ARTICLE 3.

 VOTING TRUSTS AND AGREEMENTS

**SECTION 33‑7‑300.** Voting trusts.

(a) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust (which may include anything consistent with its purpose) and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation’s principal office. A complete and current list of the names and addresses of all owners of beneficial interests in the trust and the number and class of shares represented by the certificates held by them and the dates on which they became owners must be kept on file at the office of the trustee and at the corporation’s principal office.

(b) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee’s name. A voting trust is valid for not more than ten years after its effective date unless extended under subsection (c).

(c) All or some of the parties to a voting trust may extend the voting trust for additional terms of not more than ten years each by signing an extension agreement and obtaining the voting trustee’s written consent to the extension. An extension is valid for ten years from the date the first shareholder signs the extension agreement. The voting trustee must deliver copies of the extension agreement and list of beneficial owners to the corporation’s principal office. An extension agreement binds only those parties signing it.

(d) To the extent provided by the voting trust agreement, the trustees are entitled to vote without the consent of the voting trust certificate holders upon all amendments of the articles and upon any merger, consolidation, dissolution, sale of assets, reduction of stated capital of the corporation, or other matter on which a record owner of shares is entitled to vote. Except to the extent provided otherwise by the voting trust agreement, the voting trust certificate holder has all voting rights, dissenter’s rights, inspection rights, and other rights available to shareholders under this section.

**SECTION 33‑7‑310.** Voting agreements.

(a) Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to the provisions of Section 33‑7‑300.

(b) A voting agreement created under this section is specifically enforceable.

ARTICLE 4.

 DERIVATIVE PROCEEDINGS

**SECTION 33‑7‑400.** Procedure in derivative proceedings.

Derivative suits may be maintained on behalf of South Carolina corporations in federal and state court in accordance with the applicable rules of civil procedure.