

hbd-27

Bill No. HB 575, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Goodlette offered the following:

Amendment (with title amendment)

On page 2, lines 3 and 4,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. Effective July 1, 2001, subsection (9) of section 607.01401, Florida Statutes, is amended to read:

607.01401 Definitions.--As used in this act, unless the context otherwise requires, the term:

(9) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient. For purposes of proxy voting in accordance with ss. 607.0721, 607.0722, and 607.0724, the term includes, but is not limited to, telegrams, cablegrams, telephone transmissions, and transmissions through the Internet.

Section 4. Effective July 1, 2001, section 607.0722, Florida Statutes, is amended to read:

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1 607.0722 Proxies.--

2 (1) A shareholder, other person entitled to vote on
3 behalf of a shareholder pursuant to s. 607.0721, or attorney
4 in fact for a shareholder may vote the shareholder's shares in
5 person or by proxy.

6 (2)(a) A shareholder, other person entitled to vote on
7 behalf of a shareholder pursuant to s. 607.0721, or attorney
8 in fact for a shareholder may appoint a proxy to vote or
9 otherwise act for the shareholder by signing an appointment
10 form or by electronic transmission, either personally or by
11 the shareholder's attorney in fact. Any type of electronic
12 transmission appearing to have been, or containing or
13 accompanied by such information or obtained under such
14 procedures to reasonably ensure that the electronic
15 transmission was, transmitted by such person is a sufficient
16 appointment, subject to the verification requested by the
17 corporation under s. 607.0724.~~An executed telegram or~~
18 ~~cablegram appearing to have been transmitted by such person,~~
19 ~~or a photographic, photostatic, or equivalent reproduction of~~
20 ~~an appointment form, is a sufficient appointment form.~~

21 (b) Without limiting the manner in which a
22 shareholder, other person entitled to vote on behalf of a
23 shareholder pursuant to s. 607.0721, or attorney in fact for a
24 shareholder may appoint a proxy to vote or otherwise act for
25 the shareholder pursuant to paragraph (a), a shareholder,
26 other person entitled to vote on behalf of a shareholder
27 pursuant to s. 607.0721, or attorney in fact for a shareholder
28 may make grant such an appointment authority by:

29 1. Signing an appointment form, with the signature
30 affixed, or having such form signed by the shareholder's
31 authorized officer, director, employee, or agent by any

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1 reasonable means including, but not limited to, facsimile or
2 electronic signature.

3 2. Transmitting or authorizing the transmission of an
4 ~~a telegram, cablegram, or other means of~~ electronic
5 transmission to the person who will be appointed as the proxy
6 or to a proxy solicitation firm, proxy support service
7 organization, registrar, or agent authorized by the person who
8 will be designated as the proxy to receive such transmission.
9 However, any ~~telegram, cablegram, or other means of~~ electronic
10 transmission must set forth or be submitted with information
11 from which it can be determined that the electronic
12 transmission was authorized by the shareholder, other person
13 entitled to vote on behalf of a shareholder pursuant to s.
14 607.0721, or attorney in fact for a shareholder. If it is
15 determined that the electronic transmission is valid, the
16 inspectors of election or, if there are no inspectors, such
17 other persons making that determination shall specify the
18 information upon which they relied.

19 (3) An appointment of a proxy is effective when
20 received by the secretary or other officer or agent authorized
21 to tabulate votes. An appointment is valid for up to 11
22 months unless a longer period is expressly provided in the
23 appointment form.

24 (4) The death or incapacity of the shareholder
25 appointing a proxy does not affect the right of the
26 corporation to accept the proxy's authority unless notice of
27 the death or incapacity is received by the secretary or other
28 officer or agent authorized to tabulate votes before the proxy
29 exercises his or her authority under the appointment.

30 (5) An appointment of a proxy is revocable by the
31 shareholder unless the appointment form or electronic

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1 transmission conspicuously states that it is irrevocable and
2 the appointment is coupled with an interest. Appointments
3 coupled with an interest include the appointment of:
4 (a) A pledgee;
5 (b) A person who purchased or agreed to purchase the
6 shares;
7 (c) A creditor of the corporation who extended credit
8 to the corporation under terms requiring the appointment;
9 (d) An employee of the corporation whose employment
10 contract requires the appointment; or
11 (e) A party to a voting agreement created under s.
12 607.0731.
13 (6) An appointment made irrevocable under subsection
14 (5) becomes revocable when the interest with which it is
15 coupled is extinguished ~~and, in a case provided for in~~
16 ~~paragraph (5)(c) or paragraph (5)(d), the proxy becomes~~
17 ~~revocable 3 years after the date of the proxy or at the end of~~
18 ~~the period, if any, specified therein, whichever is less,~~
19 ~~unless the period of irrevocability is renewed from time to~~
20 ~~time by the execution of a new irrevocable proxy as provided~~
21 ~~in this section. This does not affect the duration of a proxy~~
22 ~~under subsection (3).~~
23 (7) A transferee for value of shares subject to an
24 irrevocable appointment may revoke the appointment if the
25 transferee did not know of its existence when he or she
26 acquired the shares and the existence of the irrevocable
27 appointment was not noted conspicuously on the certificate
28 representing the shares or on the information statement for
29 shares without certificates.
30 (8) Subject to s. 607.0724 and to any express
31 limitation on the proxy's authority appearing on the face of

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1 the appointment form or in the electronic transmission, a
2 corporation is entitled to accept the proxy's vote or other
3 action as that of the shareholder making the appointment.

4 (9) If an appointment form expressly provides, any
5 proxy holder may appoint, in writing, a substitute to act in
6 his or her place.

7 (10) Any copy, facsimile transmission, or other
8 reliable reproduction of the writing or electronic
9 transmission created under paragraph (2) may be substituted or
10 used in lieu of the original writing or electronic
11 transmission for any purpose for which the original writing or
12 electronic transmission could be used if the copy, facsimile
13 transmission, or other reproduction is a complete reproduction
14 of the entire original writing or electronic transmission.

15 (11) A corporation may adopt bylaws authorizing
16 additional means or procedures for shareholders to use in
17 exercising rights granted by this section.

18 Section 5. Except as otherwise provided herein, this
19 act shall take effect upon becoming a law.

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22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 1, lines 8 and 9,
25 remove from the title of the bill: all of said lines

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27 and insert in lieu thereof:

28 under certain circumstances; amending s.
29 607.01401, F.S.; redefining the term
30 "electronic transmission" to include telegrams,
31 cablegrams, telephone transmissions, and

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1 transmissions through the Internet for purposes
2 of proxy voting; amending s. 607.0722, F.S.;
3 specifying those persons who may vote on behalf
4 of a shareholder; authorizing the appointment
5 of a proxy by electronic transmission; deleting
6 provisions limiting the period during which an
7 appointment of proxy is irrevocable;
8 authorizing the use of certain copies or
9 reproductions in lieu of the original writing
10 or electronic transmission; authorizing a
11 corporation to adopt bylaws authorizing
12 additional procedures for shareholders to use
13 in exercising certain rights; providing
14 effective dates.

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