

Senate Bill 436

By: Senators Cowsert of the 46th, Harp of the 29th, Weber of the 40th, Meyer von Bremen of the 12th, Adelman of the 42nd and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 14 of the Official Code of Georgia Annotated, relating to
2 business corporations, so as to change provisions relating to voting for directors in publicly
3 traded corporations; to provide for a contingency resignation of a director, which may be
4 irrevocable; to change certain provisions relating to vacancies on a board; to change certain
5 provisions relating to amending bylaws by the board of directors or shareholders; to correct
6 cross-references; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 2 of Title 14 of the Official Code of Georgia Annotated, relating to business
11 corporations, is amended by revising subsection (a) of Code Section 14-2-728, relating to
12 voting for directors and cumulative voting, as follows:

13 "(a) Unless otherwise provided in:

14 (1) The the articles of incorporation; or

15 (2) A bylaw that fixes a greater voting requirement for the election of directors and that
16 is adopted by the board of directors of a corporation having shares listed on a national
17 securities exchange or regularly traded in a market maintained by one or more members
18 of a national or affiliated securities association,

19 directors are elected by a plurality of the votes cast by the shares entitled to vote in the
20 election. Action to elect directors may be taken at a meeting ~~at which~~ only if a quorum is
21 present."

22 **SECTION 2.**

23 Said chapter is further amended by revising Code Section 14-2-807, relating to resignation
24 of directors, as follows:

1 "14-2-807.

2 (a) A director may resign at any time by delivering notice in writing or by electronic
3 transmission to the board of directors, its chairman, or to the corporation.

4 (b) A resignation is effective when the notice is delivered unless the notice specifies either
5 a later effective date or an effective date determined upon the happening of an event.

6 (c) A resignation that is conditioned upon the happening of an event may provide that it
7 is irrevocable."

8 SECTION 3.

9 Said chapter is further amended by revising subsection (c) of Code Section 14-2-810, relating
10 to vacancy on a board, as follows:

11 "(c) A vacancy that ~~will~~ may occur at a ~~specific~~ later date (by reason of a resignation
12 effective at a later date under subsection (b) of Code Section 14-2-807 or otherwise) may
13 be filled before the vacancy occurs but the new director may not take office until the
14 vacancy occurs."

15 SECTION 4.

16 Said chapter is further amended by revising subsection (b) of Code Section 14-2-1020,
17 relating to an amendment by a board of directors or shareholders, as follows:

18 "(b) A corporation's shareholders may amend or repeal the corporation's bylaws or adopt
19 new bylaws even though the bylaws may also be amended or repealed by its board of
20 directors; provided, however, that unless the articles of incorporation provide otherwise,
21 the shareholders may not amend (but may repeal) a bylaw adopted by the board of directors
22 pursuant to subsection (a) of Code Section 14-2-728 or adopt a bylaw changing the
23 plurality standard for the election of directors set forth in such subsection."

24 SECTION 5.

25 Said chapter is further amended by revising Code Section 14-2-1021, relating to bylaws
26 increasing quorum or voting requirement for shareholders, as follows:

27 "14-2-1021.

28 (a) Except as provided in subsection (b) of Code Section 14-2-1020, a ~~A~~ bylaw adopted
29 by the shareholders may fix a greater quorum or voting requirement for shareholders (or
30 voting groups of shareholders) than is required by this chapter. A bylaw in effect on July
31 1, 1989, fixing a greater quorum or voting requirement for shareholders (or voting groups
32 of shareholders) than is required by this chapter shall remain valid until amended or
33 repealed as provided in subsection (b) of this Code section.

1 (b) Except as provided in Code Section 14-2-1020, 14-2-1113, or 14-2-1133, a bylaw
2 adopted by the shareholders that fixes a greater quorum or voting requirement for
3 shareholders under subsection (a) of this Code section may not be adopted, amended, or
4 repealed by the board of directors."

5 **SECTION 6.**

6 All laws and parts of laws in conflict with this Act are repealed.