

§732. Judicial determination of corporate offices and review of elections and shareholder votes

1. Judicial determinations authorized. Upon application of or in a proceeding commenced by a person specified in subsection 2, the Superior Court of the county where a corporation's principal office or, if none in this State, its registered office, is located may determine:

- A. The validity of the election, appointment, removal or resignation of the director or officer of the corporation; [PL 2015, c. 259, §10 (NEW).]
- B. The right of an individual to hold the office of director or officer of the corporation; [PL 2015, c. 259, §10 (NEW).]
- C. The result or validity of an election or vote by the shareholders of the corporation; [PL 2015, c. 259, §10 (NEW).]
- D. The right of a director to membership on a committee of the board of directors; and [PL 2015, c. 259, §10 (NEW).]
- E. The right of a person to nominate or an individual to be nominated as a candidate for election or appointment as a director of the corporation, and any right under a bylaw adopted pursuant to section 206, subsection 2 or any comparable right under any provision of the articles of incorporation, contract or applicable law. [PL 2015, c. 259, §10 (NEW).]

[PL 2015, c. 259, §10 (NEW).]

2. Persons entitled to commence proceedings. An application or proceeding pursuant to subsection 1 may be filed or commenced by any of the following persons:

- A. The corporation; [PL 2015, c. 259, §10 (NEW).]
- B. A record shareholder or beneficial shareholder of the corporation; [PL 2015, c. 259, §10 (NEW).]
- C. A director of the corporation, an individual claiming the office of the director or a director whose membership on a committee of the board of directors is contested, in each case who is seeking a determination of that individual's right to such office or membership; [PL 2015, c. 259, §10 (NEW).]
- D. An officer of the corporation or an individual claiming to be an officer of the corporation who is seeking a determination of the individual's right to such office; and [PL 2015, c. 259, §10 (NEW).]
- E. A person claiming a right covered by subsection 1, paragraph E and who is seeking a determination of such right. [PL 2015, c. 259, §10 (NEW).]

[PL 2015, c. 259, §10 (NEW).]

3. Named defendants. In connection with any application or proceeding under subsection 1, the following must be named as defendants, unless that person made the application or commenced the proceeding:

- A. The corporation; [PL 2015, c. 259, §10 (NEW).]
- B. An individual whose right to office or membership on a committee of the board of directors is contested; [PL 2015, c. 259, §10 (NEW).]
- C. An individual claiming the office or membership at issue; and [PL 2015, c. 259, §10 (NEW).]
- D. A person claiming a right covered by subsection 1, paragraph E that is at issue. [PL 2015, c. 259, §10 (NEW).]

[PL 2015, c. 259, §10 (NEW).]

4. Service of process. In connection with any application or proceeding under subsection 1, service of process may be made upon each of the persons specified in subsection 3 by either:

A. Serving on the corporation process in any manner provided by statute of this State or by rule of the applicable court for service on the corporation; or [PL 2015, c. 259, §10 (NEW).]

B. Service of process on such person in any manner provided by statute of this State or by rule of applicable court. [PL 2015, c. 259, §10 (NEW).]

[PL 2015, c. 259, §10 (NEW).]

5. Notice of service of process. When service of process is made upon a person other than the corporation by service upon the corporation pursuant to subsection 4, paragraph A, the plaintiff and the corporation or its registered agent shall promptly provide written notice of such service, together with copies of all process and the application or complaint, to such person at the person's last known residence or business address, or as permitted by statute of this State or by rule of the applicable court. [PL 2015, c. 259, §10 (NEW).]

6. Expedited proceedings; remedies. In connection with any application or proceeding under subsection 1, the court shall dispose of the application or proceeding on an expedited basis and also may:

A. Order such additional or further notice as the court considers proper under the circumstances; [PL 2015, c. 259, §10 (NEW).]

B. Order that additional persons be joined as parties to the proceeding if the court determines that such joinder is necessary for a just adjudication of matters before the court; [PL 2015, c. 259, §10 (NEW).]

C. Order an election or meeting to be held in accordance with the provisions of section 703, subsection 2 or otherwise; [PL 2015, c. 259, §10 (NEW).]

D. Appoint a master to conduct an election or meeting; [PL 2015, c. 259, §10 (NEW).]

E. Enter temporary, preliminary or permanent injunctive relief; [PL 2015, c. 259, §10 (NEW).]

F. Resolve solely for the purpose of this proceeding any legal or factual issues necessary for the resolution of any of the matter specified in subsection 1, including the right and power of persons claiming to own shares to vote at any meeting of the shareholders; and [PL 2015, c. 259, §10 (NEW).]

G. Order such relief as the court determines is equitable, just and proper. [PL 2015, c. 259, §10 (NEW).]

[PL 2015, c. 259, §10 (NEW).]

7. Shareholders as parties. It is not necessary to make a shareholder a party to a proceeding or application pursuant to this section unless the shareholder is a required defendant under subsection 3, paragraph D, relief is sought against the shareholder individually or the court orders joinder pursuant to subsection 6, paragraph B.

[PL 2015, c. 259, §10 (NEW).]

8. Jurisdiction or powers not exclusive. Nothing in this section limits, restricts or abolishes the subject matter jurisdiction or powers of the court as existed prior to the enactment of this section and an application or proceeding available with respect to the matters specified in subsection 1.

[PL 2015, c. 259, §10 (NEW).]

9. Right to jury trial. In any proceeding commenced under this section there is no right to a jury trial.

[PL 2015, c. 259, §10 (NEW).]

SECTION HISTORY

PL 2015, c. 259, §10 (NEW).

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