

2023 Kansas Statutes

17-6522. Notice to stockholders; consent to electronic transmission. (a) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of this code or the articles of incorporation or bylaws may be given in writing directed to the stockholder's postal address, or by electronic transmission directed to the stockholder's electronic mail address, as applicable, as it appears on the records of the corporation and shall be given: (1) If mailed, when the notice is deposited in the U.S. mail, postage prepaid; (2) if delivered by courier service, the earlier of when the notice is received or left at such stockholder's address; or (3) if given by electronic mail, when directed to such stockholder's electronic mail address unless the stockholder has notified the corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by subsection (e). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the corporation.

(b) Without limiting the manner by which notice otherwise may be given effectively to stockholders, but subject to subsection (e), any notice to stockholders given by the corporation under any provision of this code or the articles of incorporation or bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice or electronic transmission to the corporation. A corporation may give a notice by electronic mail in accordance with subsection (a) without obtaining the consent required by this subsection.

(c) Notice given pursuant to subsection (b) shall be deemed given:

- (1) If by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;
- (2) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of:
 - (A) Such posting; and
 - (B) the giving of such separate notice; and
- (3) if by any other form of electronic transmission, when directed to the stockholder.

(d) For purposes of this code:

- (1) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases or one or more distributed electronic networks or databases, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process;
- (2) "electronic mail" means an electronic transmission directed to a unique electronic mail address, including any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information; and
- (3) "electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique username or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(e) Notwithstanding the provisions of this section, a notice shall not be given by an electronic transmission from and after the time that the corporation is unable to deliver by such electronic transmission two consecutive notices given by the corporation and such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice, but the inadvertent failure to discover such inability shall not invalidate any meeting or other action.

(f) An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated in the affidavit.

(g) No provision of this section, except for subsections (a)(1), (d)(2) and (d)(3), shall apply to K.S.A. 17-6414, 17-6906, 17-7001 or 17-7002, and amendments thereto.

History: L. 2004, ch. 143, § 46; L. 2016, ch. 110, § 63; L. 2023, ch. 66, § 28; July 1.