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Shareholder and Board Meeting Fact Sheet for HDFC Cooperatives

Annual Shareholder Meetings - emergency changes

- The New York State Business Corporation Law in section 602 requires business corporations, including co-ops, to hold annual meetings for the selection of board members.
- Governor Cuomo's Executive Order 202.8 issued on March 20, 2020 suspended section 602 (a) and (b) and section 605 of the Business Corporation Law to the extent they require meetings of shareholders to be noticed and held at a physical location. Subsequently, an amendment to the law went into effect on June 17, 2020 allowing electronic meetings for the "duration of the state disaster emergency".¹
 - Annual meetings may be held by reasonable means which may include:
 - Audio webcast or other broadcast of the meeting and voting may be conducted electronically via internet voting
- Executive Order 202.18 issued on April 16, expanded the suspension of physical meetings to NYS not-for profit corporations as well.

Board Meetings - emergency changes

- Meetings by Conference Call: BCL §708(c) allows Board meetings to be held by conference telephone provided the Board members may participate by means of a conference call or similar communications equipment allowing all persons participating to hear each other at the same time. (Unless restricted by the Certificate of Incorporation or by the by-laws)
- Decisions by Unanimous Consent. Unless restricted by the Certificate of Incorporation or by-laws, boards are authorized by BCL 708(b) to take any action required/permitted to be taken by the board or any committee without a meeting as long as all members agree **in writing** to the adoption of a resolution authorizing the action. The State law passed on June 17, 2020 allows the written consent of a member to be made electronically for the duration of the state disaster emergency.
- If actions are taken in a conference call meeting or by unanimous electronic consent:
 - The board should document the necessity of the meeting and decisions made
 - The board can then ratify the decisions at the next meeting

¹ <https://chm.memberclicks.net/assets/Read%20Bill%20-%20SB%208412%20-%20Chap%20122%20of%20Laws%20of%202020.pdf>





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Annual Meeting Virtual Procedures and Guidelines

- Selecting a Digital Platform for the annual meeting:
 - Board must provide shareholders not physically present a “reasonable opportunity” to participate in the proceedings and to vote or grant proxies by electronic means.
 - Considerations for selecting the platforms: number of expected participants, the ability of the board to control audience questions and comments and regulate discourse, and the ability to display documents presented at the meeting.
 - Boards should consider the shareholders’ access to computers and other devices.
 - Two possible options:
 - Honest Ballot Association
 - ElectionsOnline
- Nominations:
 - Most HDFC by-laws don’t provide for a nomination process, but the board can adopt one as a board resolution. This might be especially helpful if a virtual meeting is planned.
 - Think about having a prior virtual “Meet the Candidates” with personal statements from nominees
- Notice:
 - Section 605 of the Business Corporation law allows notice to be either written or electronic no less than 10 and/or more than 50 days before the meeting.
 - Notice should include:
 - Time and date of meeting
 - State that the meeting will be entirely virtual
 - Explain the process for voting and attendance
 - Include dial in numbers and other information that will allow shareholders and proxies to attend





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- Quorum
 - Secretaries/Inspectors of the meeting must take roll to determine if quorum is met
 - A record of those who attend the meeting should be created as the law requires that a record of all votes taken at the meeting be kept
- Voting:
 - Board may create a procedure for electronic ballots
 - Shareholders may also vote by sending an email or text to the inspector of the meeting
 - Proxies may also be electronic

Other Resources:

<https://www.habitatmag.com/Publication-Content/Board-Operations/2020/2020-June/How-to-Conduct-a-Virtual-Annual-Meeting>

<https://cooperator.com/article/holding-board-shareholder-meetings-under-social-distancing/full>

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