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## EXEMPT ORGANIZATIONS INFORMATION MEMO

DECEMBER 14, 2022

### Updating Your Bylaws? Don't Miss Out on New Technical "Fixes" in the Not-for-Profit Corporation Law

On Nov. 21, 2022, Governor Hochul signed legislation which updates the Not-for-Profit Corporation Law (NPCL) to align with modern practices, streamline procedures and eliminate unnecessary regulatory burdens. This is part of a greater effort to provide nonprofit organizations with greater clarity and comfort in interpreting more ambiguous provisions of the NPCL. The full text of the amendments can be found [here](#). We've included brief summaries and explanations of the amendments, as follows:

**To explicitly allow unanimous consent of members and directors to act without a meeting by any electronic means, in addition to via "electronic mail."** Nonprofits routinely use electronic portals to collect votes which can often be more efficient than collecting votes by email. This amendment represents a change made to reflect current practices and provides confirmation to organizations using such portals. See NPCL Sections 614(a) and 708(b).

**To allow a director appointed or elected to fill a vacancy to hold office until the end of the term for the office they were appointed or elected to fill.** Previously, replacement directors could only be elected by the Board of Directors to hold office until the next annual meeting of the members or directors. This amendment provides that vacancies are to be filled for the remainder of the unexpired term, and also allows the board to select a different period (if more appropriate) that concludes at an annual meeting. See NPCL Section 705(c).

**To clarify language ensuring that directors and/or committee members who have to leave a meeting are still present for the purposes of a quorum.** Board and/or committee action is only approved if a quorum is present at the time of the vote. However, in some instances, a meeting begins with a quorum, but one or more directors or committee members must leave the meeting due to a conflict of interest. This amendment confirms that under these circumstances, the quorum would not be disrupted, and board or committee action could properly take place. See NPCL 708(d).

If you have any questions or concerns related to NPCL updates or issues involving 501(c)(3) tax-exempt organizations, please contact [Thomas W. Simcoe](#), [Delaney M. R. Knapp](#) or the attorney at the firm with whom you are regularly in contact.



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