



To: Members of the NHF Board of Directors
From: Arthur J. Wylene, General Counsel
Date: November 2, 2021
Re: NHF Resolution TC001-21: Authorizing Remote and Hybrid
Teleconference Meetings of the NHF Board of Directors Pursuant to
Assembly Bill 361 – **ACTION**

Summary

The proposed resolution will allow the Board of Directors to transition back to holding meetings primarily in-person at the NHF offices, while still permitting full remote participation for those members who are unable to attend in person, or prefer to participate virtually.

Background

In accordance with Section 5(k) of the NHF Bylaws, meetings of the NHF Board of Directors are conducted pursuant to the provisions of the Ralph M. Brown Act. The Brown Act has traditionally placed significant restrictions on teleconferenced meetings, including requiring that each teleconference location be accessible to the public (i.e., participation of Board members from homes or private offices has not been permitted).

In the early days of the COVID-19 pandemic, the Governor issued a series of Executive Orders temporarily suspending the restrictions on teleconferenced meetings, under which most NHF Board meetings have been conducted during the last year-and-a-half. These Executive Orders terminated on September 30, 2021. In their place, the Legislature has enacted Assembly Bill 361 (R. Rivas), which permits legislative bodies to continue holding teleconferenced meetings without the traditional Brown Act restrictions (through December 2023) under any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a

result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

At present, neither the California Department of Public Health nor the Sacramento County Health Officer have imposed or recommended social distancing measures. Therefore, to continue to continue holding teleconferenced meetings in the manner to which Board members have become accustomed, each of NHF's legislative bodies will need to make the alternative determinations required by Assembly Bill 361. These determinations are factually supportable, as the continued rates of transmission of the COVID-19 virus, including the Delta variant, can indeed present imminent risks to the health and safety of some in-person attendees, particularly those with pre-existing health conditions.

If the proposed resolution making these determinations is approved, the Board may continue holding remote and hybrid in-person/remote meetings in substantially the same manner as it has during the past 18 months. (Assembly Bill 361 includes several additional requirements for teleconferenced meetings, including providing an opportunity for "real time" public comment, and suspending the meeting in the event that remote connectivity is lost; however, these are all consistent with NHF's existing practices.)

Assembly Bill 361 generally requires that the requisite determinations must be reconsidered every thirty days. Since NHF's legislative bodies typically do not meet that frequently, a new resolution making these determinations will be required at the start of each meeting.

Recommendation

It is recommended that the Board of Directors approve the proposed Resolution Authorizing Remote and Hybrid Teleconference Meetings of the NHF Board of Directors Pursuant to Assembly Bill 361.

Attachment

- Proposed Resolution TC001-21