



State of Tennessee
PUBLIC CHAPTER NO. 680

SENATE BILL NO. 2202

By Norris, Johnson

Substituted for: House Bill No. 2340

By McCormick, Elam

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 2 and Title 56, Chapter 3, relative to custodial agreements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-2-104(c), is amended by deleting the subsection in its entirety.

SECTION 2. Tennessee Code Annotated, Section 56-2-117, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 56-3-112, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Title 56, Chapter 3, is amended by adding the following language as a new Part 9:

56-3-901. Purpose.

The purpose of this part is to authorize insurance companies to utilize modern systems for holding and transferring securities without physical delivery of securities certificates, subject to rules and regulations promulgated by the commissioner pursuant to this part.

56-3-902. Definitions.

As used in this part:

(1)(A) "Clearing corporation" means:

(i) A corporation as defined in § 8-102(a) of the Uniform Commercial Code as adopted by the National Conference of Commissioners on Uniform State Laws and the American Law Institute, as amended from time to time; and

(ii) "Treasury/Reserve Automated Debt Entry Securities System" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S.C. § 3100 et seq., 12 U.S.C. Part 391 and 5 U.S.C. Part 301;

(B) With respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "clearing corporation" also means a corporation which is organized or existing under the laws of any foreign country and is legally qualified under such laws to effect transactions in securities by computerized book-entry;

(2) "Commissioner" means the Commissioner of the Department of Commerce and Insurance;

(3) "Custodian" means a national bank, state bank, federal home loan bank, trust company or broker/dealer that participates in a clearing corporation; and

(4) "Securities" means instruments as defined in § 8-102(a) of the Uniform Commercial Code as adopted by the National Conference of Commissioners on Uniform State Laws and the American Law Institute, as amended from time to time.

56-3-903. Use of book-entry systems.

(a)(1) A domestic insurance company may deposit, or arrange for the deposit of, securities held in or purchased for its general account and its separate accounts in a clearing corporation.

(2) When securities are deposited with a clearing corporation:

(A) Certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities; and

(B) Certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations.

(3) The records of any custodian through which an insurance company holds securities in a clearing corporation shall at all times show that such securities are held for such insurance company and for which accounts.

(4) Ownership of, and other interest in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities.

(b) The commissioner is authorized to promulgate rules and regulations governing the deposit by insurance companies of securities with clearing corporations, including establishing standards for national banks, state banks, federal home loan banks, trust companies and broker/dealers to qualify as custodians for insurance company securities.

56-3-904. Deposit of securities by domestic insurance companies.

(a)(1) Securities qualified for deposit under § 56-2-104, may be deposited with a clearing corporation.

(2) Securities deposited with a clearing corporation and used to meet the deposit requirements set forth in § 56-2-104 shall be under the control of the commissioner and shall not be withdrawn by the insurance company without the approval of the commissioner.

(b) Any insurance company holding securities as provided in subsection (a) shall provide to the commissioner evidence issued by its custodian through which the insurance company has deposited securities in a clearing corporation, in order to establish that:

(1) The securities are actually recorded in an account in the name of the custodian; and

(2) The records of the custodian reflect that such securities are held subject to the order of the commissioner.

56-3-905. Deposit of securities by insurance companies.

(a)(1) Securities eligible for deposit under the insurance laws of this state relating to deposit of securities by an insurance company as a condition of commencing or continuing to do any insurance business in this state may be deposited with a clearing corporation.

(2) Securities deposited with a clearing corporation and used to meet the deposit requirements under the insurance laws of this state shall be under the control of the commissioner and shall not be withdrawn by the insurance company without the approval of the commissioner.

(b) Any insurance company holding such securities as provided in subsection (a), shall provide to the commissioner evidence issued by its custodian in order to establish that:

(1) The securities are actually recorded in an account in the name of the custodian; and

(2) The records of the custodian reflect that such securities are subject to the order of the commissioner.

SECTION 5. The Commissioner of Commerce and Insurance is authorized to promulgate emergency rules to implement this act.

SECTION 6. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2012, the public welfare requiring it.

SENATE BILL NO. 2202

PASSED: March 19, 2012



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of April 2012



BILL HASLAM, GOVERNOR