

## Senate Bill No. 562

An act relating to ownership or transfer of securities; amending s. 628.461, F.S.; revising notice and filing requirements and providing additional grounds for exemption from provisions relating to acquisition of controlling stock; amending s. 628.4615, F.S.; revising notice and filing requirements and providing additional grounds for exemption from provisions relating to acquisition of controlling stock in a specialty insurer; amending s. 628.511, F.S.; revising provisions authorizing domestic insurers' ownership or transfer of certain securities without physical delivery of certificates; amending s. 628.801, F.S.; modifying the reference date of the Insurance Holding Company System Regulatory Act and Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (2) of section 628.461, Florida Statutes, are amended to read:

628.461 Acquisition of controlling stock.—

(1) ~~A No person may not shall~~, individually or in conjunction with any affiliated person of such person, acquire directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire 5 percent or more of, the outstanding voting securities of a domestic stock insurer or of a controlling company, unless:

(a) The person or affiliated person has filed with the office and sent to the insurer and controlling company a letter of notification regarding the transaction or proposed transaction statement as specified in subsection (3) no later than 5 days after any form of tender offer or exchange offer is proposed, or no later than 5 days after the acquisition of the securities if no tender offer or exchange offer is involved. The notification must be provided on forms prescribed by the commission containing information determined necessary to understand the transaction and identify all purchasers and owners involved; and

(b) Has filed with the office a statement as specified in subsection (3). The statement must be completed and filed within 30 days after:

1. Any definitive acquisition agreement is entered;
2. Any form of tender offer or exchange offer is proposed; or
3. The acquisition of the securities, if no definitive acquisition agreement, tender offer, or exchange offer is involved; and

~~(c)(b)~~ The office has approved the tender or exchange offer, or acquisition if no tender offer or exchange offer is involved, and approval is in effect.

In lieu of a filing as required under this subsection, a party acquiring less than 10 percent of the outstanding voting securities of an insurer may file a disclaimer of affiliation and control. The disclaimer shall fully disclose all material relationships and basis for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation and control. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person unless and until the office disallows the disclaimer. The office shall disallow a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance. A filing as required under this subsection must be made as to any acquisition that equals or exceeds 10 percent of the outstanding voting securities.

(2) This section does not apply to any acquisition of voting securities of a domestic stock insurer or of a controlling company by any person who, on July 1, 1976, is the owner of a majority of such voting securities or who, on or after July 1, 1976, becomes the owner of a majority of such voting securities with the approval of the office under pursuant to this section. The person or affiliated person filing the notice required by paragraph (1)(a) may request, in writing, the office to waive the requirements of paragraph (1)(b) if there is no change in the ultimate controlling shareholder or ownership percentages of the ultimate controlling shareholders and no unaffiliated parties acquire any direct or indirect interest in the insurer. The office may waive the filing if it determines that in fact there is no change in the ultimate controlling shareholder or ownership percentages of the ultimate controlling shareholders and no unaffiliated parties will acquire any direct or indirect interest in the insurer.

Section 2. Subsections (2) and (3) of section 628.4615, Florida Statutes, are amended to read:

628.4615 Specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.—

(2) ~~A No person may not shall~~, individually or in conjunction with any affiliated person of such person, directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire, 10 percent or more of the outstanding voting securities of a specialty insurer which is a stock corporation or of a controlling company of a specialty insurer which is a stock corporation; or conclude an acquisition of, or otherwise finally acquire, 10 percent or more of the ownership interest of a specialty insurer which is not a stock corporation or of a controlling company of a specialty insurer which is not a stock corporation, unless:

(a) The person or affiliated person has filed with the office and sent by registered mail to the principal office of the specialty insurer and controlling company a letter of notification regarding the transaction or proposed transaction an application, signed under oath and prepared on forms prescribed by the commission, that contains the information specified in subsection (4) no later than 5 days after any form of tender offer or exchange offer is

proposed, or no later than 5 days after the acquisition of the securities or ownership interest if no tender offer or exchange offer is involved. The notification must be provided on forms prescribed by the commission containing information determined necessary to understand the transaction and identify all purchasers and owners involved;

(b) Has filed with the office an application signed under oath and prepared on forms prescribed by the commission which contains the information specified in subsection (4). The application must be completed and filed within 30 days after any form of tender offer or exchange offer is proposed, or after the acquisition of the securities if no tender offer or exchange offer is involved; and

(c)(b) The office has approved the tender offer or exchange offer, or acquisition if no tender offer or exchange offer is involved.

(3) This section does not apply to any acquisition of voting securities or ownership interest of a specialty insurer or of a controlling company by any person who, on July 9, 1986, is the owner of a majority of such voting securities or ownership interest or who, on or after July 9, 1986, becomes the owner of a majority of such voting securities or ownership interest with the approval of the office under pursuant to this section. The person or affiliated person filing the required notice in paragraph (2)(a) may request the office to waive the requirements of paragraph (2)(b) if there is no change in the ultimate controlling shareholder or ownership percentages of the ultimate controlling shareholders and no unaffiliated parties acquire any direct or indirect interest in the specialty insurer. The office may waive the filing if it determines that in fact there is no change in the ultimate controlling shareholder or ownership percentages of the ultimate controlling shareholders and no unaffiliated parties will acquire any direct or indirect interest in the specialty insurer.

Section 3. Section 628.511, Florida Statutes, is amended to read:

628.511 Ownership or transfer of securities without physical delivery of certificates Book entry accounting system.—

(1) The purpose of this section is to authorize domestic insurers to use ~~utilize~~ modern systems for holding and transferring securities without physical delivery of securities certificates, subject to appropriate rules of the commission.

(2) The following terms are defined for use in this section:

(a) “Securities” means instruments as defined in s. 678.1021.

(b) “Clearing corporation” means a clearing corporation as defined in s. 678.1021 and includes the Treasury/Reserve Automated Debt Entry System or Treasury Direct book-entry securities systems as established pursuant to 31 U.S.C. chapter 31, 12 U.S.C. s. 391, and 5 U.S.C. s. 301.

(c) “Custodian Direct participant” means a national bank, state bank, or trust company, broker, or dealer that ~~which maintains an account in its~~

name in a clearing corporation and through which an insurance company participates in a clearing corporation.

(d) ~~“Federal Reserve book-entry system” means the computerized systems sponsored by the United States Department of the Treasury and agencies and instrumentalities of the United States for holding and transferring securities of the United States Government and such agencies and instrumentalities, respectively, in Federal Reserve banks through banks which are members of the Federal Reserve System or which otherwise have access to such computerized systems.~~

(e) ~~“Member bank” means a national bank, state bank or trust company which is a member of the Federal Reserve System and through which an insurer participates in the Federal Reserve book-entry system.~~

(3) Notwithstanding any other provision of law, a domestic insurer 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 ~~or in the Federal Reserve book-entry system~~. When securities are deposited with a clearing corporation, 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 certificates representing securities of small denominations may be merged into one or more certificates of larger denominations. The records of any custodian bank through which an insurer holds securities ~~in the Federal Reserve book-entry system, and the records of any custodian banks through which an insurer holds securities in a clearing corporation,~~ shall at all times show that such securities are held for such insurer and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation ~~or in the Federal Reserve book-entry system without, in either case,~~ physical delivery of certificates representing such securities.

(4) The commission may adopt rules governing the deposit by insurers of securities with clearing corporations ~~and in the Federal Reserve book-entry system~~.

Section 4. Section 628.801, Florida Statutes, is amended to read:

628.801 Insurance holding companies; registration; regulation.—Every insurer ~~that which~~ is authorized to do business in this state and ~~that which~~ is a member of an insurance holding company shall register with the office and be subject to regulation with respect to its relationship to the ~~such~~ holding company as provided by rule or statute. The commission shall adopt rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates are ~~shall be~~ regulated. The rules ~~shall~~ apply to domestic insurers, foreign insurers, and commercially domiciled insurers, except for a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all requirements and standards of ss. 4 and 5

of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as the Regulatory Act and the Model Regulation existed on November 30, 2001 ~~January 1, 1997~~, and may include a prohibition on oral contracts between affiliated entities. Upon request, the office may waive filing requirements under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile, which state is accredited by the National Association of Insurance Commissioners.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 15, 2007.

Filed in Office Secretary of State June 15, 2007.