

HOUSE BILL 2340

By McCormick

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 56-2-117, is amended by deleting that section in its entirety.

SECTION 2. Tennessee Code Annotated, Section 56-3-112, is amended by deleting that section in its entirety.

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 3, is further amended by adding a new Part 9, and shall consist of the following language:

56-3-901. Purpose.

The purpose of this Act is to authorize domestic insurance companies to utilize modern systems for holding and transferring securities without physical delivery of securities certificates, subject to appropriate regulations of the commissioner.

56-3-902. Definitions.

As used in this part:

(1) "Clearing Corporation" means a corporation as defined in Section 8-102(a)(5) of the Uniform Commercial Code, except that 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 may include 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. Clearing corporation also includes, "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. pt. 391 and 5 U.S.C. pt. 301.

(2) “Commissioner” means the commissioner of the department of commerce and insurance.

(3) “Custodian” means a national bank, state bank, trust company or broker/dealer that participates in a clearing corporation.

(4) “Securities” means instruments as defined in Section 8-102(a)(5) of the Uniform Commercial Code.

56-3-903. Use of Book-Entry Systems.

(a) Notwithstanding any other provision of law, 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. 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 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. 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, trust companies and broker/dealers to qualify as custodians for insurance company securities.

56-3-904. Deposit of Securities by Domestic Insurance Companies

Notwithstanding any other provision of the law, securities qualified for deposit under this part may be deposited with a clearing corporation. Securities deposited with a clearing corporation and used to meet the deposit requirements set forth in this part shall be under the control of the commissioner and shall not be withdrawn by the insurance company without the approval of the commissioner. Any insurance company holding securities in such manner 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,

(i) That the securities are actually recorded in an account in the name of the custodian, and

(ii) 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 Foreign Insurance Companies

Notwithstanding any other provision of the law, securities eligible for deposit under the insurance law 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. 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. Any insurance company holding such securities in such the manner shall provide to the commissioner evidence issued by its custodian in order to establish that the securities are actually recorded in an account in the name of the custodian and

evidence that the records of the custodian reflect that such securities are subject to the order of the commissioner.

SECTION 4: This act shall take effect July 1, 2012, the public welfare requiring it.