



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5286

by Rep. George Scully, Jr.

SYNOPSIS AS INTRODUCED:

215 ILCS 5/145 from Ch. 73, par. 757
215 ILCS 5/Art. XLV heading new
215 ILCS 5/1500 new
215 ILCS 5/1501 new
215 ILCS 5/1505 new
215 ILCS 5/1510 new
215 ILCS 5/1515 new

Amends the Illinois Insurance Code. Creates an Article concerning custodial agreements and the use of clearing corporations. Provides definitions. Allows domestic insurance companies to deposit securities held or purchased for its general account in a clearing corporation. Allows certificates representing securities of the same class of the same issuer to be merged and held in bulk in the name of the nominee of the clearing corporation regardless of the ownership of the securities and for certificates representing smaller denominations to be merged into one or more certificates of larger denominations. Allows ownership and other interests in securities to be transferred by bookkeeping entry without physical delivery of certificates. Authorizes the Secretary of Financial and Professional Regulation to adopt rules governing the deposit of securities in clearing corporations. Allows securities of domestic, foreign, and alien insurance companies required to be deposited with the Secretary as a condition of doing business in this State that meet deposit requirements to be deposited in clearing corporations. Prohibits the removal of these deposits by the insurance company without the approval of the Secretary. Requires the insurance company to provide evidence to the Secretary that the securities are recorded in the name of the custodian and that the securities are held subject to the order of the Secretary.

LRB095 19061 KBJ 45247 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 145 and by adding the heading of Article XLV
6 and Sections 1500, 1501, 1505, 1510, and 1515 as follows:

7 (215 ILCS 5/145) (from Ch. 73, par. 757)

8 Sec. 145. Deposits.

9 When any company is required by the laws of this State or
10 of any state or country, or by other competent authority, to
11 make a deposit with an insurance supervising official or other
12 financial officer and the company desires to make such deposit
13 in this State the Director shall accept such deposit, if made
14 in securities authorized for investment by Article VIII of this
15 Code. So long as the company continues solvent and complies
16 with the laws of this State it may collect the income on such
17 securities. The company may substitute therefor other like
18 securities as prescribed by this Code for deposit. If the value
19 of securities deposited by any company shall decline below the
20 amount so required, the company shall make a further deposit. A
21 deposit made with the Secretary under this Section may be done
22 in the manner authorized in Section 1515 of this Code.

23 (Source: Laws 1959, p. 1431.)

1 (215 ILCS 5/Art. XLV heading new)

2 ARTICLE XLV. CUSTODIAL AGREEMENTS AND THE USE OF CLEARING
3 CORPORATIONS

4 (215 ILCS 5/1500 new)

5 Sec. 1500. Title. This Article may be cited as the
6 Custodial Agreements and the Use of Clearing Corporations Law.

7 (215 ILCS 5/1501 new)

8 Sec. 1501. Purpose. The purpose of this Article is to
9 authorize domestic insurance companies to utilize modern
10 systems for holding and transferring securities without
11 physical delivery of securities certificates, subject to
12 appropriate regulations of the Secretary.

13 (215 ILCS 5/1505 new)

14 Sec. 1505. Definitions. As used in this Article, unless the
15 context otherwise requires, the following terms shall have the
16 meanings ascribed to them:

17 "Clearing corporation" means a corporation as defined in
18 paragraph (5) of subsection (a) of Section 8-102 of the Uniform
19 Commercial Code, except that with respect to securities issued
20 by institutions organized or existing under the laws of any
21 foreign country or securities used to meet the deposit
22 requirements pursuant to the laws of a foreign country as a

1 condition of doing business therein, "clearing corporation"
2 includes a corporation which is organized or existing under the
3 laws of any foreign country and is legally qualified under law
4 to effect transactions in securities by computerized
5 book-entry. "Clearing corporation" also includes
6 "Treasury/Reserve Automated Debt Entry Securities System" and
7 "Treasury Direct" book-entry securities systems established
8 pursuant to federal law.

9 "Custodian" means a national bank, state bank, trust
10 company, or broker or dealer which participates in a clearing
11 corporation.

12 "Securities" means instruments as defined in paragraph
13 (15) of subsection (a) of Section 8-102 of the Uniform
14 Commercial Code.

15 (215 ILCS 5/1510 new)

16 Sec. 1510. Use of book-entry systems.

17 (a) Notwithstanding any other provision of law, a domestic
18 insurance company may deposit or arrange for the deposit of
19 securities held in or purchased for its general account and its
20 separate account in a clearing corporation. When securities are
21 deposited with a clearing corporation, certificates
22 representing securities of the same class of the same issuer
23 may be merged and held in bulk in the name of the nominee of the
24 clearing corporation with any other securities deposited with
25 the clearing corporation by any person, regardless of the

1 ownership of the securities, and certificates representing
2 securities of smaller denominations may be merged into one or
3 more certificates of larger denominations. The records of any
4 custodian through which an insurance company holds securities
5 in a clearing corporation shall at all times show that the
6 securities are held for the insurance company and for which
7 accounts thereof. Ownership of, and other interests in, the
8 securities may be transferred by bookkeeping entry on the books
9 of the clearing corporation without physical delivery of
10 certificates representing the securities.

11 (b) The Secretary is authorized to adopt rules governing
12 the deposit by insurance companies of securities with clearing
13 corporations, including establishing standards for national
14 banks, state banks, trust companies, and brokers or dealers to
15 qualify as custodians for insurance company securities.

16 (215 ILCS 5/1515 new)

17 Sec. 1515. Deposit of securities by domestic, foreign, and
18 alien insurance companies with the Secretary. Notwithstanding
19 any other provision of law, the securities required to be
20 deposited with the Secretary as a condition of doing business
21 in this State may be deposited with a clearing corporation.
22 Securities deposited with a clearing corporation and used to
23 meet the requirements of the Secretary for doing business in
24 this State shall be under the control of the Secretary and
25 shall not be withdrawn by the insurance company without the

1 approval of the Secretary. Any insurance company holding
2 securities in this manner shall provide to the Secretary
3 evidence issued by its custodian through which the insurance
4 company has deposited the securities in a clearing corporation
5 to establish that the securities are actually recorded in an
6 account in the name of a custodian and that the records of the
7 custodian reflect that the securities are held subject to the
8 order of the Secretary.