

SENATE BILL NO. 329

INTRODUCED BY S. BOULANGER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INSURANCE LAWS TO PROVIDE THAT WITH RESPECT TO HOLDING COMPANY SYSTEMS THE DEFINITION OF "PERSON" DOES NOT INCLUDE AN INDIVIDUAL; AMENDING SECTION 33-2-1101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-2-1101, MCA, is amended to read:

"33-2-1101. Definitions. As used in this part, ~~the following terms shall have the respective meanings hereinafter set forth,~~ unless the context ~~shall otherwise require~~ requires otherwise, the following definitions apply:

(1) An "affiliate" of or person "affiliated" with a specific person is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the person specified.

(2) The term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control ~~shall be~~ is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by 33-2-1112 that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support ~~such~~ the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) An "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer.

(4) The term "insurer" ~~shall have the same~~ has the meaning as set forth provided in 33-1-201, except that it ~~shall~~ does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

1 (5) (a) A "person" is ~~an individual~~, a corporation, a partnership, an association, a joint-stock company,
2 a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert
3 but ~~shall~~ does not include any securities broker performing no more than the usual and customary broker's
4 function.

5 (b) For the purposes of this part, the term "person" does not include an individual.

6 (6) A "securityholder" of a specified person is one who owns any security of ~~such the~~ person, including
7 common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right
8 to acquire any of the foregoing.

9 (7) A "subsidiary" of a specified person is an affiliate controlled by ~~such the~~ person directly or indirectly
10 through one or more intermediaries.

11 (8) The term "voting security" ~~shall include~~ includes any security convertible into or evidencing a right
12 to acquire a voting security."

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14 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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