

Subpart D. Ownership; Governance; Mergers.

§ 53-347. Acquisition of control.

(a) Except as this section otherwise expressly permits, a person shall not, without the approval of the Commissioner, directly or indirectly acquire control of a State trust company.

(b) This Subpart does not prohibit a person from contracting to acquire control of a State trust company subject to required approvals.

(c) This Subpart does not require the approval of the Commissioner for the acquisition of securities in the following circumstances:

- (1) The acquisition of securities in connection with securing, collecting, or satisfying a debt previously contracted for in good faith if the acquiring person files notice of acquisition of control with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired;
- (2) The acquisition of additional voting securities in any class or series by a controlling person who previously has complied with and received approval under the provisions of this Article or who was identified as a controlling person in a prior application filed with and approved by the Commissioner if the acquiring person files notice of acquisition of those securities with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired;
- (3) An acquisition or transfer of securities by operation of law, will, or intestate succession if the acquiring person files notice of acquisition of control with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired;
- (4) An acquisition of securities by gift, unless the gift is made for the purpose of circumventing this section, if the acquiring person files notice of acquisition of control with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired; or
- (5) A transaction exempted by the Commissioner by rules, orders, or declaratory rulings because (i) the transaction is not within the purposes of this Article, or (ii) regulation of the transaction is not necessary or appropriate to achieve the objectives of this Article.

(d) Information provided under the provisions of subsection (c) of this section shall be subject to G.S. 53-348(c), and persons providing that information shall be subject to G.S. 53-348(d).

(e) Upon receiving a notice described in subsection (c) of this section, the Commissioner may, on or before the tenth day after the acquiring person files the notice, notify the acquiring person of objection to the voting of securities by the acquiring person or of a request for further information concerning the acquisition of control. If the Commissioner notifies the acquiring person of the objection or request for further information, the acquiring person may vote the shares only on approval by the Commissioner and:

- (1) The acquiring person shall follow the procedures prescribed in this Subpart for an application to acquire control of a State trust company;
- (2) The Commissioner may request any information that may be requested under the procedures prescribed in this Subpart in connection with an application to acquire control of a State trust company; and
- (3) For purposes of determining a quorum of shareholders of a State trust company, the shares shall be treated as authorized but unissued shares unless

(i) the Commissioner approves the application to vote the securities or (ii) the acquiring person no longer has the power to vote the shares, either directly or indirectly. (2001-263, s. 1.)