

BILL NO. 28

(as passed)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Securities Act (amended)

CHAPTER 18 OF THE ACTS OF 2001

The Honourable David Morse
Minister of Environment and Labour

[First Reading](#): April 12, 2001

Second Reading: May 25, 2001

[Third Reading](#): June 1, 2001

Royal Assent: June 1, 2001



An Act to Amend Chapter 418

of the Revised Statutes, 1989, the Securities Act

Be it enacted by the Governor and Assembly as follows:

1 Section 101 of Chapter 418 of the Revised Statutes, 1989, the *Securities Act*, as enacted by Chapter 15 of the Acts of 1990, is amended by

(a) striking out "twenty-one" in the second line of paragraph 2 and substituting "thirty-five";

(b) striking out "twenty-one" in the third line of paragraph 3 and substituting "thirty-five";

(c) repealing paragraph 4 and substituting the following paragraph:

4. Securities deposited pursuant to the bid may be withdrawn by or on behalf of the depositing security holder

(a) at any time where the securities have not been taken up by the offeror;

(b) at any time before the expiration of ten days from the date of a notice of change or variation pursuant to Section 104; and

(c) where the securities have not been paid for by the offeror within three business days after having been taken up.

(d) adding "business" immediately after "three" in the fourth line of paragraph 10;

(e) striking out "and pays for" in the fifth line of paragraph 12; and

(f) adding immediately after paragraph 12 the following paragraph:

12A. Notwithstanding paragraph 12, where the offeror waives any terms or conditions of a bid and extends the bid in circumstances where the rights of withdrawal conferred by clause (b) of paragraph 4 are applicable, the bid shall be extended without the offeror first taking up the securities which are subject to such rights of withdrawal.

2 Subsection 105(1) of Chapter 418, as enacted by Chapter 15 of the Acts of 1990, is amended by striking out "ten" in the sixth line and substituting "fifteen".

3 Section 106 of Chapter 418 is repealed and the following Section substituted:

106 (1) A take-over bid may be commenced in accordance with subsection (2) or (7).

(2) A take-over bid may, and an issuer bid shall, be commenced by delivering the bid to the security holders referred to in paragraph 1 of Section 101 in accordance with subsection (6).

(3) Where a bid is commenced pursuant to subsection (2), the bid shall be filed and, in the case of a take-over bid, delivered to the offeree issuer's principal office on the same day as, or as soon as practicable after, the bid is delivered under subsection (2).

(4) A notice of change or variation in respect of a bid shall be filed and, in the case of a take-over bid, delivered to the offeree issuer's principal office on the same day as, or as soon as practicable after, the notice of change or variation is delivered to holders of securities of the offeree issuer.

(5) Every directors' circular and every individual director's or officer's circular or any related notice of change that is delivered to security holders of an offeree issuer shall be filed and shall be delivered to the offeror's principal office on the day the directors' circular or individual director's or officer's circular or the notice of change is

delivered to the holders of securities of the offeree issuer, or as soon as practicable thereafter.

(6) A take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first-class mail or delivered by personal delivery or in such other manner as the Director may approve to the intended recipient and any bid, circular or notice so mailed or delivered is deemed to have been delivered and, subject to subsections (8) and (9), is deemed conclusively for the purpose of Sections 95 to 111 and the regulations to have been dated as of the date on which it was so mailed or delivered to all or substantially all of the persons or companies entitled to receive it.

(7) An offeror may commence a take-over bid by publishing an advertisement containing a brief summary of the bid in at least one major daily newspaper of general and regular paid circulation in the Province, or by disseminating the advertisement in a prescribed manner, if

(a) on or before the date of first publication or first dissemination of the advertisement, the offeror, or a person or company acting on its behalf, files the bid and delivers it to the offeree issuer's principal office and files the advertisement;

(b) on or before the date of first publication or first dissemination of the advertisement, the offeror, or a person or company acting on its behalf, requests from the offeree issuer a list of the security holders referred to in paragraph 1 of Section 101; and

(c) within two business days of the receipt by or on behalf of the offeror of a list of the security holders referred to in paragraph 1 of Section 101, the bid is delivered to those security holders in accordance with subsection (6).

(8) Where a take-over bid is commenced in accordance with subsection (7), the bid is deemed conclusively for the purpose of Sections 95 to 111 and the regulations to have been dated as of the date of first publication or first dissemination of the advertisement referred to in subsection (7).

(9) Where a take-over bid is advertised in accordance with subsection (7), and the offeror or a person or company acting on its behalf has complied with clauses (a) and (b) of subsection (7) but has not yet delivered the bid pursuant to clause (c) of subsection (7), a change or variation in the bid prior to the date on which the bid is delivered to security holders in accordance with clause (c) of subsection (7) that is advertised in a manner provided under subsection (7) is deemed conclusively for the purpose of Sections 95 to 111 and the regulations to have been dated as of the date of first publication or first dissemination of the advertisement relating to the change or variation if

(a) the advertisement contains a brief summary of the change or variation;

(b) on or before the date of first publication or first dissemination of the advertisement relating to the change or variation, the offeror, or a person or company acting on its behalf, files the notice of change or variation and delivers it to the offeree issuer's principal office, and files such advertisement; and

(c) within two business days of the receipt by or on behalf of the offeror of a list of the security holders referred to in paragraph 1 of Section 101, the bid and notice of change or variation is delivered to those security holders in accordance with subsection (2) or (4) of Section 104, as applicable, and subsection (6).

(10) Where an offeror, or a person or company acting on its behalf, satisfies the requirements of subsection (9), the notice of change or variation is not required to be filed and delivered under subsection (4).

4 Section 148 of Chapter 418, as amended by Chapter 15 of the Acts of 1990, is further amended by adding immediately after subsection (2) the following subsection:

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Commission may provide information to and receive information from other securities or financial regulatory authorities, stock exchanges,

self-regulatory bodies or organizations, law enforcement and other governmental or regulatory authorities and any information technology service provider approved by the Commission to facilitate the exchange of information pursuant to this Act, and the rules and regulations made thereunder, both in Canada and elsewhere, and any information so received by the Commission is exempt from disclosure under this Act if the Commission determines that the information should be maintained in confidence.

5 Section 150 of Chapter 418, as amended by Chapter 15 of the Acts of 1990 and Chapter 32 of the Acts of 1996, is further amended by adding immediately after clause (ba) the following clauses:

(baa) prescribing the terms and conditions under which a person who is in a contractual relationship with a dealer is deemed to be an employee of the dealer for the purpose of this Act, the regulations and the rules and qualified for registration as a salesman of the dealer;

(bab) imposing liability on a registrant who is a dealer for the acts and omissions, of the type prescribed, of a person deemed to be an employee of the dealer under a regulation or rule made pursuant to clause (baa);

6 Subsections 150A(7) and (8) of Chapter 418 are repealed and the following subsections substituted:

(7) The Commission's *General Rules of Practice and Procedure* approved by order in council 88-188, dated February 23, 1988, are deemed to be rules effectively made pursuant to Section 150 and not to be regulations and remain in effect until amended or repealed by regulation or rule.

(8) The Commission's *Conflict of Interest Rules*, adopted on November 2, 1994, are deemed to be rules effectively made pursuant to Section 150 and remain in effect until amended or repealed by regulation or rule.

(9) Regulations made pursuant to Section 150 before December 20, 1996, are deemed to be rules effectively made pursuant to Section 150 on December 20, 1996, and not to be regulations and remain in effect until amended or repealed by regulation or rule.

