

# BILL

## No. 4 of 1999

### An Act to amend *The Securities Act, 1988*

(Assented to \_\_\_\_\_, 1999)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### Short title

**1** This Act may be cited as *The Securities Amendment Act, 1999*.

#### S.S. 1988-89, c.S-42.2 amended

**2** *The Securities Act, 1988* is amended in the manner set forth in this Act.

#### Section 98 amended

**3(1)** Clause 98(1)(a) is repealed and the following substituted:

“(a) ‘**bid**’ means a take-over bid or an issuer bid;

“(a.1) ‘**class of securities**’ includes a series of a class of securities”.

**(2)** The following subsection is added after subsection 98(3):

“(4) Where a time period is set out in this Part and the time period is varied in the regulations, the time period as varied in the regulations prevails over the time period set out in this Part”.

#### Section 104 amended

**4(1)** Subsections 104(3) to (5) are repealed and the following substituted:

“(3) The offeror shall allow at least 35 days from the date of the bid during which securities may be deposited pursuant to the bid.

“(4) The offeror shall not take up any securities deposited pursuant to the bid until the expiration of 35 days from the date of the bid.

“(5) Securities deposited pursuant to the bid may be withdrawn by or on behalf of a depositing security holder:

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

(b) at any time before the expiration of 10 days from the date of a notice of change or variation pursuant to section 107; or

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

**(2)** Subsection 104(11) is repealed and the following substituted:

“(11) The offeror shall pay for any securities that are taken up by the offeror pursuant to the bid as soon as possible, and in any event not more than three business days after the taking up of the securities”.

**(3) Subsection 104(13) is repealed and the following substituted:**

“(13) An offeror shall not extend a bid where all the terms and conditions of the bid have been complied with except those waived by the offeror, unless the offeror first takes up all securities that are deposited pursuant to the bid and that are not withdrawn.

“(13.1) Notwithstanding subsection (13), if an offeror waives any terms or conditions of a bid and extends the bid in circumstances where the rights of withdrawal conferred by clause (5)(b) are applicable, the offeror may extend the bid without first taking up the securities that are subject to those rights of withdrawal”.

**Section 108 amended**

**5 Subsection 108(1) is repealed and the following substituted:**

“(1) Where a take-over bid has been made, a directors’ circular shall be prepared and delivered, not later than 15 days after the date of the bid, by the board of directors of an offeree issuer to every person and company to whom a take-over bid must be delivered pursuant to subsection 104(2)”.

**New sections 109 and 109.1**

**6 Section 109 is repealed and the following substituted:**

**“Delivery of bids**

**109(1)** In this section and in section 109.1, ‘offeror’ includes a person or company acting on behalf of an offeror.

(2) A take-over bid may be commenced in accordance with this section and an issuer bid shall be commenced in accordance with this section.

(3) The offeror shall commence the bid by delivering, in accordance with subsection (7), the bid to the security holders mentioned in subsection 104(2).

(4) If a bid is commenced in accordance with this section, the offeror shall, on the same day that the bid is delivered pursuant to subsection (3) or as soon as is practicable after that day:

(a) file the bid; and

(b) in the case of a take-over bid, deliver the bid to the offeree issuer’s principal office.

(5) The offeror shall, on the same day that a notice of change or variation with respect to the bid is delivered to holders of securities of the offeree issuer or as soon as is practicable after that day:

(a) file the notice of change or variation; and

(b) in the case of a take-over bid, deliver the notice of change or variation to the offeree issuer’s principal office.

(6) Every directors' circular, every individual director's or officer's circular and every notice of change in relation to any of those circulars must, on the day it is delivered to holders of securities of the offeree issuer or as soon as is practicable after that day:

- (a) be filed; and
- (b) be delivered to the offeror's principal office.

(7) Every take-over bid or issuer bid, every take-over bid circular, every issuer bid circular, every directors' circular, every individual director's or officer's circular and every notice of change or variation in any bid or circular must:

- (a) be mailed to its intended recipients by prepaid first class mail; or
- (b) be delivered to its intended recipients by personal delivery or in any other manner that the Director may approve.

(8) Subject to subsections 109.1(3) and (4), any bid, circular or notice mailed or delivered in accordance with subsection (7) is deemed to have been delivered and is conclusively deemed for the purposes of this Part and the regulations to have been dated as of the date on which it was mailed or delivered to all or substantially all of the persons or companies entitled to receive it.

**“Advertising of take-over bid**

**109.1(1)** Notwithstanding section 109, an offeror may commence a take-over bid:

- (a) by placing an advertisement containing a brief summary of its take-over bid in at least one daily newspaper having general and regular paid circulation in Saskatchewan; or
- (b) by disseminating the advertisement mentioned in clause (a) in any other manner that may be prescribed in the regulations.

(2) Subsection (1) applies only if the offeror:

- (a) on or before the date of first publication or first dissemination of the advertisement:
  - (i) files its take-over bid and the advertisement; and
  - (ii) delivers the take-over bid to the offeree issuer at the offeree issuer's principal office;
- (b) on or before the date of first publication or first dissemination of the advertisement, requests from the offeree issuer the list of security holders to whom the bid must be made in accordance with subsection 104(2); and

(c) within two business days of the date that the offeror receives the list of security holders mentioned in clause (b), mails or delivers the take-over bid in accordance with subsection 109(7).

(3) If a take-over bid is commenced in accordance with this section, the take-over bid is conclusively deemed for the purposes of this Part and the regulations to have been dated as of the date of the first publication or first dissemination of the advertisement mentioned in subsection (1).

(4) If a take-over bid is commenced by advertisement and the offeror has complied with clauses (2)(a) and (b) but has not mailed or delivered the take-over bid in accordance with clause (2)(c), any change or variation to the take-over bid that is made prior to the date on which the bid is mailed or delivered to security holders in accordance with clause (2)(c) and that is advertised in the same manner as that prescribed for take-over bids pursuant to subsection (1) is conclusively deemed for the purposes of this Part 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.

(5) Subsection (4) applies only if:

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

(b) the offeror, concurrently with, or before the date of first publication or first dissemination of the advertisement relating to the variation or change:

(i) files the notice of change or variation and the advertisement; and

(ii) delivers the notice of change or variation to the offeree issuer at the offeree issuer's principal office; and

(c) subject to subsection (6), within two business days of the date the offeror receives the list of security holders mentioned in subsection 104(2), the offeror delivers the notice of change or variation to those security holders in accordance with subsection 107(2), in the case of a notice of change, or subsection 107(4), in the case of a notice of variation.

(6) The offeror shall deliver the notice of change or variation to security holders pursuant to clause (5)(c):

(a) by mailing it to its intended recipients by prepaid first class mail; or

(b) by delivering it to its intended recipients by personal delivery or in any other manner that the Director may approve.

(7) If an offeror complies with subsections (4) to (6) in delivering a notice of change or variation, the offeror is not required to file and deliver that notice of change or variation in accordance with subsection 109(5)".

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## SECURITIES

**Section 154 amended****7 Clause 154(1)(z) is amended**

**(a) by striking out “and” after subclause (vi); and**

**(b) by adding the following subclauses after subclause (vii):**

“(viii) varying the time periods set out in Part XVI;

“(ix) prescribing the manner of disseminating advertisements of take-over bids and notices of change or variation for the purposes of section 109.1”.

**Coming into force**

**8 This Act comes into force on proclamation.**

