

By Senator Wilson

33-02563-08

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1 A bill to be entitled
2 An act relating to the Florida Companion Registry;
3 providing a short title; creating ch. 754, F.S.; providing
4 definitions; creating the registry within the Department
5 of State; providing for creation and distribution of
6 declaration and termination forms; providing for the
7 content of such forms; providing for rulemaking; providing
8 eligibility requirements for state-registered companions;
9 providing registration procedures; providing for
10 recordkeeping; providing for notice to the Office of Vital
11 Statistics; providing for a fee; providing for automatic
12 termination of a state-registered companion agreement
13 under certain circumstances; providing procedures for
14 voluntary termination of state-registered companion
15 agreements; providing an effective date for voluntarily
16 terminated agreements; providing for recordkeeping;
17 providing for notice to the Office of Vital Statistics;
18 providing for a fee; providing that a registered companion
19 agreement created by a subdivision of the state is not a
20 state-registered companion agreement for purposes of the
21 Florida Companion Registry; requiring that subdivisions of
22 the state that use the state's definition of a state-
23 registered companion for purposes of companion benefits
24 must allow the state registration certificate to satisfy
25 any registration requirements; requiring such subdivisions
26 to notify the Secretary of State of such acceptance;
27 providing that the act does not affect companion
28 relationship registrations created by any public entity;
29 providing that state-registered companions have the same

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30 visitation rights as spouses in specified health care
31 facilities; providing that nothing in ch. 754, F.S.,
32 affects any common law remedy; providing that state
33 registered companion status is not the substantial
34 equivalent of a marriage; amending s. 48.031, F.S.;
35 revises provisions relating to service of process to
36 include applicability to state-registered companions;
37 amending s. 215.28, F.S.; providing for payment of
38 specified payroll deductions for the purchase of United
39 States securities to a state-registered companion of a
40 deceased state and county officer or employee; amending s.
41 222.15, F.S.; providing for payment of wages or
42 unemployment compensation to a state-registered companion
43 of a deceased employee; amending s. 395.3025, F.S.;
44 revising provisions relating to hospital records to
45 include applicability to state-registered companions;
46 amending s. 400.021, F.S.; including state-registered
47 companions in the term "family" for purposes of provisions
48 relating to nursing homes; amending s. 497.005, F.S.;
49 revising provisions relating to funeral and cemetery
50 services to include state-registered companions among
51 those authorized to make decisions; amending s. 765.401,
52 F.S.; revising provisions relating to health care
53 decisionmaking for incapacitated or developmentally
54 disabled patients to authorize decisionmaking by state-
55 registered companions with the same level of priority as
56 spouses; amending s. 765.512, F.S.; revising provisions
57 relating to anatomical gifts to include state-registered
58 companions among those not authorized to modify or prevent

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59 a donor's wish to make such a gift; amending s. 872.04,
60 F.S.; permitting state-registered companions to consent to
61 autopsies; amending ss. 905.04 and 913.03, F.S.; including
62 state-registered companions within the list of persons
63 whose relationships to specified persons allow challenge
64 to their service as jurors or grand jurors; providing an
65 effective date.

66
67 WHEREAS, the Legislature finds that relationships exist in
68 this state, especially among the state's elderly population,
69 which are committed and exclusive but not legally recognized by
70 law, and

71 WHEREAS, these relationships are not only important to the
72 individuals involved and their families, but they also benefit
73 the public and the greater good by providing a private, rather
74 than governmental, source for the financial, physical, and
75 emotional health of those individuals and their families, and

76 WHEREAS, these relationships, although not existing as legal
77 marriages under state law can, nonetheless, show the same legal
78 domicile and have the same intent for such relationship to last
79 for life, and

80 WHEREAS, the Legislature finds that rights should be granted
81 to persons in such relationships as if legally married and that
82 such rights include, but are not limited to, the right to be
83 involved in financial decisions, the right to pension and benefit
84 collection, the right to hospital visitation, the right to be
85 involved in health care decisions, the right to be involved in
86 organ donor decisions, and the right to be involved in other
87 decisions related to illness, incapacity, and death, and

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88 WHEREAS, the legal framework for such rights to be granted
89 to individuals in such found relationships does not exist;
90 therefore, the Legislature sees fit that the Florida Companion
91 Registry Act should do so, NOW, THEREFORE,

92

93 Be It Enacted by the Legislature of the State of Florida:

94

95 Section 1. This act may be cited as the "Florida Companion
96 Registry Act."

97 Section 2. Chapter 754, Florida Statutes, consisting of
98 sections 754.01, 754.02, 754.03, 754.04, 754.05, 754.06, 754.07,
99 754.08, and 754.09, is created to read:

100

CHAPTER 754

101

FLORIDA COMPANION REGISTRY

102 754.01 Definitions.--As used in this chapter, the term:

103 (1) "Department" means the Department of State.

104 (2) "Secretary" means the Secretary of State.

105 (3) "State-registered companions" means two adults who meet
106 the requirements for valid state-registered companion status as
107 established by s. 754.03 and who have been issued a certificate
108 of state-registered companions by the secretary.

109 754.02 Florida Companion Registry; forms; rulemaking.--

110 (1) The Florida Companion Registry is created within the
111 department.

112 (2) The registry shall develop standard forms for the
113 declaration and termination of state-registered companions to
114 meet the requirements of this chapter.

115 (a) The declaration form must:

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116 1. Adequately identify each individual signing the form by
117 name, including former names, residence, and date and place of
118 birth.

119 2. Contain an assertion under oath that each individual
120 meets the requirements of s. 754.03 at the time the declaration
121 is filed.

122 3. Contain a warning that registration may affect property
123 and inheritance rights; that registration is not a substitute for
124 a will, deed, or partnership agreement; and that any rights
125 conferred by registration may be completely superseded by a will,
126 deed, or other instrument that may be executed by either party.
127 The declaration must also contain instructions on how the
128 partnership may be terminated under s. 754.05.

129 (b) The termination form must contain a statement that
130 termination may affect property and inheritance rights, including
131 beneficiary designations, and other agreements such as the
132 appointment of a state-registered companion as an attorney in
133 fact under a power of attorney.

134 (3) The secretary shall distribute these forms to each
135 county clerk. These forms shall be available to the public at the
136 secretary's office, from each county clerk, and on the Internet.

137 (4) The department may adopt rules pursuant to ss.
138 120.536(1) and 120.54 to administer the provisions of this
139 chapter.

140 754.03 Eligibility.--To enter into the Florida Companion
141 Registry, the two persons involved must meet the following
142 requirements:

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143 (1) Both persons must inhabit the same residence in common.
144 Two persons shall be considered to inhabit the same residence in
145 common even if:

146 (a) Only one person has legal ownership of the common
147 residence;

148 (b) One or both persons have additional residences not
149 shared with the other; or

150 (c) One person leaves the common residence with the intent
151 to return.

152 (2) Both persons must be at least 18 years of age.

153 (3) Neither person may be married or registered with the
154 state as a companion to another person.

155 (4) Both persons must be capable of consenting to the
156 agreement.

157 (5) The persons must not be related in a degree of kinship
158 that would prohibit marriage under s. 741.21.

159 754.04 Registration.--

160 (1) Two persons desiring to become state-registered
161 companions who meet the requirements of s. 754.03 may jointly
162 register by filing under oath a declaration of state-registered
163 companions with the secretary and paying the filing fee
164 established under subsection (4). The declaration must be signed
165 by both parties and notarized.

166 (2) Upon receipt of a signed, notarized declaration and the
167 filing fee, the secretary shall register the declaration in the
168 Florida Companion Registry established under s. 754.02 and return
169 two copies of a Certificate of Florida Registered Companions, one
170 for each party named on the declaration, to the address provided
171 as their common residence.

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172 (3) The secretary shall permanently maintain a record of
173 each declaration of state-registered companions filed. The
174 secretary shall provide the Office of Vital Statistics of the
175 Department of Health with records of declarations of state-
176 registered companions.

177 (4) The secretary shall set by rule and collect a
178 reasonable fee for filing the declaration, calculated to cover
179 the department's costs but not to exceed \$100. Fees collected
180 under this section shall be remitted to the Department of Revenue
181 for deposit in the General Revenue Fund.

182 754.05 Termination.--

183 (1) A state-registered companion agreement is automatically
184 terminated if, subsequent to the registration of the state-
185 registered companions with the secretary, either or both of the
186 parties enter into a marriage that is recognized as valid in this
187 state, either with each other or with another person.

188 (2) (a) A party to a state-registered companion agreement
189 may terminate the agreement by filing a notice of termination of
190 the state-registered companion agreement with the secretary and
191 paying the filing fee established under subsection (5). The
192 notice must be signed by at least one of the parties and
193 notarized. If the notice is not signed by both parties, the party
194 seeking termination must also file with the secretary an
195 affidavit stating that the other party has been served in
196 writing, in the manner prescribed for the service of summons in a
197 civil action, that a notice of termination is being filed, or
198 that the party seeking termination has not been able to find the
199 other party after reasonable effort and that notice has been made
200 by publication under paragraph (b).

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201 (b) When the other party cannot be found after reasonable
202 effort, the party seeking termination may provide notice by
203 publication in a newspaper of general circulation in the county
204 in which the residence most recently shared by the companions is
205 located. Notice must be published at least once.

206 (3) The state-registered companion agreement shall be
207 terminated effective 90 days after the date of filing the notice
208 of termination and payment of the filing fee.

209 (4) Upon receipt of a signed, notarized notice of
210 termination, an affidavit, if required, and the filing fee, the
211 secretary shall register the notice of termination and provide a
212 certificate of termination of the state-registered companion
213 agreement to each party named on the notice. The department shall
214 maintain a record of each notice of termination filed with the
215 secretary and each certificate of termination issued by the
216 secretary. The secretary shall provide the Office of Vital
217 Statistics of the Department of Health with records of
218 terminations of state-registered companions, except for those
219 state-registered companions terminated under subsection (1).

220 (5) The secretary shall set by rule and collect a
221 reasonable fee for filing the termination, calculated to cover
222 the department's costs but not to exceed \$100. Fees collected
223 under this section shall be remitted to the Department of Revenue
224 for deposit in the General Revenue Fund.

225 754.06 Companion agreements registered by subdivisions of
226 the state.--

227 (1) A companion agreement registered by a subdivision of
228 the state is not a state-registered companion agreement for the
229 purposes of the Florida Companion Registry under this chapter.

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230 Those persons desiring to become state-registered companions
231 under this chapter must register under s. 754.04.

232 (2) A subdivision of the state that provides benefits to
233 the companions of its employees and chooses to use the definition
234 of state-registered companions in s. 754.01 must allow the
235 certificate issued by the secretary to satisfy any registration
236 requirements of the subdivision. A subdivision that uses the
237 definition of state-registered companions in s. 754.01 shall
238 notify the secretary. The secretary shall compile and maintain a
239 list of all subdivisions that have filed such notice. The
240 department shall post this list on its website and provide a copy
241 of the list to each person that receives a certificate of state-
242 registered companions under s. 754.04.

243 (3) Nothing in this section shall affect companion
244 relationship registrations created by any public entity.

245 754.07 Visitation in health care facilities.--The state-
246 registered companion of a patient in a health care facility as
247 defined in s. 408.07 shall have the same rights with respect to
248 visitation of the patient as a spouse.

249 754.08 Common law remedies.--Nothing in this chapter
250 affects any remedy available in common law.

251 754.09 Not marriage equivalent.--Nothing in this chapter
252 shall be construed as recognizing state registered companion
253 status as the substantial equivalent of a marriage.

254 Section 3. Paragraph (a) of subsection (2) of section
255 48.031, Florida Statutes, is amended to read:

256 48.031 Service of process generally; service of witness
257 subpoenas.--

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258 (2) (a) Substitute service may be made on the spouse or
259 state-registered companion of the person to be served at any
260 place in the county, if the cause of action is not an adversary
261 proceeding between the spouse or state-registered companion and
262 the person to be served, if the spouse or state-registered
263 companion requests such service, and if the spouse or state-
264 registered companion and person to be served are residing
265 together in the same dwelling.

266 Section 4. Subsection (5) of section 215.28, Florida
267 Statutes, is amended to read:

268 215.28 United States securities, purchase by state and
269 county officers and employees; deductions from salary.--

270 (5) When an officer or employee leaves the service of the
271 state, county, or subordinate governmental agency, the payroll
272 deduction authorization will be canceled automatically and any
273 amount credited to the officer or employee's account shall
274 immediately be refunded and paid to the officer or employee
275 entitled to receive the same. In case of the death of the officer
276 or employee, the payroll deduction authorization will be canceled
277 automatically and any amount to the credit of the officer or
278 employee's account will be paid immediately to the surviving
279 spouse, state-registered companion, children, or parents of the
280 officer or employee, according to and as provided by ss. 222.15
281 and 222.16.

282 Section 5. Section 222.15, Florida Statutes, is amended to
283 read:

284 222.15 Payment of wages or unemployment compensation
285 payments due deceased employee may be paid spouse or certain
286 relatives.--

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287 (1) It is lawful for any employer, in case of the death of
288 an employee, to pay to the spouse ~~wife~~ or state-registered
289 companion ~~husband~~, and in case there is no spouse ~~wife~~ or state-
290 registered companion ~~husband~~, then to the child or children,
291 provided the child or children are over the age of 18 years, and
292 in case there is no child or children, then to the father or
293 mother, any wages or travel expenses that may be due such
294 employee at the time of his or her death.

295 (2) It is also lawful for the Agency for Workforce
296 Innovation, in case of death of any unemployed individual, to pay
297 to those persons referred to in subsection (1) any unemployment
298 compensation payments that may be due to the individual at the
299 time of his or her death.

300 Section 6. Subsection (1) of section 395.3025, Florida
301 Statutes, is amended to read:

302 395.3025 Patient and personnel records; copies;
303 examination.--

304 (1) Any licensed facility shall, upon written request, and
305 only after discharge of the patient, furnish, in a timely manner,
306 without delays for legal review, to any person admitted therein
307 for care and treatment or treated thereat, or to any such
308 person's guardian, curator, or personal representative, or in the
309 absence of one of those persons, to the state-registered
310 companion or next of kin of a decedent or the parent of a minor,
311 or to anyone designated by such person in writing, a true and
312 correct copy of all patient records, including X rays, and
313 insurance information concerning such person, which records are
314 in the possession of the licensed facility, provided the person
315 requesting such records agrees to pay a charge. The exclusive

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316 charge for copies of patient records may include sales tax and
317 actual postage, and, except for nonpaper records that are subject
318 to a charge not to exceed \$2, may not exceed \$1 per page. A fee
319 of up to \$1 may be charged for each year of records requested.
320 These charges shall apply to all records furnished, whether
321 directly from the facility or from a copy service providing these
322 services on behalf of the facility. However, a patient whose
323 records are copied or searched for the purpose of continuing to
324 receive medical care is not required to pay a charge for copying
325 or for the search. The licensed facility shall further allow any
326 such person to examine the original records in its possession, or
327 microforms or other suitable reproductions of the records, upon
328 such reasonable terms as shall be imposed to assure that the
329 records will not be damaged, destroyed, or altered.

330 Section 7. Subsections (8) through (18) of section 400.021,
331 Florida Statutes, are renumbered as subsections (9) through (19),
332 respectively, and a new subsection (8) is added to that section,
333 to read:

334 400.021 Definitions.--When used in this part, unless the
335 context otherwise requires, the term:

336 (8) "Family" includes a state-registered companion.

337 Section 8. Subsection (37) of section 497.005, Florida
338 Statutes, is amended to read:

339 497.005 Definitions.--As used in this chapter:

340 (37) "Legally authorized person" means, in the priority
341 listed, the decedent, when written inter vivos authorizations and
342 directions are provided by the decedent; the surviving spouse or
343 state-registered companion, unless the spouse or state-registered
344 companion has been arrested for committing against the deceased

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345 an act of domestic violence as defined in s. 741.28 that resulted
346 in or contributed to the death of the deceased; a son or daughter
347 who is 18 years of age or older; a parent; a brother or sister
348 who is 18 years of age or older; a grandchild who is 18 years of
349 age or older; a grandparent; or any person in the next degree of
350 kinship. In addition, the term may include, if no family member
351 exists or is available, the guardian of the dead person at the
352 time of death; the personal representative of the deceased; the
353 attorney in fact of the dead person at the time of death; the
354 health surrogate of the dead person at the time of death; a
355 public health officer; the medical examiner, county commission,
356 or administrator acting under part II of chapter 406 or other
357 public administrator; a representative of a nursing home or other
358 health care institution in charge of final disposition; or a
359 friend or other person not listed in this subsection who is
360 willing to assume the responsibility as the legally authorized
361 person. Where there is a person in any priority class listed in
362 this subsection, the funeral establishment shall rely upon the
363 authorization of any one legally authorized person of that class
364 if that person represents that she or he is not aware of any
365 objection to the cremation of the deceased's human remains by
366 others in the same class of the person making the representation
367 or of any person in a higher priority class.

368 Section 9. Subsection (1) of section 765.401, Florida
369 Statutes, is amended to read:

370 765.401 The proxy.--

371 (1) If an incapacitated or developmentally disabled patient
372 has not executed an advance directive, or designated a surrogate
373 to execute an advance directive, or the designated or alternate

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374 surrogate is no longer available to make health care decisions,
375 health care decisions may be made for the patient by any of the
376 following individuals, in the following order of priority, if no
377 individual in a prior class is reasonably available, willing, or
378 competent to act:

379 (a) The judicially appointed guardian of the patient or the
380 guardian advocate of the person having a developmental disability
381 as defined in s. 393.063, who has been authorized to consent to
382 medical treatment, if such guardian has previously been
383 appointed; however, this paragraph shall not be construed to
384 require such appointment before a treatment decision can be made
385 under this subsection;

386 (b) The patient's spouse or state-registered companion;

387 (c) An adult child of the patient, or if the patient has
388 more than one adult child, a majority of the adult children who
389 are reasonably available for consultation;

390 (d) A parent of the patient;

391 (e) The adult sibling of the patient or, if the patient has
392 more than one sibling, a majority of the adult siblings who are
393 reasonably available for consultation;

394 (f) An adult relative of the patient who has exhibited
395 special care and concern for the patient and who has maintained
396 regular contact with the patient and who is familiar with the
397 patient's activities, health, and religious or moral beliefs; ~~or~~

398 (g) A close friend of the patient; or-

399 (h) A clinical social worker licensed pursuant to chapter
400 491, or who is a graduate of a court-approved guardianship
401 program. Such a proxy must be selected by the provider's
402 bioethics committee and must not be employed by the provider. If

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403 | the provider does not have a bioethics committee, then such a
404 | proxy may be chosen through an arrangement with the bioethics
405 | committee of another provider. The proxy will be notified that,
406 | upon request, the provider shall make available a second
407 | physician, not involved in the patient's care to assist the proxy
408 | in evaluating treatment. Decisions to withhold or withdraw life-
409 | prolonging procedures will be reviewed by the facility's
410 | bioethics committee. Documentation of efforts to locate proxies
411 | from prior classes must be recorded in the patient record.

412 | Section 10. Subsection (1) of section 765.512, Florida
413 | Statutes, is amended to read:

414 | 765.512 Persons who may make an anatomical gift.--

415 | (1) Any person who may make a will may give all or part of
416 | his or her body for any purpose specified in s. 765.510, the gift
417 | to take effect upon death. An anatomical gift made by an adult
418 | donor and not revoked by the donor as provided in s. 765.516 is
419 | irrevocable after the donor's death. A state-registered
420 | companion, family member, guardian, representative ad litem, or
421 | health care surrogate of an adult donor who has made an
422 | anatomical gift pursuant to subsection (2) may not modify, deny,
423 | or prevent a donor's wish or intent to make an anatomical gift
424 | from being made after the donor's death.

425 | Section 11. Subsection (2) of section 872.04, Florida
426 | Statutes, is amended to read:

427 | 872.04 Autopsies; consent required, exception.--

428 | (2) Unless otherwise authorized by statute, no autopsy
429 | shall be performed without the written consent by the health care
430 | surrogate, as provided in s. 765.202, if one has been designated.
431 | If a health care surrogate has not been designated, then written

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432 consent may be provided by the spouse or state-registered
433 companion, nearest relative, or, if no such next of kin can be
434 found, the person who has assumed custody of the body for
435 purposes of burial. When two or more persons assume custody of
436 the body for such purposes, then the consent of any one of them
437 shall be sufficient to authorize the autopsy.

438 Section 12. Subsection (1) of section 905.04, Florida
439 Statutes, is amended to read:

440 905.04 Grounds for challenge to individual prospective
441 grand juror.--

442 (1) The state or a person who has been held to answer may
443 challenge an individual prospective grand juror on the ground
444 that the juror:

445 (a) Does not have the qualifications required by law;

446 (b) Has a state of mind that will prevent him or her from
447 acting impartially and without prejudice to the substantial
448 rights of the party challenging;

449 (c) Is related by blood, or marriage, or state-registered
450 companionship within the third degree to the defendant, to the
451 person alleged to be injured by the offense charged, or to the
452 person on whose complaint the prosecution was instituted.

453 Section 13. Section 914.03, Florida Statutes, is amended to
454 read:

455 913.03 Grounds for challenge to individual jurors for
456 cause.--A challenge for cause to an individual juror may be made
457 only on the following grounds:

458 (1) The juror does not have the qualifications required by
459 law;

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460 (2) The juror is of unsound mind or has a bodily defect
461 that renders him or her incapable of performing the duties of a
462 juror, except that, in a civil action, deafness or hearing
463 impairment shall not be the sole basis of a challenge for cause
464 of an individual juror;

465 (3) The juror has conscientious beliefs that would preclude
466 him or her from finding the defendant guilty;

467 (4) The juror served on the grand jury that found the
468 indictment or on a coroner's jury that inquired into the death of
469 a person whose death is the subject of the indictment or
470 information;

471 (5) The juror served on a jury formerly sworn to try the
472 defendant for the same offense;

473 (6) The juror served on a jury that tried another person
474 for the offense charged in the indictment, information, or
475 affidavit;

476 (7) The juror served as a juror in a civil action brought
477 against the defendant for the act charged as an offense;

478 (8) The juror is an adverse party to the defendant in a
479 civil action, or has complained against or been accused by the
480 defendant in a criminal prosecution;

481 (9) The juror is related by blood, or marriage, or state-
482 registered companionship within the third degree to the
483 defendant, the attorneys of either party, the person alleged to
484 be injured by the offense charged, or the person on whose
485 complaint the prosecution was instituted;

486 (10) The juror has a state of mind regarding the defendant,
487 the case, the person alleged to have been injured by the offense
488 charged, or the person on whose complaint the prosecution was

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489 instituted that will prevent the juror from acting with
490 impartiality, but the formation of an opinion or impression
491 regarding the guilt or innocence of the defendant shall not be a
492 sufficient ground for challenge to a juror if he or she declares
493 and the court determines that he or she can render an impartial
494 verdict according to the evidence;

495 (11) The juror was a witness for the state or the defendant
496 at the preliminary hearing or before the grand jury or is to be a
497 witness for either party at the trial; or

498 (12) The juror is a surety on defendant's bail bond in the
499 case.

500 Section 14. This act shall take effect July 1, 2008.