

# HOUSE BILL No. 5008

July 10, 2007, Introduced by Rep. Huizenga and referred to the Committee on Commerce.

A bill to enact the uniform securities act (2002) relating to the issuance, offer, sale, or purchase of securities; to prohibit fraudulent practices in relation to securities; to establish civil and criminal sanctions for violations of the act and civil sanctions for violation of the rules promulgated pursuant to the act; to require the registration of broker-dealers, agents, investment advisers, and securities; to make uniform the law with reference to securities; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### ARTICLE 1

#### GENERAL PROVISIONS

Sec. 101. This act shall be known and may be cited as the "uniform securities act (2002)".

Sec. 102. As used in this act, unless the context otherwise

1 requires:

2 (a) "Administrator" means the office of financial and  
3 insurance services of the department of labor and economic growth.

4 (b) "Agent" means an individual other than a broker-dealer who  
5 represents a broker-dealer in effecting or attempting to effect  
6 purchases or sales of securities or represents an issuer in  
7 effecting or attempting to effect purchases or sales of the  
8 issuer's securities. The term does not include a partner, officer,  
9 or director of a broker-dealer or issuer, or an individual having a  
10 similar status or performing similar functions, unless the  
11 individual otherwise comes within the term. The term does not  
12 include an individual excluded by rule or order under this act. The  
13 term does not include a person acting solely as a finder and  
14 registered as a broker-dealer under this act or acting as a finder  
15 in a transaction exempt under section 202(1)(r).

16 (c) "Bank" means any of the following:

17 (i) A banking institution organized under the laws of the  
18 United States.

19 (ii) A member bank of the federal reserve system.

20 (iii) Any other banking institution that meets all of the  
21 following:

22 (A) It is doing business under the laws of a state or of the  
23 United States.

24 (B) A substantial portion of its business consists of  
25 receiving deposits or exercising fiduciary powers similar to those  
26 permitted to be exercised by national banks under the authority of  
27 the comptroller of the currency pursuant to 12 USC 92a.

1 (C) It is supervised and examined by a state or federal agency  
2 having supervision over banks.

3 (D) It is not operated for the purpose of evading this act.

4 (iv) A receiver, conservator, or other liquidating agent of any  
5 institution or firm included in subparagraph (i), (ii), or (iii).

6 (d) "Broker-dealer" means a person engaged in the business of  
7 effecting transactions in securities for the account of others or  
8 for the person's own account. The term does not include any of the  
9 following:

10 (i) An agent.

11 (ii) An issuer.

12 (iii) Beginning on the effective date of this act and until  
13 December 31, 2006, a depository institution.

14 (iv) Beginning January 1, 2007, a bank, trust company organized  
15 or chartered under the laws of this state, or savings institution  
16 if its activities as a broker-dealer are limited to those specified  
17 in section 3(a)(4)(B)(i) through (vi), (viii) through (x), and (xi) if  
18 limited to unsolicited transactions; 3(a)(5)(B); and 3(a)(5)(C) of  
19 the securities exchange act of 1934, 15 USC 78c, or a bank that  
20 satisfies the conditions described in section 3(a)(4)(E) of the  
21 securities exchange act of 1934, 15 USC 78c.

22 (v) An international banking institution.

23 (vi) A person excluded by rule or order under this act.

24 (e) "Depository institution" means a bank; or a savings  
25 institution, trust company, credit union, or similar institution  
26 that is organized or chartered under the laws of a state or of the  
27 United States, authorized to receive deposits, and supervised and

1 examined by an official or agency of a state or the United States  
2 if its deposits or share accounts are insured by the federal  
3 deposit insurance corporation, the national credit union share  
4 insurance fund, or a successor authorized by federal law. The term  
5 does not include any of the following:

6 (i) An insurance company or other organization primarily  
7 engaged in the business of insurance.

8 (ii) A Morris Plan bank.

9 (iii) An industrial loan company.

10 (f) "Federal covered investment adviser" means a person  
11 registered under the investment advisers act of 1940.

12 (g) "Federal covered security" means a security that is, or  
13 upon completion of a transaction will be, a covered security under  
14 section 18(b) of the securities act of 1933, 15 USC 77r, or rules  
15 or regulations adopted under that provision.

16 (h) "Filing" means the receipt under this act of a record by  
17 the administrator or a designee of the administrator.

18 (i) "Finder" means a person who, for consideration,  
19 participates in the offer to sell, sale, or purchase of securities  
20 by locating, introducing, or referring potential purchasers or  
21 sellers. Finder does not include a person whose actions are solely  
22 incidental to a transaction exempt pursuant to section 202(1)(r).  
23 The administrator may by rule or order exclude other persons from  
24 this definition.

25 (j) "Fraud," "deceit," and "defraud" include, but are not  
26 limited to, common law deceit.

27 (k) "Guaranteed" means guaranteed as to payment of all

1 principal and all interest.

2       Sec. 102a. As used in this act, unless the context otherwise  
3 requires:

4       (a) "Institutional investor" means any of the following,  
5 whether acting for itself or for others in a fiduciary capacity:

6       (i) A depository institution or international banking  
7 institution.

8       (ii) An insurance company.

9       (iii) A separate account of an insurance company.

10       (iv) An investment company as defined in the investment company  
11 act of 1940.

12       (v) A broker-dealer registered under the securities exchange  
13 act of 1934.

14       (vi) An employee pension, profit-sharing, or benefit plan if  
15 the plan has total assets in excess of \$10,000,000.00 or its  
16 investment decisions are made by a named fiduciary, as defined in  
17 the employee retirement income security act of 1974, that is a  
18 broker-dealer registered under the securities exchange act of 1934,  
19 an investment adviser registered or exempt from registration under  
20 the investment advisers act of 1940, an investment adviser  
21 registered under this act, a depository institution, or an  
22 insurance company.

23       (vii) A plan established and maintained by a state, a political  
24 subdivision of a state, or an agency or instrumentality of a state  
25 or a political subdivision of a state for the benefit of its  
26 employees, if the plan has total assets in excess of \$10,000,000.00  
27 or its investment decisions are made by a duly designated public

1 official or by a named fiduciary, as defined in the employee  
2 retirement income security act of 1974, that is a broker-dealer  
3 registered under the securities exchange act of 1934, an investment  
4 adviser registered or exempt from registration under the investment  
5 advisers act of 1940, an investment adviser registered under this  
6 act, a depository institution, or an insurance company.

7 (viii) A trust, if it has total assets in excess of  
8 \$10,000,000.00, its trustee is a depository institution, and its  
9 participants are exclusively plans of the types identified in  
10 subparagraph (vi) or (vii), regardless of size of their assets,  
11 except a trust that includes as participants self-directed  
12 individual retirement accounts or similar self-directed plans.

13 (ix) An organization described in section 501(c)(3) of the  
14 internal revenue code, 26 USC 501, a corporation, Massachusetts or  
15 similar business trust, limited liability company, or partnership,  
16 not formed for the specific purpose of acquiring the securities  
17 offered, with total assets in excess of \$10,000,000.00.

18 (x) A small business investment company licensed by the small  
19 business administration under section 301(c) of the small business  
20 investment act of 1958, 15 USC 681, with total assets in excess of  
21 \$10,000,000.00.

22 (xi) A private business development company as defined in  
23 section 202(a)(22) of the investment advisers act of 1940, 15 USC  
24 80b-2, with total assets in excess of \$10,000,000.00.

25 (xii) A federal covered investment adviser acting for its own  
26 account.

27 (xiii) A "qualified institutional buyer" as defined in rule

1 144A(a)(1), other than rule 144A(a)(1)(i)(H), adopted under the  
2 securities act of 1933, 17 CFR 230.144A.

3 (xiv) A "major U.S. institutional investor" as defined in rule  
4 15a-6(b)(4)(i) adopted under the securities exchange act of 1934, 17  
5 CFR 240.15a-6(b)(4)(i).

6 (xv) Any other person, other than an individual, of  
7 institutional character with total assets in excess of  
8 \$10,000,000.00 not organized for the specific purpose of evading  
9 this act.

10 (xvi) Any other person specified by rule or order under this  
11 act.

12 (b) "Insurance company" means a company organized as an  
13 insurance company whose primary business is writing insurance or  
14 reinsuring risks underwritten by insurance companies and which is  
15 subject to supervision by the insurance commissioner or a similar  
16 official or agency of a state.

17 (c) "Insured" means insured as to payment of all principal and  
18 all interest.

19 (d) "International banking institution" means an international  
20 financial institution of which the United States is a member and  
21 whose securities are exempt from registration under the securities  
22 act of 1933.

23 (e) "Investment adviser" means a person that, for  
24 compensation, engages in the business of advising others, either  
25 directly or through publications or writings, as to the value of  
26 securities or the advisability of investing in, purchasing, or  
27 selling securities or that, for compensation and as a part of a

1 regular business, issues or promulgates analyses or reports  
2 concerning securities. The term includes a financial planner or  
3 other person that, as an integral component of other financially  
4 related services, provides investment advice to others for  
5 compensation as part of a business or that holds itself out as  
6 providing investment advice to others for compensation. The term  
7 does not include any of the following:

8 (i) An investment adviser representative.

9 (ii) A lawyer, accountant, engineer, or teacher whose  
10 performance of investment advice is solely incidental to the  
11 practice of the person's profession.

12 (iii) A broker-dealer or its agents whose performance of  
13 investment advice is solely incidental to the conduct of business  
14 as a broker-dealer and that does not receive special compensation  
15 for the investment advice.

16 (iv) A publisher of a bona fide newspaper, news magazine, or  
17 business or financial publication of general and regular  
18 circulation.

19 (v) A federal covered investment adviser.

20 (vi) A depository institution.

21 (vii) Any other person that is excluded by the investment  
22 advisers act of 1940 from the definition of investment adviser.

23 (viii) Any other person excluded by rule or order under this  
24 act.

25 (ix) A finder registered as a broker-dealer under this act.

26 (f) "Investment adviser representative" means an individual  
27 employed by or associated with an investment adviser or federal



1 covered investment adviser and who makes any recommendations or  
2 otherwise gives investment advice regarding securities, manages  
3 accounts or portfolios of clients, determines which recommendation  
4 or advice regarding securities should be given, provides investment  
5 advice or holds himself or herself out as providing investment  
6 advice, receives compensation to solicit, offer, or negotiate for  
7 the sale of or for selling investment advice, or supervises  
8 employees who perform any of the foregoing. The term does not  
9 include an individual who meets any of the following:

10 (i) Performs only clerical or ministerial acts.

11 (ii) Is an agent whose performance of investment advice is  
12 solely incidental to the individual acting as an agent and does not  
13 receive special compensation for investment advisory services.

14 (iii) Is employed by or associated with a federal covered  
15 investment adviser, unless the individual meets any of the  
16 following:

17 (A) Has a "place of business" in this state as that term is  
18 defined by rule adopted under section 203A of the investment  
19 advisers act of 1940, 15 USC 80b-3a, and is an "investment adviser  
20 representative" as that term is defined by rule adopted under  
21 section 203A of the investment advisers act of 1940, 15 USC 80b-3a.

22 (B) Has a "place of business" in this state as that term is  
23 defined by rule adopted under section 203A of the investment  
24 advisers act of 1940, 15 USC 80b-3a, and is not a "supervised  
25 person" as that term is defined in section 202(a)(25) of the  
26 investment advisers act of 1940, 15 USC 80b-2.

27 (iv) Is excluded by rule or order under this act.

1 (g) "Issuer" means a person that issues or proposes to issue a  
2 security, subject to the following:

3 (i) The issuer of a voting trust certificate, collateral trust  
4 certificate, certificate of deposit for a security, or share in an  
5 investment company without a board of directors or individuals  
6 performing similar functions, is the person performing the acts and  
7 assuming the duties of depositor or manager pursuant to the trust  
8 or other agreement or instrument under which the security is  
9 issued.

10 (ii) The issuer of an equipment trust certificate or similar  
11 security serving the same purpose is the person by which the  
12 property is or will be used, or to which the property or equipment  
13 is or will be leased or conditionally sold, or that is otherwise  
14 contractually responsible for assuring payment of the certificate.

15 (iii) The issuer of a fractional undivided interest in an oil,  
16 gas, or other mineral lease or in payments out of production under  
17 a lease, right, or royalty is the owner of an interest in the lease  
18 or in payments out of production under a lease, right, or royalty,  
19 whether whole or fractional, that creates fractional interests for  
20 the purpose of sale.

21 Sec. 102b. As used in this act, unless the context otherwise  
22 requires:

23 (a) "Nonissuer transaction" or "nonissuer distribution" means  
24 a transaction or distribution not directly or indirectly for the  
25 benefit of the issuer.

26 (b) "Offer to purchase" includes an attempt or offer to  
27 obtain, or solicitation of an offer to sell, a security or interest

1 in a security for value. The term does not include a tender offer  
2 that is subject to section 14(d) of title I of the securities  
3 exchange act of 1934, 15 USC 78n.

4 (c) "Person" means an individual, corporation, business trust,  
5 estate, trust, partnership, limited liability company, limited  
6 liability partnership, association, joint venture, or government; a  
7 governmental subdivision, agency, or instrumentality; a public  
8 corporation; or any other legal or commercial entity.

9 (d) "Place of business" of a broker-dealer, an investment  
10 adviser, or a federal covered investment adviser means any of the  
11 following:

12 (i) An office at which the broker-dealer, investment adviser,  
13 or federal covered investment adviser regularly provides brokerage  
14 or investment advice, or solicits, meets with, or otherwise  
15 communicates with customers or clients.

16 (ii) Any other location that is held out to the general public  
17 as a location at which the broker-dealer, investment adviser, or  
18 federal covered investment adviser provides brokerage or investment  
19 advice, or solicits, meets with, or otherwise communicates with  
20 customers or clients.

21 (e) "Predecessor act" means former 1964 PA 265.

22 (f) "Price amendment" means the amendment to a registration  
23 statement filed under the securities act of 1933 or, if an  
24 amendment is not filed, the prospectus or prospectus supplement  
25 filed under the securities act of 1933 that includes a statement of  
26 the offering price, underwriting and selling discounts or  
27 commissions, amount of proceeds, conversion rates, call prices, and

1 other matters dependent upon the offering price.

2 (g) "Principal place of business" of a broker-dealer or an  
3 investment adviser means the executive office of the broker-dealer  
4 or investment adviser from which the officers, partners, or  
5 managers of the broker-dealer or investment adviser direct,  
6 control, and coordinate the activities of the broker-dealer or  
7 investment adviser.

8 (h) "Record," except in the phrases "of record," "official  
9 record," and "public record," means information that is inscribed  
10 on a tangible medium or that is stored in an electronic or other  
11 medium and is retrievable in perceivable form.

12 Sec. 102c. As used in this act, unless the context otherwise  
13 requires:

14 (a) "Sale" includes every contract of sale, contract to sell,  
15 or disposition of, a security or interest in a security for value,  
16 and "offer to sell" includes every attempt or offer to dispose of,  
17 or solicitation of an offer to purchase, a security or interest in  
18 a security for value. Both terms include any of the following:

19 (i) A security given or delivered with, or as a bonus on  
20 account of, any purchase of securities or any other thing  
21 constituting part of the subject of the purchase and having been  
22 offered and sold for value.

23 (ii) A gift of assessable stock involving an offer and sale.

24 (iii) A sale or offer of a warrant or right to purchase or  
25 subscribe to another security of the same or another issuer, and a  
26 sale or offer of a security that gives the holder a present or  
27 future right or privilege to convert the security into another

1 security of the same or another issuer, including an offer of the  
2 other security.

3 (b) "Securities and exchange commission" means the United  
4 States securities and exchange commission.

5 (c) "Security" means a note; stock; treasury stock; security  
6 future; bond; debenture; evidence of indebtedness; certificate of  
7 interest or participation in a profit-sharing agreement; collateral  
8 trust certificate; preorganization certificate or subscription;  
9 transferable share; investment contract; voting trust certificate;  
10 certificate of deposit for a security; fractional undivided  
11 interest in oil, gas, or other mineral rights; put, call, straddle,  
12 option, or privilege on a security, certificate of deposit, or  
13 group or index of securities, including an interest in or based on  
14 the value of that put, call, straddle, option, or privilege on that  
15 security, certificate of deposit, or group or index of securities;  
16 put, call, straddle, option, or privilege entered into on a  
17 national securities exchange relating to foreign currency; an  
18 investment in a viatical or life settlement agreement; or, in  
19 general, an interest or instrument commonly known as a "security";  
20 or a certificate of interest or participation in, temporary or  
21 interim certificate for, receipt for, guarantee of, or warrant or  
22 right to subscribe to or purchase, any of the foregoing. All of the  
23 following apply to the term security:

24 (i) The term includes a contractual or quasi-contractual  
25 arrangement that meets all of the following:

26 (A) A person furnishes capital, other than services, to an  
27 issuer under the arrangement.

1 (B) A portion of the capital furnished under sub-subparagraph  
2 (A) is subjected to the risks of the issuer's enterprise.

3 (C) The furnishing of capital under sub-subparagraph (A) is  
4 induced by representations made by an issuer, promoter, or the  
5 issuer's or promoter's affiliates which give rise to a reasonable  
6 understanding that a valuable tangible benefit will accrue to the  
7 person furnishing the capital as a result of the operation of the  
8 enterprise.

9 (D) The person furnishing the capital under sub-subparagraph  
10 (A) does not intend to be actively involved in the management of  
11 the enterprise in a meaningful way.

12 (E) At the time the capital is furnished, a promoter or its  
13 affiliates anticipate that financial gain may be realized as a  
14 result of the furnishing.

15 (ii) The term includes both a certificated and an  
16 uncertificated security.

17 (iii) The term does not include an insurance or endowment policy  
18 or annuity contract under which an insurance company promises to  
19 pay a fixed or variable sum of money either in a lump sum or  
20 periodically for life or other specified period.

21 (iv) The term does not include an interest in a contributory or  
22 noncontributory pension or welfare plan subject to the employee  
23 retirement income security act of 1974.

24 (v) The term includes an investment in a common enterprise  
25 with the expectation of profits to be derived primarily from the  
26 efforts of a person other than the investor. As used in this  
27 subparagraph, a "common enterprise" means an enterprise in which

1 the fortunes of the investor are interwoven with those of either  
2 the person offering the investment, a third party, or other  
3 investors.

4 (vi) The term may include, as an investment contract, an  
5 interest in a limited partnership, a limited liability company, or  
6 a limited liability partnership.

7 (d) "Self-regulatory organization" means a national securities  
8 exchange registered under the securities exchange act of 1934, a  
9 national securities association of broker-dealers registered under  
10 the securities exchange act of 1934, a clearing agency registered  
11 under the securities exchange act of 1934, or the municipal  
12 securities rule-making board established under the securities  
13 exchange act of 1934.

14 (e) "Sign" means, with present intent to authenticate or adopt  
15 a record, either of the following:

16 (i) To execute or adopt a tangible symbol.

17 (ii) To attach or logically associate with the record an  
18 electronic symbol, sound, or process.

19 (f) "State" means a state of the United States, the District  
20 of Columbia, the Commonwealth of Puerto Rico, the United States  
21 Virgin Islands, or any territory or insular possession subject to  
22 the jurisdiction of the United States.

23 Sec. 103. (1) Subject to subsection (2), as used in this act:

24 (a) "Commodity exchange act" means the commodity exchange act,  
25 7 USC 1 to 27f.

26 (b) "Electronic signatures in global and national commerce  
27 act" means the electronic signatures in global and national

1 commerce act, 15 USC 7001 to 7031.

2 (c) "Employee retirement income security act of 1974" means  
3 the employee retirement income security act of 1974, 29 USC 1001 to  
4 1461.

5 (d) "Internal revenue code" means the internal revenue code of  
6 1986, 26 USC 1 to 9833.

7 (e) "Investment advisers act of 1940" means the investment  
8 advisers act of 1940, 15 USC 80b-1 to 80b-21.

9 (f) "Investment company act of 1940" means the investment  
10 company act of 1940, 15 USC 80a-1 to 80a-64.

11 (g) "National housing act" means the national housing act, 12  
12 USC 1701 to 1750g.

13 (h) "Public utility holding company act of 1935" means the  
14 public utility holding company act of 1935, 15 USC 79 to 79z-6.

15 (i) "Securities act of 1933" means the securities act of 1933,  
16 15 USC 77a to 77aa.

17 (j) "Securities exchange act of 1934" means the securities  
18 exchange act of 1934, 15 USC 78a to 78nn.

19 (k) "Securities investor protection act of 1970" means the  
20 securities investor protection act of 1970, 15 USC 78aaa to 78lll.

21 (l) "Securities litigation uniform standards act of 1998" means  
22 the securities litigation uniform standards act of 1998, Public Law  
23 105-353, 112 Stat. 3227.

24 (m) "Small business investment act of 1958" means the small  
25 business investment act of 1958, 15 USC 661 to 697g.

26 (2) A reference in this act to a federal statute defined in  
27 subsection (1) includes that statute and the rules and regulations



1 adopted under that statute. The administrator may, by rule or  
2 order, adopt an amendment or successor to a federal statute defined  
3 in subsection (1) or rules and regulations adopted under a federal  
4 statute defined in subsection (1), a federal statute that is  
5 similar to a federal statute defined in subsection (1), or a rule  
6 or regulation that is similar to a rule or regulation adopted under  
7 a federal statute defined in subsection (1).

8       Sec. 104. Any reference in this act to an agency or department  
9 of the United States is also a reference to any successor agency,  
10 department, or entity of that agency or department.

11       Sec. 105. This act modifies, limits, and supersedes the  
12 electronic signatures in global and national commerce act, but does  
13 not modify, limit, or supersede section 101(c) of that act, 15 USC  
14 7001, or authorize electronic delivery of any of the notices  
15 described in section 103(b) of that act, 15 USC 7003. This act  
16 authorizes the filing of records and signatures, when specified by  
17 provisions of this act or by a rule or order under this act, in a  
18 manner consistent with section 104(a) of that act, 15 USC 7004.

## 19                   ARTICLE 2

### 20                   EXEMPTIONS FROM REGISTRATION OF SECURITIES

21       Sec. 201. The following securities are exempt from the  
22 requirements of sections 301 to 306 and 504:

23       (a) A security, including a revenue obligation or a separate  
24 security as defined in rule 131 adopted under the securities act of  
25 1933, 17 CFR 230.131, issued, insured, or guaranteed by the United  
26 States; by a state; by a political subdivision of a state; by a  
27 public authority, agency, or instrumentality of 1 or more states;

1 by a political subdivision of 1 or more states; or by a person  
2 controlled or supervised by and acting as an instrumentality of the  
3 United States under authority granted by the Congress; or a  
4 certificate of deposit for any of the foregoing.

5 (b) A security issued, insured, or guaranteed by a foreign  
6 government with which the United States maintains diplomatic  
7 relations, or any of its political subdivisions, if the security is  
8 recognized as a valid obligation by the issuer, insurer, or  
9 guarantor.

10 (c) A security issued by and representing, or that will  
11 represent an interest in or a direct obligation of, or be  
12 guaranteed by, any of the following:

13 (i) An international banking institution.

14 (ii) A banking institution organized under the laws of the  
15 United States; a member bank of the federal reserve system; or a  
16 depository institution a substantial portion of the business of  
17 which consists or will consist of either receiving deposits or  
18 share accounts that are insured to the maximum amount authorized by  
19 statute by the federal deposit insurance corporation, the national  
20 credit union share insurance fund, or a successor authorized by  
21 federal law or exercising fiduciary powers that are similar to  
22 those permitted for national banks under the authority of the  
23 comptroller of currency pursuant to 12 USC 92a.

24 (iii) Any other depository institution, unless by rule or order  
25 the administrator proceeds under section 204.

26 (d) A security issued by and representing an interest in, or a  
27 debt of, or insured or guaranteed by, an insurance company

1 authorized to do business in this state.

2 (e) A security issued or guaranteed by a railroad, other  
3 common carrier, public utility, or public utility holding company  
4 that is any of the following:

5 (i) Regulated in respect to its rates and charges by the United  
6 States or a state.

7 (ii) Regulated in respect to the issuance or guarantee of the  
8 security by the United States, a state, Canada, or a Canadian  
9 province or territory.

10 (iii) A public utility holding company registered under the  
11 public utility holding company act of 1935 or a subsidiary of a  
12 registered holding company within the meaning of that act.

13 (f) A federal covered security specified in section 18(b)(1)  
14 of the securities act of 1933, 15 USC 77r, or a security listed or  
15 approved for listing on another securities market specified by rule  
16 under this act; a put or a call option contract; warrant; a  
17 subscription right on or with respect to those securities; or an  
18 option or similar derivative security on a security or an index of  
19 securities or foreign currencies issued by a clearing agency  
20 registered under the securities exchange act of 1934 and listed or  
21 designated for trading on a national securities exchange, a  
22 facility of a national securities exchange, or a facility of a  
23 national securities association registered under the securities  
24 exchange act of 1934 or an offer or sale, of the underlying  
25 security in connection with the offer, sale, or exercise of an  
26 option or other security that was exempt when the option or other  
27 security was written or issued; or an option or a derivative

1 security designated by the securities and exchange commission under  
2 section 9(b) of the securities exchange act of 1934, 15 USC 78i.

3 (g) A security issued by a person organized and operated  
4 exclusively for religious, educational, benevolent, fraternal,  
5 charitable, social, athletic, or reformatory purposes, or as a  
6 chamber of commerce, and not for pecuniary profit, no part of the  
7 net earnings of which inures to the benefit of a private  
8 stockholder or other person, or a security of a company that is  
9 excluded from the definition of an investment company under section  
10 3(c)(10)(B) of the investment company act of 1940, 15 USC 80a-3.  
11 With respect to the offer or sale of a note, bond, debenture, or  
12 other evidence of indebtedness by a person described in this  
13 subdivision, the administrator by rule may limit the availability  
14 of this exemption by classifying securities, persons, and  
15 transactions, imposing different requirements for different  
16 classes, specifying with respect to subparagraph (ii) the scope of  
17 the exemption and the grounds for denial or suspension, and  
18 requiring an issuer to meet 1 or more of the following:

19 (i) To file a notice specifying the material terms of the  
20 proposed offer or sale and copies of any proposed sales and  
21 advertising literature to be used and provide that the exemption  
22 becomes effective if the administrator does not disallow the  
23 exemption within the period established by the rule.

24 (ii) To file a request for exemption authorization for which a  
25 rule under this act may specify the scope of the exemption; the  
26 requirement of an offering statement; the filing of sales and  
27 advertising literature; the filing of consent to service of process

1 complying with section 611; and grounds for denial or suspension of  
2 the exemption.

3 (iii) To register under section 304.

4 (h) A member's or owner's interest in, or a retention  
5 certificate or like security given in lieu of a cash patronage  
6 dividend issued by, a cooperative organized and operated as a  
7 nonprofit membership cooperative under the cooperative laws of a  
8 state, but not a member's or owner's interest, retention  
9 certificate, or like security sold to persons other than bona fide  
10 members of the cooperative.

11 (i) An equipment trust certificate in respect to equipment  
12 leased or conditionally sold to a person, if any security issued by  
13 the person would be exempt under this section or would be a federal  
14 covered security under section 18(b)(1) of the securities act of  
15 1933, 15 USC 77r.

16 Sec. 202. (1) The following transactions are exempt from the  
17 requirements of sections 301 to 306 and 504:

18 (a) An isolated nonissuer transaction, whether effected by or  
19 through a broker-dealer or not.

20 (b) A nonissuer transaction by or through a broker-dealer  
21 registered or exempt from registration under this act, and a resale  
22 transaction by a sponsor of a unit investment trust registered  
23 under the investment company act of 1940, in a security of a class  
24 that has been outstanding in the hands of the public for at least  
25 90 days, if all of the following are met at the date of the  
26 transaction:

27 (i) The issuer of the security is engaged in business, the

1 issuer is not in the organizational stage or in bankruptcy or  
2 receivership, and the issuer is not a blank check, blind pool, or  
3 shell company that has no specific business plan or purpose or has  
4 indicated that its primary business plan is to engage in a merger  
5 or combination of the business with, or an acquisition of, an  
6 unidentified person.

7 (ii) The security is sold at a price reasonably related to its  
8 current market price.

9 (iii) The security does not constitute the whole or part of an  
10 unsold allotment to, or a subscription or participation by, the  
11 broker-dealer as an underwriter of the security or a  
12 redistribution.

13 (iv) A nationally recognized securities manual or its  
14 electronic equivalent designated by rule or order under this act or  
15 a record filed with the securities and exchange commission that is  
16 publicly available contains all of the following:

17 (A) A description of the business and operations of the  
18 issuer.

19 (B) The names of the issuer's executive officers and the names  
20 of the issuer's directors, if any.

21 (C) An audited balance sheet of the issuer as of a date within  
22 18 months before the date of the transaction or, in the case of a  
23 reorganization or merger, and when the parties to the  
24 reorganization or merger each had an audited balance sheet, a pro  
25 forma balance sheet for the combined entity.

26 (D) An audited income statement for each of the issuer's 2  
27 immediately previous fiscal years or for the period of existence of

1 the issuer, whichever is shorter, or, in the case of a  
2 reorganization or merger when each party to the reorganization or  
3 merger had audited income statements, a pro forma income statement.

4 (v) Any of the following requirements are met:

5 (A) The issuer of the security has a class of equity  
6 securities listed on a national securities exchange registered  
7 under section 6 of the securities exchange act of 1934, 15 USC 78f,  
8 or designated for trading on the national association of securities  
9 dealers automated quotation system.

10 (B) The issuer of the security is a unit investment trust  
11 registered under the investment company act of 1940.

12 (C) The issuer of the security, including its predecessors,  
13 has been engaged in continuous business for at least 3 years.

14 (D) The issuer of the security has total assets of at least  
15 \$2,000,000.00 based on an audited balance sheet as of a date within  
16 18 months before the date of the transaction or, in the case of a  
17 reorganization or merger when the parties to the reorganization or  
18 merger each had an audited balance sheet as of a date within 18  
19 months before the date of the transaction, a pro forma balance  
20 sheet for the combined entity.

21 (c) A nonissuer transaction by or through a broker-dealer  
22 registered or exempt from registration under this act in a security  
23 of a foreign issuer that is a margin security defined in  
24 regulations or rules adopted by the board of governors of the  
25 federal reserve system.

26 (d) A nonissuer transaction by or through a broker-dealer  
27 registered or exempt from registration under this act in an

1 outstanding security if the guarantor of the security files reports  
2 with the securities and exchange commission under the reporting  
3 requirements of section 13 or 15(d) of the securities exchange act  
4 of 1934, 15 USC 78m or 78o.

5 (e) A nonissuer transaction by or through a broker-dealer  
6 registered or exempt from registration under this act in a security  
7 that meets 1 or more of the following:

8 (i) Is rated at the time of the transaction by a nationally  
9 recognized statistical rating organization in 1 of its 4 highest  
10 rating categories.

11 (ii) Has a fixed maturity or a fixed interest or dividend, if  
12 both of the following are met:

13 (A) A default has not occurred during the current fiscal year  
14 or within the 3 previous fiscal years or during the existence of  
15 the issuer and any predecessor if less than 3 fiscal years, in the  
16 payment of principal, interest, or dividends on the security.

17 (B) The issuer is engaged in business, is not in the  
18 organizational stage or in bankruptcy or receivership, and is not  
19 and has not been within the previous 12 months a blank check, blind  
20 pool, or shell company that has no specific business plan or  
21 purpose or has indicated that its primary business plan is to  
22 engage in a merger or combination of the business with, or an  
23 acquisition of, an unidentified person.

24 (f) A nonissuer transaction by or through a broker-dealer  
25 registered or exempt from registration under this act effecting an  
26 unsolicited order or offer to purchase.

27 (g) A nonissuer transaction executed by a bona fide pledgee



1 without any purpose of evading this act.

2 (h) A nonissuer transaction by a federal covered investment  
3 adviser with investments under management in excess of  
4 \$100,000,000.00 acting in the exercise of discretionary authority  
5 in a signed record for the account of others.

6 (i) A transaction in a security, whether or not the security  
7 or transaction is otherwise exempt, in exchange for 1 or more bona  
8 fide outstanding securities, claims, or property interests, or  
9 partly in exchange and partly for cash, if the terms and conditions  
10 of the issuance and exchange or the delivery and exchange and the  
11 fairness of the terms and conditions have been approved by the  
12 administrator at a hearing.

13 (j) A transaction between the issuer or other person on whose  
14 behalf the offering is made and an underwriter, or among  
15 underwriters.

16 (k) A transaction in a note, bond, debenture, or other  
17 evidence of indebtedness secured by a mortgage or other security  
18 agreement if all of the following are met:

19 (i) The note, bond, debenture, or other evidence of  
20 indebtedness is offered and sold with the mortgage or other  
21 security agreement as a unit.

22 (ii) A general solicitation or general advertisement of the  
23 transaction is not made.

24 (iii) A commission or other remuneration is not paid or given,  
25 directly or indirectly, to a person not registered under this act  
26 as a broker-dealer or as an agent.

27 (l) A transaction by an executor, administrator of an estate,

1 sheriff, marshal, receiver, trustee in bankruptcy, guardian, or  
2 conservator.

3 (m) A sale or offer to sell to any of the following:

4 (i) An institutional investor.

5 (ii) A federal covered investment adviser.

6 (iii) Any other person exempted by rule or order under this act.

7 (n) A sale or an offer to sell securities by or on behalf of  
8 an issuer, if the transaction is part of a single issue in which  
9 all of the following are met:

10 (i) There are not more than 25 purchasers in this state during  
11 any 12 consecutive months, other than those designated in  
12 subdivision (m).

13 (ii) There is no general solicitation or general advertising  
14 used in connection with the offer to sell or sale of the  
15 securities.

16 (iii) A commission or other remuneration is not paid or given,  
17 directly or indirectly, to a person other than a broker-dealer  
18 registered under this act or an agent registered under this act for  
19 soliciting a prospective purchaser in this state.

20 (iv) The issuer reasonably believes that all the purchasers in  
21 this state other than those designated in subdivision (m) are  
22 purchasing for investment.

23 (o) A transaction under an offer to existing security holders  
24 of the issuer, including persons that at the date of the  
25 transaction are holders of convertible securities, options, or  
26 warrants, if a commission or other remuneration, other than a  
27 standby commission, is not paid or given, directly or indirectly,

1 for soliciting a security holder in this state.

2 (p) An offer to sell, but not a sale, of a security not exempt  
3 from registration under the securities act of 1933 if both of the  
4 following are met:

5 (i) A registration or offering statement or similar record as  
6 required under the securities act of 1933 has been filed, but is  
7 not effective, or the offer is made in compliance with rule 165  
8 adopted under the securities act of 1933, 17 CFR 230.165.

9 (ii) A stop order of which the offeror is aware has not been  
10 issued against the offeror by the administrator or the securities  
11 and exchange commission, and an audit, inspection, or proceeding  
12 that is public and may culminate in a stop order is not known by  
13 the offeror to be pending.

14 (q) An offer to sell, but not a sale, of a security exempt  
15 from registration under the securities act of 1933 if all of the  
16 following are met:

17 (i) A registration statement has been filed under this act, but  
18 is not effective.

19 (ii) A solicitation of interest is provided in a record to  
20 offerees in compliance with a rule adopted by the administrator  
21 under this act.

22 (iii) A stop order of which the offeror is aware has not been  
23 issued by the administrator under this act, and an audit,  
24 inspection, or proceeding that may culminate in a stop order is not  
25 known by the offeror to be pending.

26 (r) A transaction involving the distribution of the securities  
27 of an issuer to the security holders of another person in

1 connection with a merger, consolidation, exchange of securities,  
2 sale of assets, or other reorganization to which the issuer, or its  
3 parent or subsidiary, and the other person, or its parent or  
4 subsidiary, are parties.

5 (s) A rescission offer, sale, or purchase under section 510.

6 (t) An offer or sale of a security to a person not resident in  
7 this state and not present in this state if the offer or sale does  
8 not constitute a violation of the laws of the state or foreign  
9 jurisdiction in which the offeree or purchaser is present and is  
10 not part of an unlawful plan or scheme to evade this act.

11 (u) An offer or sale of a security pursuant to an employee's  
12 stock purchase, savings, option, profit-sharing, pension, or  
13 similar employees' benefit plan, including any securities, plan  
14 interests, and guarantees issued under a compensatory benefit plan  
15 or compensation contract, contained in a record, established by the  
16 issuer, its parents, its majority-owned subsidiaries, or the  
17 majority-owned subsidiaries of the issuer's parent for the  
18 participation of their employees including any of the following:

19 (i) Offers or sales of those securities to directors; general  
20 partners; trustees, if the issuer is a business trust; officers; or  
21 consultants and advisors.

22 (ii) Family members who acquire those securities from those  
23 persons through gifts or domestic relations orders.

24 (iii) Former employees, directors, general partners, trustees,  
25 officers, consultants, and advisors if those individuals were  
26 employed by or providing services to the issuer when the securities  
27 were offered.

1           (iv) Insurance agents who are exclusive insurance agents of the  
2 issuer, its subsidiaries or parents, or who derive more than 50% of  
3 their annual income from those organizations.

4           (v) A transaction involving any of the following:

5           (i) A stock dividend or equivalent equity distribution, whether  
6 the corporation or other business organization distributing the  
7 dividend or equivalent equity distribution is the issuer or not, if  
8 nothing of value is given by stockholders or other equity holders  
9 for the dividend or equivalent equity distribution other than the  
10 surrender of a right to a cash or property dividend if each  
11 stockholder or other equity holder may elect to take the dividend  
12 or equivalent equity distribution in cash, property, or stock.

13           (ii) An act incident to a judicially approved reorganization in  
14 which a security is issued in exchange for 1 or more outstanding  
15 securities, claims, or property interests, or partly in exchange  
16 and partly for cash.

17           (iii) The solicitation of tenders of securities by an offeror in  
18 a tender offer in compliance with rule 162 adopted under the  
19 securities act of 1933, 17 CFR 230.162.

20           (w) Subject to subsection (2), a nonissuer transaction in an  
21 outstanding security by or through a broker-dealer registered or  
22 exempt from registration under this act, if both of the following  
23 are met:

24           (i) The issuer is a reporting issuer in a foreign jurisdiction  
25 designated in subsection (2)(a), or by rule or order of the  
26 administrator, and has been subject to continuous reporting  
27 requirements in the foreign jurisdiction for not less than 180 days

1 before the transaction.

2 (ii) The security is listed on the foreign jurisdiction's  
3 securities exchange that has been designated in subsection (2)(a),  
4 or by rule or order under this act, or is a security of the same  
5 issuer that is of senior or substantially equal rank to the listed  
6 security or is a warrant or right to purchase or subscribe to any  
7 of the foregoing.

8 (2) For purposes of subsection (1)(w), both of the following  
9 apply:

10 (a) Canada, together with its provinces and territories, is a  
11 designated foreign jurisdiction and the Toronto stock exchange,  
12 inc., is a designated securities exchange.

13 (b) After an administrative hearing in compliance with  
14 applicable state law, the administrator, by rule or order under  
15 this act, may revoke the designation of a securities exchange under  
16 subsection (1)(w) or this subsection if the administrator finds  
17 that revocation is necessary or appropriate in the public interest  
18 and for the protection of investors.

19 Sec. 203. A rule or order under this act may exempt a  
20 security, transaction, or offer, or a rule or order under this act  
21 may exempt a class of securities, transactions, or offers, from any  
22 or all of the requirements of sections 301 to 306 and 504, and a  
23 rule or order under this act may waive any or all of the conditions  
24 for an exemption or offers under sections 201 and 202.

25 Sec. 204. (1) Except with respect to a federal covered  
26 security or a transaction involving a federal covered security, an  
27 order of the administrator under this act may deny or suspend

1 application of, condition, limit, or revoke an exemption created  
2 under section 201(c)(iii), (g), or (h) or 202 or an exemption or  
3 waiver created under section 203 with respect to a specific  
4 security, transaction, or offer. An order under this section may  
5 only be issued pursuant to the procedures in section 306(4) or 604.

6 (2) A person does not violate section 301, 303 to 306, 504, or  
7 510 by an offer to sell, an offer to purchase, a sale, or a  
8 purchase effected after the entry of an order issued under this  
9 section if the person did not know, and in the exercise of  
10 reasonable care could not have known, of the order.

### 11 ARTICLE 3

## 12 REGISTRATION OF SECURITIES AND NOTICE FILINGS OF FEDERAL COVERED 13 SECURITIES

14 Sec. 301. A person shall not offer or sell a security in this  
15 state unless 1 or more of the following are met:

16 (a) The security is a federal covered security.

17 (b) The security, transaction, or offer is exempted from  
18 registration under sections 201 to 203.

19 (c) The security is registered under this act.

20 Sec. 302. (1) A rule or order under this act may require the  
21 filing of 1 or more of the following records with respect to a  
22 security issued by an investment company that is a federal covered  
23 security as defined in section 18(b)(2) of the securities act of  
24 1933, 15 USC 77r, that is not otherwise exempt under sections 201  
25 to 203:

26 (a) Before the initial offer of a federal covered security in  
27 this state, all records that are part of a federal registration

1 statement filed with the securities and exchange commission under  
2 the securities act of 1933, a consent to service of process signed  
3 by the issuer, and a fee of \$500.00.

4 (b) After the initial offer of the federal covered security in  
5 this state, all records that are part of an amendment to a federal  
6 registration statement filed with the securities and exchange  
7 commission under the securities act of 1933.

8 (2) Any security issued by a unit investment trust that is  
9 registered or that has filed a registration statement under the  
10 investment company act of 1940 as an investment company may be  
11 offered for sale and sold into, from, or within this state for an  
12 indefinite period commencing upon the later of the trust's  
13 effectiveness with the securities and exchange commission or the  
14 administrator's receipt of a notice as prescribed by the  
15 administrator and a 1-time notice filing fee of \$500.00.

16 (3) Each of the following applies to a notice filing under  
17 subsection (1):

18 (a) A notice filing is effective for a period of 1 year,  
19 commencing upon the later of the effectiveness of the offering with  
20 the securities and exchange commission or the administrator's  
21 receipt of the notice filing.

22 (b) A notice filing may be renewed for an additional 1-year  
23 period by filing a current form NF and the fee required by  
24 subsection (8) before the expiration of the 1-year effective  
25 period. The renewal is effective upon the expiration of the prior  
26 notice period.

27 (c) A notice filing may be terminated by filing with the



1 administrator a notice of termination as prescribed by the  
2 administrator. The termination is effective upon the  
3 administrator's receipt of the notice of termination.

4 (4) With respect to any security that is a federal covered  
5 security under section 18(b)(4)(D) of the securities act of 1933,  
6 15 USC 77r, the issuer shall file all of the following:

7 (a) A notice on securities and exchange commission form D or a  
8 form approved by the administrator.

9 (b) A consent to service of process signed by the issuer, no  
10 later than 15 days after the first sale of a federal covered  
11 security in this state.

12 (c) A nonrefundable filing fee of \$100.00.

13 (5) The administrator, by rule or order, may require the  
14 filing of any document filed with the securities and exchange  
15 commission under the securities act of 1933 and a nonrefundable  
16 filing fee of \$100.00 with respect to any federal covered security.

17 (6) The administrator may issue a stop order suspending the  
18 offer and sale of a federal covered security, except a federal  
19 covered security under section 18(b)(1) of the securities act of  
20 1933, 15 USC 77r, if it finds that the order is in the public  
21 interest and there is a failure to comply with this section.

22 (7) The administrator may waive any or all of the provisions  
23 of this section by rule or order.

24 (8) All of the following apply to the renewals of a notice  
25 filing under subsection (3):

26 (a) Subject to adjustment under subdivision (c), the fee for  
27 the renewal is 1 of the following:

1           (i) If the issuer projects nonexempt sales of the security in  
2 this state during the 1-year renewal period of \$250,000.00 or less,  
3 \$100.00.

4           (ii) If the issuer projects nonexempt sales of the security in  
5 this state during the 1-year renewal period of more than  
6 \$250,000.00 but not more than \$700,000.00, \$400.00.

7           (iii) If the issuer projects nonexempt sales of the security in  
8 this state during the 1-year renewal period of more than  
9 \$700,000.00 but not more than \$1,000,000.00, \$800.00.

10          (iv) If the issuer projects nonexempt sales of the security in  
11 this state during the 1-year renewal period of more than  
12 \$1,000,000.00, \$1,400.00.

13          (b) For purposes of subdivision (a), an issuer's projection of  
14 nonexempt sales of a security must be reasonable and based on any  
15 facts known to the issuer at the time of renewal that may affect  
16 sales of the security, including, but not limited to, nonexempt  
17 sales of the security in this state during the current 1-year  
18 notice filing period.

19          (c) If an issuer's nonexempt sales of a security in this state  
20 during a 1-year notice filing period exceed the projections for  
21 that period that the issuer had submitted to the administrator for  
22 determination of the issuer's renewal fee for that 1-year notice  
23 filing period, the issuer is not required to amend its projections  
24 or pay an additional fee for that notice filing period. However,  
25 the fee for renewal of the notice filing shall be the greater of  
26 the following:

27           (i) The renewal fee determined under subdivision (a).

1           (ii) A renewal fee determined under subdivision (a), using  
2 actual sales during the current notice filing period as the  
3 projected sales for the renewal notice filing period.

4           (d) If an issuer's nonexempt sales of a security in this state  
5 during a 1-year notice filing period are less than the projections  
6 for that period that the issuer had submitted to the administrator  
7 for determination of the issuer's renewal fee for the 1-year notice  
8 filing period, the issuer is not entitled to a refund of any part  
9 of the renewal fee for that period or adjustment of the renewal fee  
10 for any renewal period.

11          (e) Upon written request of the administrator, an issuer shall  
12 provide sales reports showing the issuer's nonexempt sales of a  
13 security in this state for the current and 2 previous 1-year notice  
14 filing periods, but the issuer is not otherwise required to provide  
15 a sales report to the administrator in connection with a renewal of  
16 a notice filing.

17          (f) If the administrator determines that for 2 consecutive 1-  
18 year notice filing periods an issuer's nonexempt sales of a  
19 security in this state exceeded the issuer's sales projections for  
20 that period, the administrator may assess the issuer a penalty in  
21 the amount of the renewal fees the issuer would have paid under  
22 subdivision (a) if its projections had been accurate. This penalty  
23 is in addition to an increased fee for renewal under subdivision  
24 (c), if any.

25          (9) If the administrator finds that there is a failure to  
26 comply with a notice or fee requirement of this section, the  
27 administrator may issue a stop order suspending the offer and sale

1 of a federal covered security in this state, except a federal  
2 covered security under section 18(b)(1) of the securities act of  
3 1933, 15 USC 77r. If the deficiency is corrected, the stop order is  
4 void as of the time of its issuance and no other penalty may be  
5 imposed by the administrator.

6       Sec. 303. (1) A security for which a registration statement  
7 has been filed under the securities act of 1933 in connection with  
8 the same offering may be registered by coordination under this  
9 section.

10       (2) A registration statement and accompanying records under  
11 this section must contain or be accompanied by all of the following  
12 records in addition to the information specified in section 305 and  
13 a consent to service of process complying with section 611:

14       (a) A copy of the latest form of prospectus filed under the  
15 securities act of 1933.

16       (b) A copy of the articles of incorporation and bylaws or  
17 their substantial equivalents currently in effect, a copy of any  
18 agreement with or among underwriters, a copy of any indenture or  
19 other instrument governing the issuance of the security to be  
20 registered, and a specimen, copy, or description of the security  
21 that is required by rule or order under this act.

22       (c) Copies of any other information, or any other records,  
23 filed by the issuer under the securities act of 1933 requested by  
24 the administrator.

25       (d) An undertaking to forward each amendment to the federal  
26 prospectus, other than an amendment that delays the effective date  
27 of the registration statement, promptly after it is filed with the

1 securities and exchange commission.

2 (3) A registration statement under this section becomes  
3 effective simultaneously with or subsequent to the federal  
4 registration statement when all the following conditions are  
5 satisfied:

6 (a) A stop order under subsection (4) or section 306 or issued  
7 by the securities and exchange commission is not in effect and a  
8 proceeding is not pending against the issuer under section 306.

9 (b) The registration statement has been on file for at least  
10 20 days or a shorter period provided by rule or order under this  
11 act.

12 (4) The registrant shall promptly notify the administrator in  
13 a record of the date when the federal registration statement  
14 becomes effective and the content of a price amendment, if any, and  
15 shall promptly file a record containing the price amendment. If the  
16 notice is not timely received, the administrator may issue a stop  
17 order, without prior notice or hearing, retroactively denying  
18 effectiveness to the registration statement or suspending its  
19 effectiveness until compliance with this section. The administrator  
20 shall promptly notify the registrant of an order by telegram,  
21 telephone, or electronic means and promptly confirm this notice by  
22 a record. If the registrant subsequently complies with the notice  
23 requirements of this section, the stop order is void as of the date  
24 of its issuance.

25 (5) If the federal registration statement becomes effective  
26 before each of the conditions in this section is satisfied or is  
27 waived by the administrator, the registration statement is

1 automatically effective under this act when all the conditions are  
2 satisfied or waived. If the registrant notifies the administrator  
3 of the date when the federal registration statement is expected to  
4 become effective, the administrator shall promptly notify the  
5 registrant by telegram, telephone, or electronic means and promptly  
6 confirm this notice by a record, indicating whether all the  
7 conditions are satisfied or waived and whether the administrator  
8 intends the institution of a proceeding under section 306. The  
9 notice by the administrator does not preclude the institution of a  
10 proceeding under section 306.

11       Sec. 304. (1) A security may be registered by qualification  
12 under this section.

13       (2) A registration statement under this section must contain  
14 the information or records specified in section 305, a consent to  
15 service of process complying with section 611, and, if provided by  
16 rule under this act, all of the following information or records:

17       (a) With respect to the issuer and any significant subsidiary,  
18 its name, address, and form of organization, the state or foreign  
19 jurisdiction and date of its organization, the general character  
20 and location of its business, a description of its physical  
21 properties and equipment, and a statement of the general  
22 competitive conditions in the industry or business in which it is  
23 or will be engaged.

24       (b) With respect to each director and officer of the issuer,  
25 and other person having a similar status or performing similar  
26 functions, the person's name, address, and principal occupation for  
27 the previous 5 years, the amount of securities of the issuer held

1 by the person as of the thirtieth day before the filing of the  
2 registration statement, the amount of the securities covered by the  
3 registration statement to which the person has indicated an  
4 intention to subscribe, and a description of any material interest  
5 of the person in any material transaction with the issuer or a  
6 significant subsidiary effected within the previous 3 years or  
7 proposed to be effected.

8 (c) With respect to persons covered by subdivision (b), the  
9 aggregate sum of the remuneration paid to those persons during the  
10 previous 12 months and estimated to be paid during the next 12  
11 months, directly or indirectly, by the issuer, and all  
12 predecessors, parents, subsidiaries, and affiliates of the issuer.

13 (d) With respect to a person owning of record or owning  
14 beneficially, if known, 10% or more of the outstanding shares of  
15 any class of equity security of the issuer, the information  
16 specified in subdivision (b) other than the person's occupation.

17 (e) With respect to a promoter if the issuer was organized  
18 within the previous 3 years, the information or records specified  
19 in subdivision (b), any amount paid to the promoter within that  
20 period or intended to be paid to the promoter, and the  
21 consideration for the payment.

22 (f) With respect to a person on whose behalf any part of the  
23 offering is to be made in a nonissuer distribution, the person's  
24 name and address, the amount of securities of the issuer held by  
25 the person as of the date of the filing of the registration  
26 statement, a description of any material interest of the person in  
27 any material transaction with the issuer or any significant

1 subsidiary effected within the previous 3 years or proposed to be  
2 effected, and a statement of the reasons for making the offering.

3 (g) The capitalization and long-term debt, on both a current  
4 and pro forma basis, of the issuer and any significant subsidiary,  
5 including a description of each security outstanding or being  
6 registered or otherwise offered, and a statement of the amount and  
7 kind of consideration, whether in the form of cash, physical  
8 assets, services, patents, goodwill, or anything else of value, for  
9 which the issuer or any subsidiary has issued its securities within  
10 the previous 2 years or is obligated to issue its securities.

11 (h) The kind and amount of securities to be offered, the  
12 proposed offering price or the method by which it is to be  
13 computed, any variation at which a proportion of the offering is to  
14 be made to a person or class of persons other than the  
15 underwriters, with a specification of the person or class, the  
16 basis upon which the offering is to be made if otherwise than for  
17 cash, the estimated aggregate underwriting and selling discounts or  
18 commissions and finders' fees, including separately cash,  
19 securities, contracts, or anything else of value to accrue to the  
20 underwriters or finders in connection with the offering, or, if the  
21 selling discounts or commissions are variable, the basis of  
22 determining them and their maximum and minimum amounts, the  
23 estimated amounts of other selling expenses, including legal,  
24 engineering, and accounting charges, the name and address of each  
25 underwriter and each recipient of a finder's fee, a copy of any  
26 underwriting or selling group agreement under which the  
27 distribution is to be made, or the proposed form of any such



1 agreement whose terms have not yet been determined, and a  
2 description of the plan of distribution of any securities that are  
3 to be offered otherwise than through an underwriter.

4 (i) The estimated monetary proceeds to be received by the  
5 issuer from the offering, the purposes for which the proceeds are  
6 to be used by the issuer, the estimated amount to be used for each  
7 purpose, the order or priority in which the proceeds will be used  
8 for the purposes stated, the amounts of any funds to be raised from  
9 other sources to achieve the purposes stated, the sources of the  
10 funds, and, if a part of the proceeds is to be used to acquire  
11 property, including goodwill, otherwise than in the ordinary course  
12 of business, the names and addresses of the vendors, the purchase  
13 price, the names of any persons that have received commissions in  
14 connection with the acquisition, and the amounts of the commissions  
15 and other expenses in connection with the acquisition, including  
16 the cost of borrowing money to finance the acquisition.

17 (j) A description of any stock options or other security  
18 options outstanding, or to be created in connection with the  
19 offering, and the amount of those options held or to be held by  
20 each person required to be named in subdivision (b), (d), (e), (f),  
21 or (h) and by any person that holds or will hold 10% or more in the  
22 aggregate of those options.

23 (k) The dates of, parties to, and general effect concisely  
24 stated of each managerial or other material contract made or to be  
25 made otherwise than in the ordinary course of business to be  
26 performed in whole or in part at or after the filing of the  
27 registration statement or that was made within the previous 2

1 years, and a copy of the contract.

2 (l) A description of any pending litigation, action, or  
3 proceeding to which the issuer is a party and that materially  
4 affects its business or assets, including any litigation, action,  
5 or proceeding known to be contemplated by governmental authorities.

6 (m) A copy of any prospectus, pamphlet, circular, form letter,  
7 advertisement, or other sales literature intended as of the  
8 effective date to be used in connection with the offering and any  
9 solicitation of interest used in compliance with section 202(q) (ii).

10 (n) A specimen or copy of the security being registered,  
11 unless the security is uncertificated, a copy of the issuer's  
12 articles of incorporation and bylaws, or their substantial  
13 equivalents, in effect, and a copy of any indenture or other  
14 instrument covering the security to be registered.

15 (o) A signed or conformed copy of an opinion of counsel  
16 concerning the legality of the security being registered, with an  
17 English translation if it is in a language other than English,  
18 which states whether the security when sold will be validly issued,  
19 fully paid, and nonassessable and, if a debt security, a binding  
20 obligation of the issuer.

21 (p) A signed or conformed copy of a consent of any accountant,  
22 engineer, appraiser, or other person whose profession gives  
23 authority for a statement made by the person, if the person is  
24 named as having prepared or certified a report or valuation, other  
25 than an official record, that is public, which is used in  
26 connection with the registration statement.

27 (q) A balance sheet of the issuer as of a date within 4 months

1 before the filing of the registration statement, a statement of  
2 income and a statement of cash flows for each of the 3 fiscal years  
3 preceding the date of the balance sheet and for any period between  
4 the close of the immediately previous fiscal year and the date of  
5 the balance sheet, or for the period of the issuer's and any  
6 predecessor's existence if less than 3 years, and, if any part of  
7 the proceeds of the offering is to be applied to the purchase of a  
8 business, the financial statements that would be required if that  
9 business were the registrant.

10 (r) Any additional information or records required by rule or  
11 order under this act.

12 (3) A registration statement under this section becomes  
13 effective 30 days, or any shorter period provided by rule or order  
14 under this act, after the date the registration statement or the  
15 last amendment other than a price amendment is filed, if any of the  
16 following apply:

17 (a) A stop order is not in effect and a proceeding is not  
18 pending under section 306.

19 (b) The administrator has not issued an order under section  
20 306 delaying effectiveness.

21 (c) The applicant or registrant has not requested that  
22 effectiveness be delayed.

23 (4) The administrator may delay effectiveness once for not  
24 more than 90 days if the administrator determines the registration  
25 statement is not complete in all material respects and promptly  
26 notifies the applicant or registrant of that determination. The  
27 administrator may also delay effectiveness for a further period of

1 not more than 30 days if the administrator determines that the  
2 delay is necessary or appropriate.

3 (5) A rule or order under this act may require as a condition  
4 of registration under this section that a prospectus containing a  
5 specified part of the information or record specified in subsection  
6 (2) be sent or given to each person to which an offer is made,  
7 before or concurrently with the earliest of any of the following:

8 (a) The first offer made in a record to the person otherwise  
9 than by means of a public advertisement, by or for the account of  
10 the issuer or another person on whose behalf the offering is being  
11 made, or by an underwriter or broker-dealer that is offering part  
12 of an unsold allotment or subscription taken by the person as a  
13 participant in the distribution.

14 (b) The confirmation of a sale made by or for the account of  
15 the person.

16 (c) Payment pursuant to the sale.

17 (d) Delivery of the security pursuant to the sale.

18 Sec. 305. (1) A registration statement may be filed by the  
19 issuer, a person on whose behalf the offering is to be made, or a  
20 broker-dealer registered under this act.

21 (2) A person filing a registration statement shall pay a  
22 filing fee of 1/10 of 1% of the maximum aggregate offering price at  
23 which the registered securities are to be offered in this state,  
24 but the fee shall in no case be less than \$100.00 or more than  
25 \$1,250.00. If an application for registration is withdrawn before  
26 the effective date or a preeffective stop order is issued under  
27 section 306, the administrator shall retain a fee of \$100.00 if the

1 initial review has not been commenced, and the full filing fee  
2 after review has been commenced.

3 (3) A registration statement filed under section 303 or 304  
4 must specify all of the following:

5 (a) The amount of securities to be offered in this state.

6 (b) The states in which a registration statement or similar  
7 record in connection with the offering has been or is to be filed.

8 (c) Any adverse order, judgment, or decree issued in  
9 connection with the offering by a state securities regulator, the  
10 securities and exchange commission, or a court.

11 (4) A record filed under this act or the predecessor act,  
12 within 5 years preceding the filing of a registration statement,  
13 may be incorporated by reference in the registration statement to  
14 the extent that the record is currently accurate.

15 (5) In the case of a nonissuer distribution, information or a  
16 record shall not be required under subsection (9) or section 304,  
17 unless it is known to the person filing the registration statement  
18 or to the person on whose behalf the distribution is to be made, or  
19 unless it can be furnished by those persons without unreasonable  
20 effort or expense.

21 (6) A rule or order under this act may require as a condition  
22 of registration that a security issued within the previous 5 years,  
23 or to be issued to a promoter for a consideration substantially  
24 less than the public offering price or to a person for a  
25 consideration other than cash, be deposited in escrow and that the  
26 proceeds from the sale of the registered security in this state be  
27 impounded until the issuer receives a specified amount from the

1 sale of the security either in this state or elsewhere. The  
2 conditions of any escrow or impoundment required under this  
3 subsection may be established by rule or order under this act, but  
4 the administrator shall not reject a depository institution solely  
5 because of its location in another state.

6 (7) A rule or order under this act may require as a condition  
7 of registration that a security registered under this act be sold  
8 only on a specified form of subscription or sale contract and that  
9 a signed or conformed copy of each contract be filed under this act  
10 or preserved for a period specified by the rule or order, which may  
11 not be longer than 5 years.

12 (8) Except while a stop order is in effect under section 306,  
13 a registration statement is effective for 1 year after its  
14 effective date, or for a longer period designated in an order under  
15 this act during which the security is being offered or distributed  
16 in a nonexempted transaction by or for the account of the issuer or  
17 other person on whose behalf the offering is being made or by an  
18 underwriter or broker-dealer that is still offering part of an  
19 unsold allotment or subscription taken as a participant in the  
20 distribution. For the purposes of a nonissuer transaction, all  
21 outstanding securities of the same class identified in the  
22 registration statement as a security registered under this act are  
23 considered to be registered while the registration statement is  
24 effective. If any securities of the same class are outstanding, a  
25 registration statement may not be withdrawn until 1 year after its  
26 effective date. A registration statement may be withdrawn only with  
27 the approval of the administrator.

1           (9) While a registration statement is effective, a rule or  
2 order under this act may require the person that filed the  
3 registration statement to file reports, not more often than  
4 quarterly, to keep the information or other record in the  
5 registration statement reasonably current and to disclose the  
6 progress of the offering.

7           (10) A registration statement may be amended after its  
8 effective date. The posteffective amendment becomes effective when  
9 the administrator so orders. If a posteffective amendment is made  
10 to increase the number of securities specified to be offered or  
11 sold, the person filing the amendment shall pay a registration fee  
12 calculated in the manner specified in subsection (2). A  
13 posteffective amendment relates back to the date of the offering of  
14 the additional securities being registered if the amendment is  
15 filed and the additional registration fee is paid within 1 year  
16 after the date of the sale.

17           Sec. 306. (1) The administrator may issue a stop order denying  
18 effectiveness to, or suspending or revoking the effectiveness of, a  
19 registration statement if the administrator finds that the order is  
20 in the public interest and that 1 or more of the following apply:

21           (a) The registration statement as of its effective date or  
22 before the effective date in the case of an order denying  
23 effectiveness, an amendment under section 305(10) as of its  
24 effective date, or a report under section 305(9) is incomplete in a  
25 material respect or contains a statement that, in the light of the  
26 circumstances under which it was made, was false or misleading with  
27 respect to a material fact.

1           (b) This act or a rule adopted or order issued under this act  
2 or a condition imposed under this act has been willfully violated,  
3 in connection with the offering, by the person filing the  
4 registration statement; by the issuer, a partner, officer, or  
5 director of the issuer or a person having a similar status or  
6 performing a similar function; a promoter of the issuer or a person  
7 directly or indirectly controlling or controlled by the issuer; but  
8 only if the person filing the registration statement is directly or  
9 indirectly controlled by or acting for the issuer; or by an  
10 underwriter.

11           (c) The security registered or sought to be registered is the  
12 subject of a permanent or temporary injunction of a court of  
13 competent jurisdiction or an administrative stop order or similar  
14 order issued under any federal, foreign, or state law other than  
15 this act applicable to the offering, but the administrator shall  
16 not institute a proceeding against an effective registration  
17 statement under this paragraph more than 1 year after the date of  
18 the order or injunction on which it is based, and the administrator  
19 shall not issue an order under this subdivision on the basis of an  
20 order or injunction issued under the securities act of another  
21 state unless the order or injunction was based on conduct that  
22 would constitute, as of the date of the order, a ground for a stop  
23 order under this section.

24           (d) The issuer's enterprise or method of business includes or  
25 would include activities that are unlawful where performed.

26           (e) With respect to a security sought to be registered under  
27 section 303, there has been a failure to comply with the



1 undertaking required by section 303(2)(d).

2 (f) The applicant or registrant has not paid the proper filing  
3 fee, but the administrator shall void the order if the deficiency  
4 is corrected.

5 (g) One or more of the following apply to the offering:

6 (i) The offering will work or tend to work a fraud upon  
7 purchasers or would so operate.

8 (ii) The offering has been or would be made with unreasonable  
9 amounts of underwriters' and sellers' discounts, commissions, or  
10 other compensation, promoters' profits or participations, or  
11 unreasonable amounts or kinds of options.

12 (iii) The offering is being made on terms that are unfair,  
13 unjust, or inequitable.

14 (2) To the extent practicable, the administrator by rule or  
15 order under this act shall publish guidelines, rules, or orders  
16 that provide notice of conduct that violates subsection (1)(g).

17 (3) The administrator shall not institute a stop order  
18 proceeding against an effective registration statement on the basis  
19 of conduct or a transaction known to the administrator when the  
20 registration statement became effective unless the proceeding is  
21 instituted within 30 days after the registration statement became  
22 effective.

23 (4) The administrator may summarily revoke, deny, postpone, or  
24 suspend the effectiveness of a registration statement pending final  
25 determination of an administrative proceeding. Upon the issuance of  
26 the order, the administrator shall promptly notify each person  
27 specified in subsection (5) that the order has been issued, the

1 reasons for the revocation, denial, postponement, or suspension,  
2 and that within 15 days after the receipt of a request in a record  
3 from the person the matter will be scheduled for a hearing. If a  
4 hearing is not requested and none is ordered by the administrator,  
5 within 30 days after the date of service of the order, the order  
6 becomes final. If a hearing is requested or ordered, the  
7 administrator, after notice of and opportunity for hearing for each  
8 person subject to the order, may modify or vacate the order or  
9 extend the order until final determination.

10 (5) The administrator shall not issue a stop order under this  
11 section until all of the following have occurred:

12 (a) Appropriate notice has been given to the applicant or  
13 registrant, the issuer, and the person on whose behalf the  
14 securities are to be or have been offered.

15 (b) An opportunity for hearing has been given to the applicant  
16 or registrant, the issuer, and the person on whose behalf the  
17 securities are to be or have been offered.

18 (c) Findings of fact and conclusions of law in a record in  
19 accordance with the administrative procedures act of 1969, 1969 PA  
20 306, MCL 24.201 to 24.328.

21 (6) The administrator may modify or vacate a stop order issued  
22 under this section if the administrator finds that the conditions  
23 that caused its issuance have changed or that it is necessary or  
24 appropriate in the public interest or for the protection of  
25 investors.

26 Sec. 307. The administrator may waive or modify, in whole or  
27 in part, any or all of the requirements of sections 302, 303, and

1 304(2) or the requirement of any information or record in a  
2 registration statement or in a periodic report filed pursuant to  
3 section 305(9).

4 ARTICLE 4

5 BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER  
6 REPRESENTATIVES, AND FEDERAL COVERED INVESTMENT ADVISERS

7 Sec. 401. (1) A person shall not transact business in this  
8 state as a broker-dealer unless the person is registered under this  
9 act as a broker-dealer or is exempt from registration as a broker-  
10 dealer under subsection (2) or (4).

11 (2) The following persons are exempt from the registration  
12 requirement of subsection (1):

13 (a) A broker-dealer if the broker-dealer does not have a place  
14 of business in this state and if the broker-dealer's only  
15 transactions effected in this state are with any of the following:

16 (i) The issuer of the securities involved in the transactions.

17 (ii) A broker-dealer registered as a broker-dealer under this  
18 act or not required to be registered as a broker-dealer under this  
19 act.

20 (iii) An institutional investor.

21 (iv) A nonaffiliated federal covered investment adviser with  
22 investments under management in excess of \$100,000,000.00 acting  
23 for the account of others pursuant to discretionary authority in a  
24 signed record.

25 (v) A bona fide preexisting customer whose principal place of  
26 residence is not in this state and the broker-dealer is registered  
27 as a broker-dealer under the securities exchange act of 1934 or not

1 required to be registered under the securities exchange act of 1934  
2 and is registered under the securities act of the state in which  
3 the customer maintains a principal place of residence.

4 (vi) A bona fide preexisting customer whose principal place of  
5 residence is in this state but who was not present in this state  
6 when the customer relationship was established, if both of the  
7 following are met:

8 (A) The broker-dealer is registered under the securities  
9 exchange act of 1934 or not required to be registered under the  
10 securities exchange act of 1934 and is registered under the  
11 securities laws of the state in which the customer relationship was  
12 established and where the customer had maintained a principal place  
13 of residence.

14 (B) Within 45 days after the customer's first transaction in  
15 this state, the person files an application for registration as a  
16 broker-dealer in this state and a further transaction is not  
17 effected more than 75 days after the date on which the application  
18 is filed, or, if earlier, the date on which the administrator  
19 notifies the person that the administrator has denied the  
20 application for registration or has stayed the pendency of the  
21 application for good cause.

22 (vii) Not more than 3 customers in this state during the  
23 previous 12 months, in addition to those specified in subparagraphs  
24 (i) to (vi) and under subparagraph (viii), if the broker-dealer is  
25 registered under the securities exchange act of 1934 or not  
26 required to be registered under the securities exchange act of 1934  
27 and is registered under the securities act of the state in which

1 the broker-dealer has its principal place of business.

2 (viii) Any other person exempted by rule or order under this  
3 act.

4 (b) A person that deals solely in United States government  
5 securities and is supervised as a dealer in government securities  
6 by the board of governors of the federal reserve system, the  
7 comptroller of the currency, the federal deposit insurance  
8 corporation, or the office of thrift supervision.

9 (c) A person licensed or registered as a mortgage broker,  
10 mortgage lender, or mortgage servicer under the mortgage brokers,  
11 lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to  
12 445.1684, in the offer or sale of mortgage loans as defined in  
13 section 1a of the mortgage brokers, lenders, and servicers  
14 licensing act, 1987 PA 173, MCL 445.1651a.

15 (3) A broker-dealer, or an issuer engaged in offering,  
16 offering to purchase, purchasing, or selling securities in this  
17 state, shall not directly or indirectly employ or associate with an  
18 individual to engage in an activity related to securities  
19 transactions in this state if the registration of the individual is  
20 suspended or revoked or the individual is barred from employment or  
21 association with a broker-dealer, an issuer, an investment adviser,  
22 or a federal covered investment adviser by an order of the  
23 administrator under this act, the securities and exchange  
24 commission, or a self-regulatory organization. A broker-dealer or  
25 issuer does not violate this subsection if the broker-dealer or  
26 issuer did not know and in the exercise of reasonable care could  
27 not have known of the suspension, revocation, or bar. If requested

1 by a broker-dealer or issuer and if good cause is shown, an order  
2 under this act may modify or waive, in whole or in part, the  
3 application of the prohibitions of this subsection.

4 (4) A rule or order under this act may permit any of the  
5 following:

6 (a) A broker-dealer that is registered in Canada or other  
7 foreign jurisdiction and that does not have a place of business in  
8 this state to effect transactions in securities with or for, or  
9 attempt to effect the purchase or sale of any securities by, any of  
10 the following:

11 (i) An individual from Canada or other foreign jurisdiction who  
12 is temporarily present in this state and with whom the broker-  
13 dealer had a bona fide customer relationship before the individual  
14 entered the United States.

15 (ii) An individual from Canada or other foreign jurisdiction  
16 who is present in this state and whose transactions are in a self-  
17 directed tax advantaged retirement plan of which the individual is  
18 the holder or contributor in that foreign jurisdiction.

19 (iii) An individual who is present in this state, with whom the  
20 broker-dealer customer relationship arose while the individual was  
21 temporarily or permanently resident in Canada or the other foreign  
22 jurisdiction.

23 (b) An agent who represents a broker-dealer that is exempt  
24 under this subsection to effect transactions in securities or  
25 attempt to effect the purchase or sale of any securities in this  
26 state as permitted for a broker-dealer described in subsection  
27 (4) (a) .

1       Sec. 402. (1) An individual shall not transact business in  
2 this state as an agent unless the individual is registered under  
3 this act as an agent or is exempt from registration as an agent  
4 under subsection (2).

5       (2) Each of the following individuals is exempt from the  
6 registration requirement of subsection (1):

7       (a) An individual who represents a broker-dealer in effecting  
8 transactions in this state limited to those described in section  
9 15(h)(2) of the securities exchange act of 1934, 15 USC 78o.

10       (b) An individual who represents a broker-dealer that is  
11 exempt under section 401(2) or (4).

12       (c) An individual who represents an issuer with respect to an  
13 offer or sale of the issuer's own securities or those of the  
14 issuer's parent or any of the issuer's subsidiaries, and who is not  
15 compensated in connection with the individual's participation by  
16 the payment of commissions or other remuneration based, directly or  
17 indirectly, on transactions in those securities.

18       (d) An individual who represents an issuer and who effects  
19 transactions in the issuer's securities exempted by section 202,  
20 other than section 202(1)(k) or (n).

21       (e) An individual who represents an issuer who effects  
22 transactions solely in federal covered securities of the issuer,  
23 but an individual who effects transactions in a federal covered  
24 security under section 18(b)(3) or 18(b)(4)(D) of the securities  
25 act of 1933, 15 USC 77r, is not exempt if the individual is  
26 compensated in connection with the agent's participation by the  
27 payment of commissions or other remuneration based, directly or

1 indirectly, on transactions in those securities.

2 (f) An individual who represents a broker-dealer registered in  
3 this state under section 401(1) or exempt from registration under  
4 section 401(2) in the offer and sale of securities for an account  
5 of a nonaffiliated federal covered investment adviser with  
6 investments under management in excess of \$100,000,000.00 acting  
7 for the account of others pursuant to discretionary authority in a  
8 signed record.

9 (g) An individual who represents an issuer in connection with  
10 the purchase of the issuer's own securities.

11 (h) An individual who represents an issuer and who restricts  
12 participation to performing clerical or ministerial acts.

13 (i) An employee of a person licensed or registered under the  
14 mortgage brokers, lenders, and servicers licensing act, 1987 PA  
15 173, MCL 445.1651 to 445.1684, in the offer or sale of mortgage  
16 loans as defined in section 1a of the mortgage brokers, lenders,  
17 and servicers licensing act, 1987 PA 173, MCL 445.1651a, when  
18 acting as an employee of the licensed or registered person.

19 (j) Any other individual exempted by rule or order under this  
20 act.

21 (3) The registration of an agent is effective only while the  
22 agent is employed by or associated with a broker-dealer registered  
23 under this act or an issuer that is offering, selling, or  
24 purchasing its securities in this state.

25 (4) A broker-dealer, or an issuer engaged in offering,  
26 selling, or purchasing securities in this state, shall not employ  
27 or associate with an agent who transacts business in this state on



1   behalf of broker-dealers or issuers unless the agent is registered  
2   under subsection (1) or exempt from registration under subsection  
3   (2).

4       (5) An individual shall not act as an agent for more than 1  
5   broker-dealer or more than 1 issuer at a time, unless the broker-  
6   dealers or the issuers for which the agent acts are affiliated by  
7   direct or indirect common control or are authorized by rule or  
8   order under this act.

9       Sec. 403. (1) A person shall not transact business in this  
10   state as an investment adviser unless the person is registered  
11   under this act as an investment adviser or is exempt from  
12   registration as an investment adviser under subsection (2).

13       (2) The following persons are exempt from the registration  
14   requirement of subsection (1):

15       (a) A person that does not have a place of business in this  
16   state and that is registered under the securities act of the state  
17   in which the person has its principal place of business, if its  
18   only clients in this state are any of the following:

19       (i) Federal covered investment advisers, investment advisers  
20   registered under this act, or broker-dealers registered under this  
21   act.

22       (ii) Institutional investors.

23       (iii) Bona fide preexisting clients whose principal places of  
24   residence are not in this state, if the investment adviser is  
25   registered under the securities act of the state in which the  
26   clients maintain principal places of residence.

27       (iv) Any other client exempted by rule or order under this act.

1 (b) A person that does not have a place of business in this  
2 state if the person has had, during the preceding 12 months, not  
3 more than 5 clients that are residents of this state in addition to  
4 those specified under subdivision (a).

5 (c) The person is an investment adviser who is not required to  
6 be registered as an investment adviser under the investment  
7 advisers act of 1940 if the investment adviser's only clients in  
8 this state are other investment advisers, federal covered advisers,  
9 broker-dealers, or institutional investors.

10 (d) Any other person exempted by rule or order under this act.

11 (3) An investment adviser shall not, directly or indirectly,  
12 employ or associate with an individual to engage in an activity  
13 related to investment advice in this state if the registration of  
14 the individual is suspended or revoked, or the individual is barred  
15 from employment or association with an investment adviser, federal  
16 covered investment adviser, or broker-dealer by an order under this  
17 act, the securities and exchange commission, or a self-regulatory  
18 organization, unless the investment adviser did not know, and in  
19 the exercise of reasonable care could not have known, of the  
20 suspension, revocation, or bar. If the investment adviser request  
21 and good cause is shown, the administrator, by order, may waive, in  
22 whole or in part, the application of the prohibitions of this  
23 subsection.

24 (4) An investment adviser shall not employ or associate with  
25 an individual required to be registered under this act as an  
26 investment adviser representative who transacts business in this  
27 state on behalf of the investment adviser unless the individual is

1 registered under section 404(1) or is exempt from registration  
2 under section 404(2).

3 Sec. 404. (1) An individual shall not transact business in  
4 this state as an investment adviser representative unless the  
5 individual is registered under this act as an investment adviser  
6 representative or is exempt from registration as an investment  
7 adviser representative under subsection (2).

8 (2) Each of the following individuals is exempt from the  
9 registration requirement of subsection (1):

10 (a) An individual who is employed by or associated with an  
11 investment adviser that is exempt from registration under section  
12 403(2) or a federal covered investment adviser that is excluded  
13 from the notice filing requirements of section 405.

14 (b) Any other individual exempted by rule or order under this  
15 act.

16 (3) The registration of an investment adviser representative  
17 is not effective while the investment adviser representative is not  
18 employed by or associated with an investment adviser registered  
19 under this act or a federal covered investment adviser that has  
20 made or is required to make a notice filing under section 405.

21 (4) An individual may transact business as an investment  
22 adviser representative for more than 1 investment adviser or  
23 federal covered investment adviser unless a rule or order under  
24 this act prohibits or limits an individual from acting as an  
25 investment adviser representative for more than 1 investment  
26 adviser or federal covered investment adviser.

27 (5) An individual acting as an investment adviser

1 representative shall not, directly or indirectly, conduct business  
2 in this state on behalf of an investment adviser or a federal  
3 covered investment adviser if the registration of the individual as  
4 an investment adviser representative is suspended or revoked or the  
5 individual is barred from employment or association with an  
6 investment adviser or a federal covered investment adviser by an  
7 order under this act, the securities and exchange commission, or a  
8 self-regulatory organization. If a federal covered investment  
9 adviser requests and good cause is shown, the administrator, by  
10 order, may waive, in whole or in part, the application of the  
11 requirements of this subsection.

12 (6) An investment adviser registered under this act, a federal  
13 covered investment adviser that has filed a notice under section  
14 405, or a broker-dealer registered under this act is not required  
15 to employ or associate with an individual as an investment adviser  
16 representative if the only compensation paid to the individual for  
17 a referral of investment advisory clients is paid to an investment  
18 adviser registered under this act, a federal covered investment  
19 adviser who has filed a notice under section 405, or a broker-  
20 dealer registered under this act with which the individual is  
21 employed or associated as an investment adviser representative.

22 Sec. 405. (1) Except with respect to a federal covered  
23 investment adviser described in subsection (2), a federal covered  
24 investment adviser shall not transact business in this state as a  
25 federal covered investment adviser unless the federal covered  
26 investment adviser complies with subsection (3).

27 (2) The following federal covered investment advisers are not

1 required to comply with subsection (3):

2 (a) A federal covered investment adviser without a place of  
3 business in this state if its only clients in this state are any of  
4 the following:

5 (i) Federal covered investment advisers, investment advisers  
6 registered under this act, and broker-dealers registered under this  
7 act.

8 (ii) Institutional investors.

9 (iii) Bona fide preexisting clients whose principal places of  
10 residence are not in this state.

11 (iv) Other clients specified by rule or order under this act.

12 (b) A federal covered investment adviser that does not have a  
13 place of business in this state if the federal covered investment  
14 adviser has had, during the preceding 12 months, not more than 5  
15 clients that are residents of this state in addition to those  
16 specified under subdivision (a).

17 (c) Any other person excluded by rule or order under this act.

18 (3) A person acting as a federal covered investment adviser,  
19 not excluded under subsection (2), shall file a notice, a consent  
20 to service of process complying with section 611, and those records  
21 that have been filed with the securities and exchange commission  
22 under the investment advisers act of 1940 that are required by rule  
23 or order under this act and pay the fees specified in section  
24 410(5).

25 (4) A notice under subsection (3) is effective on filing.

26 Sec. 406. (1) A person shall register as a broker-dealer,  
27 agent, investment adviser, or investment adviser representative by

1 filing an application and a consent to service of process complying  
2 with section 611 and paying the fee specified in section 410 and  
3 any reasonable fees charged by the designee of the administrator  
4 for processing the filing. Each application must contain both of  
5 the following:

6 (a) The information or record required for the filing of a  
7 uniform application.

8 (b) If requested by the administrator, any other financial or  
9 other information or record that the administrator determines is  
10 appropriate.

11 (2) If the information or record contained in an application  
12 that is filed under subsection (1) is or becomes inaccurate or  
13 incomplete in any material respect, the registrant shall promptly  
14 file a correcting amendment.

15 (3) If an order is not in effect and no proceeding is pending  
16 under section 412, registration becomes effective at 12 noon on the  
17 forty-fifth day after a completed application is filed unless the  
18 registration is denied. A rule or order under this act may set an  
19 earlier effective date or may defer the effective date until 12  
20 noon on the forty-fifth day after the filing of any amendment  
21 completing the application.

22 (4) A registration is effective until 12 midnight on December  
23 31 of the year for which the application for registration is filed.  
24 Unless an order is in effect under section 412, a registration may  
25 be automatically renewed each year by filing the records required  
26 by rule or order under this act and paying the fee specified in  
27 section 410 and the costs charged by the designee of the

1 administrator for processing the filings.

2 (5) A rule or order under this act may impose other conditions  
3 not inconsistent with the national securities markets improvement  
4 act of 1996, Public Law 104-290, 110 Stat. 3416, or an order under  
5 this act may waive, in whole or in part, specific requirements in  
6 connection with registration if the imposition or waiver is  
7 appropriate in the public interest and for the protection of  
8 investors.

9 Sec. 407. (1) A broker-dealer or investment adviser may  
10 succeed to the current registration of another broker-dealer or  
11 investment adviser or a notice filing of a federal covered  
12 investment adviser, and a federal covered investment adviser may  
13 succeed to the current registration of an investment adviser or  
14 notice filing of another federal covered investment adviser, by  
15 filing as a successor an application for registration under section  
16 401 or 403, or a notice under section 405, for the unexpired  
17 portion of the current registration or notice filing.

18 (2) A broker-dealer or investment adviser that changes its  
19 form of organization or state of incorporation or organization may  
20 continue its registration by filing an amendment to its  
21 registration if the change does not involve a material change in  
22 its financial condition or management. The amendment is effective  
23 when filed or on a date designated by the registrant in the filing.  
24 The new organization is a successor to the original registrant for  
25 the purposes of this act. If there is a material change in  
26 financial condition or management, the broker-dealer or investment  
27 adviser shall file a new application for registration. Any

1 predecessor registered under this act shall stop conducting its  
2 securities business other than winding down transactions and shall  
3 file for withdrawal of broker-dealer or investment adviser  
4 registration within 45 days after filing its amendment to effect  
5 succession.

6 (3) A broker-dealer or investment adviser that changes its  
7 name may continue its registration by filing an amendment to its  
8 registration. The amendment is effective when filed or on a date  
9 designated by the registrant.

10 (4) A change of control of a broker-dealer or investment  
11 adviser may be made in accordance with a rule or order under this  
12 act.

13 Sec. 408. (1) If an agent registered under this act terminates  
14 employment by or association with a broker-dealer or issuer, or if  
15 an investment adviser representative registered under this act  
16 terminates employment by or association with an investment adviser  
17 or federal covered investment adviser, or if either registrant  
18 terminates activities that require registration as an agent or  
19 investment adviser representative, the broker-dealer, investment  
20 adviser, or federal covered investment adviser shall promptly file  
21 a notice of termination. If the registrant learns that the broker-  
22 dealer, issuer, investment adviser, or federal covered investment  
23 adviser has not filed the notice, the registrant may file the  
24 notice.

25 (2) If an agent registered under this act terminates  
26 employment by or association with a broker-dealer registered under  
27 this act and begins employment by or association with another



1 broker-dealer registered under this act; or if an investment  
2 adviser representative registered under this act terminates  
3 employment by or association with an investment adviser registered  
4 under this act or a federal covered investment adviser that has  
5 filed a notice under section 405 and begins employment by or  
6 association with another investment adviser registered under this  
7 act or a federal covered investment adviser that has filed a notice  
8 under section 405, then upon the filing by or on behalf of the  
9 registrant, within 30 days after the termination, of an application  
10 for registration that complies with the requirement of section  
11 406(1) and payment of the filing fee required under section 410, 1  
12 of the following applies to the registration of the agent or  
13 investment adviser representative:

14 (a) If the agent's central registration depository record or  
15 successor record or the investment adviser representative's  
16 investment adviser registration depository record or successor  
17 record does not contain a new or amended disciplinary disclosure  
18 within the previous 12 months, the registration is immediately  
19 effective as of the date of the completed filing.

20 (b) If the agent's central registration depository record or  
21 the investment adviser representative's investment adviser  
22 registration depository record contains a new or amended  
23 disciplinary disclosure within the preceding 12 months, the  
24 registration is temporarily effective as of the date of the  
25 completed filing.

26 (3) If there are or were grounds for discipline under section  
27 412, the administrator may withdraw a temporary registration within

1 30 days after the application is filed. If the administrator does  
2 not withdraw the temporary registration within the 30-day period,  
3 registration becomes automatically effective on the thirty-first  
4 day after filing.

5 (4) The administrator may prevent the effectiveness of a  
6 transfer of an agent or investment adviser representative under  
7 subsection (2)(a) or (b) based on the public interest and the  
8 protection of investors.

9 (5) If the administrator determines that a registrant or  
10 applicant for registration is no longer in existence, has ceased to  
11 act as a broker-dealer, agent, investment adviser, or investment  
12 adviser representative, is the subject of an adjudication of  
13 incapacity, is subject to the control of a committee, conservator,  
14 or guardian, or cannot reasonably be located, a rule or order under  
15 this act may require the registration be canceled or terminated or  
16 the application denied. The administrator may reinstate a canceled  
17 or terminated registration, with or without hearing, and may make  
18 the registration retroactive.

19 Sec. 409. Withdrawal of registration by a broker-dealer,  
20 agent, investment adviser, or investment adviser representative is  
21 effective 60 days after an application to withdraw is filed or  
22 within a shorter period as provided by rule or order under this  
23 act, unless a revocation or suspension proceeding is pending when  
24 the application is filed. If a proceeding is pending, withdrawal is  
25 effective when and on conditions required by rule or order under  
26 this act. The administrator may institute a revocation or  
27 suspension proceeding under section 412 within 1 year after the

1 withdrawal became effective automatically and issue a revocation or  
2 suspension order as of the last date on which registration was  
3 effective if a proceeding is not pending.

4       Sec. 410. (1) Before October 1, 2007, a person shall pay a fee  
5 of \$300.00 when initially filing an application for registration as  
6 a broker-dealer and a fee of \$300.00 when filing a renewal of  
7 registration as a broker-dealer. After September 30, 2007, a person  
8 shall pay a fee of \$250.00 when initially filing an application for  
9 registration as a broker-dealer and a fee of \$250.00 when filing a  
10 renewal of registration as a broker-dealer. If the filing results  
11 in a denial or withdrawal, the administrator shall retain all of  
12 the filing fee.

13       (2) Before October 1, 2007, an individual shall pay a fee of  
14 \$65.00 when filing an application for registration as an agent, a  
15 fee of \$65.00 when filing a renewal of registration as an agent,  
16 and a fee of \$65.00 when filing for a change of registration as an  
17 agent. After September 30, 2007, an individual shall pay a fee of  
18 \$30.00 when filing an application for registration as an agent, a  
19 fee of \$30.00 when filing a renewal of registration as an agent,  
20 and a fee of \$30.00 when filing for a change of registration as an  
21 agent. If the filing results in a denial or withdrawal, the  
22 administrator shall retain all of the filing fee.

23       (3) Before October 1, 2007, a person shall pay a fee of  
24 \$200.00 when filing an application for registration as an  
25 investment adviser and a fee of \$200.00 when filing a renewal of  
26 registration as an investment adviser. After September 30, 2007, a  
27 person shall pay a fee of \$150.00 when filing an application for

1 registration as an investment adviser and a fee of \$150.00 when  
2 filing a renewal of registration as an investment adviser. If the  
3 filing results in a denial or withdrawal, the administrator shall  
4 retain all of the filing fee.

5 (4) Before October 1, 2007, an individual shall pay a fee of  
6 \$65.00 when filing an application for registration as an investment  
7 adviser representative, a fee of \$65.00 when filing a renewal of  
8 registration as an investment adviser representative, and a fee of  
9 \$65.00 when filing a change of registration as an investment  
10 adviser representative. After September 30, 2007, an individual  
11 shall pay a fee of \$30.00 when filing an application for  
12 registration as an investment adviser representative, a fee of  
13 \$30.00 when filing a renewal of registration as an investment  
14 adviser representative, and a fee of \$30.00 when filing a change of  
15 registration as an investment adviser representative. If the filing  
16 results in a denial or withdrawal, the administrator shall retain  
17 all of the filing fee.

18 (5) Before October 1, 2007, a federal covered investment  
19 adviser required to file a notice under section 405 shall pay an  
20 initial and annual notice fee of \$200.00. After September 30, 2007,  
21 a federal covered investment adviser required to file a notice  
22 under section 405 shall pay an initial and annual notice fee of  
23 \$150.00.

24 (6) A person required to pay a filing or notice fee under this  
25 section may transmit the fee through or to a designee as a rule or  
26 order requires under this act.

27 (7) An investment adviser representative who is registered as

1 an agent under section 402 and who represents a person that is both  
2 registered as a broker-dealer under section 401 and registered as  
3 an investment adviser under section 403 or required as a federal  
4 covered investment adviser to make a notice filing under section  
5 405 is not required to pay an initial or annual registration fee  
6 for registration as an investment adviser representative.

7       Sec. 411. (1) Subject to section 15(h) of the securities act  
8 of 1934, 15 USC 78o, or section 222 of the investment advisers act  
9 of 1940, 15 USC 80b-18a, a rule or order under this act may  
10 establish minimum financial requirements for broker-dealers  
11 registered or required to be registered under this act and  
12 investment advisers registered or required to be registered under  
13 this act.

14       (2) Subject to section 15(h) of the securities exchange act of  
15 1934, 15 USC 78o, or section 222(b) of the investment advisers act  
16 of 1940, 15 USC 80b-18a, a broker-dealer registered or required to  
17 be registered under this act and an investment adviser registered  
18 or required to be registered under this act shall file financial  
19 reports required by rule or order under this act. If the  
20 information contained in a record filed under this subsection is or  
21 becomes inaccurate or incomplete in any material respect, the  
22 registrant shall promptly file a correcting amendment.

23       (3) Subject to section 15(h) of the securities exchange act of  
24 1934, 15 USC 78o, or section 222 of the investment advisers act of  
25 1940, 15 USC 80b-18a, a broker-dealer registered or required to be  
26 registered under this act and an investment adviser registered or  
27 required to be registered under this act shall make and maintain

1 the accounts, correspondence, memoranda, papers, books, and other  
2 records required by rule or order of the administrator. The records  
3 required to be maintained under this subsection shall be maintained  
4 as follows:

5 (a) Broker-dealer records may be maintained in any form of  
6 data storage acceptable under section 17(a) of the securities  
7 exchange act of 1934, 15 USC 78q, if they are readily accessible to  
8 the administrator.

9 (b) Investment adviser records may be maintained in any form  
10 of data storage required by rule or order under this act.

11 (4) The records of a broker-dealer registered or required to  
12 be registered under this act and of an investment adviser  
13 registered or required to be registered under this act are subject  
14 to reasonable periodic, special, or other audits or inspections by  
15 a representative of the administrator, in or outside of this state,  
16 as the administrator considers necessary or appropriate in the  
17 public interest and for the protection of investors. An audit or  
18 inspection may be made at any time and without prior notice. The  
19 administrator may copy and remove for audit or inspection copies of  
20 all records the administrator reasonably considers necessary or  
21 appropriate to conduct the audit or inspection. The administrator  
22 may assess a reasonable charge for conducting an audit or  
23 inspection under this subsection.

24 (5) Subject to section 15(h) of the securities exchange act of  
25 1934, 15 USC 78o, or section 222 of the investment advisers act of  
26 1940, 15 USC 80b-18a, a rule or order under this act may require a  
27 broker-dealer and investment adviser that has custody of or

1 discretionary authority over funds or securities of a client to  
2 obtain insurance or post a bond or other satisfactory form of  
3 security in an amount established by the administrator by rule or  
4 order. The administrator may determine the requirements of the  
5 insurance, bond, or other satisfactory form of security. Insurance  
6 or a bond or other satisfactory form of security shall not be  
7 required of a broker-dealer registered under this act whose net  
8 capital exceeds, or of an investment adviser registered under this  
9 act whose minimum financial requirements exceed, the amounts  
10 required by rule or order under this act. The insurance, bond, or  
11 other satisfactory form of security must permit an action by a  
12 person to enforce any liability on the insurance, bond, or other  
13 satisfactory form of security if commenced within the time  
14 limitations in section 509(10)(b).

15 (6) Subject to section 15(h) of the securities exchange act of  
16 1934, 15 USC 78o, or section 222 of the investment advisers act of  
17 1940, 15 USC 80b-18a, an agent shall not have custody of funds or  
18 securities of a customer except under the supervision of a broker-  
19 dealer and an investment adviser representative shall not have  
20 custody of funds or securities of a client except under the  
21 supervision of an investment adviser or federal covered investment  
22 adviser. A rule or order under this act may prohibit, limit, or  
23 impose conditions on the custody of funds or securities of a  
24 customer by a broker-dealer and on the custody of securities or  
25 funds of a client by an investment adviser.

26 (7) With respect to an investment adviser registered or  
27 required to be registered under this act, a rule or order under

1 this act may require that information or other record be furnished  
2 or disseminated to clients or prospective clients in this state as  
3 necessary or appropriate in the public interest and for the  
4 protection of investors and advisory clients.

5 (8) A rule or order under this act may require an individual  
6 registered under section 402 or 404 to participate in a continuing  
7 education program approved by the securities and exchange  
8 commission and administered by a self-regulatory organization or,  
9 in the absence of such a program, a rule or order under this act  
10 may require continuing education for an individual registered under  
11 section 404.

12 Sec. 412. (1) If the administrator finds that the order is in  
13 the public interest and subsection (4) authorizes the action, an  
14 order under this act may deny an application or condition or limit  
15 registration of an applicant to be a broker-dealer, agent,  
16 investment adviser, or investment adviser representative and, if  
17 the applicant is a broker-dealer or investment adviser, of a  
18 partner, officer, or director, or a person having a similar status  
19 or performing similar functions, or any person directly or  
20 indirectly in control of the broker-dealer or investment adviser.

21 (2) If the administrator finds that the order is in the public  
22 interest and subsection (4) authorizes the action, an order under  
23 this act may revoke, suspend, condition, or limit the registration  
24 of a registrant and if the registrant is a broker-dealer or  
25 investment adviser, of a partner, officer, or director, or a person  
26 having a similar status or performing similar functions, or a  
27 person directly or indirectly in control of the broker-dealer or



1 investment adviser. However, the administrator may not do any of  
2 the following:

3 (a) Institute a revocation or suspension proceeding under this  
4 subsection based on an order issued under a law of another state  
5 that is reported to the administrator or a designee of the  
6 administrator more than 1 year after the date of the order on which  
7 it is based.

8 (b) Under subsection (4)(e)(i) or (ii), issue an order on the  
9 basis of an order issued under the securities act of another state  
10 unless the other order was based on conduct for which subsection  
11 (4) would authorize the action had the conduct occurred in this  
12 state.

13 (3) If the administrator finds that the order is in the public  
14 interest and subsection (4)(a) to (f), (i) to (j), or (l) to (n)  
15 authorizes the action, an order under this act may censure, impose  
16 a bar, or impose a civil penalty in an amount not to exceed a  
17 maximum of \$10,000.00 for a single violation or \$500,000.00 for  
18 more than 1 violation on a registrant and, if the registrant is a  
19 broker-dealer or investment adviser, on a partner, officer, or  
20 director, a person having a similar status or performing similar  
21 functions, or a person directly or indirectly in control of the  
22 broker-dealer or investment adviser.

23 (4) A person may be disciplined under subsections (1) to (3)  
24 if any of the following apply to the person:

25 (a) The person filed an application for registration in this  
26 state under this act or the predecessor act within the previous 10  
27 years, which, as of the effective date of registration or as of any

1 date after filing in the case of an order denying effectiveness,  
2 was incomplete in any material respect or contained a statement  
3 that, in light of the circumstances under which it was made, was  
4 false or misleading with respect to a material fact.

5 (b) The person willfully violated or willfully failed to  
6 comply with this act or the predecessor act or a rule adopted or  
7 order issued under this act or the predecessor act within the  
8 previous 10 years.

9 (c) The person was convicted of any felony or within the  
10 previous 10 years was convicted of a misdemeanor involving a  
11 security, a commodity futures or option contract, or an aspect of a  
12 business involving securities, commodities, investments,  
13 franchises, insurance, banking, or finance.

14 (d) The person is enjoined or restrained by a court of  
15 competent jurisdiction in an action instituted by the administrator  
16 under this act or the predecessor act, a state, the securities and  
17 exchange commission, or the United States from engaging in or  
18 continuing an act, practice, or course of business involving an  
19 aspect of a business involving securities, commodities,  
20 investments, franchises, insurance, banking, or finance.

21 (e) The person is the subject of an order, issued after notice  
22 and opportunity for hearing by any of the following:

23 (i) The securities or other financial services regulator of a  
24 state, or the securities and exchange commission or other federal  
25 agency denying, revoking, barring, or suspending registration as a  
26 broker-dealer, agent, investment adviser, federal covered  
27 investment adviser, or investment adviser representative.

1           (ii) The securities regulator of a state or the securities and  
2 exchange commission against a broker-dealer, agent, investment  
3 adviser, investment adviser representative, or federal covered  
4 investment adviser.

5           (iii) The securities and exchange commission or a self-  
6 regulatory organization suspending or expelling the registrant from  
7 membership in a self-regulatory organization.

8           (iv) A court adjudicating a United States postal service fraud.

9           (v) The insurance regulator of a state denying, suspending, or  
10 revoking the license or registration of an insurance agent.

11          (vi) A depository institution or financial services regulator  
12 suspending or barring the person from the depository institution or  
13 other financial services business.

14          (f) The person is the subject of an adjudication or  
15 determination, after notice and opportunity for hearing, by the  
16 securities and exchange commission, the commodity futures trading  
17 commission, the federal trade commission, a federal depository  
18 institution regulator, or a depository institution, insurance, or  
19 other financial services regulator of a state that the person  
20 willfully violated the securities act of 1933, the securities  
21 exchange act of 1934, the investment advisers act of 1940, the  
22 investment company act of 1940, or the commodity exchange act, the  
23 securities or commodities law of a state, or a federal or state law  
24 under which a business involving investments, franchises,  
25 insurance, banking, or finance is regulated.

26          (g) The person is insolvent, either because the person's  
27 liabilities exceed the person's assets or because the person cannot

1 meet the person's obligations as they mature. The administrator  
2 shall not enter an order against an applicant or registrant under  
3 this subdivision without a finding of insolvency as to the  
4 applicant or registrant.

5 (h) The person refuses to allow or otherwise impedes the  
6 administrator from conducting an audit or inspection under section  
7 411(4) or refuses access to a registrant's office to conduct an  
8 audit or inspection under section 411(4).

9 (i) The person has failed to reasonably supervise an agent,  
10 investment adviser representative, or other individual, if the  
11 agent, investment adviser representative, or other individual was  
12 subject to the person's supervision and committed a violation of  
13 this act or the predecessor act or a rule adopted or order issued  
14 under this act or the predecessor act within the previous 10 years.

15 (j) The person has not paid the proper filing fee within 30  
16 days after having been notified by the administrator of a  
17 deficiency. The administrator shall vacate an order under this  
18 paragraph when the deficiency is corrected.

19 (k) After notice and opportunity for a hearing, 1 or more of  
20 the following have occurred within the previous 10 years:

21 (i) A court of competent jurisdiction has found the person to  
22 have willfully violated the laws of a foreign jurisdiction under  
23 which the business of securities, commodities, investment,  
24 franchises, insurance, banking, or finance is regulated.

25 (ii) The person was found to have been the subject of an order  
26 of a securities regulator of a foreign jurisdiction denying,  
27 revoking, or suspending the right to engage in the business of

1 securities as a broker-dealer, agent, investment adviser,  
2 investment adviser representative, or similar person.

3 (iii) The person was found to have been suspended or expelled  
4 from membership by or participation in a securities exchange or  
5 securities association operating under the securities laws of a  
6 foreign jurisdiction.

7 (l) The person is the subject of a cease and desist order  
8 issued by the securities and exchange commission or issued under  
9 the securities, commodities, investment, franchise, banking,  
10 finance, or insurance laws of a state.

11 (m) The person has engaged in dishonest or unethical practices  
12 in the securities, commodities, investment, franchise, banking,  
13 finance, or insurance business within the previous 10 years.

14 (n) The person is not qualified on the basis of factors such  
15 as training, experience, and knowledge of the securities business.  
16 If an application is made by an agent for a broker-dealer that is a  
17 member of a self-regulatory organization or by an individual for  
18 registration as an investment adviser representative, a denial  
19 order shall not be based on this subdivision if the individual has  
20 successfully completed all examinations required by subsection (5).  
21 The administrator may require an applicant for registration under  
22 section 402 or 404 who has not been registered in a state within  
23 the 2 years preceding the filing of an application in this state to  
24 successfully complete an examination.

25 (5) A rule or order under this act may require that an  
26 examination, including an examination developed or approved by an  
27 organization of securities regulators, be successfully completed by

1 a class of individuals or all individuals. An order under this act  
2 may waive an examination as to an individual and a rule under this  
3 act may waive an examination as to a class of individuals if the  
4 administrator determines that the examination is not necessary or  
5 appropriate in the public interest and for the protection of  
6 investors.

7 (6) The administrator may suspend or deny an application  
8 summarily, restrict, condition, limit, or suspend a registration,  
9 or censure, bar, or impose a civil penalty on a registrant pending  
10 final determination of an administrative proceeding. On the  
11 issuance of the order, the administrator shall promptly notify each  
12 person subject to the order that the order has been issued, the  
13 reasons for the action, and that, within 15 days after the receipt  
14 of a request in a record from the person, the matter will be  
15 scheduled for a hearing. If a hearing is not requested by a person  
16 subject to the order or is not ordered by the administrator within  
17 30 days after the date of service of the order, the order is final.  
18 If a hearing is requested or ordered, the administrator, after  
19 notice of and opportunity for hearing to each person subject to the  
20 order, may modify or vacate the order or extend the order until  
21 final determination.

22 (7) Except under subsection (6), an order shall not be issued  
23 under this section unless all of the following have occurred:

24 (a) Appropriate notice has been given to the applicant or  
25 registrant.

26 (b) Opportunity for hearing has been given to the applicant or  
27 registrant.

1 (c) Findings of fact and conclusions of law have been made on  
2 the record pursuant to the administrative procedures act of 1969,  
3 1969 PA 306, MCL 24.201 to 24.328.

4 (8) A person who controls, directly or indirectly, a person  
5 not in compliance with this section may be disciplined by order of  
6 the administrator under subsections (1) to (3) to the same extent  
7 as the noncomplying person, unless the controlling person did not  
8 know, and in the exercise of reasonable care could not have known,  
9 of the existence of conduct that is a basis for discipline under  
10 this section.

11 (9) The administrator shall not institute a proceeding under  
12 subsection (1), (2), or (3) solely based on material facts actually  
13 known by the administrator unless an investigation or the  
14 proceeding is instituted within 1 year after the administrator  
15 actually knew the material facts.

16 Sec. 413. A broker-dealer acting as a finder shall not do any  
17 of the following:

18 (a) Take possession of funds or securities in connection with  
19 the transaction for which payment is made for services as a finder.

20 (b) Fail to disclose clearly and conspicuously in writing to  
21 all persons involved in the transaction as a result of the broker-  
22 dealer's finding activities before the sale or purchase that the  
23 person is acting as a finder, any payment for services as a finder,  
24 the method and amount of payment, and any beneficial interest,  
25 direct or indirect, of the broker-dealer, or a member of the  
26 broker-dealer's immediate family if the broker-dealer is an  
27 individual, in the issue of the securities that are the subject of

1 services as a finder.

2 (c) Participate in the offer, purchase, or sale of a security  
3 in violation of section 301. However, if the broker-dealer makes a  
4 reasonable effort to ascertain if a registration has been effected  
5 or an exemption order granted in this state or to ascertain the  
6 basis for an exemption claim and does not have knowledge that the  
7 proposed transaction would violate section 301, the broker-dealer's  
8 activities as a finder do not violate section 301.

9 (d) Participate in the offer, purchase, or sale of a security  
10 without obtaining information relative to the risks of the  
11 transaction, the direct or indirect compensation to be received by  
12 promoters, partners, officers, directors, or their affiliates, the  
13 financial condition of the issuer, and the use of proceeds to be  
14 received from investors, or fail to read any offering materials  
15 obtained. This section does not require independent investigation  
16 or alteration of offering materials furnished to the broker-dealer.

17 (e) Fail to inform or otherwise ensure disclosure to all  
18 persons involved in the transaction as a result of the broker-  
19 dealer's finding activities of any material information which the  
20 broker-dealer knows, or in the exercise of reasonable care should  
21 know based on the information furnished to the broker-dealer, is  
22 material in making an investment decision, until conclusion of the  
23 transaction.

24 (f) Locate, introduce, or refer persons that the broker-dealer  
25 knows, or after a reasonable inquiry should know, are not suitable  
26 investors by reason of their financial condition, age, experience,  
27 or need to diversify investments.



## ARTICLE 5

## FRAUD AND LIABILITIES

1  
2  
3       Sec. 501. It is unlawful for a person, in connection with the  
4 offer, sale, or purchase of a security, to directly or indirectly  
5 do any of the following:

6       (a) Employ a device, scheme, or artifice to defraud.

7       (b) Make an untrue statement of a material fact or omit to  
8 state a material fact necessary in order to make the statements  
9 made, in the light of the circumstances under which they were made,  
10 not misleading.

11       (c) Engage in an act, practice, or course of business that  
12 operates or would operate as a fraud or deceit on another person.

13       Sec. 502. (1) It is unlawful for a person that advises others  
14 for compensation, either directly or indirectly or through  
15 publications or writings, as to the value of securities or the  
16 advisability of investing in, purchasing, or selling securities, or  
17 that, for compensation and as part of a regular business, issues or  
18 promulgates analyses or reports relating to securities, to do any  
19 of the following:

20       (a) Employ a device, scheme, or artifice to defraud another  
21 person.

22       (b) Engage in an act, practice, or course of business that  
23 operates or would operate as a fraud or deceit upon another person.

24       (2) An investment adviser acting as a finder shall not do any  
25 of the following:

26       (a) Take possession of funds or securities in connection with  
27 the transaction for which payment is made for services as a finder.

1 (b) Fail to disclose clearly and conspicuously in writing to  
2 all persons involved in the transaction as a result of his or her  
3 finding activities before the sale or purchase that the person is  
4 acting as a finder, any payment for services as a finder, the  
5 method and amount of payment, as well as any beneficial interest,  
6 direct or indirect, of the finder or a member of the finder's  
7 immediate family in the issue of the securities that are the  
8 subject of services as a finder.

9 (c) Participate in the offer, purchase, or sale of a security  
10 in violation of section 301. However, if the investment adviser  
11 makes a reasonable effort to ascertain if a registration has been  
12 effected or an exemption order granted in this state or to  
13 ascertain the basis for an exemption claim and does not have  
14 knowledge that the proposed transaction would violate section 301,  
15 his or her activities as a finder do not violate section 301.

16 (d) Participate in the offer, purchase, or sale of a security  
17 without obtaining information relative to the risks of the  
18 transaction, the direct or indirect compensation to be received by  
19 promoters, partners, officers, directors, or their affiliates, the  
20 financial condition of the issuer, and the use of proceeds to be  
21 received from investors, or fail to read any offering materials  
22 obtained. This subdivision does not require independent  
23 investigation or alteration of offering materials furnished to the  
24 finder.

25 (e) Fail to inform or otherwise ensure disclosure to all  
26 persons involved in the transaction as a result of his or her  
27 finding activities of any material information which the finder

1 knows, or in the exercise of reasonable care should know based on  
2 the information furnished to him or her, is material in making an  
3 investment decision, until conclusion of the transaction. This  
4 subdivision does not require the finder to independently generate  
5 information.

6 (f) Locate, introduce, or refer persons that the finder knows,  
7 or after a reasonable inquiry should know, are not suitable  
8 investors by reason of their financial condition, age, experience,  
9 or need to diversify investments.

10 (3) A rule under this act may do any of the following:

11 (a) Define an act, practice, or course of business of an  
12 investment adviser or an investment adviser representative, other  
13 than a supervised person of a federal covered investment adviser,  
14 as fraudulent, deceptive, or manipulative, and prescribe means  
15 reasonably designed to prevent investment advisers and investment  
16 adviser representatives, other than supervised persons of a federal  
17 covered investment adviser, from engaging in acts, practices, and  
18 courses of business defined as fraudulent, deceptive, or  
19 manipulative.

20 (b) Specify the contents of an investment advisory contract  
21 entered into, extended, or renewed by an investment adviser.

22 Sec. 503. (1) In a civil action or administrative proceeding  
23 under this act, a person claiming an exemption, exception,  
24 preemption, or exclusion has the burden to prove the applicability  
25 of the exemption, exception, preemption, or exclusion.

26 (2) In a criminal proceeding under this act, a person claiming  
27 an exemption, exception, preemption, or exclusion has the burden of

1 going forward with evidence of the claim.

2       Sec. 504. (1) Subject to subsection (2), a rule or order under  
3 this act may require the filing of a prospectus, pamphlet,  
4 circular, form letter, advertisement, sales literature, or other  
5 advertising record relating to a security or investment advice  
6 addressed or intended for distribution to prospective investors,  
7 including clients or prospective clients of a person registered or  
8 required to be registered as an investment adviser under this act.

9       (2) This section does not apply to sales and advertising  
10 literature specified in subsection (1) relating to a federal  
11 covered security, a federal covered investment adviser, or a  
12 security or transaction exempted by section 201, 202, or 203 except  
13 as required under section 201(g).

14       Sec. 505. A person shall not make or cause to be made, in a  
15 record that is used in an action or proceeding or filed under this  
16 act, a statement that, at the time and in the light of the  
17 circumstances under which it is made, is false or misleading in a  
18 material respect, or, in connection with the statement, omit to  
19 state a material fact necessary to make the statement made, in the  
20 light of the circumstances under which it was made, not false or  
21 misleading.

22       Sec. 506. The filing of an application for registration, a  
23 registration statement, a notice filing under this act, or the  
24 registration of a person, the notice filing by a person, or the  
25 registration of a security under this act does not constitute a  
26 finding by the administrator that a record filed under this act is  
27 true, complete, and not misleading. The filing or registration or

1 the availability of an exemption, exception, preemption, or  
2 exclusion for a security or a transaction does not mean that the  
3 administrator has passed upon the merits or qualifications of, or  
4 recommended or given approval to, a person, security, or  
5 transaction. A person shall not make or cause to be made to a  
6 purchaser, customer, client, or prospective customer or client a  
7 representation inconsistent with this section.

8       Sec. 507. A broker-dealer, agent, investment adviser, federal  
9 covered investment adviser, or investment adviser representative is  
10 not liable to another broker-dealer, agent, investment adviser,  
11 federal covered investment adviser, or investment adviser  
12 representative for defamation relating to a statement that is  
13 contained in a record required by the administrator, or designee of  
14 the administrator, the securities and exchange commission, or a  
15 self-regulatory organization, unless the person knew, or should  
16 have known at the time that the statement was made, that it was  
17 false in a material respect or the person acted in reckless  
18 disregard of the statement's truth or falsity.

19       Sec. 508. (1) A person that willfully violates this act or a  
20 rule adopted or order issued under this act, except section 504 or  
21 the notice filing requirements of section 302 or 405, or that  
22 willfully violates section 505 knowing the statement made to be  
23 false or misleading in a material respect, is guilty of a felony  
24 punishable by imprisonment for not more than 10 years or a fine of  
25 not more than \$500,000.00 for each violation, or both. An  
26 individual convicted of violating a rule or order under this act  
27 may be fined, but shall not be imprisoned, if the individual did

1 not have knowledge of the rule or order.

2 (2) The attorney general or the proper prosecuting attorney  
3 may institute appropriate criminal proceedings under this act with  
4 or without a reference from the administrator.

5 (3) This act does not limit the power of this state to punish  
6 a person for conduct that constitutes a crime under other laws of  
7 this state.

8 Sec. 509. (1) Enforcement of civil liability under this  
9 section is subject to the securities litigation uniform standards  
10 act of 1998.

11 (2) A person is liable to the purchaser if the person sells a  
12 security in violation of section 301, or by means of an untrue  
13 statement of a material fact or an omission to state a material  
14 fact necessary in order to make the statement made, in light of the  
15 circumstances under which it is made, not misleading, the purchaser  
16 not knowing the untruth or omission, and the seller not sustaining  
17 the burden of proof that the seller did not know and, in the  
18 exercise of reasonable care, could not have known of the untruth or  
19 omission. All of the following apply to an action under this  
20 subsection:

21 (a) The purchaser may maintain an action to recover the  
22 consideration paid for the security, less the amount of any income  
23 received on the security, and interest at 6% per year from the date  
24 of the purchase, costs, and reasonable attorney fees determined by  
25 the court, upon the tender of the security, or for actual damages  
26 as provided in subdivision (c).

27 (b) The tender referred to in subdivision (a) may be made any

1 time before entry of judgment. Tender requires only notice in a  
2 record of ownership of the security and willingness to exchange the  
3 security for the amount specified. A purchaser that no longer owns  
4 the security may recover actual damages as provided in subdivision  
5 (c).

6 (c) Actual damages in an action arising under this subsection  
7 are the amount that would be recoverable upon a tender less the  
8 value of the security when the purchaser disposed of it and  
9 interest at 6% from the date of purchase, costs, and reasonable  
10 attorney fees determined by the court.

11 (3) A person is liable to the seller if the person buys a  
12 security by means of an untrue statement of a material fact or  
13 omission to state a material fact necessary in order to make the  
14 statement made, in light of the circumstances under which it is  
15 made, not misleading, if the seller did not know of the untruth or  
16 omission and the purchaser does not sustain the burden of proving  
17 that the purchaser did not know, and in the exercise of reasonable  
18 care could not have known, of the untruth or omission. All of the  
19 following apply to an action under this subsection:

20 (a) The seller may maintain an action to recover the security,  
21 any income received on the security, costs, and reasonable attorney  
22 fees determined by the court, on the tender of the purchase price,  
23 or for actual damages as provided in subdivision (c).

24 (b) The tender referred to in subdivision (a) may be made any  
25 time before entry of judgment. Tender requires only notice in a  
26 record of the present ability to pay the amount tendered and  
27 willingness to take delivery of the security for the amount

1 specified. If the purchaser no longer owns the security, the seller  
2 may recover actual damages as provided in subdivision (c).

3 (c) Actual damages in an action arising under this subsection  
4 are the difference between the price at which the security was sold  
5 and the value the security would have had at the time of the sale  
6 in the absence of the purchaser's conduct causing liability,  
7 interest at 6% from the date of sale of the security, costs, and  
8 reasonable attorney fees determined by the court.

9 (4) A person acting as a broker-dealer or agent that sells or  
10 buys a security in violation of section 401(1), 402(1), or 506 is  
11 liable to the customer. The customer, if a purchaser, may maintain  
12 an action for recovery of actual damages as specified in subsection  
13 (2) or, if a seller, a remedy as specified in subsection (3).

14 (5) A person acting as an investment adviser or investment  
15 adviser representative that provides investment advice for  
16 compensation in violation of section 403(1), 404(1), or 506 is  
17 liable to the client. The client may maintain an action at law or  
18 in equity to recover the consideration paid for the advice,  
19 interest at 6% from the date of payment, costs, and reasonable  
20 attorney fees determined by the court.

21 (6) A person that receives, directly or indirectly, any  
22 consideration for providing investment advice to another person and  
23 that employs a device, scheme, or artifice to defraud the other  
24 person or engages in an act, practice, or course of business that  
25 operates or would operate as a fraud or deceit on the other person  
26 is liable to the other person. The person defrauded may maintain an  
27 action to recover the consideration paid for the advice and the



1 amount of any actual damages caused by the fraudulent conduct that  
2 gives rise to liability under this subsection, interest at 6% from  
3 the date of the fraudulent conduct, costs, and reasonable attorney  
4 fees determined by the court, less the amount of any income  
5 received as a result of the fraudulent conduct. This subsection  
6 does not apply to a broker-dealer or its agents if the investment  
7 advice provided is solely incidental to transacting business as a  
8 broker-dealer and no special compensation is received for the  
9 investment advice.

10 (7) The following persons are liable jointly and severally  
11 with and to the same extent as persons liable under subsections (2)  
12 to (6):

13 (a) A person that directly or indirectly controls a person  
14 liable under subsections (2) to (6), unless the controlling person  
15 sustains the burden of proving that the controlling person did not  
16 know, and in the exercise of reasonable care could not have known,  
17 of the existence of the conduct by reason of which the liability is  
18 alleged to exist.

19 (b) An individual who is a managing partner, executive  
20 officer, or director of a person liable under subsections (2) to  
21 (6), including each individual having a similar status or  
22 performing similar functions, unless the individual sustains the  
23 burden of proving that the individual did not know and, in the  
24 exercise of reasonable care could not have known, of the existence  
25 of the conduct by reason of which the liability is alleged to  
26 exist.

27 (c) An individual who is an employee of or associated with a

1 person liable under subsections (2) to (6) and who materially aids  
2 the conduct giving rise to the liability, unless the individual  
3 sustains the burden of proving that the individual did not know  
4 and, in the exercise of reasonable care could not have known, of  
5 the existence of the conduct by reason of which the liability is  
6 alleged to exist.

7 (d) A person that is a broker-dealer, agent, investment  
8 adviser, or investment adviser representative that materially aids  
9 the conduct giving rise to the liability under subsections (2) to  
10 (6), unless the person sustains the burden of proving that the  
11 person did not know and, in the exercise of reasonable care could  
12 not have known, of the existence of the conduct by reason of which  
13 liability is alleged to exist.

14 (8) A person liable under this section has a right of  
15 contribution as in cases of contract against any other person  
16 liable under this section for the same conduct.

17 (9) A cause of action under this section survives the death of  
18 an individual who might have been a plaintiff or defendant.

19 (10) A person may not obtain relief if an action is not  
20 commenced within 1 of the following time limits, as applicable:

21 (a) Under subsection (2) for violation of section 301, or  
22 under subsection (4) or (5), unless the action is commenced within  
23 1 year after the violation occurred.

24 (b) Under subsection (2), other than for violation of section  
25 301, or under subsection (3) or (6), unless the action is commenced  
26 within the earlier of 2 years after discovery of the facts  
27 constituting the violation or 5 years after the violation occurred.

1           (11) A person that has made or engaged in the performance of a  
2 contract in violation of this act or a rule adopted or order issued  
3 under this act, or that has acquired a purported right under the  
4 contract with knowledge of the facts by reason of which its making  
5 or performance was in violation of this act, may not base an action  
6 on the contract.

7           (12) A condition, stipulation, or provision binding a person  
8 purchasing or selling a security or receiving investment advice to  
9 waive compliance with this act or a rule adopted or order issued  
10 under this act is void.

11           (13) The rights and remedies provided by this act are in  
12 addition to any other rights or remedies that may exist, but this  
13 act does not create a cause of action not specified in this section  
14 or section 411(5).

15           Sec. 510. A purchaser, seller, or recipient of investment  
16 advice may not maintain an action under section 509 if all of the  
17 following are met:

18           (a) The purchaser, seller, or recipient of investment advice  
19 receives in a record, before the action is commenced, an offer that  
20 does all of the following:

21           (i) States the respect in which liability under section 509 may  
22 have arisen and fairly advises the purchaser, seller, or recipient  
23 of investment advice of that person's rights in connection with the  
24 offer, including financial or other information necessary to  
25 correct all material misstatements or omissions in the information  
26 that was required by this act to be furnished to that person at the  
27 time of the purchase, sale, or investment advice.

1           (ii) If the basis for relief under this section may have been a  
2 violation of section 509(2), offers to repurchase the security for  
3 cash, payable on delivery of the security, equal to the  
4 consideration paid, and interest at 6% per year from the date of  
5 purchase, less the amount of any income received on the security,  
6 or, if the purchaser no longer owns the security, offers to pay the  
7 purchaser upon acceptance of the offer damages in an amount that  
8 would be recoverable upon a tender, less the value of the security  
9 when the purchaser disposed of it, and interest at 6% from the date  
10 of purchase in cash equal to the damages computed in the manner  
11 provided in this subsection.

12           (iii) If the basis for relief under this section may have been a  
13 violation of section 509(3), offers to tender the security, on  
14 payment by the seller of an amount equal to the purchase price  
15 paid, less income received on the security by the purchaser and  
16 interest at 6% from the date of the sale, or if the purchaser no  
17 longer owns the security, offers to pay the seller upon acceptance  
18 of the offer, in cash, damages in the amount of the difference  
19 between the price at which the security was purchased and the value  
20 the security would have had at the time of the purchase in the  
21 absence of the purchaser's conduct that may have caused liability  
22 and interest at 6% from the date of the sale.

23           (iv) If the basis for relief under this section may have been a  
24 violation of section 509(4), and if the customer is a purchaser,  
25 offers to pay as specified in subdivision (a)(ii) or, if the  
26 customer is a seller, offers to tender or to pay as specified in  
27 subdivision (a)(iii).

1 (v) If the basis for relief under this section may have been a  
2 violation of section 509(5), offers to reimburse in cash the  
3 consideration paid for the advice and interest at 6% from the date  
4 of payment.

5 (vi) If the basis for relief under this section may have been a  
6 violation of section 509(6), offers to reimburse in cash the  
7 consideration paid for the advice and the amount of any actual  
8 damages that may have been caused by the conduct, and interest at  
9 6% from the date of the violation causing the loss.

10 (vii) States that the offer must be accepted by the purchaser,  
11 seller, or recipient of investment advice within 30 days after the  
12 date of its receipt by the purchaser, seller, or recipient of  
13 investment advice or within a shorter period of not less than 3  
14 days that the administrator, by order, specifies.

15 (b) The offeror has the present ability to pay the amount  
16 offered or to tender the security under subdivision (a).

17 (c) The offer under subdivision (a) is delivered to the  
18 purchaser, seller, or recipient of investment advice or sent in a  
19 manner that ensures receipt by the purchaser, seller, or recipient  
20 of investment advice.

21 (d) The purchaser, seller, or recipient of investment advice  
22 that accepts the offer under subdivision (a) in a record within the  
23 period specified under subdivision (a)(vii) is paid in accordance  
24 with the terms of the offer.

## 25 ARTICLE 6

### 26 ADMINISTRATION AND JUDICIAL REVIEW

27 Sec. 601. (1) The administrator shall administer this act.

1           (2) The administrator or officer, employee, or designee of the  
2 administrator shall not use for personal benefit or the benefit of  
3 others records or other information obtained by or filed with the  
4 administrator that are not public under section 607(2). This act  
5 does not authorize the administrator or an officer, employee, or  
6 designee of the administrator to disclose the record or  
7 information, except in accordance with section 602, 607(3), or 608.

8           (3) This act does not create or diminish any privilege or  
9 exemption that exists at common law, by statute, by rule, or  
10 otherwise.

11           (4) The administrator may develop and implement investor  
12 education initiatives to inform the public about investing in  
13 securities, with particular emphasis on the prevention and  
14 detection of securities fraud. In developing and implementing these  
15 initiatives, the administrator may collaborate with public and  
16 nonprofit organizations with an interest in investor education. The  
17 administrator may accept grants or donations from a person that is  
18 not affiliated with the securities industry or from a nonprofit  
19 organization, regardless of whether or not the organization is  
20 affiliated with the securities industry, to develop and implement  
21 investor education initiatives. This subsection does not authorize  
22 the administrator to require participation or monetary  
23 contributions of a registrant in an investor education program.

24           (5) All fees and civil fines received under this act shall be  
25 deposited in the state treasury to the credit of the administrator,  
26 to be used pursuant to legislative appropriation by the  
27 administrator in carrying out those duties required by law. After

1 the payment of the amounts appropriated by the legislature for the  
2 necessary expenses incurred in the administration of this act, the  
3 money remaining shall be credited to the general fund of this  
4 state.

5 Sec. 602. (1) The administrator may do any of the following:

6 (a) Conduct public or private investigations in or out of this  
7 state that the administrator considers necessary or appropriate to  
8 determine whether any person has violated, is violating, or is  
9 about to violate this act or a rule adopted or order issued under  
10 this act, or to aid in the enforcement of this act or the adoption  
11 of rules and forms under this act.

12 (b) Require or permit a person to testify, file a statement,  
13 or produce a record, under oath or otherwise as the administrator  
14 determines, as to all the facts and circumstances concerning a  
15 matter to be investigated or about which an action or proceeding is  
16 to be commenced.

17 (c) Publish a record concerning an action, proceeding, or  
18 investigation under, or a violation of, this act or a rule adopted  
19 or order issued under this act if the administrator determines it  
20 is necessary or appropriate in the public interest and for the  
21 protection of investors.

22 (2) For the purpose of an investigation under this act, the  
23 administrator or a designated officer may administer oaths and  
24 affirmations, subpoena witnesses, seek compulsion of attendance,  
25 take evidence, require the filing of statements, and require the  
26 production of any records that the administrator considers relevant  
27 or material to the investigation.

1           (3) If a person fails to appear or refuses to testify, file a  
2 statement, produce records, or otherwise fails to obey a subpoena  
3 as required by the administrator under this act, the administrator  
4 may refer the matter to the attorney general or the proper  
5 prosecuting attorney, who may apply to the circuit court of Ingham  
6 county or a court of another state to enforce compliance. The court  
7 may do any of the following:

8           (a) Hold the person in contempt.

9           (b) Order the person to appear before the administrator.

10          (c) Order the person to testify about the matter under  
11 investigation or in question.

12          (d) Order the production of records.

13          (e) Grant injunctive relief, including restricting or  
14 prohibiting the offer or sale of securities or the providing of  
15 investment advice.

16          (f) Order a civil fine of not less than \$10,000.00 and not  
17 more than \$500,000.00 for each violation.

18          (g) Grant any other necessary or appropriate relief.

19          (4) This section does not preclude a person from applying to  
20 the circuit court of Ingham county or a court of another state for  
21 appropriate relief from a request to appear, testify, file a  
22 statement, produce records, or obey a subpoena.

23          (5) An individual is not excused from attending, testifying,  
24 filing a statement, producing a record or other evidence, or  
25 obeying a subpoena of the administrator under this act or in an  
26 action commenced or proceeding instituted by the administrator  
27 under this act on the ground that the required testimony,



1 statement, record, or other evidence, directly or indirectly, may  
2 tend to incriminate the individual or subject the individual to a  
3 criminal fine, penalty, or forfeiture. If the individual refuses to  
4 testify, file a statement, or produce a record or other evidence on  
5 the basis of the individual's privilege against self-incrimination,  
6 the administrator may apply to the circuit court to compel the  
7 testimony, the filing of the statement, the production of the  
8 record, or the giving of other evidence. The testimony, record, or  
9 other information compelled under a court order obtained under this  
10 subsection shall not be used, directly or indirectly, against the  
11 individual in a criminal case, except in a prosecution for perjury,  
12 contempt, or otherwise failing to comply with the order.

13 (6) At the request of the securities regulator of another  
14 state or a foreign jurisdiction, the administrator may provide  
15 assistance if the requesting regulator states that it is conducting  
16 an investigation to determine whether a person has violated, is  
17 violating, or is about to violate a law or rule of the other state  
18 or foreign jurisdiction relating to securities matters which the  
19 requesting regulator administers or enforces. The administrator may  
20 provide the assistance by using the authority to investigate and  
21 the powers conferred by this section as the administrator  
22 determines is necessary or appropriate. The assistance may be  
23 provided without regard to whether the conduct described in the  
24 request would also constitute a violation of this act or other law  
25 of this state if occurring in this state. In deciding whether to  
26 provide the assistance, the administrator may consider whether the  
27 requesting regulator is permitted and has agreed to provide

1 assistance reciprocally within its state or foreign jurisdiction to  
2 the administrator on securities matters when requested, whether  
3 compliance with the request would violate or prejudice the public  
4 policy of this state, and the availability of resources and  
5 employees of the administrator to carry out the request for  
6 assistance.

7       Sec. 603. (1) If it appears to the administrator that a person  
8 has engaged, is engaging, or is about to engage in an act,  
9 practice, or course of business constituting a violation of this  
10 act or a rule adopted or order issued under this act, or that a  
11 person has, is, or is about to engage in an act, practice, or  
12 course of business that materially aids a violation of this act or  
13 a rule adopted or order issued under this act, the administrator  
14 may maintain an action in the circuit court to enjoin the act,  
15 practice, or course of business and to enforce compliance with this  
16 act or a rule adopted or order issued under this act.

17       (2) In an action under this section and upon a proper showing,  
18 the court may do any of the following:

19       (a) Issue a permanent or temporary injunction, restraining  
20 order, or a declaratory judgment.

21       (b) Issue an order for other appropriate or ancillary relief,  
22 including any of the following:

23       (i) An asset freeze, accounting, writ of attachment, writ of  
24 general or specific execution, and an appointment of a receiver or  
25 conservator, which may be the administrator, for the defendant or  
26 the defendant's assets.

27       (ii) An order to the administrator to take charge and control

1 of a defendant's property, including investment accounts and  
2 accounts in a depository institution, rents, and profits, to  
3 collect debts, and to acquire and dispose of property.

4 (iii) The imposition of a civil fine of not more than \$10,000.00  
5 for a single violation or \$500,000.00 for multiple violations.

6 (iv) An order of rescission, restitution, or disgorgement  
7 directed to a person that has engaged in an act, practice, or  
8 course of business constituting a violation of this act or the  
9 predecessor act or a rule adopted or order issued under this act or  
10 the predecessor act.

11 (v) An order for the payment of prejudgment and postjudgment  
12 interest.

13 (c) Granting other relief that the court considers  
14 appropriate.

15 (3) The administrator shall not be required to post a bond in  
16 an action under this section.

17 Sec. 604. (1) If the administrator determines that a person  
18 has engaged, is engaging, or is about to engage in an act,  
19 practice, or course of business constituting a violation of this  
20 act or a rule adopted or order issued under this act, or that a  
21 person has materially aided, is materially aiding, or is about to  
22 materially aid an act, practice, or course of business constituting  
23 a violation of this act or a rule adopted or order issued under  
24 this act, the administrator may do 1 or more of the following:

25 (a) Issue an order directing the person to cease and desist  
26 from engaging in the act, practice, or course of business or to  
27 take other action necessary or appropriate to comply with this act.

1 (b) Issue an order denying, suspending, revoking, or  
2 conditioning the exemptions for a broker-dealer under section  
3 401(2)(a)(iv) or (vi) or an investment adviser under section  
4 403(2)(a)(iii).

5 (c) Issue an order under section 204.

6 (2) An order under subsection (1) is effective on the date of  
7 issuance. Upon issuance of the order, the administrator shall  
8 promptly serve each person subject to the order with a copy of the  
9 order and a notice that the order has been entered. The order must  
10 include a statement of any civil penalty or costs of the  
11 investigation the administrator will seek, a statement of the  
12 reasons for the order, and notice that the matter will be scheduled  
13 for a hearing within 15 days after receipt of a request in a record  
14 from the person. If a person subject to the order does not request  
15 a hearing and none is ordered by the administrator within 30 days  
16 after the date of service of the order, the order, including any  
17 civil penalty imposed or requirement for payment of the costs of  
18 investigation sought in a statement in that order, becomes final as  
19 to that person by operation of law. If a hearing is requested or  
20 ordered, the administrator, after notice of and opportunity for  
21 hearing to each person subject to the order, may modify or vacate  
22 the order or extend it until final determination.

23 (3) If a hearing is requested or ordered pursuant to  
24 subsection (2), the hearing shall be held pursuant to the  
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
26 24.328. A final order shall not be issued unless the administrator  
27 makes findings of fact and conclusions of law on the record

1 pursuant to the administrative procedures act of 1969, 1969 PA 306,  
2 MCL 24.201 to 24.328. The final order may make final, vacate, or  
3 modify the order issued under subsection (1).

4 (4) In a final order, the administrator may impose a civil  
5 fine of not more than \$10,000.00 for a single violation or  
6 \$500,000.00 for multiple violations.

7 (5) In a final order, the administrator may charge the actual  
8 cost of an investigation or proceeding for a violation of this act  
9 or a rule adopted or order issued under this act.

10 (6) If a petition for judicial review of a final order is not  
11 filed in accordance with section 609, the administrator may file a  
12 certified copy of the final order with the clerk of a court of  
13 competent jurisdiction. The filed order shall have the same effect  
14 as a judgment of the court and may be recorded, enforced, or  
15 satisfied in the same manner as a judgment of the court.

16 (7) If a person fails to comply with an order under this  
17 section, the administrator may petition a court of competent  
18 jurisdiction to enforce the order. The court shall not require the  
19 administrator to post a bond. If the court finds, after service and  
20 opportunity for hearing, that the person is not in compliance with  
21 the order, the court may adjudge the person in civil contempt of  
22 the order. The court may impose an additional civil penalty against  
23 the person for contempt in an amount not less than \$10,000.00 or  
24 more than \$500,000.00 for each violation and may grant any other  
25 relief the court determines is just and proper in the  
26 circumstances.

27 Sec. 605. (1) The administrator may do any of the following:

1 (a) Issue forms and orders and, after notice and comment, may  
2 adopt and amend rules necessary or appropriate to carry out this  
3 act, and may repeal rules, including rules and forms governing  
4 registration statements, applications, notice filings, reports, and  
5 other records.

6 (b) By rule, define terms, whether or not used in this act, if  
7 the definitions are not inconsistent with this act.

8 (c) By rule, classify securities, persons, and transactions  
9 and adopt different requirements for different classes.

10 (2) A rule or form shall not be adopted or amended or an order  
11 issued or amended under this act unless the administrator finds  
12 that the rule, form, order, or amendment is necessary or  
13 appropriate in the public interest or for the protection of  
14 investors and is consistent with the purposes intended by this act.  
15 In adopting, amending, and repealing rules and forms, section 608  
16 applies in order to achieve uniformity among the states and  
17 coordination with federal laws in the form and content of  
18 registration statements, applications, reports, and other records,  
19 including in the adoption of uniform rules, forms, and procedures.

20 (3) Subject to section 15(h) of the securities exchange act of  
21 1934, 15 USC 78o, and section 222 of the investment advisers act of  
22 1940, 15 USC 80b-18a, the administrator may require that a  
23 financial statement filed under this act be prepared in accordance  
24 with generally accepted accounting principles in the United States  
25 and comply with other requirements specified by rule or order under  
26 this act. A rule or order under this act may establish any of the  
27 following:

1 (a) Subject to section 15(h) of the securities exchange act of  
2 1934, 15 USC 78o, and section 222 of the investment advisers act of  
3 1940, 15 USC 80b-18a, the form and content of financial statements  
4 required under this act.

5 (b) Whether unconsolidated financial statements must be filed.

6 (c) Whether required financial statements must be audited by  
7 an independent certified public accountant.

8 (4) The administrator may provide interpretative opinions or  
9 issue determinations that the administrator will not institute a  
10 proceeding or an action under this act against a specified person  
11 for engaging in a specified act, practice, or course of business if  
12 the determination is consistent with this act. A rule or order  
13 under this act may charge a reasonable fee for interpretative  
14 opinions or determinations that the administrator will not  
15 institute an action or a proceeding under this act.

16 (5) A penalty under this act shall not be imposed and  
17 liability does not arise for conduct that is engaged in or omitted  
18 in good faith conformity with a rule, form, or order of the  
19 administrator under this act.

20 (6) A hearing in an administrative proceeding under this act  
21 shall be conducted in public unless the administrator for good  
22 cause consistent with the purposes intended by this act determines  
23 that the hearing not be public.

24 Sec. 606. (1) The administrator shall maintain, or designate a  
25 person to maintain, a register of all applications for registration  
26 of securities; registration statements; notice filings,  
27 applications for registration of broker-dealers, agents, investment

1 advisers, and investment adviser representatives; notice filings by  
2 federal covered investment advisers that are or have been effective  
3 under this act or the predecessor act; notices of claims of  
4 exemption from registration or notice filing requirements contained  
5 in a record; orders issued under this act or the predecessor act;  
6 and interpretative opinions or no-action determinations issued  
7 under this act.

8 (2) The administrator shall make all rules, forms,  
9 interpretative opinions, and orders available to the public.

10 (3) Upon request, the administrator shall furnish to a person  
11 a copy of a record that is a public record or a certification that  
12 the public record does not exist. A rule under this act may  
13 establish a reasonable charge for furnishing the record. A copy of  
14 the record certified or a certificate of its nonexistence by the  
15 administrator is prima facie evidence of a record or its  
16 nonexistence.

17 Sec. 607. (1) Subject to subsection (2), records obtained by  
18 the administrator or filed under this act, including a record  
19 contained in or filed with any registration statement, application,  
20 notice filing, or report, are public records and are available for  
21 public examination.

22 (2) The following records are not public records and are not  
23 available for public examination under subsection (1):

24 (a) A record obtained by the administrator in connection with  
25 an audit or inspection under section 411(4) or an investigation  
26 under section 602.

27 (b) A part of a report filed in connection with a registration



1 statement under sections 301 and 303 through 305, or a record under  
2 section 411(4), that contains trade secrets or confidential  
3 information when the person filing the registration statement or  
4 report has asserted a claim of confidentiality or privilege that is  
5 authorized by law.

6 (c) A record that is not required to be provided to the  
7 administrator or filed under this act and is provided to the  
8 administrator only on the condition that the record will not be  
9 subject to public examination or disclosure.

10 (d) A nonpublic record received from a person specified in  
11 section 608.

12 (e) Any social security number, residential address unless  
13 used as a business address, or residential telephone number unless  
14 used as a business telephone number contained in a record that is  
15 filed.

16 (f) A record obtained by the administrator through a designee  
17 of the administrator that is determined by a rule or order under  
18 this act to have been either of the following:

19 (i) Appropriately expunged from the administrator's records by  
20 that designee.

21 (ii) Appropriately determined to be nonpublic or nondisclosable  
22 by that designee if the administrator finds that this is in the  
23 public interest and for the protection of investors.

24 (3) The administrator may disclose a record obtained in  
25 connection with an audit or inspection under section 411(4) or a  
26 record obtained in connection with an investigation under section  
27 602 if disclosure is for the purpose of a civil, administrative, or

1 criminal investigation, action, or proceeding or to a person  
2 specified in section 608(1).

3       Sec. 608. (1) The administrator shall, in its discretion,  
4 cooperate, coordinate, consult, and, subject to section 607, share  
5 records and information with the securities regulators of 1 or more  
6 states, Canada or 1 or more of its provinces or territories, 1 or  
7 more foreign jurisdictions, the securities and exchange commission,  
8 the United States department of justice, the commodity futures  
9 trading commission, the federal trade commission, the securities  
10 investor protection corporation, a self-regulatory organization, a  
11 national or international organization of securities regulators,  
12 federal or state banking and insurance regulators, and any  
13 governmental law enforcement agency, in order to effectuate greater  
14 uniformity in securities matters among the federal government,  
15 self-regulatory organizations, and state and foreign governments.

16       (2) In cooperating, coordinating, consulting, and sharing  
17 records and information under this section and in acting by rule,  
18 order, or waiver under this act, the administrator shall, in the  
19 discretion of the administrator, take into consideration in  
20 carrying out the public interest the following general policies:

21       (a) Maximizing effectiveness of regulation for the protection  
22 of investors.

23       (b) Maximizing uniformity in federal and state regulatory  
24 standards.

25       (c) Minimizing burdens on the business of capital formation,  
26 without adversely affecting essentials of investor protection.

27       (3) The cooperation, coordination, consultation, and sharing

1 of records and information authorized by this section includes:

2 (a) Establishing or employing 1 or more designees as a central  
3 depository for registration and notice filings under this act and  
4 for records required or allowed to be maintained under this act.

5 (b) Developing and maintaining uniform forms.

6 (c) Conducting a joint examination or investigation.

7 (d) Holding a joint administrative hearing.

8 (e) Instituting and prosecuting a joint civil or  
9 administrative proceeding.

10 (f) Sharing and exchanging personnel.

11 (g) Coordinating registrations under sections 301 and 401  
12 through 404 and exemptions under section 203.

13 (h) Sharing and exchanging records.

14 (i) Formulating rules, statements of policy, guidelines,  
15 forms, and interpretative opinions and releases.

16 (j) Formulating common systems and procedures.

17 (k) Notifying the public of proposed rules, forms, statements  
18 of policy, and guidelines.

19 (l) Attending conferences and other meetings among securities  
20 regulators, which may include representatives of governmental and  
21 private organizations involved in capital formation, considered to  
22 be necessary or appropriate to promote or achieve uniformity.

23 (m) Developing and maintaining a uniform exemption from  
24 registration for small issuers and taking other steps to reduce the  
25 burden of raising investment capital by small businesses.

26 Sec. 609. (1) Final orders issued by the administrator under  
27 this act are subject to judicial review pursuant to the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
2 24.328.

3 (2) Rules adopted under this act are subject to judicial  
4 review pursuant to the administrative procedures act of 1969, 1969  
5 PA 306, MCL 24.201 to 24.328.

6 Sec. 610. (1) Sections 301, 302, 401(1), 402(1), 403(1),  
7 404(1), 501, 506, 509, and 510 apply to a person that sells or  
8 offers to sell a security if the offer to sell or the sale is made  
9 in this state or the offer to purchase or the purchase is made and  
10 accepted in this state.

11 (2) Sections 401(1), 402(1), 403(1), 404(1), 501, 506, 509,  
12 and 510 apply to a person that purchases or offers to purchase a  
13 security if the offer to purchase or the purchase is made in this  
14 state or the offer to sell or the sale is made and accepted in this  
15 state.

16 (3) For the purpose of this section, an offer to sell or to  
17 purchase a security is made in this state, whether or not either  
18 party is then present in this state, if either of the following  
19 apply to the offer:

20 (a) It originates from this state.

21 (b) It is directed by the offeror to a place in this state and  
22 received at the place to which it is directed.

23 (4) For purposes of this section, an offer to purchase or to  
24 sell is accepted in this state whether or not either party is then  
25 present in this state, if both of the following apply to the  
26 acceptance:

27 (a) It is communicated to the offeror in this state, the

1 offeree reasonably believes the offeror to be present in this  
2 state, and the acceptance is received at the place in this state to  
3 which it is directed.

4 (b) It has not previously been communicated to the offeror,  
5 orally or in a record, outside this state.

6 (5) An offer to sell or to purchase is not made in this state  
7 when a publisher circulates or there is circulated on the  
8 publisher's behalf in this state a bona fide newspaper or other  
9 publication of general, regular, and paid circulation that is not  
10 published in this state, or that is published in this state but has  
11 had more than 2/3 of its circulation outside this state during the  
12 previous 12 months, or when a radio or television program or other  
13 electronic communication originating outside this state is received  
14 in this state. A radio, television program, or other electronic  
15 communication is considered as having originated in this state if  
16 either the broadcast studio or the originating source of  
17 transmission is located in this state, unless any of the following  
18 are met:

19 (a) The program or communication is syndicated and distributed  
20 from outside this state for redistribution to the general public in  
21 this state.

22 (b) The program or communication is supplied by a radio,  
23 television, or other electronic network with the electronic signal  
24 originating from outside this state for redistribution to the  
25 general public in this state.

26 (c) The program or communication is an electronic  
27 communication that originates outside this state and is captured

1 for redistribution to the general public in this state by a  
2 community antenna or cable, radio, cable television, or other  
3 electronic system.

4 (d) The program or communication consists of an electronic  
5 communication that originates in this state, but which is not  
6 intended for distribution to the general public in this state.

7 (6) Sections 403(1), 404(1), 405(1), 502, 505, and 506 apply  
8 to a person if the person engages in an act, practice, or course of  
9 business instrumental in effecting prohibited or actionable conduct  
10 in this state, whether or not either party is then present in this  
11 state.

12 Sec. 611. (1) A consent to service of process complying with  
13 this section required by this act must be signed and filed in the  
14 form required by a rule or order under this act. A consent  
15 appointing the administrator the person's agent for service of  
16 process in a noncriminal action or proceeding against the person,  
17 or the person's successor, or personal representative under this  
18 act or a rule adopted or order issued by the administrator under  
19 this act after the consent is filed, has the same force and  
20 validity as if the service were made personally on the person  
21 filing the consent. A person that has filed a consent complying  
22 with this subsection in connection with a previous application for  
23 registration or notice filing need not file an additional consent.

24 (2) If a person, including a nonresident of this state,  
25 engages in an act, practice, or course of business prohibited or  
26 made actionable by this act or a rule adopted or order issued by  
27 the administrator under this act and the person has not filed a

1 consent to service of process under subsection (1), that act,  
2 practice, or course of business constitutes the appointment of the  
3 administrator as the person's agent for service of process in a  
4 noncriminal action or proceeding against the person, the person's  
5 successor, or personal representative.

6 (3) Service under subsection (1) or (2) may be made by  
7 providing a copy of the process to the office of the administrator,  
8 but it is not effective unless both of the following are met:

9 (a) The plaintiff, which may be the administrator, promptly  
10 sends notice of the service and a copy of the process, return  
11 receipt requested, to the defendant or respondent at the address  
12 given in the consent to service of process or, if a consent to  
13 service of process has not been filed, at the last known address,  
14 or takes other reasonable steps to give notice.

15 (b) The plaintiff files an affidavit of compliance with this  
16 subsection in the action or proceeding on or before the return day  
17 of the process, if any, or within the time that the court or the  
18 administrator in a proceeding before the administrator allows.

19 (4) Service as provided in subsection (3) may be used in a  
20 proceeding before the administrator or by the administrator in a  
21 civil action in which the administrator is the moving party.

22 (5) If the process is served under subsection (3), the court  
23 or the administrator in a proceeding before the administrator shall  
24 order continuances as are necessary or appropriate to afford the  
25 defendant or respondent reasonable opportunity to defend.

26 Sec. 612. If any provision of this act or its application to  
27 any person or circumstances is held invalid, the invalidity does

1 not affect other provisions or applications of this act that can be  
2 given effect without the invalid provision or application, and to  
3 this end, the provisions of this act are severable.

4 ARTICLE 7

5 TRANSITION

6 Sec. 701. This act takes effect 180 days after the date this  
7 act is enacted.

8 Sec. 702. The uniform securities act, 1964 PA 265, MCL 451.501  
9 to 451.818, is repealed.

10 Sec. 703. (1) The predecessor act exclusively governs all  
11 actions, prosecutions, or proceedings that are pending or may be  
12 maintained or instituted on the basis of facts or circumstances  
13 occurring before the effective date of this act, but a civil action  
14 shall not be maintained to enforce any liability under the  
15 predecessor act unless commenced within any period of limitation  
16 that applied when the cause of action accrued or within 3 years  
17 after the effective date of this act, whichever is earlier.

18 (2) All effective registrations under the predecessor act, all  
19 administrative orders relating to the registrations, statements of  
20 policy, interpretative opinions, declaratory rulings, no action  
21 determinations, and all conditions imposed upon the registrations  
22 under the predecessor act remain in effect for the same time period  
23 they would have remained in effect if this act had not been  
24 enacted. They are considered to have been filed, issued, or imposed  
25 under this act, but are exclusively governed by the predecessor  
26 act.

27 (3) The predecessor act exclusively governs any offer or sale



1 made within 1 year after the effective date of this act pursuant to  
2 an offering made in good faith before the effective date of this  
3 act on the basis of an exemption available under the predecessor  
4 act.