

CHAPTER 187.

REGULATION AND SUPERVISION OF INVESTMENT COMPANIES.

Sub. for S. F. 1.

AN ACT to provide for the regulation and supervision of investment companies, and providing penalties for the violation thereof. [Additional to chapter one (1) title nine (IX) of the code relating to corporations for pecuniary profit.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Sale of certain stocks and bonds prohibited—permits granted by secretary of state. That it shall be unlawful for any investment company or stock broker or any representative thereof, either directly or indirectly, to sell or cause to be sold, offer for sale, take subscription for or negotiate for the sale in any manner whatsoever in this state, except as hereinafter provided, of any stocks, bonds or other securities of any kind or character, other than those expressly exempted from the provisions hereof, without a permit of the secretary of state as hereinafter provided. But nothing in this act shall be construed to prohibit the sale of bonds of the United States, or of the state of Iowa, or of the municipal, county, school or drainage bonds, or of certificates issued by authority of the laws of the state of Iowa, or to prohibit banks from dealing in the various classes of securities now or hereafter authorized by law or to prohibit the sale of stocks, bonds or other securities at judicial sale or by administrators or executors, or bonds or notes secured by mortgage on real estate, provided that the amount of such lien and of all superior liens upon said real estate shall not exceed three-fourths of the actual cash value thereof.

SEC. 2. Permits—how obtained—information—documents—fee. That before any investment company shall secure such permit, it shall be necessary for each and every such investment company to file in the office of secretary of state, together with a filing fee of ten dollars (\$10), the following papers, documents, etc., together with such other information and documents as said secretary of state shall deem necessary in each case to-wit:

1. A copy of its constitution and by-laws, or articles of co-partnership or association.
2. An itemized statement of its actual financial condition and the amount of its properties and liabilities.
3. A statement showing in full detail the plan upon which it proposes to transact business.
4. A copy of all contracts, bonds or other securities which it proposes to make with or sell to its contributors.
5. Sample copies of all literature or advertising matter used or to be used by such investment company.
6. If it shall be a foreign investment company, it shall file a copy of its charter, which copy shall bear the certificate of the secretary of state, or other state officer having custody of such records, that it is a true, complete and correct copy.

All the above described papers shall be verified by the oath of a duly authorized member of a co-partnership or association, if it be a co-partnership or association, and by the oath of the president and secretary, if it be incorporated, provided that the secretary of state shall have the power to require such officers to make affidavit to such other reports or information as he may call for.

SEC. 3. Foreign corporations—service of notice on secretary of state. Every foreign investment company shall, before receiving a certificate as provided in section four (4) hereof, file in the office of the secretary of state an agreement in writing (authenticated by the seal of said foreign investment company and by the signature of a member of a co-partnership or company if it be a co-partnership or company, or by the signatures of the president and secretary of the incorporated or unincorporated association, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers of the corporation, authorizing the said president and secretary to execute the same), that thereafter service of notice of any action or process of any kind against such foreign investment company, growing out of the transaction of any business of said company in this state, may be made on the secretary of state, and when so made, such service of notice or process of any kind shall be valid, binding and effective for all purposes as if served upon the foreign investment company according to the laws of this or any other state, and waiving all claims or right of error by reason of such acknowledgment of service. Such notice or process, with a copy thereof, may be mailed to the secretary of state at Des Moines, Iowa, in a registered letter addressed to him by his official title, and he shall immediately upon its receipt acknowledge service thereof on behalf of the defendant foreign investment company by writing thereon, giving the date thereof, and shall immediately return such notice or process in a registered letter to the clerk of the court in which the suit is pending, addressed to him by his official title, and shall also forthwith mail such copy, with a copy of his acknowledgment of service written thereon, in a registered letter addressed to the person or corporation who shall be named or designated as such foreign investment company in such written instrument.

The above provisions for the service of notice or process of any kind are merely additions to the general provisions of law relating to the service of notice or process, and are not to be construed to be exclusive.

SEC. 4. Statement filed—examination—permit. It shall be the duty of the secretary of state to examine the statements and documents so filed, and if he shall deem it advisable, he shall require such investment company to furnish him with further and more detailed information regarding the affairs of such investment company, and if he finds that such investment company is solvent; that its articles of incorporation or association, its constitution and by-laws, its proposed plan of business, and proposed contracts contain and provide for a fair, just and equitable plan for the transaction of business, he shall issue to such investment company a statement reciting that such company has complied with the provisions of this act and that such investment company is permitted to do business in this state. In no case shall the secretary of state issue to such investment company or to its stock brokers or agent thereof a permit to do business in this state unless, in his judgment, said investment company meets the requirements of this act.

SEC. 5. Amendment of charter, articles of incorporation, constitution or by-laws—filed with secretary of state. That no amendment of the charter, articles of incorporation, constitution or by-laws of any such investment company shall become operative until a copy of the same has been filed with the secretary of state as provided in regard to the original filing of such papers, nor shall it be lawful for any such investment company to transact business on any other plan than that set forth in the statement required to be filed in section two (2) of this act, or to make any contract other than that shown in the copy of the proposed contract required to be filed by the provisions of

said section, until a written statement showing in full detail the proposed new plan of transacting business and a copy of the proposed new contract shall have been filed with the secretary of state in like manner as provided in regard to the original plan of business and proposed contract, and the consent of the secretary of state obtained as to making such proposed new plan of transacting business and proposed new contract.

SEC. 6. Certified financial statement—fee—failure to report—forfeit. That at the close of business of December 31st of each year, and at such other times as the secretary of state may require, every investment company, domestic and foreign, shall file with the secretary of state a statement properly verified by the officers of said company, which statement shall set forth its financial condition and the amount of its assets and liabilities and such other information concerning its financial affairs as the secretary of state may require; said statement being for the information of the secretary of state, and it shall not be open to public inspection, neither shall it be published, or used for private purposes. Each annual statement shall be accompanied by a filing fee of two dollars (\$2). Any investment company failing to file said statement for the preceding year by the first day of February of each year, or failing to file any other or special report herein required within thirty (30) days after receipt of request therefor, shall forfeit to the state of Iowa the sum of five dollars (\$5) per day until said statement is filed, or until its right to do business in this state is cancelled; and unless said reports are filed within thirty (30) days from the time they are due the secretary of state may cancel the right of said company to do business in this state.

SEC. 7. General accounts—how kept—open to inspection. The general accounts of every such investment company, domestic or foreign, shall be kept in a businesslike and intelligent manner and in sufficient detail that the secretary of state can ascertain at any time its financial condition; and such books of account shall at all times during business hours, except on Sundays and legal holidays, be open to stockholders and investors in said companies and to the secretary of state or his duly authorized representatives.

SEC. 8. General supervision—secretary of state—powers—examination fee—examiner's expenses—permit cancelled. The secretary of state shall have general supervision and control as provided by this act over any and all investment companies, domestic and foreign, doing business in this state and not expressly exempted, and all such investment companies shall be subject to examination by the secretary of state or his duly authorized representative at any time the said secretary of state may deem it necessary. The right, powers and privileges of the secretary of state in connection with such examination shall be the same as is now provided with reference to examination of state banks; and such investment companies shall pay a fee for each of such examinations of not to exceed six dollars (\$6) for each day or fraction thereof spent by the said secretary of state or his duly authorized representative while absent from the capitol in making such examination, and also the actual traveling and hotel expenses of said examiner, and upon failure or refusal of any such investment company to pay such fees upon the demand of the secretary of state, or his duly authorized representative, the secretary of state may cancel its right to do business in this state until such fee is paid.

SEC. 9. Assets impaired—permit cancelled. Whenever it shall appear to the secretary of state that the assets of any investment company doing business in this state are impaired to the extent that such assets do not equal its liabilities or that it is conducting its business in an unsafe, unfair, inequitable or unauthorized manner, or is jeopardizing the interest of its stockholders or

investors in stocks, bonds or other securities by it offered for sale in this state, or whenever any investment company shall fail or refuse for a period of thirty (30) days to file any papers, statements or documents required by this act without giving reasons therefor satisfactory to the secretary of state, he shall at once cancel the right of said investment company to continue to do business in this state.

SEC. 10. False statements—fraudulent advertisements—penalty. Any investment company or person who shall knowingly and willfully subscribe to or cause to be made any false statement or false entry in any book of such investment company, or exhibit any false paper with the intention of deceiving any person authorized to examine the affairs of such investment company, or shall knowingly or willfully make or publish any false statement of the financial condition of such investment company, or the stocks, bonds or other securities by it offered for sale shall be deemed guilty of a felony; and upon the conviction of any such investment company of such felony it shall be fined not less than one hundred dollars (\$100) nor more than ten thousand dollars (\$10,000), and the secretary of state may forthwith cancel the right of said investment company to transact business in this state; and upon the conviction of a person of such felony he shall be fined not less than one hundred dollars (\$100) nor more than ten thousand dollars (\$10,000), and he may be imprisoned for not more than ten years, or by both such fine and imprisonment in the discretion of the court.

SEC. 11. Persons failing to comply—penalty. Any stock broker, agent or other person, unless expressly exempted from the provisions of this act, who shall sell or attempt to sell the stocks, bonds or other securities of any investment company (domestic or foreign), which has not complied with the provisions of this act, or whose permit has been cancelled under the provisions of this act or who shall do or attempt to do business for any such investment company, which has not complied with the provisions of this act, or who shall upon demand refuse to exhibit his duly registered certificate of registration received from the secretary of state, or who shall violate any of the other provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each of such offenses not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5000) or by imprisonment in the county jail of not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

SEC. 12. Collection of fees—record of receipts and expenditures—clerks, deputies—how appointed—salaries—how paid. All fees herein provided for shall be collected by the secretary of state and by him turned in to the state treasurer on the first secular day of each month; and the secretary of state shall keep a record of the receipts and expenditures incurred in carrying out the provisions of this act. The secretary of state is hereby authorized to appoint such clerks and deputies as the executive council deem actually necessary to carry this act into full force and effect; but none of whom shall be related by blood or marriage to such secretary of state. The compensation of such clerks and deputies shall be fixed by the executive council. Before the salary and expenses of any such clerk or deputy shall be paid, a detailed and itemized statement of account shall be prepared by such claimant and duly verified, which verification shall aver that such claim is just, reasonable and wholly unpaid and that the amount therein stated has been expended by such claimant. When said claim has been approved by the secretary of state and audited and allowed by the executive council, it shall be paid by warrant

drawn by the auditor of state upon the state treasurer, and there is hereby appropriated out of any money of the state treasury, and not otherwise appropriated, an amount sufficient to meet said salaries and expenses.

SEC. 13. Appeal from decision of secretary of state—time—how made. Any investment company, domestic or foreign, or any stock broker, which shall be denied a certificate to transact its business in this state or whose certificate shall be revoked by the secretary of state in pursuance of this act, or any interested citizen of this state, shall have the right to appeal to the executive council of this state from any decision of the secretary of state relating to the provisions of this act, within twenty (20) days from the entry of such decision by serving notice of such appeal upon the secretary of the executive council, and such appeal shall be heard and determined by the executive council under such rules and regulations as they may prescribe.

SEC. 14. Agents—when—how appointed—expiration and revocation of permit—fee—standard securities. Any investment company which has complied with the provisions of this act and received from the secretary of state a certificate authorizing it to offer its securities for sale in this state may appoint one or more stock brokers or agents to act for it; but no such stock broker, except under the provisions of the next section, or agent, or any other person, shall directly or indirectly, do any business for said investment company in this state until he shall first register with the secretary of state and file with **such officer his written appointment and authority from said investment company to act as its stock broker or agent and receive from him a certificate showing that such investment company has complied with the provisions of the law and that such person is authorized to act for it.** All such certificates shall be subject to revocation by the secretary of state, and unless so revoked shall expire on the 1st day of July each year. A charge of one dollar (\$1) shall be made by the secretary of state for each certificate issued to each stock broker or agent.

SEC. 15. Stock broker—permit—standard securities—lists—semi-monthly report—investigation of stock broker and stocks—expense—fee—bond—forfeiture. The secretary of state may issue to any stock broker who has been a resident of the state during the last preceding six (6) months an annual permit, which permit shall entitle such stock broker to handle such stocks, bonds or other securities in the state of Iowa as are known to be standard, or are well known to be safe and legitimate investments, or such as are found by investigation of the secretary of state to be safe and legitimate stocks, bonds or other securities; provided, however, such stock broker shall file on the first and fifteenth day of each month a detailed list of the stocks, bonds or other securities on hand for sale and also all of those sold by him during the preceding half month and not previously reported; provided further that said secretary of state shall have authority to prohibit the stock broker from handling any of such issues at any time or to cancel said stock broker's permit at any time he decides that said broker is not handling such securities as he deems safe and legitimate investments. But the secretary of state shall not issue such annual permit to any stock broker until he has first satisfied himself by special investigation as to the character and responsibility of such stock broker and as to the character of the class of stocks, bonds and other securities handled by such stock broker; and also as to his reputation for handling such stocks, bonds and other securities as the secretary of state shall deem to be safe and legitimate investments. In the event the secretary of state shall make any investigation provided for under the provisions of this section, the expense incurred thereby shall be born [borne] by the stock broker so in-

vestigated. He shall also pay a fee of fifty dollars (\$50) to the secretary of state for each of said annual permits, which permits, unless sooner revoked by the secretary of state, shall expire on the first secular day of July of each year. If said permit is issued after the first of January of any year, the fee shall be reduced one-half. Before being granted such permit by the secretary of state the stock broker shall give a bond in the penal sum [sum] of five thousand dollars (\$5000) to the state of Iowa, conditioned upon a strict compliance with this act, which bond shall be approved by the executive council and filed with the secretary of state. Said bond shall be forfeited by a violation of the terms or conditions of this act, or by a conviction for such violation, and the attorney general of this state may institute suit in the name of the state of Iowa in any court of competent jurisdiction for a forfeiture thereof at any time within two years from the time the cause of action accrues; provided that if it appears such violation was not intentional and no fraud was shown only so much of said bond shall be forfeited which shall be equal to the amount of damages sustained.

SEC. 16. Bona fide owner resident of state—disposing of securities—registration of securities—fee. Nothing in this act shall be so construed as to prohibit a bona fide owner of any stocks, bonds or other securities, who is at the time a resident of this state, from selling, exchanging or otherwise disposing of the same when not made in the course of continuing or repeated transactions of a similar nature, or when the said securities, including negotiable promissory notes, have been issued or given for goods, wares or merchandise purchased or dealt in by the issuer in the ordinary course of his business, or when sold, exchanged or otherwise disposed of to a bank, trust company, insurance company, building and loan association, or to a stock broker duly authorized to transact business within this state, provided that the same are sold by said owner in good faith and not for the purpose of evading the provisions of this act; and the secretary of state may authorize in writing any such bona fide owner of any stocks, bonds or other securities to sell in this state any other securities not included in the provisions set forth in the preceding portion of this section; provided, however, that it shall be made to appear to the satisfaction of the secretary of state that such stocks, bonds or other securities are safe and legitimate investments, and that they were acquired and held by the owner in good faith, and not for the purpose of evading the provisions of this act, and that said owner desires in good faith to dispose of said securities; but before such authorization shall issue the owner of such securities shall register, in a book kept for that purpose by the secretary of state, the stocks, bonds and other securities desired to be sold, giving the character of the security, the par value thereof, the date of issue, and any other data concerning the same which the secretary of state may require. A certificate fee of one dollar (\$1) shall be charged for each such authorization.

SEC. 17. Permit—bold type—securities not recommended by secretary of state—advertisement. That each and every certificate or permit granted by the secretary of state under the provisions of this act to any investment company or to any stock broker, agent or representative thereof or to any other person, shall have printed across its face in bold type the statement: "The secretary of state in no wise recommends the stocks, bonds or other securities offered for sale by this (investment company, stock broker, agent, representative or person, as the case may be)"; and any investment company or any stock broker, agent or representative thereof or any person who shall refer to such certificate or permit in any advertisement or printed matter of any kind shall also print in said advertisement or printed matter, with equal

prominence, the statement: "The secretary of state in no wise recommends the stocks, bonds or other securities herein referred to."

SEC. 18. Terms defined. In the construction of this act the following definitions shall be followed, unless such construction would be inconsistent with the manifest intent or repugnant to the context of the statute:

1. That the name "investment company" as used in this act shall include every corporation or concern, however constituted, now or hereafter organized, which shall sell or cause to be sold or offered for sale, take subscriptions for, or negotiate for the sale of any stocks, bonds or other securities of any kind or character to any person or persons in the state of Iowa. But nothing in this act shall be construed to make the provisions thereof apply to state, savings, private or national banks, loan and trust companies, local building and loan associations, or to the sale of real estate under bond or contract where the actual transfer of title thereto is contingent upon the future payment or considerations, or corporations not organized for profit.

2. The name "domestic" as used in this act shall apply to those corporations or concerns incorporated or organized under the laws of Iowa or having their principal place of business in the state of Iowa; and the word "foreign" shall apply to those corporations or concerns organized under the laws of another state or having their principal place of business outside of the state of Iowa.

3. The name "stock broker" as used in this act shall include every person, set of persons, association, company, co-partnership or corporation, who shall deal in stocks, bonds or other securities covered by this act, or who shall sell, offer or negotiate for the sale, in the state of Iowa, of any stocks, bonds or other securities covered by this act, or who shall underwrite or purchase such securities and re-sell them to any person or persons in the state of Iowa at a commission or profit.

4. The name "agent" as used in this act shall include any persons who shall act for any investment company or stock broker, offering for sale, taking subscriptions for, or negotiating for the sale of, or selling any securities for any investment company or stock broker, either as an employee on a salary basis or for a commission or who shall execute, issue, sell, offer or negotiate for sale, any contract, bond or other instrument, by the terms of which title to real estate located outside the state of Iowa is to be transferred upon the completion of certain payments or the performance of certain conditions therein specified; provided that if it appears such violation was not intentional and no fraud was shown only so much of said bond shall be forfeited which shall be equal to the amount of damages sustained.

SEC. 19. Acts in conflict repealed. All acts or parts of acts in so far as they are in conflict with this act are hereby repealed.

Approved April 19 A. D. 1913.