

5 ~~two~~ *five* hundred ~~forty~~ thousand dollars, credit annually to the primary road fund the sum of one million four hundred thousand dollars for carrying out subsection 12 of section 307A.2, the last paragraph of section 313.4 and section 307A.5, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the ~~secondary and urban road departments of the commission~~ *state department of transportation* other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium.

Approved July 14, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code

CHAPTER 233

PROFESSIONAL CORPORATIONS

S. F. 123

AN ACT relating to the inclusion of nursing and pharmacy within the definition of profession for purposes of the Iowa professional corporation Act.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section four hundred ninety-six C point two (496C.2),
2 subsection one (1), Code 1975, is amended to read as follows:

3 1. "Profession" means the profession of certified public accountancy,
4 architecture, chiropractic, dentistry, professional engineering, land surveying,
5 landscape architecture, law, medicine and surgery, optometry,
6 osteopathy, osteopathic medicine and surgery, podiatry, ~~or~~ veterinary
7 medicine, *pharmacy and the practice of nursing*.

Approved March 18, 1975

CHAPTER 234

SECURITIES REGULATION

H. F. 825

AN ACT relating to the regulation of securities, and providing for the registration of securities and broker-dealers, prohibiting certain deceptive and manipulative transactions in securities, regulating broker-dealers, and providing civil remedies and criminal penalties for violations.

Be It Enacted by the General Assembly of the State of Iowa:

PART I

SHORT TITLE AND DEFINITIONS

1 SECTION 101. NEW SECTION. **Short title.** This Act may be cited as
2 the "Iowa Uniform Securities Act".

1 SEC. 102. NEW SECTION. **Definitions.** When used in this Act, un-
2 less the context otherwise requires:

3 1. "Administrator" means the commissioner of insurance or the dep-
4 uty appointed pursuant to section six hundred one (601) of this Act.

5 2. "Agent" means any individual other than a broker-dealer who
6 represents a broker-dealer or issuer in effecting or attempting to effect
7 purchases or sales of securities. "Agent" does not include an individual
8 who represents an issuer in a. effecting transactions in a security ex-
9 empted by subsections one (1), two (2), three (3), ten (10) or eleven (11)
10 of section two hundred two (202); b. effecting transactions exempted by
11 section two hundred three (203); or c. effecting transactions with exist-
12 ing employees, partners or directors of the issuer if no commission or
13 other remuneration is paid or given directly or indirectly for soliciting
14 any person in this state. A partner, officer, or director of a broker-deal-
15 er or issuer, or a person occupying a similar status or performing simi-
16 lar functions, is an agent only if such person otherwise comes within
17 this definition.

18 3. An "affiliate" of, or a person "affiliated" with, a specified person,
19 means a person who directly, or indirectly through one or more inter-
20 mediaries, controls, is controlled by, or is under common control with,
21 the person specified.

22 4. "Broker-dealer" means any person engaged in the business of ef-
23 fecting transactions in securities for the account of others or for such
24 person's own account. "Broker-dealer" does not include:

25 a. An agent.

26 b. An issuer.

27 c. An institutional investor, including an insurance company or
28 bank, except where the insurance company or bank is engaged in the
29 business of selling interests (other than through a subsidiary) in a sepa-
30 rate account that are securities.

31 d. A person who has no place of business in this state if such person:

32 (1) Effects transactions in this state exclusively with or through a.
33 the issuers of the securities involved in the transaction; b. other broker-
34 dealers; or c. banks, savings institutions, trust companies, insurance
35 companies, investment companies as defined in the Investment Com-
36 pany Act of 1940, pension or profit sharing trusts, or other financial in-
37 stitutions or institutional buyers, whether acting for themselves or as
38 trustees; or

39 (2) During any period of twelve consecutive months does not direct
40 more than fifteen (15) offers to sell or buy into this state in any man-
41 ner to persons other than those specified in subparagraph one (1) of
42 this paragraph, whether or not the offeror or any of the offerees is then
43 present in this state.

44 e. Other persons not within the intent of this subsection whom the
45 administrator by rule or order designates.

46 5. "Fraud", "deceit" and "defraud" are not limited to common law
47 deceit.

48 6. "Guaranteed" means guaranteed as to payment of principal, in-
49 terest or dividends.

50 7. "Issuer" means any person who issues or proposes to issue any se-
51 curity, except that a. with respect to certificates of deposit, voting trust
52 certificates, or collateral trust certificates, or with respect to certificates
53 of interest or shares in an unincorporated investment trust not having
54 a board of directors or persons performing similar functions or of the
55 fixed, restricted management, or unit type, the term "issuer" means
56 the person or persons performing the acts and assuming the duties of
57 depositor or manager pursuant to the provisions of the trust or other

58 agreement or instrument under which the security is issued; and b.
59 with respect to certificates of interest or participation in oil, gas or
60 mining titles or leases, or in payments out of production under such titles
61 or leases, there is not considered to be any "issuer".

62 8. "Non-issuer" means not directly or indirectly for the benefit of
63 the issuer.

64 9. "Person" means an individual, a corporation, a partnership, an
65 association, a joint stock company, a trust, a fiduciary, an unincorporated
66 organization, a government, or a political subdivision of a government.
67

68 10. a. "Sale" or "sell" includes every contract of sale of, contract to
69 sell, or disposition or exchange of, a security or interest in a security
70 for value.

71 b. "Offer" or "offer to sell" includes every attempt or offer to ex-
72 change or dispose of, or solicitation of an offer to buy, a security or in-
73 terest in a security for value.

74 c. A security given or delivered with, or as a bonus on account of, a
75 purchase of a security or any other thing is offered and sold for value
76 as part of the subject of the purchase.

77 d. A purported gift of assessable stock is considered to involve an of-
78 fer and sale.

79 e. Except to the extent that the administrator provides otherwise by
80 rule or order, an offer or sale of a security that is convertible into or
81 entitles its holder to acquire another security of the same or another is-
82 suer is an offer also of the other security, whether the right to convert
83 or acquire is exercisable immediately or in the future.

84 f. The terms defined in this subsection do not include:

85 (1) Any bona fide pledge or loan; or

86 (2) Any stock split, reverse stock split, or security dividend payable
87 with respect to the securities of a corporation in the same or any other
88 class of securities of such corporation, provided nothing of value, in-
89 cluding the surrender of a right or an option to receive a cash or prop-
90 erty dividend, is given by security holders for the security dividend.

91 11. "Securities Act of 1933", "Securities Exchange Act of 1934",
92 "Public Utility Holding Company Act of 1935", "Investment Compa-
93 ny Act of 1940", "Internal Revenue Code of 1954" and "Agricultural
94 Marketing Act" mean the federal statutes of those names, as amended
95 before or after the effective date of this Act.

96 12. "Security" means any note; stock; treasury stock; bond; deben-
97 ture; evidence of indebtedness; certificate of interest or participation
98 in any profit sharing agreement; collateral trust certificate; preorgani-
99 zation certificate or subscription; transferable share; investment con-
100 tract; voting trust certificate; certificate of deposit for a security;
101 certificate of interest or participation in an oil, gas or mining title or
102 lease or in payments out of production under such a title or lease; or,
103 in general, any interest or instrument commonly known as a "secu-
104 rity", or any certificate of interest or participation in, temporary or in-
105 terim certificate for, receipt for, guarantee of, or warrant or right to
106 subscribe to or purchase, any of the foregoing. "Security" does not in-
107 clude any insurance or endowment policy or annuity contract under
108 which an insurance company promises to pay money either in a lump
109 sum or periodically for life or for some other specified period.

110 13. "State" means any state, territory or possession of the United
111 States, the District of Columbia and Puerto Rico.

PART II
REGISTRATION OF SECURITIES

1 SEC. 201. NEW SECTION. **Registration requirement.** It is unlaw-
2 ful for any person to offer or sell any security in this state unless (i) it
3 is registered under this Act; or (ii) the security or transaction is ex-
4 empted under sections two hundred two (202) or two hundred three
5 (203) of this Act.

1 SEC. 202. NEW SECTION. **Exempt securities.** The following se-
2 curities are exempted from sections two hundred one (201) and six
3 hundred two (602) of this Act:

4 1. Any security, including a revenue obligation, issued or guaran-
5 teed by the United States, any state, any political subdivision of a
6 state, or any agency or corporate or other instrumentality of one or
7 more of the foregoing; or any certificate of deposit for any of the fore-
8 going; but this exemption shall not include any revenue obligation
9 payable from payments to be made in respect of property or money
10 used under a lease, sale or loan arrangement by or for a nongovern-
11 mental industrial or commercial enterprise, unless such payments are
12 or will be made or unconditionally guaranteed by a person whose se-
13 curities are exempt from registration under this Act by subsection seven
14 (7) or subsection eight (8) of section two hundred two (202) of this Act.

15 2. Any security issued or guaranteed by Canada, any Canadian
16 province, any political subdivision of any such province, any agency or
17 corporate or other instrumentality of one or more of the foregoing, or
18 any other foreign government with which the United States currently
19 maintains diplomatic relations, if the security is recognized as a valid
20 obligation by the issuer or guarantor.

21 3. Any security issued by and representing an interest in or a debt
22 of, or guaranteed by, any bank organized under the laws of the United
23 States, or any bank, savings institution, or trust company organized
24 and supervised under the laws of this state.

25 4. Any security issued by and representing an interest in or a debt
26 of, or guaranteed by, any federal savings and loan association, or any
27 savings and loan or similar association organized and supervised under
28 the laws of this state.

29 5. Any security issued by and representing an interest in or a debt
30 of, or guaranteed by, any insurance company organized under the laws
31 of this state and authorized to do business in this state.

32 6. Any security issued or guaranteed by any federal credit union or
33 any credit union or similar association organized and supervised under
34 the laws of this state.

35 7. Any security issued or guaranteed by any railroad, other common
36 carrier, public utility, or holding company which is a. subject to the ju-
37 risdiction of the Interstate Commerce Commission; b. a registered
38 holding company under the Public Utility Holding Company Act of
39 1935 or a subsidiary of such a company within the meaning of that
40 Act; or c. regulated in respect of the issuance or guarantee of the secu-
41 rity by a governmental authority of the United States, any state,
42 Canada, or any Canadian province.

43 8. Any security listed or approved for listing upon notice of issuance
44 on the New York Stock Exchange, the American Stock Exchange, the
45 Midwest Stock Exchange, the Pacific Coast Stock Exchange, or any
46 other national securities exchange registered under the Securities Ex-
47 change Act of 1934 and designated by rule of the administrator; any
48 other security of the same issuer which is of senior or substantially
49 equal rank; any security called for by subscription rights or warrants so

50 listed or approved; or any warrant or right to purchase or subscribe to
51 any of the foregoing.

52 9. Any security issued by any person organized and operated not for
53 private profit but exclusively for religious, educational, benevolent,
54 charitable, fraternal, social, athletic or reformatory purposes, or as a
55 chamber of commerce or trade or professional association; provided the
56 issuer first files with the administrator a written notice specifying the
57 terms of the offer and the administrator does not by order disallow the
58 exemption within fifteen days thereafter.

59 10. Any commercial paper which arises out of a current transaction
60 or the proceeds of which have been or are to be used for current trans-
61 actions, and which evidences an obligation to pay cash within nine
62 months of the date of issuance, exclusive of days of grace, or any re-
63 newal of such paper which is likewise limited, or any guarantee of such
64 paper or of any such renewal; except where such paper is proposed to
65 be sold or offered to the public in units of less than five thousand dol-
66 lars (\$5,000) to any single person.

67 11. Any security issued in connection with an employee stock pur-
68 chase, option, savings, pension, profit sharing or similar benefit plan,
69 provided, in the case of plans which are not qualified under section
70 four hundred one (401) of the Internal Revenue Code of 1954 and
71 which provide for contribution by employees, the administrator is noti-
72 fied in writing thirty days before the inception of the plan of the terms
73 of the plan.

74 12. A stock or similar security, including a patronage refund certifi-
75 cate, issued by:

76 a. A cooperative association as defined in the Agricultural Market-
77 ing Act, or a federation of such cooperative associations that possesses
78 no greater powers or purposes than cooperative associations so defined,
79 if such stock or similar security (1) qualifies its holder for membership
80 in the cooperative association or federation, or in the case of patronage
81 refund certificate, is issuable only to members; and (2) is transferable
82 only to the issuer or to a successor in interest of the transferor that
83 qualifies for membership in the cooperative association or federation.

84 b. A cooperative housing corporation described in paragraph one (1)
85 of subsection b of section two hundred sixteen (216), of the Internal
86 Revenue Code of 1954, if its activities are limited to the ownership,
87 leasing, management, or construction of residential properties for its
88 members, and activities incidental thereto.

89 c. A mutual or cooperative organization, including a cooperative as-
90 sociation organized in good faith under and for any of the purposes
91 enumerated in chapters four hundred ninety-seven (497), four hundred
92 ninety-eight (498), and four hundred ninety-nine (499) of the Code,
93 that deals in commodities or supplies goods or services in transactions
94 primarily with and for the benefit of its members, if:

95 (1) Such stock or similar security is part of a class issuable only to
96 persons who deal in commodities with, or obtain goods or services
97 from, the issuer;

98 (2) Such stock or similar security is transferable only to the issuer or
99 a successor in interest of the transferor who qualifies for membership in
100 such mutual or cooperative organization; and

101 (3) No dividends other than patronage refunds are payable to hold-
102 ers of such stock or similar security except on a complete or partial liq-
103 uidation.

1 SEC. 203. NEW SECTION. **Exempt transactions.** The following
2 transactions are exempted from sections two hundred one (201) and six
3 hundred two (602) of this Act:

- 4 1. Any isolated non-issuer transaction, whether effected through a
5 broker-dealer or not.
- 6 2. Any non-issuer distribution of an outstanding security if:
- 7 a. A recognized securities manual approved by the administrator
8 contains the names of the issuer's officers and directors, a balance sheet
9 of the issuer as of a date within eighteen months, and a profit and loss
10 statement for either the fiscal year preceding that date or the most re-
11 cent year of operations.
- 12 b. The security was issued by an issuer which has a class of securities
13 currently registered under the Securities Exchange Act of 1934.
- 14 c. The security was issued by an issuer which has a class of securities
15 currently registered under section two hundred one (201) of this Act.
- 16 d. The security was issued by an issuer which is registered under the
17 Investment Company Act of 1940.
- 18 3. Any non-issuer transaction effected by or through a registered bro-
19 ker-dealer pursuant to an unsolicited order or offer to buy; but the ad-
20 ministrator may by rule require that the customer acknowledge that
21 the sale was unsolicited in accordance with provisions of such rule.
- 22 4. Any transaction between the issuer or other person on whose be-
23 half the offering is made and an underwriter, or among underwriters.
- 24 5. A sale of bonds or notes directly secured by a real estate mort-
25 gage, security interest, deed of trust, or agreement for the sale of real
26 estate or chattels, if the entire mortgage, security interest, deed of
27 trust, or agreement, together with all the bonds or notes secured there-
28 by, is offered and sold as a unit; provided that the entire mortgage, se-
29 curity interest, deed of trust or agreement, together with all of the
30 bonds or notes secured thereby, shall not be deemed to be sold as a
31 unit if:
- 32 a. Such bonds or notes are part of a single issue including other
33 bonds or notes secured by interests in real estate or chattels owned or
34 developed by the same person or by persons affiliated with such per-
35 son; or
- 36 b. Such bonds or notes are offered or sold with any right to have
37 substitution by or recourse against, or with guarantee by, the real es-
38 tate developer or any person other than the person primarily obligated
39 on the bond or note.
- 40 6. Any judicial sale or any transaction executed by an executor, ad-
41 ministrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian,
42 custodian or conservator without any purpose of evading this Act.
- 43 7. Any transaction executed by a bona fide pledgee without any pur-
44 pose of evading this Act.
- 45 8. Any offer or sale to a bank, savings institution, trust company, in-
46 surance company, investment company as defined in the Investment
47 Company Act of 1940, pension or profit sharing trust, or other finan-
48 cial institution or institutional buyer, or to a broker-dealer, whether
49 the purchaser is acting for itself or in a fiduciary capacity.
- 50 9. a. The sale, as part of a single issue, of securities other than (1)
51 fractional undivided interests in oil, gas or other mineral leases, rights
52 or royalties, and (2) interests in a limited or general partnership orga-
53 nized under the laws of or having its principal place of business in a
54 foreign jurisdiction, by the issuer thereof within any period of twelve
55 consecutive months to not more than thirty-five purchasers in this
56 state, exclusive of purchases by bona fide institutional investors for
57 their own account for investment, provided (1) that the issuer reason-
58 ably believes that all the buyers in this state are purchasing for invest-
59 ment, and (2) that both of the following are complied with:

60 (1) No commission or other remuneration is paid or given directly or
61 indirectly for or on account of such sale except as may be permitted by
62 the administrator by rule, or by order issued upon written application
63 showing good cause for allowance of commission or other remunera-
64 tion; and

65 (2) The issuer files with the administrator a report of sale within
66 thirty days after each sale, setting forth the name and address of the
67 issuer, the total amount of securities sold for which the exemption is
68 claimed under this subsection, and the names and addresses of the pur-
69 chasers thereof to whom such securities have been or are to be issued
70 who are to be counted against the thirty-five purchaser limitation spec-
71 ified in this paragraph. A filing of a report of sale shall not be required
72 to be made, however, until the number of purchasers who are to be
73 counted against the thirty-five purchaser limitation specified in this
74 paragraph exceeds ten.

75 b. The issuer must, additionally, pursuant to the request of the ad-
76 ministrator made at any time, submit a report listing the names and
77 addresses of purchasers claimed to have been bona fide institutional
78 investors purchasing for their own account for investment, and a justi-
79 fication of each such purchaser's characterization as a bona fide institu-
80 tional investor purchasing for its own account for investment.

81 10. Any offer or sale of a preorganization certificate or subscription
82 if:

83 a. No commission or other remuneration is paid or given directly or
84 indirectly for soliciting any prospective subscriber;

85 b. The number of subscribers does not exceed ten;

86 c. No payment is made by any subscriber; and

87 d. No public advertisement of the offer is made.

88 11. Any transaction pursuant to an offer of its securities by an issuer
89 to its existing security holders in connection with a. the conversion of
90 convertible securities; b. the exercise of nontransferable rights or war-
91 rants or the exercise of transferable rights or warrants exercisable with-
92 in not more than ninety days of their issuance; or c. the purchase of
93 securities pursuant to preemptive rights; provided that no commission
94 or other remuneration other than a standby commission is paid or giv-
95 en directly or indirectly for soliciting any security holder in this state.
96 12. Any offer, but not a sale, of a security for which registration
97 statements have been filed under both this Act and the Securities Act
98 of 1933 if no stop order or denial order is in effect and no proceeding is
99 pending under either law.

100 13. Any transaction incident to a vote by security holders of an is-
101 suer or incident to a written consent or resolution of some or all securi-
102 ty holders of an issuer, pursuant to the articles of incorporation of such
103 issuer, or pursuant to the applicable corporate statute or other statute
104 governing such issuer, or pursuant to such issuer's partnership agree-
105 ment, declaration of trust, or trust indenture, or pursuant to any agree-
106 ment among security holders of such issuer, on a reclassification of
107 securities, reorganization involving the exchange of securities, merger,
108 consolidation, or sale of assets, in consideration, in whole or in part, of
109 the issuance of securities of the issuer or of any other person, if:

110 a. A party to such transaction files proxy or informational materials
111 pursuant to subsection a of section fourteen (14), or subsection c of sec-
112 tion fourteen (14) of the Securities Exchange Act of 1934, or pursuant
113 to section twenty (20) of the Investment Company Act of 1940, provid-
114 ed that such materials are, at least ten days prior to the meeting of se-
115 curity holders called for the purpose of approving such transaction, (1)
116 filed with the administrator, and (2) distributed to each of the security
117 holders of each party to such transaction.

118 b. A party to such transaction is excused from registration under sec-
 119 tion twelve (12) of the Securities Exchange Act of 1934 pursuant to sub-
 120 paragraph (G) of paragraph two (2) of subsection (g) of section twelve
 121 (12) of that Act, and such party is required by the laws of its domicil-
 122 iary state to file proxy materials with an agency of said state provided
 123 that such proxy materials are, at least ten days prior to the meeting of
 124 security holders called for the purpose of approving such transaction,
 125 (1) filed with the administrator, and (2) distributed to each of the secu-
 126 rity holders of each party to such transaction.

127 c. One party to a merger owns not less than ninety percent of the
 128 outstanding shares of each class of stock of each other party to the
 129 merger.

130 d. A party to such transaction files with the administrator and dis-
 131 tributes to the security holders of each party to the transaction, such
 132 materials, within such time limits, as may be specified by rule or order
 133 of the administrator.

134 14. Any transaction incident to a judicially approved reorganization
 135 in which a security is issued in exchange for one or more outstanding
 136 securities, claims or property interests, or partly in such exchange and
 137 partly for cash.

138 15. The distribution of securities as a dividend, where the corpora-
 139 tion distributing the dividend is the issuer of the securities distributed,
 140 if the only value given by shareholders for the dividend is the surren-
 141 der of a right to a cash or property dividend when each shareholder
 142 may elect to take the dividend a. in cash or property, or b. in such se-
 143 curities.

1 SEC. 204. NEW SECTION. **Denial and suspension of exemp-**
 2 **tions.** The administrator may by order deny or revoke any exemp-
 3 tion specified in sections two hundred two (202) and two hundred three
 4 (203) of this Act with respect to a specific security or transaction. No
 5 such order may be entered without appropriate prior notice to all inter-
 6 ested parties, opportunity for hearing, and written findings of fact and
 7 conclusions of law, except that the administrator may by order sum-
 8 marily deny or revoke any of the specified exemptions pending final
 9 determination of any proceeding under this section. Upon the entry of
 10 a summary order, the administrator shall promptly notify all interested
 11 parties that it has been entered and of the reasons therefor and that
 12 within fifteen days of the receipt of a written request the matter will be
 13 set down for hearing. If no hearing is requested and none is ordered by
 14 the administrator, the order will remain in effect until it is modified or
 15 vacated by the administrator. If a hearing is requested or ordered, the
 16 administrator, after notice of and opportunity for hearing to all inter-
 17 ested persons, may modify or vacate the order or extend it until final
 18 determination. No order under this section may operate retroactively.
 19 No person may be considered to have violated sections two hundred
 20 one (201) or six hundred two (602) of this Act by reason of any offer or
 21 sale effected after the entry of an order under this section if such per-
 22 son sustains the burden of proof that such person did not know, and in
 23 the exercise of reasonable care could not have known, of the order.

1 SEC. 205. NEW SECTION. **Burden of proof.** In any proceeding un-
 2 der this Act, the burden of proving an exemption or an exception from
 3 a definition is upon the person claiming it.

1 SEC. 206. NEW SECTION. **Registration by coordination.**

2 1. Registration by coordination may be used for any offering for
 3 which a registration statement has been filed under the Securities Act
 4 of 1933, or for any proposed sale pursuant to the exemption contained

5 in subsection (b) of section three (3) of such Act where such registration
6 statement or notification of proposed sale has not become effective.

7 2. A registration statement under this section shall contain the fol-
8 lowing information and be accompanied by the following documents in
9 addition to the information specified in subsection three (3) of section
10 two hundred eight (208) of this Act, and the consent to service of pro-
11 cess required by section six hundred nine (609) of this Act:

12 a. Two copies of the most recent preliminary prospectus or offering
13 circular filed under the Securities Act of 1933.

14 b. If the administrator by rule requires, a copy of the articles of in-
15 corporation and bylaws or their substantial equivalents currently in ef-
16 fect, a copy of any agreements with or among underwriters, a copy of
17 any indenture or other instrument governing the issuance of the securi-
18 ty to be registered, and a specimen or copy of the security.

19 c. If the administrator requests, any other information, or copies of
20 any documents, filed under the Securities Act of 1933.

21 d. An undertaking to forward to the administrator all future amend-
22 ments to the federal prospectus or offering circular, other than an
23 amendment which merely delays the effective date of the registration
24 statement, not later than the first business day after they are forward-
25 ed to or filed with the Securities and Exchange Commission, or such
26 longer period as the administrator permits.

27 3. A registration statement under this section automatically becomes
28 effective at the moment the federal registration statement or notifica-
29 tion becomes effective if a. no stop order is in effect in this state and
30 no proceeding is pending under section two hundred nine (209) of this
31 Act, b. the registration statement has been on file with the administra-
32 tor for at least twenty days; c. a statement of the maximum and mini-
33 mum proposed offering prices and the maximum underwriting
34 discounts and commissions has been on file for not less than two full
35 business days, or such shorter period as the administrator permits; and
36 d. the offering is made within these limitations.

37 4. The registrant shall notify the administrator promptly by tele-
38 phone or telegram of the date and time when the federal registration
39 statement became effective and the content of the price amendment, if
40 any, and shall file a post-effective amendment promptly containing
41 the information and documents in the price amendment. "Price
42 amendment" means the final federal amendment which includes a
43 statement of the offering price, underwriting and selling discounts or
44 commissions, amount of proceeds, conversion rates, call prices and oth-
45 er matters dependent upon the offering price. Upon failure to receive
46 the required notification and post-effective amendment with respect to
47 the price amendment, the administrator may enter a stop order, with-
48 out notice or hearing, retroactively denying the effectiveness to the
49 registration statement or suspending its effectiveness until compliance
50 with this subsection is effected, if the administrator promptly notifies
51 the registrant by telephone or telegram of the issuance of such order. If
52 the registrant proves compliance with the requirements of this subsec-
53 tion as to notice and post-effective amendment the stop order shall be
54 vacated as of the time of its entry. The administrator may by rule or
55 order waive any of the conditions specified in subsection two (2) or
56 three (3) of this section.

57 5. If the federal registration statement becomes effective before all
58 conditions in this section are satisfied and they are not waived, the
59 registration statement automatically becomes effective as soon as all
60 the conditions are satisfied. If the registrant advises the administrator
61 of the date when the federal registration statement is expected to be-

62 come effective, the administrator shall promptly advise the registrant
63 by telephone or telegram, at the registrant's expense, whether all the
64 conditions are satisfied and whether the administrator then contem-
65 plates the institution of a proceeding under section two hundred nine
66 (209) of this Act; but this advice by the administrator does not pre-
67 clude the institution of such a proceeding at any time.

1 **SEC. 207. NEW SECTION. Registration by qualification.**

2 1. Any security may be registered by qualification.

3 2. A registration statement under this section shall contain the fol-
4 lowing information and be accompanied by the following documents in
5 addition to the information specified in subsection three (3) of section
6 two hundred eight (208) of this Act and the consent to service of proc-
7 cess required by section six hundred nine (609) of this Act:

8 a. With respect to the issuer and any significant subsidiary: its
9 name, address and form of organization; the state or foreign jurisdic-
10 tion under which it is organized; the date of its organization; the gen-
11 eral character and location of its business; a description of its physical
12 properties and equipment; and a statement of the general competitive
13 conditions in the industry or business in which it is or will be engaged.

14 b. With respect to every director and officer of the issuer, or person
15 occupying a similar status or performing similar functions: such per-
16 son's name, address, and principal occupation for the past five years;
17 the amount of securities of the issuer held by such person as of a speci-
18 fied date within thirty days of the filing of the registration statement;
19 the amount of the securities covered by the registration statement to
20 which such person has indicated an intention to subscribe; and a de-
21 scription of any material interest in any material transaction with the
22 issuer or any significant subsidiary effected within the past three years
23 or proposed to be effected.

24 c. With respect to persons covered by paragraph b: the remuneration
25 paid during the past twelve months and estimated to be paid during
26 the next twelve months, directly or indirectly, by the issuer together
27 with all predecessors, parents, subsidiaries and affiliates to all of those
28 persons in the aggregate.

29 d. With respect to any person owning of record, or beneficially if
30 known, five percent or more of the outstanding shares of any class of
31 equity security of the issuer: the information specified in paragraph b
32 of this subsection other than occupation.

33 e. With respect to every promoter if the issuer was organized within
34 the past three years: the information specified in paragraph b of this
35 section, any amount paid within that period, or intended to be paid,
36 to such person, and the consideration for any such payment.

37 f. With respect to any person on whose behalf any part of the offer-
38 ing is to be made in a non-issuer distribution: such person's name and
39 address; the amount of securities of the issuer held as of the date of
40 the filing of the registration statement; a description of any material
41 interest in any material transaction with the issuer or any significant
42 subsidiary effected within the past three years or proposed to be effect-
43 ed; and a statement of reasons for making the offering.

44 g. The capitalization and long-term debt (on both a current and pro
45 forma basis) of the issuer and any significant subsidiary, including a
46 description of each security outstanding or being registered or other-
47 wise offered, and a statement of the amount and kind of consideration,
48 whether in the form of cash, physical assets, services, patents, good
49 will, or anything else, for which the issuer or any subsidiary has issued
50 any of its securities within the past two years or is obligated to issue
51 any of its securities.

52 h. The kind and amount of securities to be offered; the proposed
53 offering price or the method by which it is to be computed; any varia-
54 tion therefrom at which any proportion of the offering is to be made to
55 any person or class of persons other than the underwriters, with a speci-
56 fication of any such person or class; the basis upon which the offering
57 is to be made if otherwise than for cash; the estimated aggregate un-
58 derwriting and selling discounts or commissions and finders' fees, in-
59 cluding separately cash, securities, contracts, or anything else of value
60 to accrue to the underwriters or finders in connection with the offering,
61 or, if the selling discounts or commissions are variable, the basis of de-
62 termining them and their maximum and minimum amounts; the esti-
63 mated amounts of other selling expenses, including legal, engineering
64 and accounting charges; the name and address of every underwriter
65 and every recipient of a finder's fee; a copy of any underwriting or
66 selling-group agreement pursuant to which the distribution is to be
67 made, or the proposed form of any such agreement whose terms have
68 not yet been determined; and a description of the plan of distribution
69 of any securities which are to be offered otherwise than through an
70 underwriter.

71 i. The estimated cash proceeds to be received by the issuer from the
72 offering; the purposes for which the proceeds are to be used by the is-
73 suer; the amount to be used for each purpose; the order or priority in
74 which the proceeds will be used for the purposes stated; the amounts of
75 any funds to be raised from other sources to achieve the purposes stated;
76 the sources of any such funds; and, if any part of the proceeds is
77 to be used to acquire any property including good will otherwise than
78 in the ordinary course of business, the names and addresses of the ven-
79 dors, the purchase price, the names of any persons who have received
80 commissions in connection with the acquisition and the amounts of any
81 such commissions and any other expense in connection with the acqui-
82 sition (including the cost of borrowing money to finance the acquisi-
83 tion).

84 j. A description of any stock options or other security options out-
85 standing, or to be created in connection with the offering, together
86 with the amount of any such options held or to be held by every per-
87 son required to be named in paragraphs b, d, e, f, or h of this subsec-
88 tion, and by any person who holds or will hold ten percent or more in
89 the aggregate of any such options.

90 k. The dates of, parties to, and general effect concisely stated of, ev-
91 ery management or other material contract made or to be made other-
92 wise than in the ordinary course of business if it is to be performed in
93 whole or in part at or after the filing of the registration statement or
94 was made within the past two years, together with a copy of every such
95 contract; and a description of any pending litigation or proceeding to
96 which the issuer is a party and which materially affects its business or
97 assets, including any such litigation or proceeding known to be contem-
98 plated by governmental authorities.

99 l. A copy of any prospectus, pamphlet, circular, form letter, adver-
100 tisement, or other sales literature intended as of the effective date to
101 be used in connection with the offering.

102 m. A specimen or copy of the security being registered; a copy of
103 the issuer's articles of incorporation and bylaws, or their substantial
104 equivalents, as currently in effect; and a copy of any indenture, or
105 other instrument covering the security to be registered.

106 n. A signed or conformed copy of an opinion of counsel as to the le-
107 gality of the security being registered, with an English translation if it
108 is in a foreign language, which shall state whether the security when

109 sold will be legally issued, fully paid, and nonassessable, and, if a debt
110 security, a binding obligation of the issuer.

111 o. The written consent of any accountant, engineer, appraiser, or
112 other person whose profession gives authority to a statement made by
113 such person, if any of the foregoing persons is named as having pre-
114 pared or certified a report or valuation, other than a public and offi-
115 cial document or statement, which is used in connection with the
116 registration statement.

117 p. A balance sheet of the issuer as of a date within four months prior
118 to the filing of the registration statement; a profit and loss statement
119 and analysis of surplus for each of the three fiscal years preceding the
120 date of the balance sheet and for any period between the close of the
121 last fiscal year and the date of the balance sheet, or for the period of
122 the issuer's and any predecessors' existence if less than three years,
123 and, if any part of the proceeds of the offering is to be applied to the
124 purchase of any business, the same financial statements which would
125 be required if that business were the registrant, or such other financial
126 statements as may be required pursuant to subsection three (3) of sec-
127 tion six hundred seven (607) of this Act.

128 q. Such other additional information as the administrator requires
129 by rule or order.

130 3. Except as provided in this subsection, registration under this sec-
131 tion shall become effective when the administrator so orders. If a regis-
132 tration statement has been on file for at least thirty days and all
133 information required by the administrator has been furnished, the per-
134 son filing the statement may at any time file a written request that the
135 administrator, within ten days following the filing of such request, or-
136 der that the registration statement become effective or deny or post-
137 pone effectiveness pursuant to section two hundred nine (209) of this
138 Act. If a request is filed, and the administrator fails to act thereon
139 within such period, the registration shall become effective at the end of
140 the ten-day period.

1 SEC. 208. NEW SECTION. **Provisions applicable to registration**
2 **generally.**

3 1. A registration statement may be filed by the issuer, any other per-
4 son on whose behalf the offering is to be made, or a registered broker-
5 dealer.

6 2. Every person filing a registration statement shall pay a filing fee
7 of one-tenth of one percent of the maximum aggregate offering price
8 at which the registered securities are to be offered in this state, but the
9 fee shall in no case be less than fifty dollars or more than one thou-
10 sand dollars. When a registration statement is withdrawn before the ef-
11 fective date or a pre-effective stop order is entered under section two
12 hundred nine (209) of this Act, the administrator shall retain the fee.

13 3. Every registration statement shall specify:

14 a. The amount of securities to be offered in this state;

15 b. The states in which a registration statement or application in con-
16 nection with the offering has been or is to be filed; and

17 c. Any adverse order, judgment or decree entered in connection with
18 the offering by the regulatory authorities in any state or by any court
19 or the Securities and Exchange Commission, or any withdrawal of a
20 registration statement or application relating to the offering.

21 4. Any document filed under this Act or a predecessor act within five
22 years preceding the filing of a registration statement may be incorpor-
23 ated by reference in the registration statement to the extent that the
24 document is currently accurate.

25 5. The administrator may by rule or otherwise permit the omission
26 of any item of information or document from any registration state-
27 ment.

28 6. In the case of a non-issuer distribution, information may not be
29 required under section two hundred seven (207) of this Act, or para-
30 graph b of subsection nine (9) of this section, unless it is known to the
31 person filing the registration statement or to the persons on whose be-
32 half the distribution is to be made, or can be furnished by them with-
33 out unreasonable effort or expense.

34 7. The administrator may by rule or order require as a condition of
35 registration that any security issued within the past three years or to
36 be issued to a promoter for a consideration substantially different from
37 the public offering price, or to any person for a consideration other
38 than cash, be deposited in escrow; or that the proceeds from the sale of
39 the registered security in this state be impounded until the issuer re-
40 ceives a specified amount from the sale of the security either in this
41 state or elsewhere; or he may impose both such requirements. The ad-
42 ministrator may by rule or order determine the conditions of any es-
43 crow or impounding required hereunder, but he may not reject a
44 depository solely because of location in another state.

45 8. The administrator may by rule require that securities of designat-
46 ed classes shall be issued under a trust indenture containing such provi-
47 sions as he determines.

48 9. a. Every registration statement shall remain effective until with-
49 drawal, suspension or revocation, during which time all outstanding se-
50 curities of the same class as the registered security are considered
51 registered for the purposes of any non-issuer transaction. A registration
52 statement may not be withdrawn for one year from its effective date if
53 securities of the same class are outstanding. A registration statement
54 may be withdrawn otherwise only at the discretion of the administra-
55 tor, by order.

56 b. While the registration is effective, the issuer shall:

57 (1) During the period while the security is being offered or distribut-
58 ed in a nonexempt transaction by or for the account of the issuer or
59 any other person on whose behalf the offering is being made or by any
60 underwriter or broker-dealer who is still offering part of an unsold al-
61 lotment or subscription taken as a participant in the distribution,
62 amend the registration statement from time to time in such respects as
63 may be necessary to keep reasonably current the information contained
64 therein and to disclose the progress of the offering; and

65 (2) File with the administrator, and distribute to holders in this state
66 of securities of the registered class, within one hundred twenty days
67 following the close of each fiscal year an annual report containing fi-
68 nancial statements of the issuer in such form and meeting such require-
69 ments as the administrator may by rule or order prescribe, and, not
70 more frequently than semiannually, such additional financial state-
71 ments or information as such rule or order may prescribe.

72 10. The administrator may by rule or order require as a condition of
73 registration by qualification, and at the expense of the applicant or
74 registrant, that a report by an accountant, engineer, appraiser or other
75 professional person be filed. The administrator may also designate one
76 or more employees of the securities department to make an examina-
77 tion of the business and records of an issuer of securities for which a
78 registration statement has been filed by qualification, at the expense of
79 the applicant or registrant.

80 11. A registration statement relating to any continuous offering of
81 securities may be amended after its effective date so as to increase the

82 specified amount of securities proposed to be offered. The amendment
83 becomes effective when the administrator so orders. Every person filing
84 such an amendment shall pay a filing fee, calculated in the manner
85 specified in subsection two (2) of this section, with respect to the addi-
86 tional securities proposed to be offered.

87 12. The administrator may by rule or order require as a condition of
88 registration under this Act that a prospectus containing any designated
89 part of the information specified in subsection two (2) of section two
90 hundred seven (207) of this Act, or the final prospectus or offering cir-
91 cular required by subsection two (2) of section two hundred six (206) of
92 this Act, be delivered to each person to whom an offer is made before
93 or concurrently with a. the first written offer made to the offeree other-
94 wise than by means of a public advertisement by or for the account of
95 the issuer or any other person on whose behalf the offering is being
96 made, or by any underwriter or broker-dealer who is offering part of an
97 unsold allotment or subscription taken as a participant in the distribu-
98 tion; b. the confirmation of any sale made by or for the account of
99 any such person; c. payment pursuant to any such sale; or d. delivery
100 of the security pursuant to any such sale, whichever first occurs.

1 SEC. 209. NEW SECTION. **Denial, suspension and revocation of**
2 **registration.**

3 1. The administrator may issue a stop order denying effectiveness
4 to, or suspending or revoking the effectiveness of, any registration
5 statement if the administrator finds that the order is in the public in-
6 terest and that:

7 a. The registration statement as of its effective date or as of any ear-
8 lier date in the case of an order denying effectiveness, or any amend-
9 ment filed under either subsection nine (9) or subsection eleven (11) of
10 section two hundred eight (208) of this Act as of its effective date, or
11 any financial statement or report required under subsection nine (9) of
12 section two hundred eight (208) of this Act is incomplete in any materi-
13 al respect or contains any statement which was, in the light of the cir-
14 cumstances under which it was made, false or misleading with respect
15 to any material fact.

16 b. Any provision of this Act or any rule, order or condition lawfully
17 imposed under this Act has been willfully violated, in connection with
18 the offering, by (1) the person filing the registration statement; (2) the
19 issuer; (3) any partner, officer or director of the issuer, or any person
20 occupying a similar status or performing similar functions; (4) any af-
21 filiate of the issuer, but only if the person filing the registration state-
22 ment is an affiliate of the issuer; or (5) any broker-dealer.

23 c. The securities registered or sought to be registered are the subject
24 of an administrative stop order or similar order or a permanent or tem-
25 porary injunction of any court of competent jurisdiction entered under
26 any other federal or state act applicable to the offering; but the ad-
27 ministrator may not institute a proceeding against an effective regis-
28 tration statement under this section more than one year from the date
29 of the order or injunction relied on, and the administrator may not en-
30 ter an order under this section on the basis of an order or injunction
31 entered under any other state act unless that order or injunction was
32 based on facts which would currently constitute a ground for a stop or-
33 der under this section.

34 d. The issuer's enterprise or method of business includes or would in-
35 clude activities which are illegal where performed.

36 e. The issuance or sale of the securities is or would be unfair or in-
37 equitable to purchasers or has worked or tended to work a fraud upon
38 purchasers or would so operate.

39 f. The offering has been or would be made with unreasonable
40 amounts of underwriters' and sellers' discounts, commissions, or other
41 compensation, or promoters' profits or participation, or unreasonable
42 amounts or kinds of options.

43 g. Advertising has been used in connection with the offering con-
44 trary to the provisions of section six hundred two (602) of this Act.

45 h. The financial condition of the issuer affects or would affect the
46 soundness of the securities.

47 i. The applicant or registrant has failed to pay the proper filing fee;
48 but the administrator may enter only a denial order under this subsec-
49 tion, and shall vacate any such order when the deficiency has been cor-
50 rected.

51 2. The administrator may not institute a stop order proceeding
52 against an effective registration statement on the basis of a fact known
53 to the administrator when the registration statement became effective
54 unless the proceeding is instituted within thirty days after effective-
55 ness.

56 3. The administrator may issue a summary order postponing, sus-
57 pending or denying the effectiveness of a registration statement pend-
58 ing final determination of any proceeding under this section. Upon the
59 entry of the order, the administrator shall promptly notify the appli-
60 cant or registrant, the issuer, and the person on whose behalf the secur-
61 ities are to be or have been offered that the order has been entered and
62 of the reasons therefor and that within fifteen days after the receipt of
63 a written request the matter will be set down for hearing. If no hearing
64 is requested and none is ordered by the administrator, the order will re-
65 main in effect until it is modified or vacated by the administrator. If a
66 hearing is requested or ordered, the administrator, after notice of and
67 opportunity for hearing to each of the aforementioned persons, may
68 modify or vacate the order or extend it until final determination.

69 4. No stop order may be entered under any part of this section ex-
70 cept the first sentence of subsection three (3) of this section without
71 compliance with the Iowa Administrative Procedure Act.

72 5. The administrator may vacate or modify a stop order upon a
73 finding that the conditions which promoted its entry have changed or
74 that it is otherwise in the public interest to do so.

1 **SEC. 210. NEW SECTION. Limits on securities registered by**
2 **qualification.**

3 1. The aggregate offering price of all securities of the issuer which
4 may be registered for sale in this state under section two hundred seven
5 (207) of this Act, as part of a single issue of equity securities, shall not
6 exceed the following amounts:

7 a. Two million dollars if the securities are to be offered or sold by or
8 on behalf of the issuer or affiliates of the issuer, or by the estate of a
9 decedent who owned the securities at death, provided that the aggregate
10 offering price of securities to be offered or sold by or on behalf of
11 any one affiliate, other than an estate, shall not exceed five hundred
12 thousand dollars.

13 b. Seven hundred fifty thousand dollars if the securities are to be of-
14 fered or sold by or on behalf of any person other than a person spec-
15 ified in paragraph a, subsection one (1) of this section, provided that
16 the aggregate offering price of the securities to be offered or sold by or
17 on behalf of any one such other person shall not exceed five hundred
18 thousand dollars.

19 2. The following definitions shall apply for the purposes of this sec-
20 tion:

21 a. The term "securities of the issuer" shall include securities issued
 22 by any predecessor of the issuer or by any affiliate of the issuer which
 23 was organized or became such an affiliate within three years prior to
 24 the effectiveness of the registration of those securities sought to be reg-
 25 istered in this state.

26 b. The term "person" includes, in addition to such person, all of the
 27 following:

28 (1) When having the same home as that person, any relative or
 29 spouse or relative of the spouse.

30 (2) Any trust or estate in which that person and any of the persons
 31 specified in subparagraph one (1) of this paragraph collectively own
 32 ten percent or more of the total beneficial interest, or of which any of
 33 such persons serves as trustee or executor, or in any similar capacity.

34 (3) Any corporation or other organization other than the issuer in
 35 which that person and any of the persons specified in subparagraph
 36 one (1) of this paragraph are the beneficial owners collectively of ten
 37 percent or more of any class of equity securities, or ten percent or more
 38 of the equity interest.

39 c. The term "predecessor of the issuer" is (1) a person the major por-
 40 tion of whose assets have been acquired directly or indirectly by the is-
 41 suer; or (2) a person from which the issuer acquired directly or
 42 indirectly the major portion of its assets.

PART III

REGISTRATION OF BROKER-DEALERS AND AGENTS

1 SEC. 301. NEW SECTION. **Registration requirement.**

2 1. It is unlawful for any person to transact business in this state as a
 3 broker-dealer or agent unless registered under this Act.

4 2. It is unlawful for any broker-dealer or issuer to employ an agent
 5 in this state unless the agent is registered. The registration of an agent
 6 is not effective during any period when the agent is not associated
 7 with a specified broker-dealer registered under this Act or a specified
 8 issuer. Unless permitted by order of the administrator, no agent shall
 9 at any time represent more than one broker-dealer or issuer, except
 10 that where organizations affiliated by direct or indirect common con-
 11 trol are registered as broker-dealers or are issuers of securities registered
 12 under this Act, an agent may represent any such organization. When
 13 an agent begins or terminates employment with a broker-dealer or is-
 14 suer or begins or terminates the activities which makes such person an
 15 agent, the agent as well as the broker-dealer or issuer shall promptly
 16 notify the administrator.

17 3. Every registration shall expire on the last day of September in
 18 each year.

1 SEC. 302. NEW SECTION. **Registration procedures.**

2 1. A broker-dealer or agent may obtain an initial or renewal license
 3 by filing with the administrator an application together with a consent
 4 to service of process pursuant to section six hundred nine (609) of this
 5 Act and the appropriate filing fee. The application shall contain what-
 6 ever information the administrator by rule requires concerning the ap-
 7 plicant's form and place of organization, proposed method of doing
 8 business and financial condition, the qualifications and experience of
 9 the applicant, including, in the case of a broker-dealer, the qualifica-
 10 tions and experience of any partner, officer, director or controlling per-
 11 son, any injunction or administrative order or conviction of a
 12 misdemeanor involving securities and any conviction of a felony, and
 13 any other matters which the administrator determines are relevant to

14 the application. If no denial order is in effect and no proceeding is
15 pending under section three hundred four (304) of this Act, registration
16 becomes effective at noon of the thirtieth day after an application is
17 filed. The administrator may by rule or order specify an earlier effective
18 date and may by order defer the effective date until noon of the
19 thirtieth day after the filing of any amendment. Registration of a broker-dealer
20 automatically constitutes registration of any agent named in
21 the application or amendments thereto who is a partner, officer or director,
22 or who is a person occupying a similar status or performing similar
23 functions.

24 2. Every applicant for initial or renewal registration shall pay a filing
25 fee of one hundred dollars in the case of a broker-dealer, and ten
26 dollars in the case of an agent. When an application is denied or withdrawn,
27 the administrator shall retain the fee.

28 3. A registered broker-dealer may file an application for registration
29 of a successor, whether or not the successor is then in existence, for the
30 unexpired portion of the year. There shall be no filing fee.

31 4. The administrator may by rule require a minimum capital for broker-dealers
32 and establish limitations on aggregate indebtedness of broker-dealers in relation
33 to net capital and may classify broker-dealers for purposes of such requirements.
34 The administrator may not, however, with respect to any broker-dealer who is a
35 member of the National Association of Securities Dealers, Inc., or who is registered
36 with the Securities and Exchange Commission, require a higher minimum capital
37 or lower ratio of aggregate indebtedness to net capital than is contained in the
38 rules and regulations adopted by such association or commission.

39 5. Every broker-dealer and every issuer who employs agents in connection
40 with any security or transaction not exempted either by section two hundred two
41 (202) of this Act or section two hundred three (203) of this Act shall file and
42 maintain with the administrator a bond conditioned that the broker-dealer or issuer
43 shall properly account for any moneys or securities received from or belonging to
44 another and shall pay, satisfy, and discharge any judgment or decree that may be
45 rendered against such broker-dealer or issuer in a court of competent jurisdiction
46 in a suit or action brought by a purchaser or seller of securities against such
47 broker-dealer or issuer in which it shall be found or adjudged that such securities
48 were sold or purchased by the broker-dealer or issuer in violation of this Act.
49 Such bond may be drawn to cover the original license and any renewals thereof,
50 and may contain a provision authorizing the surety therein to cancel upon thirty-days'
51 notice to the principal and the administrator.

52 Every such bond shall run in favor of the state of Iowa for the use and benefit
53 of any person who sustains damages as a result of any breach of the conditions
54 thereof, in the sum of fifteen thousand dollars and shall be in such form consistent
55 with the provisions hereof as the administrator may prescribe, and shall be executed
56 with surety or sureties satisfactory to the administrator. In suits against the surety
57 upon such bond it shall not be necessary to join such broker-dealer or issuer as
58 a party.

59 Banks or trust companies under the supervision of this state or of the United
60 States which would otherwise be required under the provisions of this Act to file
61 and maintain the bond required herein may execute said bond without surety.

62 One or more recoveries upon any such bond shall not vitiate the same but it shall
63 remain in full force and effect, but the aggregate recoveries from the surety upon
64 any such bond shall not exceed the full

71 amount of the penal sum of the bond, and upon suits being com-
 72 menced in excess of the amount of same the administrator may require
 73 additional bond, and if not given within ten days the administrator
 74 may revoke the registration of such broker-dealer or issuer.

75 6. The administrator may by rule or order impose such other condi-
 76 tions in connection with registration under this Act as are deemed ap-
 77 propriate, in the public interest or for the protection of investors.

1 SEC. 303. NEW SECTION. **Post-registration provisions.**

2 1. Every registered broker-dealer shall make and keep such accounts,
 3 correspondence, memoranda, papers, books, and other records as the
 4 administrator by rule prescribes. All records so required shall be pre-
 5 served for three years unless the administrator by rule prescribes other-
 6 wise for particular types of records. All required records shall be kept
 7 within this state or shall, at the request of the administrator, be made
 8 available at any time for examination at the administrator's option ei-
 9 ther in the principal office of the registrant or by production of exact
 10 copies thereof in this state.

11 2. Every registered broker-dealer shall file such financial reports as
 12 the administrator by rule prescribes.

13 3. If the information contained in any document filed with the ad-
 14 ministrator is or becomes inaccurate or incomplete in any material re-
 15 spect, the registrant shall promptly file a correcting amendment unless
 16 notification of the correction has been given under subsection two (2) of
 17 section three hundred one (301) of this Act.

18 4. The administrator shall make periodic examinations, within or
 19 without this state, of the business and records of each registered broker-
 20 dealer, at such times and in such scope as the administrator deter-
 21 mines. The examinations may be made without prior notice to the bro-
 22 ker-dealer. The expense reasonably attributable to any such
 23 examination shall be paid by the broker-dealer whose business is exam-
 24 ined, but the expense so payable shall not exceed an amount which the
 25 administrator by rule prescribes. For the purpose of avoiding unneces-
 26 sary duplication of examinations, the administrator may cooperate
 27 with securities administrators of other states, the Securities and Ex-
 28 change Commission, and any national securities exchange or national
 29 securities association registered under the Securities Exchange Act of
 30 1934. The administrator shall not make public the information ob-
 31 tained in the course of examinations, except when any duty under this
 32 Act requires the administrator to take action regarding any broker-
 33 dealer or to make the information available to one of the agencies
 34 specified herein, or except when called as a witness in any criminal or
 35 civil proceeding.

1 SEC. 304. NEW SECTION. **Denial, revocation, suspension, cancel-**
 2 **lation and withdrawal of registration.**

3 1. The administrator may by order deny, suspend or revoke any reg-
 4 istration or may censure any applicant or registrant, if the order is
 5 found to be in the public interest and that the applicant or registrant
 6 or, in the case of a broker-dealer, any partner, officer, or director, any
 7 person occupying a similar status or performing similar functions, or
 8 any person directly or indirectly controlling the broker-dealer:

9 a. Has filed an application for registration which as of its effective
 10 date, or as of any date after filing in the case of an order denying ef-
 11 fectiveness, was incomplete in any material respect or contained any
 12 statement which was, in light of the circumstances under which it was
 13 made, false or misleading with respect to any material fact;

14 b. Has willfully violated or willfully failed to comply with any pro-
15 vision of this Act or a predecessor act or any rule or order under this
16 Act or a predecessor act;

17 c. Has been convicted within the past ten years of (1) any misde-
18 meanor involving a security or any aspect of the securities business, or
19 (2) any felony;

20 d. Is permanently or temporarily enjoined by any court of compe-
21 tent jurisdiction from engaging in or continuing any conduct or prac-
22 tice involving any aspect of the securities business;

23 e. Is the subject of an order of the administrator denying, suspend-
24 ing, or revoking registration as a broker-dealer or agent;

25 f. Is the subject of an order entered within the past five years by the
26 securities administrator of any other state or by the Securities and Ex-
27 change Commission denying or revoking registration as a broker-deal-
28 er, agent, or investment adviser, or is the subject of an order of the
29 Securities and Exchange Commission suspending or expelling such per-
30 son from a national securities exchange or national securities associa-
31 tion, registered under the Securities Exchange Act of 1934, or is the
32 subject of a United States Post Office fraud order; but the administra-
33 tor (1) may not institute a revocation or suspension proceeding under
34 this paragraph more than one year from the date of the order relied
35 on, and (2) may not enter an order under this paragraph on the basis
36 of an order under another state act unless that order was based on facts
37 which would currently constitute a ground for an order under this sec-
38 tion;

39 g. Has engaged in dishonest or unethical practices in the securities
40 business;

41 h. Is insolvent, either in the equity or bankruptcy sense; but the ad-
42 ministrator may not enter an order against a broker-dealer under this
43 paragraph without a finding of insolvency as to the broker-dealer;

44 i. Is not qualified on the basis of such factors as training, experience
45 and knowledge of the securities business; or

46 j. If a broker-dealer, it has failed reasonably to supervise its agents.

47 2. The administrator may not institute a suspension or revocation
48 proceeding under subsection one (1) of this section on the basis of a
49 fact known to him when registration became effective unless the pro-
50 ceeding is instituted within thirty days after the effective date.

51 3. The administrator may by order summarily postpone or suspend
52 registration pending final determination of any proceeding under this
53 section. Upon the entry of the order, the administrator shall promptly
54 notify the applicant or registrant, as well as the employer or prospec-
55 tive employer if the applicant or registrant is an agent, that it has
56 been entered and of the reasons therefor and that within fifteen days
57 after the receipt of a written request the matter will be set down for
58 hearing. If no hearing is requested and none is ordered by the adminis-
59 trator, the order will remain in effect until it is modified or vacated by
60 the administrator. If a hearing is requested or ordered, the administra-
61 tor, after notice of and opportunity for hearing, may modify or vacate
62 the order or extend it until final determination.

63 4. If the administrator finds that any registrant or applicant for reg-
64 istration is no longer in existence or has ceased to do business as a bro-
65 ker-dealer, or agent, or is subject to an adjudication of mental
66 incompetence or to the control of a committee, conservator, or guard-
67 ian, or cannot be located after search, the administrator may by order
68 revoke the registration or application.

69 5. Withdrawal from registration as a broker-dealer or agent becomes
70 effective thirty days after receipt of an application to withdraw or

71 within such shorter period of time as the administrator may by order
 72 determine, unless a revocation or suspension proceeding is pending
 73 when the application is filed or a proceeding to revoke or suspend or to
 74 impose conditions upon the withdrawal is instituted within thirty days
 75 after the application is filed. If a proceeding is pending or instituted,
 76 withdrawal becomes effective at such time and upon such conditions as
 77 the administrator by order determines. If no proceeding is pending or
 78 instituted and withdrawal automatically becomes effective, the admin-
 79 istrator may nevertheless institute a revocation or suspension proceed-
 80 ing under paragraph b of subsection one (1) of this section within one
 81 year after withdrawal became effective and enter a revocation or sus-
 82 pension order as of the last date on which registration was effective.
 83 6. No order may be entered under any part of this section except
 84 the first sentence of subsection three (3) of this section without compli-
 85 ance with the Iowa Administrative Procedure Act.

PART IV

PROHIBITION OF FRAUDULENT PRACTICES

1 SEC. 401. NEW SECTION. **Offers, sales and purchases.** It is un-
 2 lawful for any person, in connection with the offer to sell, offer to pur-
 3 chase, sale or purchase of any security in this state, directly or
 4 indirectly:

- 5 1. To employ any device, scheme, or artifice to defraud;
- 6 2. To make any untrue statement of a material fact or to omit to
 7 state a material fact necessary in order to make the statements made,
 8 in the light of the circumstances under which they are made, not mis-
 9 leading; or
- 10 3. To engage in any act, practice, or course of business which oper-
 11 ates or would operate as a fraud or deceit upon any person.

1 SEC. 402. NEW SECTION. **Trading on inside information.** It is
 2 unlawful for any person who is or was an officer, director or affiliate of
 3 an issuer or any other person whose relationship to the issuer or to any
 4 of the foregoing persons gives or gave such person access, directly or in-
 5 directly, to material information which is of decisive importance about
 6 the issuer or the security not generally available to the public, to pur-
 7 chase or sell any security of the issuer in this state at a time when he
 8 knows such information about the issuer or the security gained from
 9 such relationship, which information 1. would significantly affect the
 10 market price of that security; 2. is not generally available to the pub-
 11 lic; and 3. such person knows is not intended to be so available, unless
 12 that person has reason to believe that the other party to such transac-
 13 tion is also in possession of such information.

1 SEC. 403. NEW SECTION. **Market manipulation.** It is unlawful
 2 for any person, directly or indirectly, in this state:

- 3 1. For the purpose of creating a false or misleading appearance of
 4 active trading in a security or a false or misleading appearance with re-
 5 spect to the market for a security:
 - 6 a. To effect any transaction in the security which involves no change
 7 in the beneficial ownership thereof; or
 - 8 b. To enter any order or orders for the purchase (or sale) of the secu-
 9 rity with the knowledge that an order or orders of substantially the
 10 same size, at substantially the same time, and at substantially the
 11 same price for the sale (or purchase) of the security have been or will
 12 be entered by or for the same or affiliated persons.
- 13 2. To effect, alone or with one or more other persons, a series of
 14 transactions in any security creating actual or apparent active trading

15 in the security or raising or depressing the price of the security for the
16 purpose of inducing the purchase or sale of the security by others.

17 3. To induce the purchase or sale of any security by the circulation
18 or dissemination of information to the effect that the price of the secu-
19 rity will or is likely to rise or fall because of market operations of one
20 or more persons conducted for the purpose of raising or depressing the
21 price of the security, if that person is receiving a consideration, direct-
22 ly or indirectly, from any such person, or is selling or offering to sell or
23 purchasing or offering to purchase the security.

1 SEC. 404. NEW SECTION. **Prohibited transactions of broker-deal-**
2 **ers and agents.** No broker-dealer or agent shall effect any transac-
3 tion in, or induce or attempt to induce the purchase or sale of, any
4 security in this state by means of any manipulative, deceptive or other
5 fraudulent scheme, device, or contrivance, fictitious quotation, or in vi-
6 olation of this Act or any rule or order hereunder.

1 SEC. 405. NEW SECTION. **Misleading filings.** It is unlawful for
2 any person to make or cause to be made, in any document filed with
3 the administrator or in any proceeding under this Act, any statement
4 of a material fact which is, at the time and in the light of the circum-
5 stances under which it is made, false or misleading, or, in connection
6 with such statement, to omit to state a material fact necessary in order
7 to make the statements made, in the light of the circumstances under
8 which they are made, not misleading.

1 SEC. 406. NEW SECTION. **Misrepresentations of government ap-**
2 **proval.**

3 1. It is unlawful for any person registered as a broker-dealer or agent
4 under this Act to represent or imply in any manner whatsoever that
5 such person has been sponsored, recommended, or approved or that the
6 person's abilities or qualifications have in any respect been passed
7 upon by the administrator. Nothing in this subsection prohibits a state-
8 ment other than in a paid advertisement that a person is registered un-
9 der this Act, if such statement is true in fact and if the effect of such
10 registration is not misrepresented.

11 2. a. Neither the fact that a registration statement has been filed
12 under this Act nor the fact that such statement has become effective
13 constitutes a finding by the administrator that any document filed un-
14 der this Act is true, complete or not misleading. Neither any such fact
15 nor the fact that an exemption is available for a security or a transac-
16 tion means that the administrator has passed in any way upon the
17 merits or qualifications of, or has recommended or given approval to,
18 any person, security or transaction.

19 b. It is unlawful to make, or cause to be made, to any prospective
20 purchaser or any other person, any representation inconsistent with
21 paragraph a of this subsection.

22 3. No state official or employee of the state shall use such person's
23 name in an official capacity in connection with the endorsement or rec-
24 ommendation of the organization or the promotion of any issuer or in
25 the sale to the public of its securities, nor shall anyone use the sta-
26 tionery of the state or of any official thereof in connection with any
27 such transaction.

1 SEC. 407. NEW SECTION. **Misstatements in publicity.** It is un-
2 lawful for any person to make or cause to be made, in any public re-
3 port or press release, or in other information which is made generally
4 available to the public, any statement of a material fact relating to an

5 issuer which is, at the time and in the light of the circumstances under
6 which it is made, false or misleading, if it is reasonably foreseeable
7 that such statement will induce other persons to buy, sell or hold secur-
8 ities of the issuer.

PART V
CIVIL LIABILITY

1 SEC. 501. NEW SECTION. **Violation of registration and related**
2 **requirements.** Any person who 1. violates section two hundred
3 one (201), subsection twelve (12) of section two hundred eight (208), or
4 paragraph b of subsection two (2) of section four hundred six (406) of
5 this Act, or 2. violates any material condition imposed under section
6 two hundred eight (208) of this Act, or 3. offers or sells a security at
7 any time when such person has committed a material violation of sec-
8 tion three hundred one (301) of this Act, or 4. commits a material vio-
9 lation of any order issued by the administrator under this Act, shall be
10 liable to the person purchasing the security offered or sold in connec-
11 tion with such violation, who may sue either at law or in equity to re-
12 cover the consideration paid for the security, together with interest at
13 the legal rate from the date of payment, costs and reasonable attor-
14 neys' fees, less the amount of any income or distributions, in cash or in
15 kind, received on the security, upon the tender of the security, or for
16 damages if the purchaser no longer owns the security. Damages shall
17 be the amount that would be recoverable upon a tender less 1. the val-
18 ue of the security when the purchaser disposed of it and 2. interest on
19 said value at the legal rate from the date of disposition. Any person on
20 whose behalf an offering is made and any underwriter of the offering,
21 whether on a best efforts or a firm commitment basis, shall be jointly
22 and severally liable under this section, but in no event shall any
23 underwriter be liable in any suit or suits authorized under this section
24 for damages in excess of the total price at which the securities under-
25 written by it and distributed to the public were offered to the public.
26 Tender requires only notice of willingness to exchange the security for
27 the amount specified. Any notice may be given by service as in civil
28 actions or by certified mail addressed to the last known address of the
29 person liable.

1 SEC. 502. NEW SECTION. **Fraudulent practices.**
2 1. Any person who offers or sells a security in violation of sections
3 four hundred one (401) or four hundred four (404) of this Act, the pur-
4 chaser not knowing of the violation, and who fails to sustain the bur-
5 den of proof that he, she or it did not know and in the exercise of
6 reasonable care could not have known of the violation, shall be liable
7 to the purchaser, who may sue either at law or in equity to recover the
8 consideration paid for the security, together with interest at the legal
9 rate from the date of payment, costs and reasonable attorneys' fees,
10 less the amount of any income or distributions, in cash or in kind, re-
11 ceived on the security, upon the tender of the security, or for damages
12 if the purchaser no longer owns the security. Damages shall be the
13 amount that would be recoverable upon a tender less a. the value of
14 the security when the purchaser disposed of it and b. interest on said
15 value at the legal rate from the date of disposition. Any person on
16 whose behalf an offering is made and any underwriter of the offering,
17 whether on a best efforts or a firm commitment basis, shall be jointly
18 and severally liable under this section, but in no event shall any
19 underwriter be liable in any suit or suits authorized under this section
20 for damages in excess of the total price at which the securities under-

21 written by it and distributed to the public were offered to the public.
 22 Tender requires only notice of willingness to exchange the security for
 23 the amount specified. Any notice may be given by service as in civil
 24 actions or by certified mail addressed to the last known address of the
 25 person liable.

26 2. Any person who offers to purchase or purchases a security in vio-
 27 lation of sections four hundred one (401) or four hundred four (404) of
 28 this Act, the seller not knowing of the violation, and who fails to sus-
 29 tain the burden of proof that he, she or it did not know and in the ex-
 30 ercise of reasonable care could not have known of the violation, shall
 31 be liable to the seller, who may sue either at law or in equity to recover
 32 the security, plus any income or distributions, in cash or in kind, re-
 33 ceived by the purchaser thereon, upon tender of the consideration re-
 34 ceived, or for damages if the purchaser no longer owns the security.
 35 Damages shall be the excess of the value of the security when the pur-
 36 chaser disposed of it, plus interest at the legal rate from the date of
 37 disposition, over the consideration paid for the security. Tender re-
 38 quires only notice of willingness to pay the amount specified in ex-
 39 change for the security. Any notice may be given by service as in civil
 40 actions or by certified mail to the last known address of the person li-
 41 ble.

42 3. Any person who willfully and knowingly participates in any act
 43 or transaction in violation of sections four hundred three (403), four
 44 hundred five (405) or four hundred seven (407) of this Act shall be liable
 45 to any other person who purchases or sells any security (but not a mere
 46 holder thereof) at a price which was affected by the act or transaction
 47 for the damages sustained as a result of such act or transaction. Dam-
 48 ages shall not exceed the difference between the price at which the oth-
 49 er person purchased or sold securities and the market value which the
 50 securities would have had at the time of such purchase or sale in the
 51 absence of the act or transaction, plus interest at the legal rate, costs
 52 and reasonable attorneys' fees.

53 4. Any person, referred to in this subsection as the "defendant", who
 54 violates section four hundred two (402) of this Act shall be deemed to
 55 be unjustly enriched and liable to any person, referred to in this sub-
 56 section as the "plaintiff", who purchased or may have purchased a se-
 57 curity from, or sold or may have sold a security to, the defendant in
 58 connection with such violation, for damages equal to the difference be-
 59 tween the price at which such security was purchased or sold and the
 60 market value which such security would have had at the time of the
 61 purchase or sale if the information known to the defendant had been
 62 publicly disseminated prior to that time and a reasonable time had
 63 elapsed for the market to absorb the information, plus interest at the
 64 legal rate, costs and reasonable attorneys' fees, unless the defendant
 65 proves that the plaintiff knew the information or that the plaintiff
 66 would have purchased or sold at the same price even if the information
 67 had been revealed to the plaintiff.

1 **SEC. 503. NEW SECTION. Joint and several liability; contribu-**
 2 **tion; indemnity.**

3 1. Affiliates of a person liable under either section five hundred one
 4 (501) or five hundred two (502) of this Act, partners, principal executive
 5 officers or directors of such person, persons occupying a similar status
 6 or performing similar functions for such person, employees of such per-
 7 son who materially aid in the act or transaction constituting the viola-
 8 tion, and broker-dealers or agents who materially aid in the act or
 9 transaction constituting the violation, are also liable jointly and sever-

10 ally with and to the same extent as such person, unless any person lia-
11 ble hereunder proves that he, she or it did not know, and in the
12 exercise of reasonable care could not have known, of the existence of
13 the facts by reason of which the liability is alleged to exist.

14 2. Any person liable under this Act shall have a right of indemnifi-
15 cation against any affiliate whose willful violation of any provision of
16 this Act gave rise to such liability. Any person liable under this Act
17 shall have a right of contribution against all other persons similarly li-
18 able, except that no person whose willful violation of any provision of
19 this Act has given rise to any civil liability shall have any right of con-
20 tribution against any other person guilty merely of a negligent viola-
21 tion.

1 SEC. 504. NEW SECTION. **Time limitations on rights of action.**

2 1. No action shall be maintained to enforce any liability created un-
3 der either section five hundred one (501) of this Act or subsection one
4 (1) of section five hundred three (503) of this Act insofar as it relates to
5 section five hundred one (501) of this Act unless brought within two
6 years after the violation upon which it is based.

7 2. No action shall be maintained to enforce any liability created un-
8 der either section five hundred two (502) of this Act, or subsection one
9 (1) of section five hundred three (503) of this Act insofar as it relates to
10 section five hundred two (502), unless brought within the shorter of the
11 following two periods: a. five years after the act or transaction consti-
12 tuting the violation; or b. two years after the plaintiff receives actual
13 notice of, or upon the exercise of reasonable diligence should have
14 known of, the facts constituting the violation.

15 3. No action shall be maintained to enforce any right of indemnifi-
16 cation or contribution created by subsection two (2) of section five
17 hundred three (503) of this Act unless brought within one year after fi-
18 nal judgment based upon the liability for which the right of indemnifi-
19 cation or contribution exists.

20 4. No purchaser may commence an action under sections five
21 hundred one (501), five hundred two (502) or five hundred three (503)
22 of this Act if:

23 a. Before suit is commenced, the purchaser has received a written of-
24 fer:

25 (1) Stating in reasonable detail why liability under such section may
26 have arisen and fairly advising the purchaser of the purchaser's rights;

27 (2) Offering to repurchase the security for cash, payable on delivery
28 of the security, equal to the consideration paid, together with interest
29 at the legal rate from the date of payment, less the amount of any in-
30 come or distributions, in cash or in kind, received thereon or, if the
31 purchaser no longer owns the security, offering to pay the purchaser
32 upon acceptance of the offer an amount in cash equal to the damages
33 computed in accordance with subsection one (1) of section five hundred
34 two (502) of this Act; and

35 (3) Stating that the offer may be accepted by the purchaser at any
36 time within a specified period of not less than thirty days after the
37 date of receipt thereof, or such shorter period as the administrator may
38 by rule prescribe; and

39 b. The purchaser has failed to accept such offer in writing within the
40 specified period.

41 5. No seller may commence an action under sections five hundred
42 one (501), five hundred two (502) or five hundred three (503) of this Act
43 if:

44 a. Before suit is commenced, the seller has received a written offer:
 45 (1) Stating in reasonable detail why liability under such section may
 46 have arisen and fairly advising the seller of the seller's rights;
 47 (2) Offering to return the security plus the amount of any income or
 48 distributions, in cash or in kind, received thereon upon payment of the
 49 consideration received, or, if the purchaser no longer owns the security,
 50 offering to pay the seller upon acceptance of the offer an amount in
 51 cash equal to the damages computed in accordance with subsection two
 52 (2) of section five hundred two (502) of this Act; and
 53 (3) Stating that the offer may be accepted by the seller at any time
 54 within a specified period of not less than thirty days after the date of
 55 receipt thereof, or such shorter period as the administrator may by rule
 56 prescribe; and
 57 b. The seller has failed to accept the offer in writing within the spec-
 58 ified period.
 59 6. Offers under subsections four (4) or five (5) of this section shall be
 60 in the form and contain the information the administrator by rule pre-
 61 scribes. Every offer under either subsection shall be delivered to the of-
 62 feree personally or sent by certified mail addressed to the offeree at
 63 the offeree's last known address. If an offer is not performed in accord-
 64 ance with its terms, suit by the offeree under section five hundred one
 65 (501), five hundred two (502) or five hundred three (503) of this Act
 66 shall be permitted without regard to subsections four (4) and five (5) of
 67 this section.

1 SEC. 505. NEW SECTION. **Limitation on implied liability.**
 2 Except as explicitly provided in this Act, no civil liability in favor
 3 of any person shall arise against any person by implication from or as
 4 a result of the violation of any provision of this Act or any rule or or-
 5 der hereunder. Nothing in this Act shall limit any liability which
 6 might exist by virtue of any other statute or under common law if this
 7 Act were not in effect.

1 SEC. 506. NEW SECTION. **No waiver of right of action.** Any con-
 2 dition, stipulation or provision binding any person to waive compli-
 3 ance with any provision of this Act or any rule or order hereunder is
 4 void.

1 SEC. 507. NEW SECTION. **Enforceability of illegal contracts.** It
 2 shall be a defense to an action based on a contract for the purchase or
 3 sale of a security that the plaintiff or the plaintiff's assignor entered
 4 into the transaction which gave rise to the contract under circumstances
 5 which would subject the plaintiff or the assignor to liability under sec-
 6 tions five hundred one (501), five hundred two (502), or five hundred
 7 three (503) of this Act.

PART VI
 ADMINISTRATION AND ENFORCEMENT

1 SEC. 601. NEW SECTION. **Administration of Act.**
 2 1. The provisions of this Act shall be administered by the commis-
 3 sioner of insurance of the state of Iowa. The administrator shall ap-
 4 point a deputy administrator who shall be subject to the merit system
 5 provided for in chapter nineteen A (19A) of the Code. The deputy ad-
 6 ministrator shall be the principal operations officer of the securities de-
 7 partment and shall be responsible to the administrator for the routine
 8 administration of the Act and the management of the securities depart-
 9 ment. In the absence of the administrator, whether because of vacancy
 10 in the office, by reason of absence, physical disability or other cause,

11 the deputy administrator shall be the acting administrator and shall,
12 for the time being, have and exercise the authority conferred upon the
13 administrator. The administrator may by order from time to time dele-
14 gate to the deputy administrator any or all of the functions assigned to
15 the administrator in this Act. The administrator shall employ such of-
16 ficers, attorneys, accountants and other employees as shall be needed
17 for the administration of the Act.

18 2. It is unlawful for the administrator or any officer or employee of
19 the securities department to use for personal benefit any information
20 which is filed with or obtained by the administrator and which is not
21 made public. No provision of this Act authorizes the administrator or
22 any such officer or employee to disclose any such information except
23 among themselves or to other securities administrators, regulatory au-
24 thorities or governmental agencies, or when necessary or appropriate in
25 a proceeding or investigation under this Act. No provision of this Act
26 either creates or derogates from any privileges which exist at common
27 law or otherwise when documentary or other evidence is sought under a
28 subpoena directed to the administrator or any officer or employee of
29 the securities department.

1 **SEC. 602. NEW SECTION. Filing of sales and advertising litera-**
2 **ture.** The administrator may by rule or order require the filing of
3 any prospectus, pamphlet, circular, form letter, advertisement, or other
4 sales literature or advertising communication addressed or intended for
5 distribution to prospective investors, unless the security or transaction
6 is exempted by sections two hundred two (202) or two hundred three
7 (203) of this Act. The administrator may by rule or order prohibit the
8 publication, circulation or use of any advertising deemed false or mis-
9 leading.

1 **SEC. 603. NEW SECTION. Investigations and subpoenas.**

2 1. The administrator may a. make such public or private investiga-
3 tions within or outside of this state as the administrator deems neces-
4 sary to determine whether any person has violated or is about to
5 violate any provision of this Act or any rule or order hereunder, or to
6 aid in the enforcement of this Act or in the prescribing of rules and
7 forms hereunder; b. require or permit any person to file a statement in
8 writing, under oath or otherwise as the administrator determines, as to
9 all the facts and circumstances concerning the matter to be investigat-
10 ed; and c. publish information concerning any violation of this Act or
11 any rule or order hereunder.

12 2. For the purpose of any investigation or proceeding under this Act,
13 the administrator or any officer designated by the administrator may
14 administer oaths and affirmations, subpoena witnesses, compel their
15 attendance, take evidence, and require the production of any books,
16 papers, correspondence, memoranda, agreements or other documents or
17 records which the administrator deems relevant or material to the in-
18 quiry, all of which may be enforced in accordance with the Iowa Ad-
19 ministrative Procedure Act.

20 3. No person is excused from attending and testifying or from pro-
21 ducing any document or record before the administrator, or in obedi-
22 ence to the subpoena of the administrator or any officer designated by
23 the administrator, or in any proceeding instituted by the administra-
24 tor, on the ground that the testimony or evidence required, whether
25 documentary or otherwise, may tend to incriminate such person or sub-
26 ject such person to a penalty or forfeiture; but no individual may be
27 prosecuted or subjected to any penalty or forfeiture for or on account
28 of any transaction, matter, or thing concerning which such person is

29 compelled, after claiming the privilege against self-incrimination, to
 30 testify or produce evidence, whether documentary or otherwise, except
 31 that the individual testifying is not exempt from prosecution and pun-
 32 ishment for perjury or contempt committed in testifying.

1 **SEC. 604. NEW SECTION. Cease and desist orders; injunc-**
 2 **tions.** Whenever it appears to the administrator that any person has
 3 engaged or is about to engage in any act or practice constituting a vio-
 4 lation of any provision of this Act or any rule or order hereunder, the
 5 administrator may:

6 1. Issue an order directed at any such person requiring such person
 7 to cease and desist from engaging in such act or practice.

8 2. Bring an action in the district court to enjoin the acts or practices
 9 and to enforce compliance with this Act or any rule or order hereunder.
 10 Upon a proper showing a permanent or temporary injunction, restraining
 11 order, or writ of mandamus shall be granted and a receiver or con-
 12 servator may be appointed for the defendant or the defendant's assets.
 13 The administrator shall not be required to post a bond.

1 **SEC. 605. NEW SECTION. Criminal penalties.**

2 1. Any person who willfully and knowingly violates any provision of
 3 this Act, or any rule or order under this Act, shall upon conviction be
 4 fined not more than five thousand dollars or imprisoned not more than
 5 three years, or both.

6 2. The administrator may refer such evidence as is available concern-
 7 ing violations of this Act or of any rule or order hereunder to the attor-
 8 ney general or the proper county attorney who may, with or without
 9 such a reference, institute the appropriate criminal proceedings under
 10 this Act.

11 3. Nothing in this Act limits the power of the state to punish any
 12 person for any conduct which constitutes a crime under any other stat-
 13 ute.

1 **SEC. 606. NEW SECTION. Judicial review of orders.** Judicial re-
 2 view of actions of the administrator may be sought pursuant to the
 3 Iowa Administrative Procedure Act, upon execution of a bond in the
 4 penal sum of one thousand dollars to the state of Iowa, with sufficient
 5 surety, to be approved by the clerk of the court conditioned upon the
 6 faithful prosecution of such petition for judicial review, and the pay-
 7 ment of all costs adjudged against the petitioner.

1 **SEC. 607. NEW SECTION. Rules, forms, orders and hearings.**

2 1. Pursuant to the Iowa Administrative Procedure Act, the adminis-
 3 trator may from time to time make, amend and rescind such rules,
 4 forms and orders as are necessary to carry out the provisions of this
 5 Act, including rules and forms governing registration statements, ap-
 6 plications, and reports, and defining any terms, whether or not used in
 7 this Act, insofar as the definitions are not inconsistent with the provi-
 8 sions of this Act. For the purpose of rules and forms, the administrator
 9 may classify securities, persons, and other relevant matters, and pre-
 10 scribe different requirements for different classes.

11 2. No rule, form or order may be made, amended or rescinded unless
 12 the administrator finds that the action is necessary or appropriate in
 13 the public interest or for the protection of investors and consistent with
 14 the purposes fairly intended by the policy and provisions of this Act.
 15 In prescribing rules and forms the administrator may cooperate with
 16 the securities administrators of the other states, the Securities and Ex-
 17 change Commission, and national securities exchanges and national se-
 18 curities associations registered under the Securities and Exchange Act

19 of 1934, with a view to effectuating the policy of this statute to achieve
20 maximum uniformity in form and content of registration statements,
21 applications, and reports wherever practicable.

22 3. The administrator may by rule or order prescribe a. the form and
23 content of financial statements required under this Act, b. the circum-
24 stances under which consolidated financial statements shall be filed,
25 and c. whether any required financial statements shall be certified by
26 independent or certified public accountants. All financial statements
27 shall be prepared in accordance with generally accepted accounting
28 principles.

29 4. No provision of this Act imposing any liability applies to any act
30 done or omitted in good faith in conformity with any rule, form or or-
31 der of the administrator, notwithstanding that the rule, form or order
32 may later be amended or rescinded or be determined by judicial or oth-
33 er authority to be invalid for any reason.

34 5. Every hearing in an administrative proceeding shall be public un-
35 less, in the exercise of discretion, the administrator grants a request
36 joined in by all the respondents that the hearing be conducted private-
37 ly.

1 **SEC. 608. NEW SECTION. Administrative files and opinions.**

2 1. A document is filed when it is received by the administrator.

3 2. The administrator shall keep a register of all applications for reg-
4 istration and registration statements which are or have been effective
5 under this Act and predecessor laws, and all censure, denial, suspen-
6 sion or revocation orders which have been entered under this Act and
7 predecessor laws. The register shall be open for public inspection.

8 3. The information contained in or filed with any registration state-
9 ment, application or report may be made available to the public under
10 such rules as the administrator prescribes.

11 4. Upon request and at such reasonable charges as may be pre-
12 scribed, the administrator shall furnish to any person photostatic or
13 other copies, certified if requested, of any entry in the register or any
14 document which is a matter of public record. In any proceeding or
15 prosecution under this Act, any copy so certified is prima facie evi-
16 dence of the contents of the entry or document certified.

17 5. The administrator may honor requests from interested persons for
18 interpretative opinions.

1 **SEC. 609. NEW SECTION. Service of process.**

2 1. Every applicant for registration under this Act, and every issuer
3 which proposes to offer a security in this state through any person act-
4 ing as agent, shall file with the administrator, in such form as the ad-
5 ministrator by rule prescribes, an irrevocable consent appointing the
6 administrator or the administrator's successor in office to be such per-
7 son's attorney to receive service of any lawful process in any noncrim-
8 inal suit, action or proceeding against such person or the successor,
9 executor or administrator of such person which arises under this Act or
10 any rule or order hereunder after the consent has been filed, with the
11 same validity as if served personally on the person filing the consent.
12 The consent need not be filed by a person who has filed a consent in
13 connection with a previous registration which is then in effect. Service
14 may be made by leaving a copy of the process in the office of the ad-
15 ministrator, but it is not effective unless the plaintiff, including the
16 administrator when acting as such, a. promptly sends notice of the ser-
17 vice and a copy of the process by registered or certified mail to the de-
18 fendant or respondent at such person's last known address or takes
19 other steps which are reasonably calculated to give actual notice; and

20 b. files an affidavit of compliance with this subsection in the case on or
21 before the return day of the process, or within such time as the court
22 allows.

23 2. When any person, including any nonresident of this state, en-
24 engages in conduct prohibited or made actionable by this Act or any rule
25 or order hereunder, has not filed a consent to service of process under
26 subsection one (1) of this section, and personal jurisdiction over such
27 person cannot otherwise be obtained in this state, that conduct shall be
28 considered equivalent to the appointment by such person of the admin-
29 istrator or the administrator's successor in office to be that person's at-
30 torney to receive service of any lawful process in any noncriminal suit,
31 action or proceeding against that person or the successor, executor or
32 administrator of that person which arises out of that conduct and
33 which is brought under this Act or by any rule or order hereunder, with
34 the same validity as if served personally. Service may be made by
35 leaving a copy of the process in the office of the administrator, and it
36 is not effective unless the plaintiff, including the administrator when
37 acting as such, a. promptly sends notice of the service and a copy of
38 the process by registered or certified mail to the defendant or respon-
39 dent at such person's last known address or takes other steps which are
40 reasonably calculated to give actual notice; and b. files an affidavit of
41 compliance with this subsection in the case on or before the return day
42 of the process or within such time as the court allows.

43 3. When process is served under this section, the court, or the admin-
44 istrator in a proceeding before the administrator, shall order such con-
45 tinuance as may be necessary to afford the defendant or respondent
46 reasonable opportunity to defend.

1 SEC. 610. NEW SECTION. **Scope of the Act.**

2 1. The provisions of this Act concerning sales and offers to sell apply
3 when a sale or an offer to sell is made in this state or when an offer to
4 purchase is made and accepted in this state. The provisions concerning
5 purchases and offers to purchase apply when a purchase or an offer to
6 purchase is made in this state or an offer to sell is made and accepted
7 in this state.

8 2. For the purpose of this section, an offer to sell or an offer to pur-
9 chase is made in this state, whether or not either party is then present
10 in this state, when the offer originates from this state or is directed by
11 the offeror to this state and received by the offeree in this state, but
12 for the purpose of section two hundred one (201) of this Act an offer to
13 sell which is not directed to or received by the offeree in this state is
14 not made in this state.

15 3. For the purpose of this section, an offer to purchase or to sell is
16 accepted in this state when acceptance is communicated to the offeror
17 in this state, and has not previously been communicated to the offeror,
18 orally or in writing, outside this state; and acceptance is communicat-
19 ed to the offeror in this state, whether or not either party is then pres-
20 ent in this state, when the offeree directs it to the offeror in this state
21 reasonably believing the offeror to be in this state and it is received by
22 the offeror in this state.

23 4. An offer to sell or to purchase is not made in this state when
24 made by means of a. any bona fide newspaper or other publication of
25 general, regular and paid circulation which is not published in this
26 state, or b. a radio or television program originating outside this state
27 which is received in this state.

1 SEC. 611. NEW SECTION. **Statutory policy.** This Act shall be so
2 construed as to effectuate its general purpose to make uniform the law

3 of those states which enact the "Uniform Securities Act" and to coordi-
 4 nate the interpretation and administration of this Act with the related
 5 federal regulation.

1 SEC. 612. NEW SECTION. **Severability of provisions.** If any pro-
 2 vision of this Act or the application thereof to any person or circum-
 3 stance is held invalid, the invalidity shall not affect other provisions or
 4 applications of the Act which can be given effect without the invalid
 5 provision or application, and to this end the provisions of this Act are
 6 severable.

1 SEC. 613. NEW SECTION. **Prior law.**

2 1. Chapter five hundred two (502), Code 1973, as amended by chap-
 3 ters one thousand ninety (1090) and one thousand two hundred thirty-
 4 eight (1238), Laws of the Sixty-fifth General Assembly, 1974 Session,
 5 referred to in this section as "prior law", exclusively governs all suits,
 6 actions, prosecutions, or proceedings which are pending or may be ini-
 7 tiated on the basis of facts or circumstances occurring before the effec-
 8 tive date of this Act, except that no civil suit or action may be
 9 maintained to enforce any liability under prior law unless brought
 10 within any period of limitation which applied when the cause of action
 11 accrued.

12 2. All effective registrations under prior law, all administrative or-
 13 ders relating to such registrations, and all conditions imposed upon
 14 such registrations remain in effect so long as they would have re-
 15 mained in effect if this Act had not been passed. They are considered
 16 to have been filed, entered, or imposed under this Act, but are gov-
 17 erned by prior law.

18 3. Prior law applies in respect of any offer or sale made within six
 19 months after the effective date of this Act pursuant to an offering be-
 20 gun in good faith before its effective date on the basis of an examina-
 21 tion available under prior law.

22 4. Judicial review of all administrative orders as to which review pro-
 23 ceedings have not been instituted by the effective date of this Act are
 24 governed by section six hundred six (606) of this Act, except that no re-
 25 view proceeding may be instituted unless the petition is filed within
 26 any period of limitation which applied to a review proceeding when
 27 the order was entered and in any event within sixty days after the ef-
 28 fective date of this Act.

1 SEC. 614. NEW SECTION. **Effective date.** This Act shall take ef-
 2 fect on January 1, 1976.

1 SEC. 615. The Code editor shall codify sections one hundred one
 2 (101) through six hundred fourteen (614) of this Act as sections five
 3 hundred two point one hundred one (502.101) through five hundred
 4 two point six hundred fourteen (502.614), respectively.

1 SEC. 616. Section four hundred ninety-nine point fifty-nine
 2 (499.59), unnumbered paragraph one (1), Code 1975, is amended to
 3 read as follows:

4 **499.59 Exemptions from Iowa uniform securities Act.** None of
 5 the exemptions contained in sections ~~502.4 and 502.5~~ *five hundred two*
 6 *point two hundred two (502.202) and five hundred two point two*
 7 *hundred three (502.203) of the Code* shall apply to any security issued
 8 by any association formed hereunder, when the total amount thereof
 9 exceeds twenty-five thousand dollars.

1 SEC. 617. Section five hundred three point ten (503.10), Code 1975,
 2 is amended to read as follows:

3 **503.10 Examination.** Every such association shall be subject to
 4 examination by the commissioner of insurance or his representatives,
 5 the expense of which shall be paid by the association in the same man-
 6 ner and on the same basis and under the same terms and conditions as
 7 is now provided for in ~~section 502.12~~ *subsection ten (10) of section*
 8 *five hundred two point two hundred eight (502.208) of the Code and*
 9 *subsection four (4) of section five hundred two point three hundred*
 10 *three (502.303) of the Code.* In making such examination the commis-
 11 sioner of insurance or his representatives, shall have full access to and
 12 may demand the production of all books, securities, papers, contracts,
 13 moneys, *etc.*, and other relevant documents of said association, and
 14 may administer oaths, summon and compel the attendance of witnesses
 15 and the giving of testimony thereby.

1 SEC. 618. Section five hundred three point twelve (503.12), Code
 2 1975, is amended to read as follows:

3 **503.12 Salesmen—license—revocation.** The salesmen or agents
 4 of every association qualified under this chapter, shall be licensed or reg-
 5 istered in the same manner and under the same terms and conditions
 6 as is provided for in ~~section 502.14~~ *as are provided for in sections five*
 7 *hundred two point three hundred one (502.301) and five hundred*
 8 *two point three hundred two (502.302) of the Code,* and the license or
 9 registration of such salesmen or agents shall be subject to suspension
 10 and revocation in the same manner and under the same terms and con-
 11 ditions as is provided for in ~~section 502.14~~ *five hundred two point*
 12 *three hundred four (502.304) of the Code.*

1 SEC. 619. Section five hundred seven B point fourteen (507B.14),
 2 unnumbered paragraph one (1), Code 1975, is amended to read as fol-
 3 lows:

4 When a controlling interest in two or more corporations, at least one
 5 of which is an insurance company domiciled in this state, is held by
 6 any person, group of persons, firm, or corporation, no exchange of
 7 stock, transfer or sale of securities, or loan based upon securities of any
 8 such corporation shall take place between such corporations, or between
 9 such person, group of persons, firm or corporation and such corpora-
 10 tions, without first securing the approval of the insurance commission-
 11 er. If, in the opinion of the insurance commissioner, such sale, transfer,
 12 exchange, or loan would be improper and would work to the detriment
 13 of any such insurance company, he shall have the power to prohibit the
 14 transaction. Any person, firm or corporate officer or director aiding
 15 such transaction carried out without approval of the insurance commis-
 16 sioner shall be deemed guilty of a felony and upon conviction pun-
 17 ished as provided in ~~section 502.28~~ *five hundred two point six*
 18 *hundred five (502.605) of the Code.*

1 SEC. 620. Section five hundred thirty-six A point twenty-two
 2 (536A.22), Code 1975, is amended to read as follows:

3 **536A.22 Thrift certificates.** Licensed industrial loan companies
 4 may sell thrift certificates, installment thrift certificates, certificates of
 5 indebtedness, promissory notes or similar evidences of indebtedness.
 6 The total amount of such thrift certificates, installment thrift certifi-
 7 cates, certificates of indebtedness, promissory notes or similar evidences
 8 of indebtedness outstanding and in the hands of the general public
 9 shall not at any time exceed ten times the total amount of capital, sur-
 10 plus, undivided profits and subordinated debt that gives priority to
 11 such securities of the issuing industrial loan company. The sale of such
 12 securities shall be subject to the provisions of chapter 502, and shall not

13 be construed to be exempt therefrom by reason of the provisions of see-
 14 tion 502.4, subsections 7 and 8 subsection ten (10) of section five
 15 hundred two point two hundred two (502.202) of the Code, except
 16 that the sale of thrift certificates or installment thrift certificates
 17 which are redeemable by the holder thereof either upon demand or
 18 within a period not in excess of one hundred eighty days shall be
 19 exempt from sections five hundred two point two hundred one
 20 (502.201) and five hundred two point six hundred two (502.602).

1 SEC. 621. Chapter five hundred two (502), Code 1975, is amended
 2 by striking the chapter and inserting in lieu thereof sections one
 3 hundred one (101) through six hundred fourteen (614) of this Act.

Approved July 18, 1975

CHAPTER 235
 NONPROFIT CORPORATIONS

H. F. 816

AN ACT relating to tort liability due to acts or omissions of directors, officers, employees, and members of nonprofit corporations and corporations not for pecuniary profit.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred four A point one hundred one
 2 (504A.101), Code 1975, is amended to read as follows:

3 **504A.101 Personal liability.** Except as otherwise provided in
 4 this chapter, the directors, officers, employees and members of the cor-
 5 poration shall not, as such, be liable on its debts or obligations *and di-*
 6 *rectors, officers, members or other volunteers shall not be personally*
 7 *liable for any claim based upon an act or omission of such person*
 8 *performed in the reasonable discharge of their lawful corporate du-*
 9 *ties.*

1 SEC. 2. Section five hundred four point five (504.5), Code 1975, is
 2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. Directors, officers, members or other volunteers
 4 shall not be personally liable for any claim based upon an act or omis-
 5 sion of such persons performed in the reasonable discharge of their law-
 6 ful corporate duties.

Approved July 19, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code