

- (3) The spouse of the deceased person.
- (4) An adult child of the deceased person.
- (5) A parent of the deceased person.
- (6) An adult sibling of the deceased person.
- (7) Any other member of the deceased person's family who is authorized to dispose of the body.
- (8) The county medical examiner.

Sec. 2. Section 141.23, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Any person who secures a written release of test results executed by a person authorized to provide consent to performance of an HIV-related test pursuant to section 141.22, subsection 5, paragraph "d".

Approved April 1, 1996

CHAPTER 1024

REGULATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

H.F. 2152

AN ACT relating to the delay of the repeal for the exemption of certain multiple employer welfare arrangements from regulation by the insurance division and providing an effective date.

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

Section 1. 1994 Iowa Acts, chapter 1038, section 3, as amended by 1995 Iowa Acts, chapter 33, section 1, is amended to read as follows:

SEC. 3. REPEAL. This Act is repealed effective July 1, ~~1996~~ 1997.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 1, 1996

CHAPTER 1025

SECURITIES REGULATION

S.F. 2363

AN ACT relating to entities and subject matter under the regulatory authority of the securities bureau of the division of insurance.

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

Section 1. Section 502.102, subsection 14, Code 1995, is amended to read as follows:

14. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit sharing agreement; collateral

trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a lease, right, or royalty; an interest in a limited liability company or any class or series of such interest, including any fractional or other interest in such interest; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period. "Security" also does not include an interest in a limited liability company if the person claiming that such an interest is not a security proves that all of the members of the limited liability company are actively engaged in the management of the limited liability company; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company.

Sec. 2. Section 502.202, subsection 1, Code 1995, is amended to read as follows:

1. Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; ~~but~~ However, this exemption shall not include any revenue obligation payable from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise, unless such payments are or will be made or unconditionally guaranteed by a person whose securities are exempt from registration under this chapter by (a) ~~this section~~, subsection 7, ~~or 8~~, or 18, or (b) subsection 9 ~~of this section~~, provided the issuer first files with the administrator a written notice specifying the terms of the offer and the administrator does not by order disallow the exemption within fifteen days thereafter.

Sec. 3. Section 502.202, subsection 8, Code 1995, is amended to read as follows:

8. Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, ~~the Midwest Stock Exchange, the Pacific Coast Stock Exchange~~, or any other national securities exchange registered under the Securities Exchange Act of 1934 and designated by rule of the administrator; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing.

Sec. 4. Section 502.203, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. The security was issued by an issuer which has a class of securities ~~currently registered~~ subject to registration under section 12 of the Securities Exchange Act of 1934, and has been subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 for not less than ninety days before the transaction;

Sec. 5. Section 502.203, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Any other security or transaction or class of securities or transactions exempted, by the administrator by rule, from requirements provided in section 502.201 or 502.602.

Sec. 6. Section 502.206, subsection 4, Code 1995, is amended to read as follows:

4. The registrant shall notify the administrator promptly ~~by telephone or telegram~~ in

writing, which may be by electronic, telegraphic, or facsimile transmission, of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall file a post-effective amendment promptly containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the administrator may enter a stop order, without notice or hearing, retroactively denying the effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection is effected, if the administrator promptly notifies the registrant by ~~telephone or telegram~~ of the issuance of such order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment the stop order shall be vacated as of the time of its entry. The administrator may by rule or order waive any of the conditions specified in subsection 2 or 3.

Sec. 7. Section 502.301, subsection 1, paragraph b, subparagraph (1), Code 1995, is amended to read as follows:

(1) The broker-dealer effects transactions in this state exclusively with or through the issuers of the securities involved in the transaction, other broker-dealers, banks, trust companies, insurance companies, or investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, or other financial institutions ~~or institutional buyers~~, whether acting for themselves or as trustees;

Sec. 8. Section 502.302, subsection 1, Code 1995, is amended to read as follows:

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain the information the administrator requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the ~~thirtieth~~ sixtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The administrator may by rule or order specify an earlier effective date.

Sec. 9. Section 502.304, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Does either of the following:

(1) Refuses to allow or otherwise impedes the securities bureau from conducting an audit, examination, inspection, or investigation as provided under section 502.303 or 502.603, including by withholding or concealing records or refusing to furnish records, if the records are required to be kept either under this chapter or under rules adopted under this chapter or by the securities bureau acting under this chapter.

(2) Refuses securities bureau access to any office or location within an office to conduct an audit, examination, inspection, or investigation.

Sec. 10. Section 502.304, subsection 2, Code 1995, is amended to read as follows:

2. The administrator may not institute a suspension or revocation proceeding under subsection 1, paragraphs "c" through "f", on the basis of a fact known to the administrator when registration became effective unless the proceeding is instituted within ~~sixty~~ ninety days after the effective date.

Sec. 11. Section 502.304, subsection 4, Code 1995, is amended to read as follows:

4. a. If the administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, or agent, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after search, the administrator may by order revoke the registration or application.

b. If the administrator finds that the applicant or registrant for registration has abandoned the application or registration, the administrator may enter an order of abandonment, and limit or eliminate further consideration of the application or registration, as provided by the administrator. The administrator may enter an order under this paragraph if notice is sent to the applicant or registrant, and either the administrator does not receive a response by the applicant or registrant within forty-five days from the date that the notice was delivered, or action is not taken by the applicant or registrant within the time specified by the administrator in the notice, whichever is later.

Sec. 12. Section 502.304, subsection 5, Code 1995, is amended to read as follows:

5. Withdrawal from registration as a broker-dealer or agent becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the administrator may by order determine, unless a ~~revocation or suspension~~ proceeding to deny, suspend, or revoke a registration is pending when the application is filed or a ~~proceeding to revoke or suspend~~ deny, suspend, or revoke a registration, or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under subsection 1, paragraph "b", within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

Sec. 13. Section 502.502, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A copy of any suit or arbitration action filed under this section shall be served upon the administrator within twenty days of the filing in the form and manner prescribed by the administrator by rule or order, provided that the failure to comply with this provision shall not invalidate the action which is the subject of the suit.

Sec. 14. Section 502.604, subsection 2, Code 1995, is amended to read as follows:

2. Bring an action in the district court to enjoin the act or practice and to enforce compliance with this chapter or a rule or order adopted or issued pursuant to this chapter. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. In addition, upon a proper showing by the administrator, the court may enter an order of rescission, restitution, or disgorgement directed at any person who has engaged in an act constituting a violation of this chapter, or a rule or order adopted or issued pursuant to this chapter, and may order the payment of prejudgment and postjudgment interest. The administrator shall not be required to post a bond.

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