

502.321B Registration requirements hearing.

1. *Takeover filing required.* It is unlawful for a person to make a takeover offer or to acquire any equity securities pursuant to the offer unless the offer is valid under this article. A takeover offer is effective when the offeror files with the administrator a registration statement containing the information prescribed in subsection 6. Not later than the date of filing of the registration statement, the offeror shall deliver a copy of the registration statement by certified mail to the target company at its principal place of business and publicly disclose the material terms of the proposed offer. Public disclosure shall require, at a minimum, that a copy of the registration statement be supplied to all broker-dealers maintaining an office in this state currently quoting the security.

2. *Registration statement filing.* The registration statement shall be filed on forms prescribed by the administrator, and shall be accompanied by a consent by the offeror to service of process and filing fee specified in section 502.321G, and contain all of the following information:

a. All information specified in subsection 6.

b. Two copies of all solicitation materials intended to be used in the takeover offer, and in the form proposed to be published, sent, or delivered to offerees.

c. Additional information as prescribed by the administrator by rule, pursuant to chapter 17A, prior to the making of the offer.

3. *Registration not approval.* Registration shall not be considered approval by the administrator, and any representation to the contrary is unlawful.

4. *Suspension authorized.* Within three calendar days of the date of filing of the registration statement, the administrator may, by order, summarily suspend the effectiveness of the takeover offer if the administrator determines that the registration does not contain all of the information specified in subsection 6 or that the takeover offer materials provided to offerees do not provide full disclosure to offerees of all material information concerning the takeover offer. The suspension shall remain in effect only until the determination following a hearing held pursuant to subsection 5.

5. *Hearing procedures.* A hearing shall be scheduled by the administrator for each suspension provided under this section. The hearing shall be held within ten calendar days of the date of the suspension. The administrator's determination following the hearing shall be made within three calendar days after the hearing has been completed, but not more than sixteen days after the date of the suspension. However, the administrator may prescribe different time periods than those specified in this subsection by rule or order.

If, based upon the record of the hearing, the administrator finds that the registration statement fails to provide for full and fair disclosure of all material information concerning the offer, or that the takeover is in violation of any of the provisions of this article, the administrator shall permanently suspend the effectiveness of the takeover offer. The administrator may provide an opportunity for the offeror to correct disclosure and other deficiencies identified by the administrator and to reinstate the takeover offer by filing a new or amended registration statement pursuant to this section.

6. *Required information.* The form required to be filed by subsection 2, paragraph "a", shall contain all of the following information:

a. The identity and background of all persons on whose behalf the acquisition of any equity security of the target company has been or is to be effected.

b. The source and amount of funds or other consideration used or to be used in acquiring any equity security

including, if applicable, a statement describing any securities which are being offered in exchange for the equity securities of the target company. If any part of the acquisition price is or will be represented by borrowed funds or other consideration, the information shall also include a description of the material terms of any financing arrangements and the names of the parties from whom the funds were or are to be borrowed.

c. If the offeror is other than a natural person, information concerning its organization and operations, including all of the following:

- (1) The year, form, and jurisdiction of its organization.
- (2) A description of each class of equity security and long-term debt.
- (3) A description of the business conducted by the offeror and its subsidiaries and any material changes in the offeror or subsidiaries during the past three years.
- (4) A description of the location and character of the principal properties of the offeror and its subsidiaries.
- (5) A description of any pending and material legal or administrative proceedings in which the offeror or any of its affiliates is a party.
- (6) The names of all directors and executive officers of the offeror and their material business activities and affiliations during the past five years.
- (7) The financial statements of the offeror in a form and for periods of time as the administrator may prescribe by rule pursuant to section 17A.4, subsection 1.

d. If the offeror is a natural person, information concerning the offeror's identity and background, including business activities and affiliations during the past five years and a description of any pending and material legal or administrative proceedings in which the offeror is a party.

e. If the purpose of the acquisition is to gain control of the target company, the material terms of any plans or proposals which the offeror has, upon gaining control, to do any of the following:

- (1) Liquidate the target company.
- (2) Sell its assets.
- (3) Effect its merger or consolidation.
- (4) Change the location of its principal place of business or of a material portion of its business activities.
- (5) Change its management or policies of employment.
- (6) Materially alter its relationship with suppliers or customers or the community in which it operates.
- (7) Make any other major changes in its business, corporate structure, management, or personnel.
- (8) Other information which would materially affect the shareholders' evaluation of the acquisition.

f. The number of shares or units of any equity security of the target company owned beneficially by the offeror and any affiliate or associate of the offeror, together with the name and address of each affiliate or associate.

g. The material terms of any contract, arrangement, or understanding with any other person with respect to the equity securities of the target company by which the offeror has or will acquire any interest in additional equity securities of the target company, or is or will be obligated to transfer any interest in the equity securities to another.

h. Information required to be included in a tender offer statement pursuant to section 14(d) of the Securities Exchange Act of 1934 and the rules and regulations of the securities and exchange commission issued pursuant to the Act.

2004 Acts, ch 1161, §18, 68