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Place On Calendar

HOUSE FILE 825

By COMMITTEE ON COMMERCE

House File 825
Commerce
Glenn, Chairman
Carr
Curtis

Passed House, Date 5-14-75 (1755) Passed Senate, Date 6-11-75 (1904)

Vote: Ayes 83 Nays 8 Vote: Ayes 40 Nays 1

Approved 7-19-75

*Repassed House per Senate amendment
6-12-75 (2396)
78-5*

A BILL FOR

1 An Act relating to the regulation of securities, and providing
2 for the registration of securities and broker-dealers, pro-
3 hibiting certain deceptive and manipulative transactions in
4 securities, regulating broker-dealers, and providing civil
5 remedies and criminal penalties for violations.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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PART I

SHORT TITLE AND DEFINITIONS

Section 101. NEW SECTION. SHORT TITLE. This Act may be cited as the "Iowa Uniform Securities Act".

Sec. 102. NEW SECTION. DEFINITIONS. When used in this Act, unless the context otherwise requires:

1. "Administrator" means the commissioner of insurance or the deputy appointed pursuant to section six hundred one (601) of this Act.

2. "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in

a. effecting transactions in a security exempted by subsections one (1), two (2), three (3), ten (10) or eleven (11) of section two hundred two (202); b. effecting transactions exempted by section two hundred three (203); or c. effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition.

3. An "affiliate" of, or a person "affiliated" with, a specified person, means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

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

a. An agent.

b. An issuer.

c. An institutional investor, including an insurance

1 company or bank, except where the insurance company or bank
2 is engaged in the business of selling interests (other than
3 through a subsidiary) in a separate account that are
4 securities.

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

7 (1) Effects transactions in this state exclusively with
8 or through a. the issuers of the securities involved in the
9 transaction; b. other broker-dealers; or c. banks, savings
10 institutions, trust companies, insurance companies, investment
11 companies as defined in the Investment Company Act of 1940,
12 pension or profit sharing trusts, or other financial
13 institutions or institutional buyers, whether acting for
14 themselves or as trustees; or

15 (2) During any period of twelve consecutive months does
16 not direct more than fifteen (15) offers to sell or buy into
17 this state in any manner to persons other than those specified
18 in subparagraph one (1) of this paragraph, whether or not
19 the offeror or any of the offerees is then present in this
20 state.

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

23 5. "Fraud", "deceit" and "defraud" are not limited to
24 common law deceit.

25 6. "Guaranteed" means guaranteed as to payment of
26 principal, interest or dividends.

27 7. "Issuer" means any person who issues or proposes to
28 issue any security, except that a. with respect to
29 certificates of deposit, voting trust certificates, or
30 collateral trust certificates, or with respect to certificates
31 of interest or shares in an unincorporated investment trust
32 not having a board of directors or persons performing similar
33 functions or of the fixed, restricted management, or unit
34 type, the term "issuer" means the person or persons performing
35 the acts and assuming the duties of depositor or manager

1 pursuant to the provisions of the trust or other agreement
2 or instrument under which the security is issued; and b.
3 with respect to certificates of interest or participation
4 in oil, gas or mining titles or leases, or in payments out
5 of production under such titles or leases, there is not
6 considered to be any "issuer".

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

9 9. "Person" means an individual, a corporation, a
10 partnership, an association, a joint stock company, a trust,
11 a fiduciary, an unincorporated organization, a government,
12 or a political subdivision of a government.

13 10. a. "Sale" or "sell" includes every contract of sale
14 of, contract to sell, or disposition or exchange of, a security
15 or interest in a security for value.

16 b. "Offer" or "offer to sell" includes every attempt or
17 offer to exchange or dispose of, or solicitation of an offer
18 to buy, a security or interest in a security for value.

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

23 d. A purported gift of assessable stock is considered
24 to involve an offer and sale.

25 e. Except to the extent that the administrator provides
26 otherwise by rule or order, an offer or sale of a security
27 that is convertible into or entitles its holder to acquire
28 another security of the same or another issuer is an offer
29 also of the other security, whether the right to convert or
30 acquire is exercisable immediately or in the future.

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

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

33 (2) Any stock split, reverse stock split, or security
34 dividend payable with respect to the securities of a

35 corporation in the same or any other class of securities of

1 such corporation, provided nothing of value, including the
2 surrender of a right or an option to receive a cash or property
3 dividend, is given by security holders for the security
4 dividend.

5 11. "Securities Act of 1933", "Securities Exchange Act
6 of 1934", "Public Utility Holding Company Act of 1935",
7 "Investment Company Act of 1940", "Internal Revenue Code of
8 1954" and "Agricultural Marketing Act" mean the federal
9 statutes of those names, as amended before or after the
10 effective date of this Act.

11 12. "Security" means any note; stock; treasury stock;
12 bond; debenture; evidence of indebtedness; certificate of
13 interest or participation in any profit sharing agreement;
14 collateral trust certificate; preorganization certificate
15 or subscription; transferable share; investment contract;
16 voting trust certificate; certificate of deposit for a security;
17 certificate of interest or participation in an oil, gas or
18 mining title or lease or in payments out of production under
19 such a title or lease; or, in general, any interest or
20 instrument commonly known as a "security", or any certificate
21 of interest or participation in, temporary or interim
22 certificate for, receipt for, guarantee of, or warrant or
23 right to subscribe to or purchase, any of the foregoing.

24 "Security" does not include any insurance or endowment policy
25 or annuity contract under which an insurance company promises
26 to pay money either in a lump sum or periodically for life
27 or for some other specified period.

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

30 PART II

31 REGISTRATION OF SECURITIES

32 Sec. 201. NEW SECTION. REGISTRATION REQUIREMENT. It
33 is unlawful for any person to offer or sell any security in
34 this state unless (i) it is registered under this Act; or
35 (ii) the security or transaction is exempted under sections

1 two hundred two (202) or two hundred three (203) of this Act.

2 Sec. 202. NEW SECTION. EXEMPT SECURITIES. The following
3 securities are exempted from sections two hundred one (201)
4 and six hundred two (602) of this Act:

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

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

25 3. Any security issued by and representing an interest
26 in or a debt of, or guaranteed by, any bank organized under
27 the laws of the United States, or any bank, savings
28 institution, or trust company organized and supervised under
29 the laws of this state.

30 4. Any security issued by and representing an interest
31 in or a debt of, or guaranteed by, any federal savings and
32 loan association, or any savings and loan or similar association
33 organized and supervised under the laws of this state.

34 5. Any security issued by and representing an interest
35 in or a debt of, or guaranteed by, any insurance company

1 organized under the laws of this state and authorized to do
2 business in this state.

3 6. Any security issued or guaranteed by any federal credit
4 union or any credit union or similar association organized
5 and supervised under the laws of this state.

6 7. Any security issued or guaranteed by any railroad,
7 other common carrier, public utility, or holding company which
8 is a. subject to the jurisdiction of the Interstate Commerce
9 Commission; b. a registered holding company under the Public
10 Utility Holding Company Act of 1935 or a subsidiary of such
11 a company within the meaning of that Act; or c. regulated
12 in respect of the issuance or guarantee of the security by
13 a governmental authority of the United States, any state,
14 Canada, or any Canadian province.

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

25 9. Any security issued by any person organized and operated
26 not for private profit but exclusively for religious,
27 educational, benevolent, charitable, fraternal, social,
28 athletic or reformatory purposes, or as a chamber of commerce
29 or trade or professional association; provided the issuer
30 first files with the administrator a written notice specifying
31 the terms of the offer and the administrator does not by order
32 disallow the exemption within fifteen days thereafter.

33 10. Any commercial paper which arises out of a current
34 transaction or the proceeds of which have been or are to be
35 used for current transactions, and which evidences an

1 obligation to pay cash within nine months of the date of
2 issuance, exclusive of days of grace, or any renewal of such
3 paper which is likewise limited, or any guarantee of such
4 paper or of any such renewal; except where such paper is
5 proposed to be sold or offered to the public in units of less
6 than five thousand dollars (\$5,000) to any single person.

7 11. Any security issued in connection with an employee
8 stock purchase, option, savings, pension, profit sharing or
9 similar benefit plan, provided, in the case of plans which
10 are not qualified under section four hundred one (401) of
11 the Internal Revenue Code of 1954 and which provide for
12 contribution by employees, the administrator is notified in
13 writing thirty days before the inception of the plan of the
14 terms of the plan.

15 12. A stock or similar security, including a patronage
16 refund certificate, issued by:

17 a. A cooperative association as defined in the Agricultural
18 Marketing Act, or a federation of such cooperative associations
19 that possesses no greater powers or purposes than cooperative
20 associations so defined, if such stock or similar security
21 (1) qualifies its holder for membership in the cooperative
22 association or federation, or in the case of patronage refund
23 certificate, is issuable only to members; and (2) is
24 transferable only to the issuer or to a successor in interest
25 of the transferor that qualifies for membership in the
26 cooperative association or federation.

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

33 c. A mutual or cooperative organization, including a
34 cooperative association organized in good faith under and
35 for any of the purposes enumerated in chapters four hundred

1 ninety-seven (497), four hundred ninety-eight (498), and four
2 hundred ninety-nine (499) of the Code, that deals in
3 commodities or supplies goods or services in transactions
4 primarily with and for the benefit of its members, if:

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

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

12 (3) No dividends other than patronage refunds are payable
13 to holders of such stock or similar security except on a
14 complete or partial liquidation.

15 Sec. 203. NEW SECTION. EXEMPT TRANSACTIONS. The following
16 transactions are exempted from sections two hundred one (201)
17 and six hundred two (602) of this Act:

18 | 1. Any isolated non-issuer transaction, whether effected
19 through a broker-dealer or not.

20 2. Any non-issuer distribution of an outstanding security
21 if:

22 a. A recognized securities manual approved by the
23 administrator contains the names of the issuer's officers
24 and directors, a balance sheet of the issuer as of a date
25 within eighteen months, and a profit and loss statement for
26 either the fiscal year preceding that date or the most recent
27 year of operations.

28 b. The security was issued by an issuer which has a class
29 of securities currently registered under the Securities
30 Exchange Act of 1934.

31 c. The security was issued by an issuer which has a class
32 of securities currently registered under section two hundred
33 one (201) of this Act.

34 d. The security was issued by an issuer which is registered
35 under the Investment Company Act of 1940.

1 3. Any non-issuer transaction effected by or through a
2 registered broker-dealer pursuant to an unsolicited order
3 or offer to buy; but the administrator may by rule require
4 that the customer acknowledge that the sale was unsolicited
5 in accordance with provisions of such rule.

6 4. Any transaction between the issuer or other person
7 on whose behalf the offering is made and an underwriter, or
8 among underwriters.

9 5. A sale of bonds or notes directly secured by a real
10 estate mortgage, security interest, deed of trust, or agreement
11 for the sale of real estate or chattels, if the entire
12 mortgage, security interest, deed of trust, or agreement,
13 together with all the bonds or notes secured thereby, is
14 offered and sold as a unit; provided that the entire mortgage,
15 security interest, deed of trust or agreement, together with
16 all of the bonds or notes secured thereby, shall not be deemed
17 to be sold as a unit if:

18 a. Such bonds or notes are part of a single issue including
19 other bonds or notes secured by interests in real estate or
20 chattels owned or developed by the same person or by persons
21 affiliated with such person; or

22 b. Such bonds or notes are offered or sold with any right
23 to have substitution by or recourse against, or with guarantee
24 by, the real estate developer or any person other than the
25 person primarily obligated on the bond or note.

26 6. Any judicial sale or any transaction executed by an
27 executor, administrator, sheriff, marshal, receiver, trustee
28 in bankruptcy, guardian, custodian or conservator without
29 any purpose of evading this Act.

30 7. Any transaction executed by a bona fide pledgee without
31 any purpose of evading this Act.

32 8. Any offer or sale to a bank, savings institution, trust
33 company, insurance company, investment company as defined
34 in the Investment Company Act of 1940, pension or profit
35 sharing trust, or other financial institution or institutional

1 buyer, or to a broker-dealer, whether the purchaser is acting
2 for itself or in a fiduciary capacity.

3 9. a. The sale, as part of a single issue, of securities
4 other than (1) fractional undivided interests in oil, gas
5 or other mineral leases, rights or royalties, and (2) interests
6 in a limited or general partnership organized under the laws
7 of or having its principal place of business in a foreign
8 jurisdiction, by the issuer thereof within any period of
9 twelve consecutive months to not more than thirty-five
10 purchasers in this state, exclusive of purchases by bona fide
11 institutional investors for their own account for investment,
12 provided (1) that the issuer reasonably believes that all
13 the buyers in this state are purchasing for investment, and
14 (2) that both of the following are complied with:

15 (1) No commission or other remuneration is paid or given
16 directly or indirectly for or on account of such sale except
17 as may be permitted by the administrator by rule, or by order
18 issued upon written application showing good cause for
19 allowance of commission or other remuneration; and

20 (2) The issuer files with the administrator a report of
21 sale within thirty days after each sale, setting forth the
22 name and address of the issuer, the total amount of securities
23 sold for which the exemption is claimed under this subsection,
24 and the names and addresses of the purchasers thereof to whom
25 such securities have been or are to be issued who are to be
26 counted against the thirty-five purchaser limitation specified
27 in this paragraph. A filing of a report of sale shall not
28 be required to be made, however, until the number of purchasers
29 who are to be counted against the thirty-five purchaser
30 limitation specified in this paragraph exceeds ten.

31 b. The issuer must, additionally, pursuant to the request
32 of the administrator made at any time, submit a report listing
33 the names and addresses of purchasers claimed to have been
34 bona fide institutional investors purchasing for their own
35 account for investment, and a justification of each such

1 purchaser's characterization as a bona fide institutional
2 investor purchasing for its own account for investment.

3 10. Any offer or sale of a preorganization certificate
4 or subscription if:

5 a. No commission or other remuneration is paid or given
6 directly or indirectly for soliciting any prospective
7 subscriber:

- 8 b. The number of subscribers does not exceed ten;
- 9 c. No payment is made by any subscriber; and
- 10 d. No public advertisement of the offer is made.

11 11. Any transaction pursuant to an offer of its securities
12 by an issuer to its existing security holders in connection
13 with a. the conversion of convertible securities; b. the
14 exercise of nontransferable rights or warrants or the exercise
15 of transferable rights or warrants exercisable within not
16 more than ninety days of their issuance; or c. the purchase
17 of securities pursuant to preemptive rights; provided that
18 no commission or other remuneration other than a standby
19 commission is paid or given directly or indirectly for
20 soliciting any security holder in this state.

21 12. Any offer, but not a sale, of a security for which
22 registration statements have been filed under both this Act
23 and the Securities Act of 1933 if no stop order or denial
24 order is in effect and no proceeding is pending under either
25 law.

26 13. Any transaction incident to a vote by security holders
27 of an issuer or incident to a written consent or resolution
28 of some or all security holders of an issuer, pursuant to
29 the articles of incorporation of such issuer, or pursuant
30 to the applicable corporate statute or other statute governing
31 such issuer, or pursuant to such issuer's partnership
32 agreement, declaration of trust, or trust indenture, or
33 pursuant to any agreement among security holders of such
34 issuer, on a reclassification of securities, reorganization
35 involving the exchange of securities, merger, consolidation,

1 or sale of assets, in consideration, in whole or in part,
2 of the issuance of securities of the issuer or of any other
3 person, if:

4 a. A party to such transaction files proxy or informational
5 materials pursuant to subsection a of section fourteen (14),
6 or subsection c of section fourteen (14) of the Securities
7 Exchange Act of 1934, or pursuant to section twenty (20) of
8 the Investment Company Act of 1940, provided that such
9 materials are, at least ten days prior to the meeting of
10 security holders called for the purpose of approving such
11 transaction, (1) filed with the administrator, and (2)
12 distributed to each of the security holders of each party
13 to such transaction.

14 b. A party to such transaction is excused from registration
15 under section twelve (12) of the Securities Exchange Act of
16 1934 pursuant to subparagraph (G) of paragraph two (2) of
17 subsection (g) of section twelve (12) of that Act, and such
18 party is required by the laws of its domiciliary state to
19 file proxy materials with an agency of said state provided
20 that such proxy materials are, at least ten days prior to
21 the meeting of security holders called for the purpose of
22 approving such transaction, (1) filed with the administrator,
23 and (2) distributed to each of the security holders of each
24 party to such transaction.

25 c. One party to a merger owns not less than ninety percent
26 of the outstanding shares of each class of stock of each other
27 party to the merger.

28 d. A party to such transaction files with the administrator
29 and distributes to the security holders of each party to the
30 transaction, such materials, within such time limits, as may
31 be specified by rule or order of the administrator.

32 14. Any transaction incident to a judicially approved
33 reorganization in which a security is issued in exchange for
34 one or more outstanding securities, claims or property
35 interests, or partly in such exchange and partly for cash.

1 15. The distribution of securities as a dividend, where
2 the corporation distributing the dividend is the issuer of
3 the securities distributed, if the only value given by
4 shareholders for the dividend is the surrender of a right
5 to a cash or property dividend when each shareholder may elect
6 to take the dividend a. in cash or property, or b. in such
7 securities.

8 Sec. 204. NEW SECTION. DENIAL AND SUSPENSION OF
9 EXEMPTIONS. The administrator may by order deny or revoke
10 any exemption specified in sections two hundred two (202)
11 and two hundred three (203) of this Act with respect to a
12 specific security or transaction. No such order may be entered
13 without appropriate prior notice to all interested parties,
14 opportunity for hearing, and written findings of fact and
15 conclusions of law, except that the administrator may by order
16 summarily deny or revoke any of the specified exemptions
17 pending final determination of any proceeding under this
18 section. Upon the entry of a summary order, the administrator
19 shall promptly notify all interested parties that it has been
20 entered and of the reasons therefor and that within fifteen
21 days of the receipt of a written request the matter will be
22 set down for hearing. If no hearing is requested and none
23 is ordered by the administrator, the order will remain in
24 effect until it is modified or vacated by the administrator.
25 If a hearing is requested or ordered, the administrator, after
26 notice of and opportunity for hearing to all interested
27 persons, may modify or vacate the order or extend it until
28 final determination. No order under this section may operate
29 retroactively. No person may be considered to have violated
30 sections two hundred one (201) or six hundred two (602) of
31 this Act by reason of any offer or sale effected after the
32 entry of an order under this section if such person sustains
33 the burden of proof that such person did not know, and in
34 the exercise of reasonable care could not have known, of the
35 order.

1 Sec. 205. NEW SECTION. BURDEN OF PROOF. In any proceeding
2 under this Act, the burden of proving an exemption or an
3 exception from a definition is upon the person claiming it.

4 Sec. 206. NEW SECTION. REGISTRATION BY COORDINATION.

5 1. Registration by coordination may be used for any
6 offering for which a registration statement has been filed
7 under the Securities Act of 1933, or for any proposed sale
8 pursuant to the exemption contained in subsection (b) of
9 section three (3) of such Act where such registration statement
10 or notification of proposed sale has not become effective.

11 2. A registration statement under this section shall
12 contain the following information and be accompanied by the
13 following documents in addition to the information specified
14 in subsection three (3) of section two hundred eight (208)
15 of this Act, and the consent to service of process required
16 by section six hundred nine (609) of this Act:

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

19 b. If the administrator by rule requires, a copy of the
20 articles of incorporation and bylaws or their substantial
21 equivalents currently in effect, a copy of any agreements
22 with or among underwriters, a copy of any indenture or other
23 instrument governing the issuance of the security to be
24 registered, and a specimen or copy of the security.

25 c. If the administrator requests, any other information,
26 or copies of any documents, filed under the Securities Act
27 of 1933.

28 d. An undertaking to forward to the administrator all
29 future amendments to the federal prospectus or offering
30 circular, other than an amendment which merely delays the
31 effective date of the registration statement, not later than
32 the first business day after they are forwarded to or filed
33 with the Securities and Exchange Commission, or such longer
34 period as the administrator permits.

35 3. A registration statement under this section

1 automatically becomes effective at the moment the federal
2 registration statement or notification becomes effective if
3 a. no stop order is in effect in this state and no proceeding
4 is pending under section two hundred nine (209) of this Act,
5 b. the registration statement has been on file with the
6 administrator for at least twenty days; c. a statement of
7 the maximum and minimum proposed offering prices and the
8 maximum underwriting discounts and commissions has been on
9 file for not less than two full business days, or such shorter
10 period as the administrator permits; and d. the offering
11 is made within these limitations.

12 4. The registrant shall notify the administrator promptly
13 by telephone or telegram of the date and time when the federal
14 registration statement became effective and the content of
15 the price amendment, if any, and shall file a post-effective
16 amendment promptly containing the information and documents
17 in the price amendment. "Price amendment" means the final
18 federal amendment which includes a statement of the offering
19 price, underwriting and selling discounts or commissions,
20 amount of proceeds, conversion rates, call prices and other
21 matters dependent upon the offering price. Upon failure to
22 receive the required notification and post-effective amendment
23 with respect to the price amendment, the administrator may
24 enter a stop order, without notice or hearing, retroactively
25 denying the effectiveness to the registration statement or
26 suspending its effectiveness until compliance with this
27 subsection is effected, if the administrator promptly notifies
28 the registrant by telephone or telegram of the issuance of
29 such order. If the registrant proves compliance with the
30 requirements of this subsection as to notice and post-effective
31 amendment the stop order shall be vacated as of the time of
32 its entry. The administrator may by rule or order waive any
33 of the conditions specified in subsection two (2) or three
34 (3) of this section.

35 5. If the federal registration statement becomes effective

1 before all conditions in this section are satisfied and they
2 are not waived, the registration statement automatically
3 becomes effective as soon as all the conditions are satisfied.
4 If the registrant advises the administrator of the date when
5 the federal registration statement is expected to become
6 effective, the administrator shall promptly advise the
7 registrant by telephone or telegram, at the registrant's
8 expense, whether all the conditions are satisfied and whether
9 the administrator then contemplates the institution of a
10 proceeding under section two hundred nine (209) of this Act;
11 but this advice by the administrator does not preclude the
12 institution of such a proceeding at any time.

13 Sec. 207. NEW SECTION. REGISTRATION BY QUALIFICATION.

14 1. Any security may be registered by qualification.

15 2. A registration statement under this section shall
16 contain the following information and be accompanied by the
17 following documents in addition to the information specified
18 in subsection three (3) of section two hundred eight (203)
19 of this Act and the consent to service of process required
20 by section six hundred nine (609) of this Act:

21 a. With respect to the issuer and any significant
22 subsidiary: its name, address and form of organization; the
23 state or foreign jurisdiction under which it is organized;
24 the date of its organization; the general character and
25 location of its business; a description of its physical
26 properties and equipment; and a statement of the general
27 competitive conditions in the industry or business in which
28 it is or will be engaged.

29 b. With respect to every director and officer of the
30 issuer, or person occupying a similar status or performing
31 similar functions: such person's name, address, and principal
32 occupation for the past five years; the amount of securities
33 of the issuer held by such person as of a specified date
34 within thirty days of the filing of the registration statement;
35 the amount of the securities covered by the registration

1 statement to which such person has indicated an intention
2 to subscribe; and a description of any material interest in
3 any material transaction with the issuer or any significant
4 subsidiary effected within the past three years or proposed
5 to be effected.

6 c. With respect to persons covered by paragraph b: the
7 remuneration paid during the past twelve months and estimated
8 to be paid during the next twelve months, directly or
9 indirectly, by the issuer together with all predecessors,
10 parents, subsidiaries and affiliates to all of those persons
11 in the aggregate.

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

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

22 f. With respect to any person on whose behalf any part
23 of the offering is to be made in a non-issuer distribution:
24 such person's name and address; the amount of securities of
25 the issuer held as of the date of the filing of the
26 registration statement; a description of any material interest
27 in any material transaction with the issuer or any significant
28 subsidiary effected within the past three years or proposed
29 to be effected; and a statement of reasons for making the
30 offering.

31 g. The capitalization and long-term debt (on both a current
32 and pro forma basis) of the issuer and any significant
33 subsidiary, including a description of each security
34 outstanding or being registered or otherwise offered, and
35 a statement of the amount and kind of consideration, whether

1 in the form of cash, physical assets, services, patents, good
2 will, or anything else, for which the issuer or any subsidiary
3 has issued any of its securities within the past two years
4 or is obligated to issue any of its securities.

5 h. The kind and amount of securities to be offered; the
6 proposed offering price or the method by which it is to be
7 computed; any variation therefrom at which any proportion
8 of the offering is to be made to any person or class of persons
9 other than the underwriters, with a specification of any such
10 person or class; the basis upon which the offering is to be
11 made if otherwise than for cash; the estimated aggregate
12 underwriting and selling discounts or commissions and finders'
13 fees, including separately cash, securities, contracts, or
14 anything else of value to accrue to the underwriters or finders
15 in connection with the offering, or, if the selling discounts
16 or commissions are variable, the basis of determining them
17 and their maximum and minimum amounts; the estimated amounts
18 of other selling expenses, including legal, engineering and
19 accounting charges; the name and address of every underwriter
20 and every recipient of a finder's fee; a copy of any
21 underwriting or selling-group agreement pursuant to which
22 the distribution is to be made, or the proposed form of any
23 such agreement whose terms have not yet been determined; and
24 a description of the plan of distribution of any securities
25 which are to be offered otherwise than through an underwriter.

26 i. The estimated cash proceeds to be received by the
27 issuer from the offering; the purposes for which the proceeds
28 are to be used by the issuer; the amount to be used for each
29 purpose; the order or priority in which the proceeds will
30 be used for the purposes stated; the amounts of any funds
31 to be raised from other sources to achieve the purposes stated;
32 the sources of any such funds; and, if any part of the proceeds
33 is to be used to acquire any property including good will
34 otherwise than in the ordinary course of business, the names
35 and addresses of the vendors, the purchase price, the names

1 of any persons who have received commissions in connection
2 with the acquisition and the amounts of any such commissions
3 and any other expense in connection with the acquisition
4 (including the cost of borrowing money to finance the
5 acquisition).

6 j. A description of any stock options or other security
7 options outstanding, or to be created in connection with the
8 offering, together with the amount of any such options held
9 or to be held by every person required to be named in
10 paragraphs b, d, e, f, or h of this subsection, and by any
11 person who holds or will hold ten percent or more in the
12 aggregate of any such options.

13 k. The dates of, parties to, and general effect concisely
14 stated of, every management or other material contract made
15 or to be made otherwise than in the ordinary course of business
16 if it is to be performed in whole or in part at or after the
17 filing of the registration statement or was made within the
18 past two years, together with a copy of every such contract;
19 and a description of any pending litigation or proceeding
20 to which the issuer is a party and which materially affects
21 its business or assets, including any such litigation or
22 proceeding known to be contemplated by governmental
23 authorities.

24 l. A copy of any prospectus, pamphlet, circular, form
25 letter, advertisement, or other sales literature intended
26 as of the effective date to be used in connection with the
27 offering.

28 m. A specimen or copy of the security being registered;
29 a copy of the issuer's articles of incorporation and bylaws,
30 or their substantial equivalents, as currently in effect;
31 and a copy of any indenture, or other instrument covering
32 the security to be registered.

33 n. A signed or conformed copy of an opinion of counsel
34 as to the legality of the security being registered, with
35 an English translation if it is in a foreign language, which

1 shall state whether the security when sold will be legally
2 issued, fully paid, and nonassessable, and, if a debt security,
3 a binding obligation of the issuer.

4 o. The written consent of any accountant, engineer,
5 appraiser, or other person whose profession gives authority
6 to a statement made by such person, if any of the foregoing
7 persons is named as having prepared or certified a report
8 or valuation, other than a public and official document or
9 statement, which is used in connection with the registration
10 statement.

11 p. A balance sheet of the issuer as of a date within four
12 months prior to the filing of the registration statement;
13 a profit and loss statement and analysis of surplus for each
14 of the three fiscal years preceding the date of the balance
15 sheet and for any period between the close of the last fiscal
16 year and the date of the balance sheet, or for the period
17 of the issuer's and any predecessors' existence if less than
18 three years, and, if any part of the proceeds of the offering
19 is to be applied to the purchase of any business, the same
20 financial statements which would be required if that business
21 were the registrant, or such other financial statements as
22 may be required pursuant to subsection three (3) of section
23 six hundred seven (607) of this Act.

24 q. Such other additional information as the administrator
25 requires by rule or order.

26 3. Except as provided in this subsection, registration
27 under this section shall become effective when the
28 administrator so orders. If a registration statement has
29 been on file for at least thirty days and all information
30 required by the administrator has been furnished, the person
31 filing the statement may at any time file a written request
32 that the administrator, within ten days following the filing
33 of such request, order that the registration statement become
34 effective or deny or postpone effectiveness pursuant to section
35 two hundred nine (209) of this Act. If a request is filed,

1 and the administrator fails to act thereon within such period,
2 the registration shall become effective at the end of the
3 ten-day period.

4 Sec. 208. NEW SECTION. PROVISIONS APPLICABLE TO
5 REGISTRATION GENERALLY.

6 1. A registration statement may be filed by the issuer,
7 any other person on whose behalf the offering is to be made,
8 or a registered broker-dealer.

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

18 3. Every registration statement shall specify:

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

20 b. The states in which a registration statement or
21 application in connection with the offering has been or is
22 to be filed; and

23 c. Any adverse order, judgment or decree entered in
24 connection with the offering by the regulatory authorities
25 in any state or by any court or the Securities and Exchange
26 Commission, or any withdrawal of a registration statement
27 or application relating to the offering.

28 4. Any document filed under this Act or a predecessor
29 act within five years preceding the filing of a registration
30 statement may be incorporated by reference in the registration
31 statement to the extent that the document is currently
32 accurate.

33 5. The administrator may by rule or otherwise permit the
34 omission of any item of information or document from any
35 registration statement.

1 6. In the case of a non-issuer distribution, information
2 may not be required under section two hundred seven (207)
3 of this Act, or paragraph b of subsection nine (9) of this
4 section, unless it is known to the person filing the
5 registration statement or to the persons on whose behalf the
6 distribution is to be made, or can be furnished by them without
7 unreasonable effort or expense.

8 7. The administrator may by rule or order require as a
9 condition of registration that any security issued within
10 the past three years or to be issued to a promoter for a
11 consideration substantially different from the public offering
12 price, or to any person for a consideration other than cash,
13 be deposited in escrow; or that the proceeds from the sale
14 of the registered security in this state be impounded until
15 the issuer receives a specified amount from the sale of the
16 security either in this state or elsewhere; or he may impose
17 both such requirements. The administrator may by rule or
18 order determine the conditions of any escrow or impounding
19 required hereunder, but he may not reject a depository solely
20 because of location in another state.

21 8. The administrator may by rule require that securities
22 of designated classes shall be issued under a trust indenture
23 containing such provisions as he determines.

24 9. a. Every registration statement shall remain effective
25 until withdrawal, suspension or revocation, during which time
26 all outstanding securities of the same class as the registered
27 security are considered registered for the purposes of any
28 non-issuer transaction. A registration statement may not
29 be withdrawn for one year from its effective date if securities
30 of the same class are outstanding. A registration statement
31 may be withdrawn otherwise only at the discretion of the
32 administrator, by order.

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

34 (1) During the period while the security is being offered
35 or distributed in a nonexempt transaction by or for the account

1 of the issuer or any other person on whose behalf the offering
2 is being made or by any underwriter or broker-dealer who is
3 still offering part of an unsold allotment or subscription
4 taken as a participant in the distribution, amend the
5 registration statement from time to time in such respects
6 as may be necessary to keep reasonably current the information
7 contained therein and to disclose the progress of the offering;
8 and

9 (2) File with the administrator, and distribute to holders
10 in this state of securities of the registered class, within
11 one hundred twenty days following the close of each fiscal
12 year an annual report containing financial statements of the
13 issuer in such form and meeting such requirements as the
14 administrator may by rule or order prescribe, and, not more
15 frequently than semiannually, such additional financial
16 statements or information as such rule or order may prescribe.

17 10. The administrator may by rule or order require as
18 a condition of registration by qualification, and at the
19 expense of the applicant or registrant, that a report by an
20 accountant, engineer, appraiser or other professional person
21 be filed. The administrator may also designate one or more
22 employees of the securities department to make an examination
23 of the business and records of an issuer of securities for
24 which a registration statement has been filed by qualification,
25 at the expense of the applicant or registrant.

26 11. A registration statement relating to any continuous
27 offering of securities may be amended after its effective
28 date so as to increase the specified amount of securities
29 proposed to be offered. The amendment becomes effective when
30 the administrator so orders. Every person filing such an
31 amendment shall pay a filing fee, calculated in the manner
32 specified in subsection two (2) of this section, with respect
33 to the additional securities proposed to be offered.

34 12. The administrator may by rule or order require as
35 a condition of registration under this Act that a prospectus

1 containing any designated part of the information specified
2 in subsection two (2) of section two hundred seven (207) of
3 this Act, or the final prospectus or offering circular required
4 by subsection two (2) of section two hundred six (206) of
5 this Act, be delivered to each person to whom an offer is
6 made before or concurrently with a. the first written offer
7 made to the offeree otherwise than by means of a public
8 advertisement by or for the account of the issuer or any other
9 person on whose behalf the offering is being made, or by any
10 underwriter or broker-dealer who is offering part of an unsold
11 allotment or subscription taken as a participant in the
12 distribution; b. the confirmation of any sale made by or
13 for the account of any such person; c. payment pursuant to
14 any such sale; or d. delivery of the security pursuant to
15 any such sale, whichever first occurs.

16 Sec. 209. NEW SECTION. DENIAL, SUSPENSION AND REVOCATION
17 OF REGISTRATION.

18 1. The administrator may issue a stop order denying
19 effectiveness to, or suspending or revoking the effectiveness
20 of, any registration statement if the administrator finds
21 that the order is in the public interest and that:

22 a. The registration statement as of its effective date
23 or as of any earlier date in the case of an order denying
24 effectiveness, or any amendment filed under either subsection
25 nine (9) or subsection eleven (11) of section two hundred
26 eight (208) of this Act as of its effective date, or any
27 financial statement or report required under subsection nine
28 (9) of section two hundred eight (208) of this Act is
29 incomplete in any material respect or contains any statement
30 which was, in the light of the circumstances under which it
31 was made, false or misleading with respect to any material
32 fact.

33 b. Any provision of this Act or any rule, order or
34 condition lawfully imposed under this Act has been willfully
35 violated, in connection with the offering, by (1) the person

1 filing the registration statement; (2) the issuer; (3) any
2 partner, officer or director of the issuer, or any person
3 occupying a similar status or performing similar functions;
4 (4) any affiliate of the issuer, but only if the person filing
5 the registration statement is an affiliate of the issuer;
6 or (5) any broker-dealer.

7 c. The securities registered or sought to be registered
8 are the subject of an administrative stop order or similar
9 order or a permanent or temporary injunction of any court
10 of competent jurisdiction entered under any other federal
11 or state act applicable to the offering; but the administrator
12 may not institute a proceeding against an effective
13 registration statement under this section more than one year
14 from the date of the order or injunction relied on, and the
15 administrator may not enter an order under this section on
16 the basis of an order or injunction entered under any other
17 state act unless that order or injunction was based on facts
18 which would currently constitute a ground for a stop order
19 under this section.

20 d. The issuer's enterprise or method of business includes
21 or would include activities which are illegal where performed.

22 e. The issuance or sale of the securities is or would
23 be unfair or inequitable to purchasers or has worked or tended
24 to work a fraud upon purchasers or would so operate.

25 f. The offering has been or would be made with unreasonable
26 amounts of underwriters' and sellers' discounts, commissions,
27 or other compensation, or promoters' profits or participation,
28 or unreasonable amounts or kinds of options.

29 g. Advertising has been used in connection with the
30 offering contrary to the provisions of section six hundred
31 two (602) of this Act.

32 h. The financial condition of the issuer affects or would
33 affect the soundness of the securities.

34 i. The applicant or registrant has failed to pay the
35 proper filing fee; but the administrator may enter only a

1 denial order under this subsection, and shall vacate any such
2 order when the deficiency has been corrected.

3 2. The administrator may not institute a stop order
4 proceeding against an effective registration statement on
5 the basis of a fact known to the administrator when the
6 registration statement became effective unless the proceeding
7 is instituted within thirty days after effectiveness.

8 3. The administrator may issue a summary order postponing,
9 suspending or denying the effectiveness of a registration
10 statement pending final determination of any proceeding under
11 this section. Upon the entry of the order, the administrator
12 shall promptly notify the applicant or registrant, the issuer,
13 and the person on whose behalf the securities are to be or
14 have been offered that the order has been entered and of the
15 reasons therefor and that within fifteen days after the receipt
16 of a written request the matter will be set down for hearing.
17 If no hearing is requested and none is ordered by the
18 administrator, the order will remain in effect until it is
19 modified or vacated by the administrator. If a hearing is
20 requested or ordered, the administrator, after notice of and
21 opportunity for hearing to each of the aforementioned persons,
22 may modify or vacate the order or extend it until final
23 determination.

24 4. No stop order may be entered under any part of this
25 section except the first sentence of subsection three (3)
26 of this section without compliance with the Iowa Administrative
27 Procedure Act.

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

32 Sec. 210. NEW SECTION. LIMITS ON SECURITIES REGISTERED
33 BY QUALIFICATION.

34 1. The aggregate offering price of all securities of the
35 issuer which may be registered for sale in this state under

1 section two hundred seven (207) of this Act, as part of a
2 single issue of equity securities, shall not exceed the
3 following amounts:

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

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

18 2. The following definitions shall apply for the purposes
19 of this section:

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

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

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

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

35 (3) Any corporation or other organization other than the

1 issuer in which that person and any of the persons specified
2 in subparagraph one (1) of this paragraph are the beneficial
3 owners collectively of ten percent or more of any class of
4 equity securities, or ten percent or more of the equity
5 interest.

6 c. The term "predecessor of the issuer" is (1) a person
7 the major portion of whose assets have been acquired directly
8 or indirectly by the issuer; or (2) a person from which the
9 issuer acquired directly or indirectly the major portion of
10 its assets.

11 PART III

12 REGISTRATION OF BROKER-DEALERS AND AGENTS

13 Sec. 301. NEW SECTION. REGISTRATION REQUIREMENT.

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

17 2. It is unlawful for any broker-dealer or issuer to
18 employ an agent in this state unless the agent is registered.
19 The registration of an agent is not effective during any
20 period when the agent is not associated with a specified
21 broker-dealer registered under this act or a specified issuer.
22 Unless permitted by order of the administrator, no agent shall
23 at any time represent more than one broker-dealer or issuer,
24 except that where organizations affiliated by direct or
25 indirect common control are registered as broker-dealers or
26 are issuers of securities registered under this Act, an agent
27 may represent any such organization. When an agent begins
28 or terminates employment with a broker-dealer or issuer or
29 begins or terminates the activities which makes such person
30 an agent, the agent as well as the broker-dealer or issuer
31 shall promptly notify the administrator.

32 3. Every registration shall expire on the last day of
33 September in each year.

34 Sec. 302. NEW SECTION. REGISTRATION PROCEDURES.

35 1. A broker-dealer or agent may obtain an initial or

1 renewal license by filing with the administrator an application
2 together with a consent to service of process pursuant to
3 section six hundred nine (609) of this Act and the appropriate
4 filing fee. The application shall contain whatever information
5 the administrator by rule requires concerning the applicant's
6 form and place of organization, proposed method of doing
7 business and financial condition, the qualifications and
8 experience of the applicant, including, in the case of a
9 broker-dealer, the qualifications and experience of any
10 partner, officer, director or controlling person, any
11 injunction or administrative order or conviction of a
12 misdemeanor involving securities and any conviction of a
13 felony, and any other matters which the administrator
14 determines are relevant to the application. If no denial
15 order is in effect and no proceeding is pending under section
16 three hundred four (304) of this Act, registration becomes
17 effective at noon of the thirtieth day after an application
18 is filed. The administrator may by rule or order specify
19 an earlier effective date and may by order defer the effective
20 date until noon of the thirtieth day after the filing of any
21 amendment. Registration of a broker-dealer automatically
22 constitutes registration of any agent named in the application
23 or amendments thereto who is a partner, officer or director,
24 or who is a person occupying a similar status or performing
25 similar functions.

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

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

35 4. The administrator may by rule require a minimum capital

1 for broker-dealers and establish limitations on aggregate
2 indebtedness of broker-dealers in relation to net capital
3 and may classify broker-dealers for purposes of such
4 requirements. The administrator may not, however, with respect
5 to any broker-dealer who is a member of the National
6 Association of Securities Dealers, Inc., or who is registered
7 with the Securities and Exchange Commission, require a higher
8 minimum capital or lower ratio of aggregate indebtedness to
9 net capital than is contained in the rules and regulations
10 adopted by such association or commission.

11 5. The administrator may by rule require surety bonds
12 containing conditions prescribed in said rule to be posted
13 by any broker-dealer and any issuer who employs agents in
14 connection with any security or transaction not exempted
15 either by section two hundred two (202) of this Act or section
16 two hundred three (203) of this Act in an amount not exceeding
17 fifteen thousand dollars, and all bonds required shall provide
18 for suit thereon by injured customers, clients or purchasers,
19 but no bond may be required of any registered broker-dealer
20 whose net capital exceeds the amount prescribed in such rule
21 for this purpose. Such bond, unless cancelled as provided
22 herein, shall be in effect during the entire period that a
23 registration is in effect. Every bond shall contain a
24 provision that such bond is not cancellable, except on thirty
25 days prior written notice to the person by whom the bond was
26 posted and the administrator, provided that such cancellation
27 shall not affect any liability incurred or accrued prior to
28 the effective date of such cancellation.

29 6. The administrator may by rule or order impose such
30 other conditions in connection with registration under this
31 act as are deemed appropriate, in the public interest or for
32 the protection of investors.

33 Sec. 303. NEW SECTION. POST-REGISTRATION PROVISIONS.

34 1. Every registered broker-dealer shall make and keep
35 such accounts, correspondence, memoranda, papers, books, and

1 other records as the administrator by rule prescribes. All
2 records so required shall be preserved for three years unless
3 the administrator by rule prescribes otherwise for particular
4 types of records. All required records shall be kept within
5 this state or shall, at the request of the administrator,
6 be made available at any time for examination at the
7 administrator's option either in the principal office of the
8 registrant or by production of exact copies thereof in this
9 state.

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

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

18 4. The administrator shall make periodic examinations,
19 within or without this state, of the business and records
20 of each registered broker-dealer, at such times and in such
21 scope as the administrator determines. The examinations may
22 be made without prior notice to the broker-dealer. The expense
23 reasonably attributable to any such examination shall be paid
24 by the broker-dealer whose business is examined, but the
25 expense so payable shall not exceed an amount which the
26 administrator by rule prescribes. For the purpose of avoiding
27 unnecessary duplication of examinations, the administrator
28 may cooperate with securities administrators of other states,
29 the Securities and Exchange Commission, and any national
30 securities exchange or national securities association
31 registered under the Securities Exchange Act of 1934. The
32 administrator shall not make public the information obtained
33 in the course of examinations, except when any duty under
34 this Act requires the administrator to take action regarding
35 any broker-dealer or to make the information available to

1 one of the agencies specified herein, or except when called
2 as a witness in any criminal or civil proceeding.

3 Sec. 304. NEW SECTION. DENIAL, REVOCATION, SUSPENSION,
4 CANCELLATION AND WITHDRAWAL OF REGISTRATION.

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

12 a. Has filed an application for registration which as
13 of its effective date, or as of any date after filing in the
14 case of an order denying effectiveness, was incomplete in
15 any material respect or contained any statement which was,
16 in light of the circumstances under which it was made, false
17 or misleading with respect to any material fact;

18 b. Has willfully violated or willfully failed to comply
19 with any provision of this Act or a predecessor act or any
20 rule or order under this Act or a predecessor act;

21 c. Has been convicted within the past ten years of (1)
22 any misdemeanor involving a security or any aspect of the
23 securities business, or (2) any felony;

24 d. Is permanently or temporarily enjoined by any court
25 of competent jurisdiction from engaging in or continuing any
26 conduct or practice involving any aspect of the securities
27 business;

28 e. Is the subject of an order of the administrator denying,
29 suspending, or revoking registration as a broker-dealer or
30 agent;

31 f. Is the subject of an order entered within the past
32 five years by the securities administrator of any other state
33 or by the Securities and Exchange Commission denying or
34 revoking registration as a broker-dealer, agent, or investment
35 adviser, or is the subject of an order of the Securities and

1 Exchange Commission suspending or expelling such person from
2 a national securities exchange or national securities
3 association, registered under the Securities Exchange Act
4 of 1934, or is the subject of a United State Post Office fraud
5 order; but the administrator (1) may not institute a revocation
6 or suspension proceeding under this paragaph more than one
7 year from the date of the order relied on, and (2) may not
8 enter an order under this paragraph on the basis of an order
9 under another state act unless that order was based on facts
10 which would currently constitute a ground for an order under
11 this section;

12 g. Has engaged in dishonest or unethical practices in
13 the securities business;

14 h. Is insolvent, either in the equity or bankruptcy sense;
15 but the administrator may not enter an order against a broker-
16 dealer under this paragraph without a finding of insolvency
17 as to the broker-dealer;

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

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

23 2. The administrator may not institute a suspension or
24 revocation proceeding under subsection one (1) of this section
25 on the basis of a fact known to him when registration became
26 effective unless the proceeding is instituted within thirty
27 days after the effective date.

28 3. The administrator may by order summarily postpone or
29 suspend registration pending final determination of any
30 proceeding under this section. Upon the entry of the order,
31 the administrator shall promptly notify the applicant or
32 registrant, as well as the employer or prospective employer
33 if the applicant or registrant is an agent, that it has been
34 entered and of the reasons therefor and that within fifteen
35 days after the receipt of a written request the matter will

1 be set down for hearing. If no hearing is requested and none
2 is ordered by the administrator, the order will remain in
3 effect until it is modified or vacated by the administrator.
4 If a hearing is requested or ordered, the administrator, after
5 notice of and opportunity for hearing, may modify or vacate
6 the order or extend it until final determination.

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

14 5. Withdrawal from registration as a broker-dealer or
15 agent becomes effective thirty days after receipt of an
16 application to withdraw or within such shorter period of time
17 as the administrator may by order determine, unless a
18 revocation or suspension proceeding is pending when the
19 application is filed or a proceeding to revoke or suspend
20 or to impose conditions upon the withdrawal is instituted
21 within thirty days after the application is filed. If a
22 proceeding is pending or instituted, withdrawal becomes
23 effective at such time and upon such conditions as the
24 administrator by order determines. If no proceeding is pending
25 or instituted and withdrawal automatically becomes effective,
26 the administrator may nevertheless institute a revocation
27 or suspension proceeding under paragraph b of subsection one
28 (1) of this section within one year after withdrawal became
29 effective and enter a revocation or suspension order as of
30 the last date on which registration was effective.

31 6. No order may be entered under any part of this section
32 except the first sentence of subsection three (3) of this
33 section without compliance with the Iowa Administrative
34 Procedure Act.

35

PART IV

1 PROHIBITION OF FRAUDULENT PRACTICES

2 Sec. 401. NEW SECTION. OFFERS, SALES AND PURCHASES.

3 It is unlawful for any person, in connection with the offer
4 to sell, offer to purchase, sale or purchase of any security
5 in this state, directly or indirectly:

6 1. To employ any device, scheme, or artifice to defraud;

7 2. To make any untrue statement of a material fact or
8 to omit to state a material fact necessary in order to make
9 the statements made, in the light of the circumstances under
10 which they are made, not misleading; or

11 3. To engage in any act, practice, or course of business
12 which operates or would operate as a fraud or deceit upon
13 any person.

14 Sec. 402. NEW SECTION. TRADING ON INSIDE INFORMATION.

15 It is unlawful for any person who is or was an officer,
16 director or affiliate of an issuer or any other person whose
17 relationship to the issuer or to any of the foregoing persons
18 gives or gave such person access, directly or indirectly,
19 to material information which is of decisive importance about
20 the issuer or the security not generally available to the
21 public, to purchase or sell any security of the issuer in
22 this state at a time when he knows such information about
23 the issuer or the security gained from such relationship,
24 which information 1. would significantly affect the market
25 price of that security; 2. is not generally available to
26 the public; and 3. such person knows is not intended to be
27 so available, unless that person has reason to believe that
28 the other party to such transaction is also in possession
29 of such information.

30 Sec. 403. NEW SECTION. MARKET MANIPULATION. It is

31 unlawful for any person, directly or indirectly, in this
32 state:

33 1. For the purpose of creating a false or misleading
34 appearance of active trading in a security or a false or
35 misleading appearance with respect to the market for a

1 security:

2 a. To effect any transaction in the security which involves
3 no change in the beneficial ownership thereof; or

4 b. To enter any order or orders for the purchase (or sale)
5 of the security with the knowledge that an order or orders
6 of substantially the same size, at substantially the same
7 time, and at substantially the same price for the sale (or
8 purchase) of the security have been or will be entered by
9 or for the same or affiliated persons.

10 | 2. To effect, alone or with one or more other persons,
11 a series of transactions in any security creating actual or
12 apparent active trading in the security or raising or
13 depressing the price of the security for the purpose of
14 inducing the purchase or sale of the security by others.

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

24 Sec. 404. NEW SECTION. PROHIBITED TRANSACTIONS OF BROKER-
25 DEALERS AND AGENTS. No broker-dealer or agent shall effect
26 any transaction in, or induce or attempt to induce the purchase
27 or sale of, any security in this state by means of any
28 manipulative, deceptive or other fraudulent scheme, device,
29 or contrivance, fictitious quotation, or in violation of this
30 Act or any rule or order hereunder.

31 Sec. 405. NEW SECTION. MISLEADING FILINGS. It is unlawful
32 for any person to make or cause to be made, in any document
33 filed with the administrator or in any proceeding under this
34 Act, any statement of a material fact which is, at the time
35 and in the light of the circumstances under which it is made,

1 false or misleading, or, in connection with such statement,
2 to omit to state a material fact necessary in order to make
3 the statements made, in the light of the circumstances under
4 which they are made, not misleading.

5 Sec. 406. NEW SECTION. MISREPRESENTATIONS OF GOVERNMENT
6 APPROVAL.

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

17 2. a. Neither the fact that a registration statement
18 has been filed under this Act nor the fact that such statement
19 has become effective constitutes a finding by the administrator
20 that any document filed under this Act is true, complete or
21 not misleading. Neither any such fact nor the fact that an
22 exemption is available for a security or a transaction means
23 that the administrator has passed in any way upon the merits
24 or qualifications of, or has recommended or given approval
25 to, any person, security or transaction.

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

29 3. No state official or employee of the state shall use
30 such person's name in an official capacity in connection with
31 the endorsement or recommendation of the organization or the
32 promotion of any issuer or in the sale to the public of its
33 securities, nor shall anyone use the stationery of the state
34 or of any official thereof in connection with any such
35 transaction.

1 efforts or a firm commitment basis, shall be jointly and
2 severally liable under this section, but in no event shall
3 any underwriter be liable in any suit or suits authorized
4 under this section for damages in excess of the total price
5 at which the securities underwritten by it and distributed
6 to the public were offered to the public. Tender requires
7 only notice of willingness to exchange the security for the
8 amount specified. Any notice may be given by service as in
9 civil actions or by certified mail addressed to the last known
10 address of the person liable.

11 Sec. 502. NEW SECTION. FRAUDULENT PRACTICES.

12 1. Any person who offers or sells a security in violation
13 of sections four hundred one (401) or four hundred four (404)
14 of this Act, the purchaser not knowing of the violation, and
15 who fails to sustain the burden of proof that he, she or it
16 did not know and in the exercise of reasonable care could
17 not have known of the violation, shall be liable to the
18 purchaser, who may sue either at law or in equity to recover
19 the consideration paid for the security, together with interest
20 at the legal rate from the date of payment, costs and
21 reasonable attorneys' fees, less the amount of any income
22 or distributions, in cash or in kind, received on the security,
23 upon the tender of the security, or for damages if the
24 purchaser no longer owns the security. Damages shall be the
25 amount that would be recoverable upon a tender less a. the
26 value of the security when the purchaser disposed of it and
27 b. interest on said value at the legal rate from the date
28 of disposition. Any person on whose behalf an offering is
29 made and any underwriter of the offering, whether on a best
30 efforts or a firm commitment basis, shall be jointly and
31 severally liable under this section, but in no event shall
32 any underwriter be liable in any suit or suits authorized
33 under this section for damages in excess of the total price
34 at which the securities underwritten by it and distributed
35 to the public were offered to the public. Tender requires

1 only notice of willingness to exchange the security for the
2 amount specified. Any notice may be given by service as in
3 civil actions or by certified mail addressed to the last known
4 address of the person liable.

5 2. Any person who offers to purchase or purchases a
6 security in violation of sections four hundred one (401) or
7 four hundred four (404) of this Act, the seller not knowing
8 of the violation, and who fails to sustain the burden of proof
9 that he, she or it did not know and in the exercise of
10 reasonable care could not have known of the violation, shall
11 be liable to the seller, who may sue either at law or in
12 equity to recover the security, plus any income or
13 distributions, in cash or in kind, received by the purchaser
14 thereon, upon tender of the consideration received, or for
15 damages if the purchaser no longer owns the security. Damages
16 shall be the excess of the value of the security when the
17 purchaser disposed of it, plus interest at the legal rate
18 from the date of disposition, over the consideration paid
19 for the security. Tender requires only notice of willingness
20 to pay the amount specified in exchange for the security.
21 Any notice may be given by service as in civil actions or
22 by certified mail to the last known address of the person
23 liable.

24 3. Any person who willfully and knowingly participates
25 in any act or transaction in violation of sections four hundred
26 three (403), four hundred five (405) or four hundred seven
27 (407) of this Act shall be liable to any other person who
28 purchases or sells any security (but not a mere holder thereof)
29 at a price which was affected by the act or transaction for
30 the damages sustained as a result of such act or transaction.
31 Damages shall not exceed the difference between the price
32 at which the other person purchased or sold securities and
33 the market value which the securities would have had at the
34 time of such purchase or sale in the absence of the act or
35 transaction, plus interest at the legal rate, costs and

1 reasonable attorneys' fees.

2 4. Any person, referred to in this subsection as the
3 "defendant", who violates section four hundred two (402) of
4 this Act shall be deemed to be unjustly enriched and liable
5 to any person, referred to in this subsection as the
6 "plaintiff", who purchased or may have purchased a security
7 from, or sold or may have sold a security to, the defendant
8 in connection with such violation, for damages equal to the
9 difference between the price at which such security was
10 purchased or sold and the market value which such security
11 would have had at the time of the purchase or sale if the
12 information known to the defendant had been publicly
13 disseminated prior to that time and a reasonable time had
14 elapsed for the market to absorb the information, plus interest
15 at the legal rate, costs and reasonable attorneys' fees,
16 unless the defendant proves that the plaintiff knew the
17 information or that the plaintiff would have purchased or
18 sold at the same price even if the information had been
19 revealed to the plaintiff.

20 Sec. 503. NEW SECTION. JOINT AND SEVERAL LIABILITY;
21 CONTRIBUTION; INDEMNITY.

22 1. Affiliates of a person liable under either section
23 five hundred one (501) or five hundred two (502) of this Act,
24 partners, principal executive officers or directors of such
25 person, persons occupying a similar status or performing
26 similar functions for such person, employees of such person
27 who materially aid in the act or transaction constituting
28 the violation, and broker-dealers or agents who materially
29 aid in the act or transaction constituting the violation,
30 are also liable jointly and severally with and to the same
31 extent as such person, unless any person liable hereunder
32 proves that he, she or it did not know, and in the exercise
33 of reasonable care could not have known, of the existence
34 of the facts by reason of which the liability is alleged to
35 exist.

1 2. Any person liable under this Act shall have a right
2 of indemnification against any affiliate whose willful
3 violation of any provision of this Act gave rise to such
4 liability. Any person liable under this Act shall have a
5 right of contribution against all other persons similarly
6 liable, except that no person whose willful violation of any
7 provision of this Act has given rise to any civil liability
8 shall have any right of contribution against any other person
9 guilty merely of a negligent violation.

10 Sec. 504. NEW SECTION. TIME LIMITATIONS ON RIGHTS OF
11 ACTION.

12 1. No action shall be maintained to enforce any liability
13 created under either section five hundred one (501) of this
14 Act or subsection one (1) of section five hundred three (503)
15 of this Act insofar as it relates to section five hundred
16 one (501) of this Act unless brought within two years after
17 the violation upon which it is based.

18 2. No action shall be maintained to enforce any liability
19 created under either section five hundred two (502) of this
20 Act, or subsection one (1) of section five hundred three (503)
21 of this Act insofar as it relates to section five hundred
22 two (502), unless brought within the shorter of the following
23 two periods: a. five years after the act or transaction
24 constituting the violation; or b. two years after the
25 plaintiff receives actual notice of, or upon the exercise
26 of reasonable diligence should have known of, the facts
27 constituting the violation.

28 3. No action shall be maintained to enforce any right
29 of indemnification or contribution created by subsection two
30 (2) of section five hundred three (503) of this Act unless
31 brought within one year after final judgment based upon the
32 liability for which the right of indemnification or
33 contribution exists.

34 4. No purchaser may commence an action under sections
35 five hundred one (501), five hundred two (502) or five hundred

1 three (503) of this Act if:

2 a. Before suit is commenced, the purchaser has received
3 a written offer:

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

7 (2) Offering to repurchase the security for cash, payable
8 on delivery of the security, equal to the consideration paid,
9 together with interest at the legal rate from the date of
10 payment, less the amount of any income or distributions, in
11 cash or in kind, received thereon or, if the purchaser no
12 longer owns the security, offering to pay the purchaser upon
13 acceptance of the offer an amount in cash equal to the damages
14 computed in accordance with subsection one (1) of section
15 five hundred two (502) of this Act; and

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

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

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

25 a. Before suit is commenced, the seller has received a
26 written offer:

27 (1) Stating in reasonable detail why liability under such
28 section may have arisen and fairly advising the seller of
29 the seller's rights;

30 (2) Offering to return the security plus the amount of
31 any income or distributions, in cash or in kind, received
32 thereon upon payment of the consideration received, or, if
33 the purchaser no longer owns the security, offering to pay
34 the seller upon acceptance of the offer an amount in cash
35 equal to the damages computed in accordance with subsection

1 two (2) of section five hundred two (502) of this Act; and
2 (3) Stating that the offer may be accepted by the seller
3 at any time within a specified period of not less than thirty
4 days after the date of receipt thereof, or such shorter period
5 as the administrator may by rule prescribe; and

6 b. The seller has failed to accept the offer in writing
7 within the specified period.

8 6. Offers under subsections four (4) or five (5) of this
9 section shall be in the form and contain the information the
10 administrator by rule prescribes. Every offer under either
11 subsection shall be delivered to the offeree personally or
12 sent by certified mail addressed to the offeree at the
13 offeree's last known address. If an offer is not performed
14 in accordance with its terms, suit by the offeree under section
15 five hundred one (501), five hundred two (502) or five hundred
16 three (503) of this Act shall be permitted without regard
17 to subsections four (4) and five (5) of this section.

18 Sec. 505. NEW SECTION. LIMITATION ON IMPLIED LIABILITY.
19 Except as explicitly provided in this Act, no civil liability
20 in favor of any person shall arise against any person by
21 implication from or as a result of the violation of any
22 provision of this Act or any rule or order hereunder. Nothing
23 in this Act shall limit any liability which might exist by
24 virtue of any other statute or under common law if this Act
25 were not in effect.

26 Sec. 506. NEW SECTION. NO WAIVER OF RIGHT OF ACTION.
27 Any condition, stipulation or provision binding any person
28 to waive compliance with any provision of this Act or any
29 rule or order hereunder is void.

30 Sec. 507. NEW SECTION. ENFORCEABILITY OF ILLEGAL
31 CONTRACTS. It shall be a defense to an action based on a
32 contract for the purchase or sale of a security that the
33 plaintiff or the plaintiff's assignor entered into the
34 transaction which gave rise to the contract under circumstances
35 which would subject the plaintiff or the assignor to liability

1 under sections five hundred one (501), five hundred two (502),
2 or five hundred three (503) of this Act.

3 PART VI

4 ADMINISTRATION AND ENFORCEMENT

5 Sec. 601. NEW SECTION. ADMINISTRATION OF ACT.

6 1. The provisions of this Act shall be administered by
7 the commissioner of insurance of the state of Iowa. The
8 administrator shall appoint a deputy administrator who shall
9 be subject to the merit system provided for in chapter nineteen
10 A (19A) of the Code. The deputy administrator shall be the
11 principal operations officer of the securities department
12 and shall be responsible to the administrator for the routine
13 administration of the Act and the management of the securities
14 department. In the absence of the administrator, whether
15 because of vacancy in the office, by reason of absence,
16 physical disability or other cause, the deputy administrator
17 shall be the acting administrator and shall, for the time
18 being, have and exercise the authority conferred upon the
19 administrator. The administrator may by order from time to
20 time delegate to the deputy administrator any or all of the
21 functions assigned to the administrator in this Act. The
22 administrator shall employ such officers, attorneys,
23 accountants and other employees as shall be needed for the
24 administration of the Act.

25 2. It is unlawful for the administrator or any officer
26 or employee of the securities department to use for personal
27 benefit any information which is filed with or obtained by
28 the administrator and which is not made public. No provision
29 of this Act authorizes the administrator or any such officer
30 or employee to disclose any such information except among
31 themselves or to other securities administrators, regulatory
32 authorities or governmental agencies, or when necessary or
33 appropriate in a proceeding or investigation under this Act.
34 No provision of this Act either creates or derogates from
35 any privileges which exist at common law or otherwise when

1 documentary or other evidence is sought under a subpoena
2 directed to the administrator or any officer or employee of
3 the securities department.

4 Sec. 602. NEW SECTION. FILING OF SALES AND ADVERTISING
5 LITERATURE. The administrator may by rule or order require
6 the filing of any prospectus, pamphlet, circular, form letter,
7 advertisement, or other sales literature or advertising
8 communication addressed or intended for distribution to
9 prospective investors, unless the security or transaction
10 is exempted by sections two hundred two (202) or two hundred
11 three (203) of this Act. The administrator may by rule or
12 order prohibit the publication, circulation or use of any
13 advertising deemed false or misleading.

14 Sec. 603. NEW SECTION. INVESTIGATIONS AND SUBPOENAS.

15 1. The administrator may a. make such public or private
16 investigations within or outside of this state as the
17 administrator deems necessary to determine whether any person
18 has violated or is about to violate any provision of this
19 Act or any rule or order hereunder, or to aid in the
20 enforcement of this Act or in the prescribing of rules and
21 forms hereunder; b. require or permit any person to file
22 a statement in writing, under oath or otherwise as the
23 administrator determines, as to all the facts and circumstances
24 concerning the matter to be investigated; and c. publish
25 information concerning any violation of this Act or any rule
26 or order hereunder.

27 2. For the purpose of any investigation or proceeding
28 under this Act, the administrator or any officer designated
29 by the administrator may administer oaths and affirmations,
30 subpoena witnesses, compel their attendance, take evidence,
31 and require the production of any books, papers,
32 correspondence, memoranda, agreements or other documents or
33 records which the administrator deems relevant or material
34 to the inquiry, all of which may be enforced in accordance
35 with the Iowa Administrative Procedure Act.

1 3. No person is excused from attending and testifying
2 or from producing any document or record before the
3 administrator, or in obedience to the subpoena of the
4 administrator or any officer designated by the administrator,
5 or in any proceeding instituted by the administrator, on the
6 ground that the testimony or evidence required, whether
7 documentary or otherwise, may tend to incriminate such person
8 or subject such person to a penalty or forfeiture; but no
9 individual may be prosecuted or subjected to any penalty or
10 forfeiture for or on account of any transaction, matter, or
11 thing concerning which such person is compelled, after claiming
12 the privilege against self-incrimination, to testify or produce
13 evidence, whether documentary or otherwise, except that the
14 individual testifying is not exempt from prosecution and
15 punishment for perjury or contempt committed in testifying.

16 Sec. 604. NEW SECTION. CEASE AND DESIST ORDERS;
17 INJUNCTIONS. Whenever it appears to the administrator that
18 any person has engaged or is about to engage in any act or
19 practice constituting a violation of any provision of this
20 Act or any rule or order hereunder, the administrator may:

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

24 2. Bring an action in the district court to enjoin the
25 acts or practices and to enforce compliance with this Act
26 or any rule or order hereunder. Upon a proper showing a
27 permanent or temporary injunction, restraining order, or writ
28 of mandamus shall be granted and a receiver or conservator
29 may be appointed for the defendant or the defendant's assets.
30 The administrator shall not be required to post a bond.

31 Sec. 605. NEW SECTION. CRIMINAL PENALTIES.

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

1 2. The administrator may refer such evidence as is
2 available concerning violations of this Act or of any rule
3 or order hereunder to the attorney general or the proper
4 county attorney who may, with or without such a reference,
5 institute the appropriate criminal proceedings under this
6 Act.

7 3. Nothing in this Act limits the power of the state to
8 punish any person for any conduct which constitutes a crime
9 under any other statute.

10 Sec. 606. NEW SECTION. JUDICIAL REVIEW OF ORDERS.
11 Judicial review of actions of the administrator may be sought
12 pursuant to the Iowa Administrative Procedure Act, upon
13 execution of a bond in the penal sum of one thousand dollars
14 to the state of Iowa, with sufficient surety, to be approved
15 by the clerk of the court conditioned upon the faithful
16 prosecution of such petition for judicial review, and the
17 payment of all costs adjudged against the petitioner.

18 Sec. 607. NEW SECTION. RULES, FORMS, ORDERS AND HEARINGS.

19 1. Pursuant to the Iowa Administrative Procedure Act,
20 the administrator may from time to time make, amend and rescind
21 such rules, forms and orders as are necessary to carry out
22 the provisions of this Act, including rules and forms governing
23 registration statements, applications, and reports, and
24 defining any terms, whether or not used in this Act, insofar
25 as the definitions are not inconsistent with the provisions
26 of this Act. For the purpose of rules and forms, the
27 administrator may classify securities, persons, and other
28 relevant matters, and prescribe different requirements for
29 different classes.

30 2. No rule, form or order may be made, amended or rescinded
31 unless the administrator finds that the action is necessary
32 or appropriate in the public interest or for the protection
33 of investors and consistent with the purposes fairly intended
34 by the policy and provisions of this Act. In prescribing
35 rules and forms the administrator may cooperate with the

1 securities administrators of the other states, the Securities
2 and Exchange Commission, and national securities exchanges
3 and national securities associations registered under the
4 Securities and Exchange Act of 1934, with a view to
5 effectuating the policy of this statute to achieve maximum
6 uniformity in form and content of registration statements,
7 applications, and reports wherever practicable.

8 3. The administrator may by rule or order prescribe a.
9 the form and content of financial statements required under
10 this Act, b. the circumstances under which consolidated
11 financial statements shall be filed, and c. whether any
12 required financial statements shall be certified by independent
13 or certified public accountants. All financial statements
14 shall be prepared in accordance with generally accepted
15 accounting principles.

16 4. No provision of this Act imposing any liability applies
17 to any act done or omitted in good faith in conformity with
18 any rule, form or order of the administrator, notwithstanding
19 that the rule, form or order may later be amended or rescinded
20 or be determined by judicial or other authority to be invalid
21 for any reason.

22 5. Every hearing in an administrative proceeding shall
23 be public unless, in the exercise of discretion, the
24 administrator grants a request joined in by all the respondents
25 that the hearing be conducted privately.

26 Sec. 608. NEW SECTION. ADMINISTRATIVE FILES AND OPINIONS.

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

29 2. The administrator shall keep a register of all
30 applications for registration and registration statements
31 which are or have been effective under this Act and predecessor
32 laws, and all censure, denial, suspension or revocation orders
33 which have been entered under this Act and predecessor laws.
34 The register shall be open for public inspection.

35 3. The information contained in or filed with any

1 registration statement, application or report may be made
2 available to the public under such rules as the administrator
3 prescribes.

4 4. Upon request and at such reasonable charges as may
5 be prescribed, the administrator shall furnish to any person
6 photostatic or other copies, certified if requested, of any
7 entry in the register or any document which is a matter of
8 public record. In any proceeding or prosecution under this
9 Act, any copy so certified is prima facie evidence of the
10 contents of the entry or document certified.

11 5. The administrator may honor requests from interested
12 persons for interpretative opinions.

13 Sec. 609. NEW SECTION. SERVICE OF PROCESS.

14 1. Every applicant for registration under this Act, and
15 every issuer which proposes to offer a security in this state
16 through any person acting as agent, shall file with the
17 administrator, in such form as the administrator by rule
18 prescribes, an irrevocable consent appointing the administrator
19 or the administrator's successor in office to be such person's
20 attorney to receive service of any lawful process in any
21 noncriminal suit, action or proceeding against such person
22 or the successor, executor or administrator of such person
23 which arises under this Act or any rule or order hereunder
24 after the consent has been filed, with the same validity as
25 if served personally on the person filing the consent. The
26 consent need not be filed by a person who has filed a consent
27 in connection with a previous registration which is then in
28 effect. Service may be made by leaving a copy of the process
29 in the office of the administrator, but it is not effective
30 unless the plaintiff, including the administrator when acting
31 as such, a. promptly sends notice of the service and a copy
32 of the process by registered or certified mail to the defendant
33 or respondent at such person's last known address or takes
34 other steps which are reasonably calculated to give actual
35 notice; and b. files an affidavit of compliance with this

1 subsection in the case on or before the return day of the
2 process, or within such time as the court allows.

3 2. When any person, including any nonresident of this
4 state, engages in conduct prohibited or made actionable by
5 this Act or any rule or order hereunder, has not filed a
6 consent to service of process under subsection one (1) of
7 this section, and personal jurisdiction over such person
8 cannot otherwise be obtained in this state, that conduct shall
9 be considered equivalent to the appointment by such person
10 of the administrator or the administrator's successor in
11 office to be that person's attorney to receive service of
12 any lawful process in any noncriminal suit, action or
13 proceeding against that person or the successor, executor
14 or administrator of that person which arises out of that
15 conduct and which is brought under this Act or by any rule
16 or order hereunder, with the same validity as if served
17 personally. Service may be made by leaving a copy of the
18 process in the office of the administrator, and it is not
19 effective unless the plaintiff, including the administrator
20 when acting as such, a. promptly sends notice of the service
21 and a copy of the process by registered or certified mail
22 to the defendant or respondent at such person's last known
23 address or takes other steps which are reasonably calculated
24 to give actual notice; and b. files an affidavit of compliance
25 with this subsection in the case on or before the return day
26 of the process or within such time as the court allows.

27 3. When process is served under this section, the court,
28 or the administrator in a proceeding before the administrator,
29 shall order such continuance as may be necessary to afford
30 the defendant or respondent reasonable opportunity to defend.

31 Sec. 610. NEW SECTION. SCOPE OF THE ACT.

32 1. The provisions of this Act concerning sales and offers
33 to sell apply when a sale or an offer to sell is made in this
34 state or when an offer to purchase is made and accepted in
35 this state. The provisions concerning purchases and offers

1 to purchase apply when a purchase or an offer to purchase
2 is made in this state or an offer to sell is made and accepted
3 in this state.

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

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

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

28 Sec. 611. NEW SECTION. STATUTORY POLICY. This Act shall
29 be so construed as to effectuate its general purpose to make
30 uniform the law of those states which enact the "Uniform
31 Securities Act" and to coordinate the interpretation and
32 administration of this Act with the related federal regulation.

33 Sec. 612. NEW SECTION. SEVERABILITY OF PROVISIONS. If
34 any provision of this Act or the application thereof to any
35 person or circumstance is held invalid, the invalidity shall

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

5 Sec. 613. NEW SECTION. PRIOR LAW.

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

17 2. All effective registrations under prior law, all
18 administrative orders relating to such registrations, and
19 all conditions imposed upon such registrations remain in
20 effect so long as they would have remained in effect if this
21 Act had not been passed. They are considered to have been
22 filed, entered, or imposed under this Act, but are governed
23 by prior law.

24 3. Prior law applies in respect of any offer or sale made
25 within six months after the effective date of this Act pursuant
26 to an offering begun in good faith before its effective date
27 on the basis of an examination available under prior law.

28 4. Judicial review of all administrative orders as to
29 which review proceedings have not been instituted by the
30 effective date of this Act are governed by section six hundred
31 six (606) of this Act, except that no review proceeding may
32 be instituted unless the petition is filed within any period
33 of limitation which applied to a review proceeding when the
34 order was entered and in any event within sixty days after
35 the effective date of this Act.

1 Sec. 614. NEW SECTION. EFFECTIVE DATE. This Act shall
2 take effect on January 1, 1976.

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

8 Sec. 616. Section four hundred ninety-nine point fifty-
9 nine (499.59), unnumbered paragraph one (1), Code 1975, is
10 amended to read as follows:

11 499.59 EXEMPTIONS FROM IOWA UNIFORM SECURITIES ACT. None
12 of the exemptions contained in sections ~~502.4 and 502.5~~ five
13 hundred two point two hundred two (502.202) and five hundred
14 two point two hundred three (502.203) of the Code shall apply
15 to any security issued by any association formed hereunder,
16 when the total amount thereof exceeds twenty-five thousand
17 dollars.

18 Sec. 617. Section five hundred three point ten (503.10),
19 Code 1975, is amended to read as follows:

20 503.10 EXAMINATION. Every such association shall be
21 subject to examination by the commissioner of insurance or
22 his representatives, the expense of which shall be paid by
23 the association in the same manner and on the same basis and
24 under the same terms and conditions as is now provided for
25 in ~~section 502.42~~ subsection ten (10) of section five hundred
26 two point two hundred eight (502.208) of the Code and
27 subsection four (4) of section five hundred two point three
28 hundred three (502.303) of the Code. In making such
29 examination the commissioner of insurance or his
30 representatives, shall have full access to and may demand
31 the production of all books, securities, papers, contracts,
32 moneys, ~~etc.~~ and other relevant documents of said association,
33 and may administer oaths, summon and compel the attendance
34 of witnesses and the giving of testimony thereby.

35 Sec. 618. Section five hundred three point twelve (503.12),

1 Code 1975, is amended to read as follows:

2 503.12 SALESMEN-LICENSE-REVOCATION. The salesmen or
3 agents of every association qualified under this chapter,
4 shall be licensed or registered in the same manner and under
5 the same terms and conditions ~~as-is-provided-for-in-section~~
6 ~~502-44~~ as are provided for in sections five hundred two point
7 three hundred one (502.301) and five hundred two point three
8 hundred two (502.302) of the Code, and the license or
9 registration of such salesmen or agents shall be subject to
10 suspension and revocation in the same manner and under the
11 same terms and conditions as is provided for in section ~~502-44~~
12 five hundred two point three hundred four (502.304) of the
13 Code.

14 Sec. 619. Section five hundred seven B point fourteen
15 (507B.14), unnumbered paragraph one (1), Code 1975, is amended
16 to read as follows:

17 507B.14 TRANSFER OF INSURANCE STOCK. When a controlling
18 interest in two or more corporations, at least one of which
19 is an insurance company domiciled in this state, is held by
20 any person, group of persons, firm, or corporation, no exchange
21 of stock, transfer or sale of securities, or loan based upon
22 securities of any such corporation shall take place between
23 such corporations, or between such person, group of persons,
24 firm or corporation and such corporations, without first
25 securing the approval of the insurance commissioner. If,
26 in the opinion of the insurance commissioner, such sale,
27 transfer, exchange, or loan would be improper and would work
28 to the detriment of any such insurance company, he shall have
29 the power to prohibit the transaction. Any person, firm or
30 corporate officer or director aiding such transaction carried
31 out without approval of the insurance commissioner shall be
32 deemed guilty of a felony and upon conviction punished as
33 provided in section ~~502-28~~ five hundred two point six hundred
34 five (502.605) of the Code.

35 Sec. 620. Section five hundred thirty-six A point twenty-

1 two (536A.22), Code 1975, is amended to read as follows:
 2 536A.22 THRIFT CERTIFICATES. Licensed industrial loan
 3 companies may sell thrift certificates, installment thrift
 4 certificates, certificates of indebtedness, promissory notes
 5 or similar evidences of indebtedness. The total amount of
 6 such thrift certificates, installment thrift certificates,
 7 certificates of indebtedness, promissory notes or similar
 8 evidences of indebtedness outstanding and in the hands of
 9 the general public shall not at any time exceed ten times
 10 the total amount of capital, surplus, undivided profits and
 11 subordinated debt that gives priority to such securities of
 12 the issuing industrial loan company. The sale of such
 13 securities shall be subject to the provisions of chapter 502,
 14 and shall not be construed to be exempt therefrom by reason
 15 of the provisions of ~~section-502:47-subsections-7-and-8~~
 16 subsection ten (10) of section five hundred two point two
 17 hundred two (502.202) of the Code, except that the sale of
 18 thrift certificates or installment thrift certificates which
 19 are redeemable by the holder thereof either upon demand or
 20 within a period not in excess of 180 days shall be exempt
 21 from sections five hundred two point two hundred one (502.201)
 22 and five hundred two point six hundred two (502.602).

23 Sec. 621. Chapter five hundred two (502), Code 1975, is
 24 amended by striking the chapter and inserting in lieu thereof
 25 sections one hundred one (101) through six hundred fourteen
 26 (614) of this Act.

27 EXPLANATION

28 This bill repeals chapter 502, the present Iowa Securities
 29 Law, and replaces it with the "Iowa Uniform Securities Act".
 30 The present law was enacted in 1929. It has been amended
 31 on numerous occasions since then in an attempt to keep pace
 32 with rapidly changing conditions prevailing in securities
 33 markets, the issuance of new securities and the regulation
 34 of broker-dealers. Substantial revisions of chapter 502 were
 35 enacted in 1974 as a stop-gap measure.

1 The Uniform Securities Act has been adopted or substantially
2 adopted with modifications by thirty-one states, the District
3 of Columbia, and Puerto Rico. This bill is substantially
4 the Uniform Securities Act, but has been adapted in many
5 respects to current regulatory conditions and practices.
6 In this connection, the drafters of the bill made various
7 modifications which are found in the Uniform Act as recently
8 adopted in Pennsylvania and Wisconsin.

9 The bill continues the basic practice of requiring the
10 registration of securities unless issued or sold pursuant
11 to exemptions, the registration of broker-dealers and agents
12 and the continuous monitoring of such registrations. Greater
13 administrative authority and flexibility is granted to the
14 commissioner of insurance (the "administrator" under the bill)
15 to adopt rules under the Iowa Administrative Procedure Act
16 and issue orders so as to permit prompt administrative and
17 enforcement action to be taken under changing circumstances.

18 The bill also substantially broadens the activities which
19 are prohibited as fraudulent and deceptive practices, and
20 imposes civil liability and criminal penalties for violations
21 of the Act. These provisions correspond to those found under
22 the federal securities laws and will permit persons seeking
23 civil rescission and damages to pursue their remedies in state
24 courts, rather than in federal courts which have exclusive
25 jurisdiction over violations of the Securities Exchange Act
26 of 1934.

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LSB 310
lb/rh/31

1 Amend House File 825, page 30, by striking
2 lines 11 through 28 and inserting in lieu thereof
3 the following:

4 "5. Every broker-dealer and every issuer
5 who employs agents in connection with any security
6 or transaction not exempted either by section two
7 hundred two (202) of this Act or section two
8 hundred three (203) of this Act shall file and
9 maintain with the administrator a bond conditioned
10 that the broker-dealer or issuer shall properly
11 account for any moneys or securities received from
12 or belonging to another and shall pay, satisfy,
13 and discharge any judgment or decree that may be
14 rendered against such broker-dealer or issuer in
15 a court of competent jurisdiction in a suit or
16 action brought by a purchaser or seller of
17 securities against such broker-dealer or issuer
18 in which it shall be found or adjudged that such
19 securities were sold or purchased by the broker-
20 dealer or issuer in violation of this Act. Such
21 bond may be drawn to cover the original license
22 and any renewals thereof, and may contain a
23 provision authorizing the surety therein to cancel
24 upon thirty (30) days notice to the principal and
25 the administrator.

26 Every such bond shall run in favor of the
27 state of Iowa for the use and benefit of any person
28 who sustains damages as a result of any breach
29 of the conditions thereof, in the sum of fifteen
30 thousand dollars and shall be in such form consistent
31 with the provisions hereof as the administrator
32 may prescribe, and shall be executed with surety
33 or sureties satisfactory to the administrator.
34 In suits against the surety upon such bond it shall
35 not be necessary to join such broker-dealer or
36 issuer as a party.

37 Banks or trust companies under the supervision
38 of this state or of the United States which would
39 otherwise be required under the provisions of this
40 Act to file and maintain the bond required herein
41 may execute said bond without surety.

42 One or more recoveries upon any such bond
43 shall not vitiate the same but it shall remain in
44 full force and effect, but the aggregate recoveries
45 from the surety upon any such bond shall not exceed
46 the full amount of the penal sum of the bond, and
47 upon suits being commenced in excess of the amount
48 of same the administrator may require additional bond,
49 and if not given within ten days the administrator may
50 revoke the registration of such broker-dealer or issuer."

S-4121

1 Amend House File 825, page 30, by striking
2 lines 11 through 28 and inserting in lieu thereof
3 the following:

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6 or transaction not exempted either by section two
7 hundred two (202) of this Act or section two
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9 maintain with the administrator a bond conditioned
10 that the broker-dealer or issuer shall properly
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12 or belonging to another and shall pay, satisfy,
13 and discharge any judgment or decree that may be
14 rendered against such broker-dealer or issuer in
15 a court of competent jurisdiction in a suit or
16 action brought by a purchaser or seller of
17 securities against such broker-dealer or issuer
18 in which it shall be found or adjudged that such
19 securities were sold or purchased by the broker-
20 dealer or issuer in violation of this Act. Such
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39 otherwise be required under the provisions of this
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41 may execute said bond without surety.

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45 from the surety upon any such bond shall not exceed
46 the full amount of the penal sum of the bond, and
47 upon suits being commenced in excess of the amount
48 of same the administrator may require additional bond,
49 and if not given within ten days the administrator may
50 revoke the registration of such broker-dealer or issuer."

HOUSE FILE 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

Section 101. NEW SECTION. SHORT TITLE. This Act may be cited as the "Iowa Uniform Securities Act".

Sec. 102. NEW SECTION. DEFINITIONS. When used in this Act, unless the context otherwise requires:

1. "Administrator" means the commissioner of insurance or the deputy appointed pursuant to section six hundred one (601) of this Act.
2. "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in
 - a. effecting transactions in a security exempted by subsections one (1), two (2), three (3), ten (10) or eleven (11) of section two hundred two (202);
 - b. effecting transactions exempted by section two hundred three (203);
 - or c. effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition.
3. An "affiliate" of, or a person "affiliated" with, a specified person, means a person who directly, or indirectly

through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

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

- a. An agent.
- b. An issuer.
- c. An institutional investor, including an insurance company or bank, except where the insurance company or bank is engaged in the business of selling interests (other than through a subsidiary) in a separate account that are securities.
- d. A person who has no place of business in this state if such person:

(1) Effects transactions in this state exclusively with or through a. the issuers of the securities involved in the transaction; b. other broker-dealers; or c. banks, savings institutions, trust companies, insurance companies, 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; or

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

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

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

6. "Guaranteed" means guaranteed as to payment of principal, interest or dividends.

7. "Issuer" means any person who issues or proposes to issue any security, except that a. with respect to

certificates of deposit, voting trust certificates, or collateral trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and b. with respect to certificates of interest or participation in oil, gas or mining titles or leases, or in payments out of production under such titles or leases, there is not considered to be any "issuer".

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

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

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

b. "Offer" or "offer to sell" includes every attempt or offer to exchange or dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

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

d. A purported gift of assessable stock is considered to involve an offer and sale.

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

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

- (1) Any bona fide pledge or loan; or
- (2) Any stock split, reverse stock split, or security dividend payable with respect to the securities of a corporation in the same or any other class of securities of such corporation, provided nothing of value, including the surrender of a right or an option to receive a cash or property dividend, is given by security holders for the security dividend.

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

12. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; 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 any 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.

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

PART II

REGISTRATION OF SECURITIES

Sec. 201. NEW SECTION. REGISTRATION REQUIREMENT. It is unlawful for any person to offer or sell any security in

this state unless (i) it is registered under this Act; or (ii) the security or transaction is exempted under sections two hundred two (202) or two hundred three (203) of this Act.

Sec. 202. NEW SECTION. EXEMPT SECURITIES. The following securities are exempted from sections two hundred one (201) and six hundred two (602) of this Act:

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 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 Act by subsection seven (7) or subsection eight (8) of section two hundred two (202) of this Act.

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

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

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

5. Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company

organized under the laws of this state and authorized to do business in this state.

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

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

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.

9. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes, or as a chamber of commerce or trade or professional association; 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.

10. Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such

paper which is likewise limited, or any guarantee of such paper or of any such renewal; except where such paper is proposed to be sold or offered to the public in units of less than five thousand dollars (\$5,000) to any single person.

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

12. A stock or similar security, including a patronage refund certificate, issued by:

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

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

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

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

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

(3) No dividends other than patronage refunds are payable to holders of such stock or similar security except on a complete or partial liquidation.

Sec. 203. NEW SECTION. EXEMPT TRANSACTIONS. The following transactions are exempted from sections two hundred one (201) and six hundred two (602) of this Act:

1. Any isolated non-issuer transaction, whether effected through a broker-dealer or not.

2. Any non-issuer distribution of an outstanding security if:

a. A recognized securities manual approved by the administrator contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations.

b. The security was issued by an issuer which has a class of securities currently registered under the Securities Exchange Act of 1934.

c. The security was issued by an issuer which has a class of securities currently registered under section two hundred one (201) of this Act.

d. The security was issued by an issuer which is registered under the Investment Company Act of 1940.

3. Any non-issuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the administrator may by rule require that the customer acknowledge that the sale was unsolicited in accordance with provisions of such rule.

4. Any transaction between the issuer or other person

on whose behalf the offering is made and an underwriter, or among underwriters.

5. A sale of bonds or notes directly secured by a real estate mortgage, security interest, deed of trust, or agreement for the sale of real estate or chattels, if the entire mortgage, security interest, deed of trust, or agreement, together with all the bonds or notes secured thereby, is offered and sold as a unit; provided that the entire mortgage, security interest, deed of trust or agreement, together with all of the bonds or notes secured thereby, shall not be deemed to be sold as a unit if:

a. Such bonds or notes are part of a single issue including other bonds or notes secured by interests in real estate or chattels owned or developed by the same person or by persons affiliated with such person; or

b. Such bonds or notes are offered or sold with any right to have substitution by or recourse against, or with guarantee by, the real estate developer or any person other than the person primarily obligated on the bond or note.

6. Any judicial sale or any transaction executed by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, custodian or conservator without any purpose of evading this Act.

7. Any transaction executed by a bona fide pledgee without any purpose of evading this Act.

8. Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity.

9. a. The sale, as part of a single issue, of securities other than (1) fractional undivided interests in oil, gas or other mineral leases, rights or royalties, and (2) interests in a limited or general partnership organized under the laws of or having its principal place of business in a foreign jurisdiction, by the issuer thereof within any period of

twelve consecutive months to not more than thirty-five purchasers in this state, exclusive of purchases by bona fide institutional investors for their own account for investment, provided (1) that the issuer reasonably believes that all the buyers in this state are purchasing for investment, and (2) that both of the following are complied with:

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

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

b. The issuer must, additionally, pursuant to the request of the administrator made at any time, submit a report listing the names and addresses of purchasers claimed to have been bona fide institutional investors purchasing for their own account for investment, and a justification of each such purchaser's characterization as a bona fide institutional investor purchasing for its own account for investment.

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

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

b. The number of subscribers does not exceed ten;

c. No payment is made by any subscriber; and

d. No public advertisement of the offer is made.

11. Any transaction pursuant to an offer of its securities by an issuer to its existing security holders in connection with a. the conversion of convertible securities; b. the exercise of nontransferable rights or warrants or the exercise of transferable rights or warrants exercisable within not more than ninety days of their issuance; or c. the purchase of securities pursuant to preemptive rights; provided that no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state.

12. Any offer, but not a sale, of a security for which registration statements have been filed under both this Act and the Securities Act of 1933 if no stop order or denial order is in effect and no proceeding is pending under either law.

13. Any transaction incident to a vote by security holders of an issuer or incident to a written consent or resolution of some or all security holders of an issuer, pursuant to the articles of incorporation of such issuer, or pursuant to the applicable corporate statute or other statute governing such issuer, or pursuant to such issuer's partnership agreement, declaration of trust, or trust indenture, or pursuant to any agreement among security holders of such issuer, on a reclassification of securities, reorganization involving the exchange of securities, merger, consolidation, or sale of assets, in consideration, in whole or in part, of the issuance of securities of the issuer or of any other person, if:

a. A party to such transaction files proxy or informational materials pursuant to subsection a of section fourteen (14), or subsection c of section fourteen (14) of the Securities Exchange Act of 1934, or pursuant to section twenty (20) of the Investment Company Act of 1940, provided that such materials are, at least ten days prior to the meeting of security holders called for the purpose of approving such transaction, (1) filed with the administrator, and (2) distributed to each of the security holders of each party

to such transaction.

b. A party to such transaction is excused from registration under section twelve (12) of the Securities Exchange Act of 1934 pursuant to subparagraph (G) of paragraph two (2) of subsection (g) of section twelve (12) of that Act, and such party is required by the laws of its domiciliary state to file proxy materials with an agency of said state provided that such proxy materials are, at least ten days prior to the meeting of security holders called for the purpose of approving such transaction, (1) filed with the administrator, and (2) distributed to each of the security holders of each party to such transaction.

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

d. A party to such transaction files with the administrator and distributes to the security holders of each party to the transaction, such materials, within such time limits, as may be specified by rule or order of the administrator.

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

15. The distribution of securities as a dividend, where the corporation distributing the dividend is the issuer of the securities distributed, if the only value given by shareholders for the dividend is the surrender of a right to a cash or property dividend when each shareholder may elect to take the dividend a. in cash or property, or b. in such securities.

Sec. 204. NEW SECTION. DENIAL AND SUSPENSION OF EXEMPTIONS. The administrator may by order deny or revoke any exemption specified in sections two hundred two (202) and two hundred three (203) of this Act with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and

conclusions of law, except that the administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this section may operate retroactively. No person may be considered to have violated sections two hundred one (201) or six hundred two (602) of this Act by reason of any offer or sale effected after the entry of an order under this section if such person sustains the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the order.

Sec. 205. NEW SECTION. BURDEN OF PROOF. In any proceeding under this Act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

Sec. 206. NEW SECTION. REGISTRATION BY COORDINATION.

1. Registration by coordination may be used for any offering for which a registration statement has been filed under the Securities Act of 1933, or for any proposed sale pursuant to the exemption contained in subsection (b) of section three (3) of such Act where such registration statement or notification of proposed sale has not become effective.

2. A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in subsection three (3) of section two hundred eight (208) of this Act, and the consent to service of process required by section six hundred nine (609) of this Act:

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

b. If the administrator by rule requires, a copy of the articles of incorporation and bylaws or their substantial equivalents currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security.

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

d. An undertaking to forward to the administrator all future amendments to the federal prospectus or offering circular, other than an amendment which merely delays the effective date of the registration statement, not later than the first business day after they are forwarded to or filed with the Securities and Exchange Commission, or such longer period as the administrator permits.

3. A registration statement under this section automatically becomes effective at the moment the federal registration statement or notification becomes effective if

a. no stop order is in effect in this state and no proceeding is pending under section two hundred nine (209) of this Act,

b. the registration statement has been on file with the administrator for at least twenty days; c. a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for not less than two full business days, or such shorter period as the administrator permits; and d. the offering is made within these limitations.

4. The registrant shall notify the administrator promptly by telephone or telegram 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 two (2) or three (3) of this section.

5. If the federal registration statement becomes effective before all conditions in this section are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether the administrator then contemplates the institution of a proceeding under section two hundred nine (209) of this Act; but this advice by the administrator does not preclude the institution of such a proceeding at any time.

Sec. 207. NEW SECTION. REGISTRATION BY QUALIFICATION.

1. Any security may be registered by qualification.
2. A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in subsection three (3) of section two hundred eight (208) of this Act and the consent to service of process required by section six hundred nine (609) of this Act:

a. With respect to the issuer and any significant subsidiary: its name, address and form of organization; the state or foreign jurisdiction under which it is organized; the date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged.

b. With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: such person's name, address, and principal occupation for the past five years; the amount of securities of the issuer held by such person as of a specified date within thirty days of the filing of the registration statement; the amount of the securities covered by the registration statement to which such person has indicated an intention to subscribe; and a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past three years or proposed to be effected.

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

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

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

f. With respect to any person on whose behalf any part

of the offering is to be made in a non-issuer distribution: such person's name and address; the amount of securities of the issuer held as of the date of the filing of the registration statement; a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past three years or proposed to be effected; and a statement of reasons for making the offering.

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

h. The kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering, or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities

which are to be offered otherwise than through an underwriter.

i. The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property including good will otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition and the amounts of any such commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition).

j. A description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in paragraphs b, d, e, f, or h of this subsection, and by any person who holds or will hold ten percent or more in the aggregate of any such options.

k. The dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets, including any such litigation or proceeding known to be contemplated by governmental authorities.

l. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the

offering.

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

n. A signed or conformed copy of an opinion of counsel as to the legality of the security being registered, with an English translation if it is in a foreign language, which shall state whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer.

o. The written consent of any accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by such person, if any of the foregoing persons is named as having prepared or certified a report or valuation, other than a public and official document or statement, which is used in connection with the registration statement.

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

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

3. Except as provided in this subsection, registration under this section shall become effective when the administrator so orders. If a registration statement has

been on file for at least thirty days and all information required by the administrator has been furnished, the person filing the statement may at any time file a written request that the administrator, within ten days following the filing of such request, order that the registration statement become effective or deny or postpone effectiveness pursuant to section two hundred nine (209) of this Act. If a request is filed, and the administrator fails to act thereon within such period, the registration shall become effective at the end of the ten-day period.

Sec. 208. NEW SECTION. PROVISIONS APPLICABLE TO REGISTRATION GENERALLY.

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

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

3. Every registration statement shall specify:

a. The amount of securities to be offered in this state;
b. The states in which a registration statement or application in connection with the offering has been or is to be filed; and

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

4. Any document filed under this Act or a predecessor act within five years preceding the filing of a registration statement may be incorporated by reference in the registration

statement to the extent that the document is currently accurate.

5. The administrator may by rule or otherwise permit the omission of any item of information or document from any registration statement.

6. In the case of a non-issuer distribution, information may not be required under section two hundred seven (207) of this Act, or paragraph b of subsection nine (9) of this section, unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

7. The administrator may by rule or order require as a condition of registration that any security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; or that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere; or he may impose both such requirements. The administrator may by rule or order determine the conditions of any escrow or impounding required hereunder, but he may not reject a depository solely because of location in another state.

8. The administrator may by rule require that securities of designated classes shall be issued under a trust indenture containing such provisions as he determines.

9. a. Every registration statement shall remain effective until withdrawal, suspension or revocation, during which time all outstanding securities of the same class as the registered security are considered registered for the purposes of any non-issuer transaction. A registration statement may not be withdrawn for one year from its effective date if securities of the same class are outstanding. A registration statement may be withdrawn otherwise only at the discretion of the administrator, by order.

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

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

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

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

11. A registration statement relating to any continuous offering of securities may be amended after its effective date so as to increase the specified amount of securities proposed to be offered. The amendment becomes effective when the administrator so orders. Every person filing such an amendment shall pay a filing fee, calculated in the manner specified in subsection two (2) of this section, with respect to the additional securities proposed to be offered.

12. The administrator may by rule or order require as

a condition of registration under this Act that a prospectus containing any designated part of the information specified in subsection two (2) of section two hundred seven (207) of this Act, or the final prospectus or offering circular required by subsection two (2) of section two hundred six (206) of this Act, be delivered to each person to whom an offer is made before or concurrently with a. the first written offer made to the offeree otherwise than by means of a public advertisement by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken as a participant in the distribution; b. the confirmation of any sale made by or for the account of any such person; c. payment pursuant to any such sale; or d. delivery of the security pursuant to any such sale, whichever first occurs.

Sec. 209. NEW SECTION. DENIAL, SUSPENSION AND REVOCATION OF REGISTRATION.

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

a. The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment filed under either subsection nine (9) or subsection eleven (11) of section two hundred eight (208) of this Act as of its effective date, or any financial statement or report required under subsection nine (9) of section two hundred eight (208) of this Act is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. Any provision of this Act or any rule, order or condition lawfully imposed under this Act has been willfully violated, in connection with the offering, by (1) the person filing the registration statement; (2) the issuer; (3) any

partner, officer or director of the issuer, or any person occupying a similar status or performing similar functions; (4) any affiliate of the issuer, but only if the person filing the registration statement is an affiliate of the issuer; or (5) any broker-dealer.

c. The securities registered or sought to be registered are the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but the administrator may not institute a proceeding against an effective registration statement under this section more than one year from the date of the order or injunction relied on, and the administrator may not enter an order under this section on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section.

d. The issuer's enterprise or method of business includes or would include activities which are illegal where performed.

e. The issuance or sale of the securities is or would be unfair or inequitable to purchasers or has worked or tended to work a fraud upon purchasers or would so operate.

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

g. Advertising has been used in connection with the offering contrary to the provisions of section six hundred two (602) of this Act.

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

i. The applicant or registrant has failed to pay the proper filing fee; but the administrator may enter only a denial order under this subsection, and shall vacate any such order when the deficiency has been corrected.

2. The administrator may not institute a stop order

proceeding against an effective registration statement on the basis of a fact known to the administrator when the registration statement became effective unless the proceeding is instituted within thirty days after effectiveness.

3. The administrator may issue a summary order postponing, suspending or denying the effectiveness of a registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered that the order has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each of the aforementioned persons, may modify or vacate the order or extend it until final determination.

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

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

Sec. 210. NEW SECTION. LIMITS ON SECURITIES REGISTERED BY QUALIFICATION.

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

a. Two million dollars if the securities are to be offered or sold by or on behalf of the issuer or affiliates of the

issuer, or by the estate of a decedent who owned the securities at death, provided that the aggregate offering price of securities to be offered or sold by or on behalf of any one affiliate, other than an estate, shall not exceed five hundred thousand dollars.

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

2. The following definitions shall apply for the purposes of this section:

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

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

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

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

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

c. The term "predecessor of the issuer" is (1) a person the major portion of whose assets have been acquired directly

or indirectly by the issuer; or (2) a person from which the issuer acquired directly or indirectly the major portion of its assets.

PART III

REGISTRATION OF BROKER-DEALERS AND AGENTS

Sec. 301. NEW SECTION. REGISTRATION REQUIREMENT.

1. It is unlawful for any person to transact business in this state as a broker-dealer or agent unless registered under this Act.
2. It is unlawful for any broker-dealer or issuer to employ an agent in this state unless the agent is registered. The registration of an agent is not effective during any period when the agent is not associated with a specified broker-dealer registered under this Act or a specified issuer. Unless permitted by order of the administrator, no agent shall at any time represent more than one broker-dealer or issuer, except that where organizations affiliated by direct or indirect common control are registered as broker-dealers or are issuers of securities registered under this Act, an agent may represent any such organization. When an agent begins or terminates employment with a broker-dealer or issuer or begins or terminates the activities which makes such person an agent, the agent as well as the broker-dealer or issuer shall promptly notify the administrator.
3. Every registration shall expire on the last day of September in each year.

Sec. 302. NEW SECTION. REGISTRATION PROCEDURES.

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator an application together with a consent to service of process pursuant to section six hundred nine (609) of this Act and the appropriate filing fee. The application shall contain whatever information the administrator by rule requires 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 three hundred four (304) of this Act, registration becomes effective at noon of the thirtieth day after an application is filed. The administrator may by rule or order specify an earlier effective date and may by order defer the effective date until noon of the thirtieth day after the filing of any amendment. Registration of a broker-dealer automatically constitutes registration of any agent named in the application or amendments thereto who is a partner, officer or director, or who is a person occupying a similar status or performing similar functions.

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

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

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

5. Every broker-dealer and every issuer who employs agents

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

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

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

One or more recoveries upon any such bond shall not vitiate the same but it shall remain in full force and effect, but the aggregate recoveries from the surety upon any such bond shall not exceed the full amount of the penal sum of the bond, and upon suits being commenced in excess of the amount of same the administrator may require additional bond, and if not given within ten days the administrator may revoke the

registration of such broker-dealer or issuer.

6. The administrator may by rule or order impose such other conditions in connection with registration under this Act as are deemed appropriate, in the public interest or for the protection of investors.

Sec. 303. NEW SECTION. POST-REGISTRATION PROVISIONS.

1. Every registered broker-dealer shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the administrator by rule prescribes. All records so required shall be preserved for three years unless the administrator by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the administrator, be made available at any time for examination at the administrator's option either in the principal office of the registrant or by production of exact copies thereof in this state.

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

3. If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment unless notification of the correction has been given under subsection two (2) of section three hundred one (301) of this Act.

4. The administrator shall make periodic examinations, within or without this state, of the business and records of each registered broker-dealer, at such times and in such scope as the administrator determines. The examinations may be made without prior notice to the broker-dealer. The expense reasonably attributable to any such examination shall be paid by the broker-dealer whose business is examined, but the expense so payable shall not exceed an amount which the administrator by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the administrator may cooperate with securities administrators of other states, the Securities and Exchange Commission, and any national

securities exchange or national securities association registered under the Securities Exchange Act of 1934. The administrator shall not make public the information obtained in the course of examinations, except when any duty under this Act requires the administrator to take action regarding any broker-dealer or to make the information available to one of the agencies specified herein, or except when called as a witness in any criminal or civil proceeding.

Sec. 304. NEW SECTION. DENIAL, REVOCATION, SUSPENSION, CANCELLATION AND WITHDRAWAL OF REGISTRATION.

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

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

b. Has willfully violated or willfully failed to comply with any provision of this Act or a predecessor act or any rule or order under this Act or a predecessor act;

c. Has been convicted within the past ten years of (1) any misdemeanor involving a security or any aspect of the securities business, or (2) any felony;

d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

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

f. Is the subject of an order entered within the past

five years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer, agent, or investment adviser, or is the subject of an order of the Securities and Exchange Commission suspending or expelling such person from a national securities exchange or national securities association, registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order; but the administrator (1) may not institute a revocation or suspension proceeding under this paragraph more than one year from the date of the order relied on, and (2) may not enter an order under this paragraph on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section;

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

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

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

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

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

3. The administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been

entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

4. 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.

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 is pending when the application is filed or a proceeding to revoke or suspend 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 paragraph b of subsection one (1) of this section within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

6. No order may be entered under any part of this section except the first sentence of subsection three (3) of this section without compliance with the Iowa Administrative Procedure Act.

PART IV

PROHIBITION OF FRAUDULENT PRACTICES

Sec. 401. NEW SECTION. OFFERS, SALES AND PURCHASES.

It is unlawful for any person, in connection with the offer to sell, offer to purchase, sale or purchase of any security in this state, directly or indirectly:

1. To employ any device, scheme, or artifice to defraud;
2. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
3. To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

Sec. 402. NEW SECTION. TRADING ON INSIDE INFORMATION.

It is unlawful for any person who is or was an officer, director or affiliate of an issuer or any other person whose relationship to the issuer or to any of the foregoing persons gives or gave such person access, directly or indirectly, to material information which is of decisive importance about the issuer or the security not generally available to the public, to purchase or sell any security of the issuer in this state at a time when he knows such information about the issuer or the security gained from such relationship, which information 1. would significantly affect the market price of that security; 2. is not generally available to the public; and 3. such person knows is not intended to be so available, unless that person has reason to believe that the other party to such transaction is also in possession of such information.

Sec. 403. NEW SECTION. MARKET MANIPULATION. It is unlawful for any person, directly or indirectly, in this state:

1. For the purpose of creating a false or misleading appearance of active trading in a security or a false or misleading appearance with respect to the market for a security:
 - a. To effect any transaction in the security which involves

no change in the beneficial ownership thereof; or

b. To enter any order or orders for the purchase (or sale) of the security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price for the sale (or purchase) of the security have been or will be entered by or for the same or affiliated persons.

2. To effect, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in the security or raising or depressing the price of the security for the purpose of inducing the purchase or sale of the security by others.

3. To induce the purchase or sale of any security by the circulation or dissemination of information to the effect that the price of the security will or is likely to rise or fall because of market operations of one or more persons conducted for the purpose of raising or depressing the price of the security, if that person is receiving a consideration, directly or indirectly, from any such person, or is selling or offering to sell or purchasing or offering to purchase the security.

Sec. 404. NEW SECTION. PROHIBITED TRANSACTIONS OF BROKER-DEALERS AND AGENTS. No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this Act or any rule or order hereunder.

Sec. 405. NEW SECTION. MISLEADING FILINGS. It is unlawful for any person to make or cause to be made, in any document filed with the administrator or in any proceeding under this Act, any statement of a material fact which is, at the time and in the light of the circumstances under which it is made, false or misleading, or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Sec. 406. NEW SECTION. MISREPRESENTATIONS OF GOVERNMENT APPROVAL.

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

2. a. Neither the fact that a registration statement has been filed under this Act nor the fact that such statement has become effective constitutes a finding by the administrator that any document filed under this Act is true, complete or not misleading. Neither any such fact nor the fact that an exemption is available for a security or a transaction means that the administrator has passed in any way upon the merits or qualifications of, or has recommended or given approval to, any person, security or transaction.

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

3. No state official or employee of the state shall use such person's name in an official capacity in connection with the endorsement or recommendation of the organization or the promotion of any issuer or in the sale to the public of its securities, nor shall anyone use the stationery of the state or of any official thereof in connection with any such transaction.

Sec. 407. NEW SECTION. MISSTATEMENTS IN PUBLICITY. It is unlawful for any person to make or cause to be made, in any public report or press release, or in other information which is made generally available to the public, any statement of a material fact relating to an issuer which is, at the time and in the light of the circumstances under which it

is made, false or misleading, if it is reasonably foreseeable that such statement will induce other persons to buy, sell or hold securities of the issuer.

PART V

CIVIL LIABILITY

Sec. 501. NEW SECTION. VIOLATION OF REGISTRATION AND RELATED REQUIREMENTS. Any person who 1. violates section two hundred one (201), subsection twelve (12) of section two hundred eight (208), or paragraph b of subsection two (2) of section four hundred six (406) of this Act, or 2. violates any material condition imposed under section two hundred eight (208) of this Act, or 3. offers or sells a security at any time when such person has committed a material violation of section three hundred one (301) of this Act, or 4. commits a material violation of any order issued by the administrator under this Act, shall be liable to the person purchasing the security offered or sold in connection with such violation, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, costs and reasonable attorneys' fees, less the amount of any income or distributions, in cash or in kind, received on the security, upon the tender of the security, or for damages if the purchaser no longer owns the security. Damages shall be the amount that would be recoverable upon a tender less 1. the value of the security when the purchaser disposed of it and 2. interest on said value at the legal rate from the date of disposition. Any person on whose behalf an offering is made and any underwriter of the offering, whether on a best efforts or a firm commitment basis, shall be jointly and severally liable under this section, but in no event shall any underwriter be liable in any suit or suits authorized under this section for damages in excess of the total price at which the securities underwritten by it and distributed to the public were offered to the public. Tender requires only notice of willingness to exchange the security for the amount specified. Any notice may be given by service as in

civil actions or by certified mail addressed to the last known address of the person liable.

Sec. 502. NEW SECTION. FRAUDULENT PRACTICES.

1. Any person who offers or sells a security in violation of sections four hundred one (401) or four hundred four (404) of this Act, the purchaser not knowing of the violation, and who fails to sustain the burden of proof that he, she or it did not know and in the exercise of reasonable care could not have known of the violation, shall be liable to the purchaser, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, costs and reasonable attorneys' fees, less the amount of any income or distributions, in cash or in kind, received on the security, upon the tender of the security, or for damages if the purchaser no longer owns the security. Damages shall be the amount that would be recoverable upon a tender less a. the value of the security when the purchaser disposed of it and b. interest on said value at the legal rate from the date of disposition. Any person on whose behalf an offering is made and any underwriter of the offering, whether on a best efforts or a firm commitment basis, shall be jointly and severally liable under this section, but in no event shall any underwriter be liable in any suit or suits authorized under this section for damages in excess of the total price at which the securities underwritten by it and distributed to the public were offered to the public. Tender requires only notice of willingness to exchange the security for the amount specified. Any notice may be given by service as in civil actions or by certified mail addressed to the last known address of the person liable.

2. Any person who offers to purchase or purchases a security in violation of sections four hundred one (401) or four hundred four (404) of this Act, the seller not knowing of the violation, and who fails to sustain the burden of proof that he, she or it did not know and in the exercise of reasonable care could not have known of the violation, shall

be liable to the seller, who may sue either at law or in equity to recover the security, plus any income or distributions, in cash or in kind, received by the purchaser thereon, upon tender of the consideration received, or for damages if the purchaser no longer owns the security. Damages shall be the excess of the value of the security when the purchaser disposed of it, plus interest at the legal rate from the date of disposition, over the consideration paid for the security. Tender requires only notice of willingness to pay the amount specified in exchange for the security. Any notice may be given by service as in civil actions or by certified mail to the last known address of the person liable.

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

4. Any person, referred to in this subsection as the "defendant", who violates section four hundred two (402) of this Act shall be deemed to be unjustly enriched and liable to any person, referred to in this subsection as the "plaintiff", who purchased or may have purchased a security from, or sold or may have sold a security to, the defendant in connection with such violation, for damages equal to the difference between the price at which such security was purchased or sold and the market value which such security would have had at the time of the purchase or sale if the information known to the defendant had been publicly

disseminated prior to that time and a reasonable time had elapsed for the market to absorb the information, plus interest at the legal rate, costs and reasonable attorneys' fees, unless the defendant proves that the plaintiff knew the information or that the plaintiff would have purchased or sold at the same price even if the information had been revealed to the plaintiff.

Sec. 503. NEW SECTION. JOINT AND SEVERAL LIABILITY; CONTRIBUTION; INDEMNITY.

1. Affiliates of a person liable under either section five hundred one (501) or five hundred two (502) of this Act, partners, principal executive officers or directors of such person, persons occupying a similar status or performing similar functions for such person, employees of such person who materially aid in the act or transaction constituting the violation, and broker-dealers or agents who materially aid in the act or transaction constituting the violation, are also liable jointly and severally with and to the same extent as such person, unless any person liable hereunder proves that he, she or it did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

2. Any person liable under this Act shall have a right of indemnification against any affiliate whose willful violation of any provision of this Act gave rise to such liability. Any person liable under this Act shall have a right of contribution against all other persons similarly liable, except that no person whose willful violation of any provision of this Act has given rise to any civil liability shall have any right of contribution against any other person guilty merely of a negligent violation.

Sec. 504. NEW SECTION. TIME LIMITATIONS ON RIGHTS OF ACTION.

1. No action shall be maintained to enforce any liability created under either section five hundred one (501) of this Act or subsection one (1) of section five hundred three (503)

of this Act insofar as it relates to section five hundred one (501) of this Act unless brought within two years after the violation upon which it is based.

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

3. No action shall be maintained to enforce any right of indemnification or contribution created by subsection two (2) of section five hundred three (503) of this Act unless brought within one year after final judgment based upon the liability for which the right of indemnification or contribution exists.

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

a. Before suit is commenced, the purchaser has received a written offer:

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

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

(3) Stating that the offer may be accepted by the purchaser

at any time within a specified period of not less than thirty days after the date of receipt thereof, or such shorter period as the administrator may by rule prescribe; and

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

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

a. Before suit is commenced, the seller has received a written offer:

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

(2) Offering to return the security plus the amount of any income or distributions, in cash or in kind, received thereon upon payment of the consideration received, or, if the purchaser no longer owns the security, offering to pay the seller upon acceptance of the offer an amount in cash equal to the damages computed in accordance with subsection two (2) of section five hundred two (502) of this Act; and

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

b. The seller has failed to accept the offer in writing within the specified period.

6. Offers under subsections four (4) or five (5) of this section shall be in the form and contain the information the administrator by rule prescribes. Every offer under either subsection shall be delivered to the offeree personally or sent by certified mail addressed to the offeree at the offeree's last known address. If an offer is not performed in accordance with its terms, suit by the offeree under section five hundred one (501), five hundred two (502) or five hundred three (503) of this Act shall be permitted without regard to subsections four (4) and five (5) of this section.

Sec. 505. NEW SECTION. LIMITATION ON IMPLIED LIABILITY.

Except as explicitly provided in this Act, no civil liability in favor of any person shall arise against any person by implication from or as a result of the violation of any provision of this Act or any rule or order hereunder. Nothing in this Act shall limit any liability which might exist by virtue of any other statute or under common law if this Act were not in effect.

Sec. 506. NEW SECTION. NO WAIVER OF RIGHT OF ACTION. Any condition, stipulation or provision binding any person to waive compliance with any provision of this Act or any rule or order hereunder is void.

Sec. 507. NEW SECTION. ENFORCEABILITY OF ILLEGAL CONTRACTS. It shall be a defense to an action based on a contract for the purchase or sale of a security that the plaintiff or the plaintiff's assignor entered into the transaction which gave rise to the contract under circumstances which would subject the plaintiff or the assignor to liability under sections five hundred one (501), five hundred two (502), or five hundred three (503) of this Act.

PART VI

ADMINISTRATION AND ENFORCEMENT

Sec. 601. NEW SECTION. ADMINISTRATION OF ACT.

1. The provisions of this Act shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be subject to the merit system provided for in chapter nineteen A (19A) of the Code. The deputy administrator shall be the principal operations officer of the securities department and shall be responsible to the administrator for the routine administration of the Act and the management of the securities department. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the

functions assigned to the administrator in this Act. The administrator shall employ such officers, attorneys, accountants and other employees as shall be needed for the administration of the Act.

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

Sec. 602. NEW SECTION. FILING OF SALES AND ADVERTISING LITERATURE. The administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security or transaction is exempted by sections two hundred two (202) or two hundred three (203) of this Act. The administrator may by rule or order prohibit the publication, circulation or use of any advertising deemed false or misleading.

Sec. 603. NEW SECTION. INVESTIGATIONS AND SUBPOENAS.

1. The administrator may a. make such public or private investigations within or outside of this state as the administrator deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or order hereunder, or to aid in the enforcement of this Act or in the prescribing of rules and forms hereunder; b. require or permit any person to file a statement in writing, under oath or otherwise as the

administrator determines, as to all the facts and circumstances concerning the matter to be investigated; and c. publish information concerning any violation of this Act or any rule or order hereunder.

2. For the purpose of any investigation or proceeding under this Act, the administrator or any officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the administrator deems relevant or material to the inquiry, all of which may be enforced in accordance with the Iowa Administrative Procedure Act.

3. No person is excused from attending and testifying or from producing any document or record before the administrator, or in obedience to the subpoena of the administrator or any officer designated by the administrator, or in any proceeding instituted by the administrator, on the ground that the testimony or evidence required, whether documentary or otherwise, may tend to incriminate such person or subject such person to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which such person is compelled, after claiming the privilege against self-incrimination, to testify or produce evidence, whether documentary or otherwise, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

Sec. 604. NEW SECTION. CEASE AND DESIST ORDERS; INJUNCTIONS. Whenever it appears to the administrator that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Act or any rule or order hereunder, the administrator may:

1. Issue an order directed at any such person requiring such person to cease and desist from engaging in such act or practice.
2. Bring an action in the district court to enjoin the

acts or practices and to enforce compliance with this Act or any rule or order hereunder. 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. The administrator shall not be required to post a bond.

Sec. 605. NEW SECTION. CRIMINAL PENALTIES.

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

2. The administrator may refer such evidence as is available concerning violations of this Act or of any rule or order hereunder to the attorney general or the proper county attorney who may, with or without such a reference, institute the appropriate criminal proceedings under this Act.

3. Nothing in this Act limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

Sec. 606. NEW SECTION. JUDICIAL REVIEW OF ORDERS.

Judicial review of actions of the administrator may be sought pursuant to the Iowa Administrative Procedure Act, upon execution of a bond in the penal sum of one thousand dollars to the state of Iowa, with sufficient surety, to be approved by the clerk of the court conditioned upon the faithful prosecution of such petition for judicial review, and the payment of all costs adjudged against the petitioner.

Sec. 607. NEW SECTION. RULES, FORMS, ORDERS AND HEARINGS.

1. Pursuant to the Iowa Administrative Procedure Act, the administrator may from time to time make, amend and rescind such rules, forms and orders as are necessary to carry out the provisions of this Act, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in this Act, insofar as the definitions are not inconsistent with the provisions of this Act. For the purpose of rules and forms, the

administrator may classify securities, persons, and other relevant matters, and prescribe different requirements for different classes.

2. No rule, form or order may be made, amended or rescinded unless the administrator finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this Act. In prescribing rules and forms the administrator may cooperate with the securities administrators of the other states, the Securities and Exchange Commission, and national securities exchanges and national securities associations registered under the Securities and Exchange Act of 1934, with a view to effectuating the policy of this statute to achieve maximum uniformity in form and content of registration statements, applications, and reports wherever practicable.

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

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

5. Every hearing in an administrative proceeding shall be public unless, in the exercise of discretion, the administrator grants a request joined in by all the respondents that the hearing be conducted privately.

Sec. 608. NEW SECTION. ADMINISTRATIVE FILES AND OPINIONS.

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

2. The administrator shall keep a register of all applications for registration and registration statements which are or have been effective under this Act and predecessor laws, and all censure, denial, suspension or revocation orders which have been entered under this Act and predecessor laws. The register shall be open for public inspection.

3. The information contained in or filed with any registration statement, application or report may be made available to the public under such rules as the administrator prescribes.

4. Upon request and at such reasonable charges as may be prescribed, the administrator shall furnish to any person photostatic or other copies, certified if requested, of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this Act, any copy so certified is prima facie evidence of the contents of the entry or document certified.

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

Sec. 609. NEW SECTION. SERVICE OF PROCESS.

1. Every applicant for registration under this Act, and every issuer which proposes to offer a security in this state through any person acting as agent, shall file with the administrator, in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or the administrator's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or the successor, executor or administrator of such person which arises under this Act or any rule or order hereunder after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration which is then in effect. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless the plaintiff, including the administrator when acting

as such, a. promptly sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at such person's last known address or takes other steps which are reasonably calculated to give actual notice; and b. files an affidavit of compliance with this subsection in the case on or before the return day of the process, or within such time as the court allows.

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

3. When process is served under this section, the court, or the administrator in a proceeding before the administrator, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 610. NEW SECTION. SCOPE OF THE ACT.

1. The provisions of this Act concerning sales and offers

to sell apply when a sale or an offer to sell is made in this state or when an offer to purchase is made and accepted in this state. The provisions concerning purchases and offers to purchase apply when a purchase or an offer to purchase is made in this state or an offer to sell is made and accepted in this state.

2. For the purpose of this section, an offer to sell or an offer to purchase is made in this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received by the offeree in this state, but for the purpose of section two hundred one (201) of this Act an offer to sell which is not directed to or received by the offeree in this state is not made in this state.

3. For the purpose of this section, an offer to purchase or to sell is accepted in this state when acceptance is communicated to the offeror in this state, and has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received by the offeror in this state.

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

Sec. 611. NEW SECTION. STATUTORY POLICY. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact the "Uniform Securities Act" and to coordinate the interpretation and administration of this Act with the related federal regulation.

Sec. 612. NEW SECTION. SEVERABILITY OF PROVISIONS. If any provision of this Act or the application thereof to any

person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 613. NEW SECTION. PRIOR LAW.

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

2. All effective registrations under prior law, all administrative orders relating to such registrations, and all conditions imposed upon such registrations remain in effect so long as they would have remained in effect if this Act had not been passed. They are considered to have been filed, entered, or imposed under this Act, but are governed by prior law.

3. Prior law applies in respect of any offer or sale made within six months after the effective date of this Act pursuant to an offering begun in good faith before its effective date on the basis of an examination available under prior law.

4. Judicial review of all administrative orders as to which review proceedings have not been instituted by the effective date of this Act are governed by section six hundred six (606) of this Act, except that no review proceeding may be instituted unless the petition is filed within any period of limitation which applied to a review proceeding when the order was entered and in any event within sixty days after the effective date of this Act.

Sec. 614. NEW SECTION. EFFECTIVE DATE. This Act shall

take effect on January 1, 1976.

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

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

499.59 EXEMPTIONS FROM IOWA UNIFORM SECURITIES ACT. None of the exemptions contained in sections ~~502-4 and 502-5~~ five hundred two point two hundred two (502.202) and five hundred two point two hundred three (502.203) of the Code shall apply to any security issued by any association formed hereunder, when the total amount thereof exceeds twenty-five thousand dollars.

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

503.10 EXAMINATION. Every such association shall be subject to examination by the commissioner of insurance or his representatives, the expense of which shall be paid by the association in the same manner and on the same basis and under the same terms and conditions as is now provided for in ~~section-502-12~~ subsection ten (10) of section five hundred two point two hundred eight (502.208) of the Code and subsection four (4) of section five hundred two point three hundred three (502.303) of the Code. In making such examination the commissioner of insurance or his representatives, shall have full access to and may demand the production of all books, securities, papers, contracts, moneys, ~~etc.~~ and other relevant documents of said association, and may administer oaths, summon and compel the attendance of witnesses and the giving of testimony thereby.

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

503.12 SALESMEN-LICENSE-REVOCATION. The salesman or agents of every association qualified under this chapter,

shall be licensed or registered in the same manner and under the same terms and conditions ~~as is provided for in section 502.44~~ as are provided for in sections five hundred two point three hundred one (502.301) and five hundred two point three hundred two (502.302) of the Code, and the license or registration of such salesmen or agents shall be subject to suspension and revocation in the same manner and under the same terms and conditions as is provided for in section ~~502.44~~ five hundred two point three hundred four (502.304) of the Code.

Sec. 619. Section five hundred seven B point fourteen (507B.14), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

When a controlling interest in two or more corporations, at least one of which is an insurance company domiciled in this state, is held by any person, group of persons, firm, or corporation, no exchange of stock, transfer or sale of securities, or loan based upon securities of any such corporation shall take place between such corporations, or between such person, group of persons, firm or corporation and such corporations, without first securing the approval of the insurance commissioner. If, in the opinion of the insurance commissioner, such sale, transfer, exchange, or loan would be improper and would work to the detriment of any such insurance company, he shall have the power to prohibit the transaction. Any person, firm or corporate officer or director aiding such transaction carried out without approval of the insurance commissioner shall be deemed guilty of a felony and upon conviction punished as provided in section ~~502.20~~ five hundred two point six hundred five (502.605) of the Code.

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

536A.22 THRIFT CERTIFICATES. Licensed industrial loan companies may sell thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness. The total amount of

such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits and subordinated debt that gives priority to such securities of the issuing industrial loan company. The sale of such securities shall be subject to the provisions of chapter 502, and shall not be construed to be exempt therefrom by reason of the provisions of ~~section 502.47-subsections 7 and 8~~ subsection ten (10) of section five hundred two point two hundred two (502.202) of the Code, except that the sale of thrift certificates or installment thrift certificates which are redeemable by the holder thereof either upon demand or within a period not in excess of one hundred eighty days shall be exempt from sections five hundred two point two hundred one (502.201) and five hundred two point six hundred two (502.602).

Sec. 621. Chapter five hundred two (502), Code 1975, is amended by striking the chapter and inserting in lieu thereof

sections one hundred one (101) through six hundred fourteen (614) of this Act.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 825, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 7/9, 1975

ROBERT D. RAY
Governor