

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL**  
**No. 1970** Session of  
1972

---

INTRODUCED BY MESSRS. GOODMAN, FRANK, DOMBROWSKI, ARTHURS,  
KOWALYSHYN, FINEMAN, SCANLON, CROWLEY, HETRICK, J. J.  
JOHNSON, BIXLER, ENGLEHART, HOPKINS, WARGO, PRENDERGAST,  
IRVIS, O'BRIEN, F. M. ALLEN, MANBECK AND R. O. DAVIS,  
FEBRUARY 28, 1972

---

SENATOR ZEMPRELLI, BANKING, IN SENATE, RE-REPORTED AS AMENDED,  
OCTOBER 4, 1972

---

AN ACT

1 Relating to securities; prohibiting fraudulent practices in  
2 relation thereto; requiring the registration of broker-  
3 dealers, agents, investment advisers, and securities; and  
4 making uniform the law with reference thereto.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 PART I

8 SHORT TITLE; DEFINITIONS

9 Section 101. Short Title.--This act shall be known and may  
10 be cited as the "Pennsylvania Securities Act of 1972."

11 Section 102. Definitions.--When used in this act, the  
12 following definitions shall be applicable, unless the context  
13 otherwise requires:

14 (a) "Advertisement" means any publicly disseminated, written  
15 or printed communication, including without limitation,  
16 communication by radio, television, or other public media, used

1 in connection with a sale or purchase or an offer to sell or  
2 purchase a security.

3 (b) An "affiliate" of, or a person "affiliated" with, a  
4 specified person, means a person that directly, or indirectly  
5 through one or more intermediaries, controls, is controlled by,  
6 or is under common control with, the person specified.

7 (c) "Agent" means any individual, other than a broker-  
8 dealer, who represents a broker-dealer or issuer in effecting or  
9 attempting to effect purchases or sales of securities. "Agent"  
10 does not include an individual who represents an issuer in  
11 effecting transactions in securities exempted by section 202 or  
12 in effecting transactions exempted by section 203 and does not  
13 include an individual who has no place of business in this State  
14 if he effects transactions in this State exclusively with  
15 broker-dealers. An officer, director, or partner or employe of a  
16 broker-dealer or issuer, or an individual occupying a similar  
17 status or performing similar functions, is an agent only if he  
18 otherwise comes within this definition and receives compensation  
19 directly or indirectly related to purchases or sales of  
20 securities.

21 (d) "Bank" means any bank, banking and trust company,  
22 savings bank, trust company or private bank, as defined in the  
23 Banking Code of 1965, act of November 30, 1965 (P.L.847), or any  
24 savings and loan association, as defined in the Savings  
25 Association Code of 1967, act of December 14, 1967 (P.L.746), or  
26 any successor statutes thereto, or any banking institution,  
27 trust company or savings and loan institution organized under  
28 the laws of the United States, OR OF ANY STATE, TERRITORY OR THE <—  
29 DISTRICT OF COLUMBIA, or a receiver, conservator or other  
30 liquidating agent of any of the foregoing.

1 (e) "Broker-dealer" means any person engaged in the business  
2 of effecting transactions in securities for the account of  
3 others or for his own account. "Broker-dealer" does not include:

4 (i) An agent;

5 (ii) An issuer;

6 (iii) A bank, when effecting transactions for its own  
7 account or for the account of another under section 302 (c);

8 (iv) An executor, administrator, guardian, conservator or  
9 pledgee;

10 (v) A person who has no place of business in this State if  
11 he effects transactions in this State exclusively with or  
12 through (A) the issuers of the securities involved in the  
13 transactions, (B) broker-dealers or institutional investors;

14 (vi) A person licensed as a real estate broker or agent  
15 under the Real Estate Brokers License Act of one thousand nine  
16 hundred and twenty-nine, act of May 1, 1929 (P.L.1216), as  
17 amended, and whose transactions in securities are isolated  
18 transactions incidental to that business;

19 (vii) A person whose dealings in securities are limited to  
20 transactions exempt by section 203 (j); or

21 (viii) Other persons not within the intent of this  
22 subsection whom the commission by regulation designates.

23 (f) "Commission" means the Pennsylvania Securities  
24 Commission.

25 (g) "Control" (including the terms "controlling,"  
26 "controlled by" and "under common control with") means the  
27 possession, directly or indirectly, of the power to direct or  
28 cause the direction of the management and policies of a person,  
29 whether through the ownership of voting securities, by contract,  
30 or otherwise.

1 (h) "Fraud," "deceit" and "defraud" are not limited to  
2 common law fraud or deceit.

3 (i) "Guaranteed" means guaranteed as to payment of  
4 principal, interest, purchase price, dividend or call premium.

5 (j) "Investment adviser" means any person who, for  
6 compensation, engages in the business of advising others, either  
7 directly or through publications or writings, as to the value of  
8 securities or as to the advisability of investing in, purchasing  
9 or selling securities, or who, for compensation and as a part of  
10 a regular business, issues or promulgates analyses or reports  
11 concerning securities. "Investment adviser" does not include:

12 (i) A bank;

13 (ii) A lawyer, accountant, engineer or teacher whose  
14 performance of these services is solely incidental to the  
15 practice of his profession;

16 (iii) A broker-dealer registered under this act without the  
17 imposition of the condition referred to in section 305 (b) (v);

18 (iv) A publisher of any bona fide newspaper, news magazine  
19 or business or financial publication of general, regular and  
20 paid circulation which is not solely engaged in the rendering of  
21 investment advice; and the agents and servants thereof in the  
22 performance of their regular duties on behalf of such  
23 publication;

24 (v) A person whose advice, analyses or reports relate only  
25 to securities exempted under section 202 (a);

26 (vi) A person who has no place of business in this State if  
27 his only clients in this State are other investment advisers,  
28 broker-dealers or institutional investors;

29 (vii) Any person who during the course of the preceding  
30 twelve months has had fewer than five clients and who does not

1 hold himself out generally to the public as an investment  
2 adviser.

3 (viii) Other persons not within the intent of this  
4 subsection whom the commission by regulation designates.

5 (k) "Institutional investor" means any bank, insurance  
6 company, pension or profit sharing plan or trust, investment  
7 company, as defined in the Investment Company Act of 1940, other  
8 financial institution or any person, other than an individual,  
9 which controls any of the foregoing, the Federal Government,  
10 State or any agency or political subdivision thereof or any  
11 other person so designated by regulation of the commission.

12 (l) "Issuer" means any person who issues or proposes to  
13 issue any security, and any promoter who acts for an issuer  
14 proposed to be formed. With respect to certificates of deposit,  
15 voting trust certificates or collateral-trust certificates, or  
16 with respect to certificates of interest or shares in an  
17 unincorporated investment trust not having a board of directors  
18 or persons performing similar functions or of the fixed,  
19 restricted management or unit type, the term "issuer" means the  
20 person or persons performing the acts and assuming the duties of  
21 depositor or manager pursuant to the provisions of the trust or  
22 other agreement or instrument under which the security is  
23 issued; except that with respect to equipment-trust certificates  
24 or like securities, the term "issuer" means the person by whom  
25 the equipment or property is or is to be used. With respect to  
26 certificates of interest or participation in oil, gas or mining  
27 titles or leases or in payments out of production under such  
28 titles or leases, the term "issuer" means the person or persons  
29 actively managing the exploration or development of the property  
30 who sell such interests or participations or payments or any

1 person or persons who subdivide and sell such interests or  
2 participations or payments. The determination of the person or  
3 persons actively managing the exploration or development of the  
4 property shall be made on the basis of the actual relationship  
5 of the parties and not on the basis of the legal designation of  
6 a person's interest. Members of unincorporated associations,  
7 which members have limited liability, and any trustee or member  
8 of a trust, committee or other legal entity shall not be deemed  
9 to be an "issuer" for the purposes of this act.

10 (m) "Non-issuer transaction" means any transaction not  
11 directly or indirectly for the benefit of the issuer.

12 (n) "Person" means an individual, corporation, partnership,  
13 association, joint stock company, syndicate, trust where the  
14 interests of the beneficiaries are evidenced by a security, an  
15 unincorporated organization, government, political subdivision  
16 of a government, or any other entity.

17 (o) "Promoter" includes (i) any person who, acting alone or  
18 in conjunction with one or more other persons, directly or  
19 indirectly takes initiative in founding and organizing the  
20 business or enterprise of an issuer; and (ii) any person who, in  
21 connection with the founding and organizing of the business or  
22 enterprise of an issuer, directly or indirectly receives in  
23 consideration of services or property, or both services and  
24 property, ten per cent or more of any class of securities of the  
25 issuer or ten per cent or more of the proceeds from the sale of  
26 any class of securities. However, a person who receives such  
27 securities or proceeds either solely as underwriting commissions  
28 or solely in consideration of property shall not be deemed a  
29 promoter within the meaning of this clause if such person does  
30 not otherwise take part in founding and organizing the

1 enterprise.

2 (p) "Publish" means publicly to issue or circulate by  
3 newspaper, mail, radio or television, or otherwise to  
4 disseminate to the public.

5 (q) "Reporting company" means any person which has been  
6 required to file, and has filed, all required periodic reports  
7 with the Securities and Exchange Commission and has filed all  
8 annual reports, if any, which it is required to file (i) for at  
9 least ninety days prior to the time of application of this  
10 definition for persons filing pursuant to the provisions of  
11 section 13 or 15 (d) of the Securities and Exchange Act of 1934;  
12 or (ii) for at least one hundred eighty days prior to the time  
13 of application of this definition with respect to persons filing  
14 pursuant to the provisions of section 30 of the Investment  
15 Company Act of 1940, or for whom there is publicly available the  
16 information concerning such person which is specified in clauses  
17 (1) through (14) inclusive, and clause (16) of paragraph (a) (4)  
18 of Rule 15 c2-11 adopted under the Securities Exchange Act of  
19 1934, or if the person is an insurance company the information  
20 specified in section 12 (g) (2)(G) (i) of that act. Information  
21 shall also be deemed "publicly available" under this section if  
22 it has been filed in such places or with such persons as the  
23 commission may specify by regulation.

24 (r) (i) "Sale" or "sell" includes every sale, disposition  
25 or exchange, and every contract of sale of, or contract to sell,  
26 a security or interest in a security for value or any issuance  
27 of securities pursuant to any merger, consolidation, sale of  
28 assets or other corporate reorganization, involving the exchange  
29 of securities, in whole or in part, for the securities of any  
30 other person.

1 (ii) "Offer" or "offer to sell" includes every direct or  
2 indirect attempt or offer to sell or dispose of, or solicitation  
3 of an offer to purchase, a security or interest in a security  
4 for value.

5 (iii) Any security given or delivered with, or as a bonus on  
6 account of, any purchase of securities or any other thing is  
7 considered to constitute part of the subject of the purchase and  
8 to have been offered and sold for value.

9 (iv) Every sale or offer of a warrant or right to purchase  
10 or subscribe to another security of the same or another issuer,  
11 as well as every sale or offer of a security which gives the  
12 holder a present or future right or privilege to convert into  
13 another security of the same or another issuer, is considered to  
14 include an offer of the other security.

15 (v) A purported gift of assessable stock (for which the  
16 statutory consideration has not been paid) involves an offer and  
17 sale.

18 (vi) An offer of rescission made pursuant to section 504 (e)  
19 involves an offer and sale.

20 (vii) The terms "sale," "sell," "offer" and "offer to sell"  
21 do not include: (A) any bona fide secured transaction in, or  
22 loan of, outstanding securities; or (B) any dividend payable  
23 with respect to the securities of a corporation in the same or  
24 any other class of securities of such corporation.

25 (viii) A dividend or distribution by any person to all or  
26 any class of its security holders of the securities of any other  
27 person, whether or not such dividend or distribution is for  
28 value, involves a sale.

29 (s) "Securities Act of 1933," "Securities Exchange Act of  
30 1934," "Public Utility Holding Company Act of 1935," "Trust



1 Indenture Act of 1939," "Investment Advisers Act of 1940,"  
2 "Investment Company Act of 1940" and "Internal Revenue Code of  
3 1954" mean the Federal statutes of those names as amended before  
4 or after the effective date of this act, or any successor  
5 statutes thereto. Section numbers of such statutes or  
6 regulations adopted thereunder and referred to herein include  
7 such amendments thereto as may be adopted before or after the  
8 effective date of this act. "Securities and Exchange Commission"  
9 means the "United States Securities and Exchange Commission."

10 (t) "Security" means any note; stock; treasury stock; bond;  
11 debenture; evidence of indebtedness; share of beneficial  
12 interest in a business trust; certificate of interest or  
13 participation in any profit-sharing agreement; collateral trust  
14 certificate; preorganization certificate or subscription;  
15 transferable share; investment contract; voting trust  
16 certificate; certificate of deposit for a security; limited  
17 partnership interest; certificate of interest or participation  
18 in an oil, gas or mining title or lease or in payments out of  
19 production under such a title or lease; or, in general, any  
20 interest or instrument commonly known as or having the incidents  
21 of a "security"; or any certificate of interest or participation  
22 in, temporary or interim certificate for, receipt for, guarantee  
23 of, or warrant or right to subscribe to or purchase, any of the  
24 foregoing. All of the foregoing are securities whether or not  
25 evidenced by written document. "Security" does not include: (i)  
26 any beneficial interest in any voluntary inter vivos trust which  
27 is not created for the purpose of carrying on any business, or  
28 (ii) any beneficial interest in any testamentary trust, or (iii)  
29 any insurance or endowment policy or annuity contract under  
30 which an insurance company admitted in this State promises to

1 pay a sum of money (whether or not based upon the investment  
2 performance of a segregated fund) either in a lump sum or  
3 periodically for life or some other specified period, or (iv)  
4 any certificate issued under section 809 of The Insurance  
5 Company Law of 1921, act of May 17, 1921 (P.L.682), as amended.

6 (u) "State" means any state, territory or possession of the  
7 United States, the District of Columbia and Puerto Rico.

8 (v) "Underwriter" means a person who has agreed with an  
9 issuer or other person on whose behalf a distribution is to be  
10 made (i) to purchase securities for distribution or (ii) to  
11 distribute securities for or on behalf of such issuer or other  
12 person or (iii) to manage or supervise a distribution of  
13 securities for or on behalf of such issuer or other person.

14 PART II

15 REGISTRATION OF SECURITIES

16 Section 201. Registration Requirement.--It is unlawful for  
17 any person to offer or sell any security in this State unless  
18 the security is registered under this act or the security or  
19 transaction is exempted under section 202 or 203 hereof.

20 Section 202. Exempt Securities.--The following securities  
21 are exempted from section 201:

22 (a) Any security issued or guaranteed by the United States,  
23 any state or Canadian Province, any political subdivision of a  
24 state or Canadian Province, foreign government with which the  
25 United States currently maintains diplomatic relations, or any  
26 agency or corporate or other instrumentality of any of the  
27 foregoing, or any certificate of deposit for any of the  
28 foregoing, provided that if the issuer or guarantor is a foreign  
29 government other than Canada or an instrumentality of a foreign  
30 government other than Canada, such security or certificate of

1 deposit therefor is recognized as a valid obligation by the  
2 issuer or guarantor thereof or its or their successors.

3 (b) Any security issued or guaranteed by any bank or savings  
4 association and any security the offer, sale, issuance or  
5 guarantee of which (i) is subject to regulation by the  
6 Interstate Commerce Commission, or (ii) is registered under the  
7 Public Utility Holding Company Act of 1935 or the act of May 28,  
8 1937 (P.L.1053), known as the "Public Utility Law," or (iii) the  
9 issuer of which is regulated as to the issuance or guarantee of  
10 such security by a governmental authority of the United States.

11 (c) Any commercial paper which arises out of a current  
12 transaction or the proceeds of which have been or are to be used  
13 for current transactions, and which evidences an obligation to  
14 pay cash within nine months of the date after issuance,  
15 exclusive of days of grace, or any renewal of such paper which  
16 is likewise limited, or any guarantee of such paper or of any  
17 such renewal, except where such paper is proposed to be sold or  
18 offered to the public in units of less than five thousand  
19 dollars (\$5,000) to any single person.

20 (d) Any security issued or guaranteed by any Federal credit  
21 union or any credit union, industrial loan association or other  
22 similar association organized and supervised under the laws of  
23 this State.

24 (e) Any security (except evidences of indebtedness, whether  
25 interest bearing or not) of an issuer (i) organized exclusively  
26 for educational, benevolent, fraternal, religious, charitable,  
27 social, athletic or reformatory purposes and not for pecuniary  
28 profit, if no part of the net earnings of the issuer inures to  
29 the benefit of any private shareholder or individual, or (ii)  
30 organized as a chamber of commerce or trade or professional

1 association. The fact that amounts received from memberships, or  
2 dues, or both will or may be used to construct or otherwise  
3 acquire facilities for use by members of the nonprofit  
4 organization does not disqualify the organization from this  
5 exemption. This exemption shall not apply to the securities of  
6 any nonprofit organization if any promoter thereof expects or  
7 intends to make a profit directly or indirectly from any  
8 business or activity associated with the organization or  
9 operation of such nonprofit organization.

10 (f) Any security listed, or approved for listing upon notice  
11 of issuance, on the New York, American, or Philadelphia-  
12 Baltimore-Washington stock exchange or any other securities  
13 exchange or quoted on any national quotation service designated  
14 by regulation of the commission and any security which satisfies  
15 the margin requirements of the Board of Governors of the Federal  
16 Reserve System under Regulation T and any supplement or any  
17 successor regulation thereto; any other security of the same  
18 issuer which is of senior or substantially equal rank; any  
19 security called for by subscription rights or warrants so  
20 listed, approved or quoted; and any warrant or right to purchase  
21 or subscribe to any of the foregoing.

22 (g) Any investment contract issued in connection with an  
23 employe's stock option, purchase, savings, pension, profit  
24 sharing or similar benefit plan, provided, in the case of plans  
25 adopted after the effective date hereof which are not qualified  
26 under section 401 of the Internal Revenue Code of 1954 and which  
27 provide for contribution by employes, the commission is notified  
28 in writing thirty days before the commencement of the offering  
29 in this State.

30 (h) Any security of a registered broker-dealer issued to its

1 officers, partners or employes, subject to such regulations as  
2 the commission may establish.

3 (i) Any security as to which the commission by regulation or  
4 order finds that registration is not necessary or appropriate  
5 for the protection of investors.

6 Section 203. Exempt Transactions.--The following  
7 transactions are exempted from section 201:

8 (a) Any non-issuer transaction except where directly or  
9 indirectly for the benefit of an affiliate of the issuer.

10 (b) Any non-issuer transaction directly or indirectly for  
11 the benefit of an affiliate of the issuer which is exempted from  
12 section 5 of the Securities Act of 1933, other than those  
13 transactions exempted pursuant to section 3 (a) (11) or 3 (b) of  
14 the Securities Act of 1933, and the rules and regulations now or  
15 hereafter adopted thereunder.

16 (c) Any offer or sale to an institutional investor or to a  
17 broker-dealer, whether the buyer is acting for itself or in some  
18 fiduciary capacity.

19 (d) Any sales by an issuer to not more than twenty-five  
20 persons in this State during a period of twelve consecutive  
21 months if (i) the issuer shall obtain the written agreement of  
22 each such person not to sell the security within twelve months  
23 after the date of purchase; (ii) no public media advertisement  
24 is used or mass mailing made in connection with soliciting such  
25 sales; and (iii) no cash or securities is given or paid,  
26 directly or indirectly, to any promoter in connection therewith.  
27 Purchasers of securities registered under this act or sold in  
28 reliance upon an exemption under this act other than this  
29 subsection (d) or subsection (f) shall not be included in  
30 computing the twenty-five persons for purposes of this

1 exemption. A notice in the form prescribed by the commission,  
2 signed by the officers or directors of the issuer under oath and  
3 stating the name, principal business address of the issuer,  
4 proposed use of the proceeds from the sale and such facts as are  
5 necessary to establish this exemption shall be filed, together  
6 with a copy of any offering literature used in connection with  
7 such offer or sale, with the commission not later than the day  
8 on which the securities are first issued or the issuer first  
9 receives consideration from any person therefor, whichever is  
10 earlier.

11 (e) Any offer to not more than fifty persons during a period  
12 of twelve consecutive months if no sales result from such offer  
13 or if sales resulting from such offer are exempt by reason of  
14 subsection (d) hereof. This subsection shall not be applicable  
15 to offers made pursuant to any other subsection of this section  
16 203, except subsections (d) and (f).

17 (f) Any offer or sale of a preorganization subscription or  
18 securities of a newly-formed person as part of its initial  
19 capitalization to not more than five persons.

20 (g) Any transaction between the issuer or other person on  
21 whose behalf the offering is made and an underwriter, or among  
22 underwriters.

23 (h) Any offer (but not a sale) of a security for which a  
24 registration statement has been filed under the Securities Act  
25 of 1933 if (i) no stop order or refusal order is in effect and  
26 no public proceeding or examination looking toward such an order  
27 is pending under the Securities Act of 1933 or this act; and  
28 (ii) no such offer is made until after such registration  
29 statement (including a prospectus) has been filed with or mailed  
30 to the commission.

1 (i) Any sale of a security registered under section 5 of the  
2 Securities Act of 1933 or exempt from registration under section  
3 3 (b) of such act if: (i) a copy of any final prospectus or  
4 final offering circular utilized or proposed to be utilized in  
5 connection therewith is mailed to the commission within two  
6 business days after such prospectus or offering circular is  
7 filed with the Securities and Exchange Commission; (ii) the  
8 filing fee specified in section 602 (b) is paid with respect to  
9 such offering; (iii) the issuer of the security is a reporting  
10 company; and (iv) no stop order or refusal order is in effect  
11 and no public proceeding or investigation looking toward such an  
12 order is pending under the Securities Act of 1933 or this act.  
13 As a condition of the continuing effectiveness of this  
14 exemption, copies of any post-effective amendment or sticker to  
15 such prospectus or offering circular must be mailed to the  
16 commission within two business days after the same is filed with  
17 the Securities and Exchange Commission.

18 (j) Any transaction in a bond or other evidence of  
19 indebtedness secured by a real or chattel mortgage or deed of  
20 trust, or by an agreement for the sale of real estate or  
21 chattels, if the entire mortgage, deed of trust, or agreement,  
22 together with all the bonds or other evidences of indebtedness  
23 secured thereby, is offered and sold as a unit.

24 (k) Any judicial sale or any transaction by an executor,  
25 administrator, sheriff, marshal, receiver, trustee in  
26 bankruptcy, guardian or conservator.

27 (l) Any transaction now or hereafter exempted from section 5  
28 of the Securities Act of 1933 by virtue of sections 3 (a) (9) or  
29 3 (a) (10) thereof; provided, however, that the commission be  
30 given notice of any hearing referred to in section 3 (a) (10).

1 (m) Any transaction executed by a bona fide pledgee without  
2 any purpose of evading this act.

3 (n) Any transaction pursuant to an offer of securities to  
4 existing security holders of the issuer or of a corporation  
5 which, prior to the commencement of the offer, owned  
6 substantially all of the voting stock of the issuer or was  
7 organized for the purpose of the offer by persons in control of  
8 the issuer, if no commission or other remuneration other than a  
9 standby commission is paid or given directly or indirectly for  
10 soliciting any security holder in this State, and if the issuer  
11 first files a notice specifying the terms of the offer and all  
12 other information which the commission by regulation requires,  
13 and the commission does not by order disallow the exemption  
14 within five days. "Security holders" include persons who at the  
15 time of the transaction are holders of convertible securities,  
16 nontransferable warrants, or transferable warrants exercisable  
17 within not more than ninety days of their issuance.

18 (o) Any transaction incident to a vote by security holders  
19 (or written consent of some or all security holders in lieu of  
20 such vote) pursuant to the articles of incorporation or the  
21 applicable corporation statute or other statute governing such  
22 person, or pursuant to a partnership agreement, a declaration of  
23 trust, trust indenture or any agreement among security holders  
24 on a merger, consolidation, sale of assets in consideration, in  
25 whole or part, of the issuance of securities of another person,  
26 reclassification of securities, or reorganization involving the  
27 exchange of securities, in whole or in part, for the securities  
28 of any other person if, but only if: (i) one party to such  
29 transaction is required or permitted to file proxy materials  
30 pursuant to section 14 (a) of the Securities Exchange Act of



1 1934 or section 20 of the Investment Company Act of 1940 and  
2 does file such materials with the commission at least ten days  
3 prior to a meeting of security holders called for the purpose of  
4 approving such transaction; and such proxy materials are  
5 distributed to the security holders of each party to such  
6 transaction; or (ii) such materials as may be specified by  
7 regulation of the commission are prepared in connection with the  
8 proposed transaction and, after review by the commission,  
9 distributed to the security holders of each party to the  
10 transaction; provided, however, that clause (i) and (ii) of this  
11 subsection and section 602 (c) shall not be applicable to any  
12 party to a transaction where not more than twenty-five per cent  
13 of the security holders of such party are residents of this  
14 State.

15 (p) Any offer or sale of an evidence of indebtedness of an  
16 issuer either: organized exclusively for educational,  
17 benevolent, fraternal, religious, charitable, social, athletic  
18 or reformatory purposes and not for pecuniary profit, if no part  
19 of the net earnings of the issuer inures to the benefit of any  
20 private shareholder or individual; or organized as a chamber of  
21 commerce or trade or professional association if there has been  
22 filed with the commission a notice identifying the security and  
23 the basis of its qualification under this exemption together  
24 with such further information as the commission may by  
25 regulation require, and if the commission does not by order  
26 disallow the exemption within ten days or such shorter period as  
27 it may permit. The security qualifies under this exemption: if  
28 (i) the issuer and any predecessor have not defaulted within the  
29 current fiscal year and the three preceding fiscal years in any  
30 fixed interest or principal obligation; and (ii) the issuer

1 complies with regulations of the commission with respect to  
2 trust indentures and the use of a prospectus; and (iii) the  
3 securities proposed to be sold are secured by a mortgage or deed  
4 of trust upon land and buildings, which mortgage or deed of  
5 trust is or will become a first lien at or prior to the issuance  
6 of such evidences of indebtedness, or provision satisfactory to  
7 the commission is made for escrowing the proceeds from their  
8 sale until such first lien is established, and the total amount  
9 of such securities does not exceed seventy-five per cent of the  
10 then fair market value of the land and buildings included in  
11 such mortgage or deed of trust, less the amount of any unpaid  
12 special assessment taxes. This exemption shall not apply to the  
13 securities of any nonprofit organization if any promoter thereof  
14 expects or intends to make a profit directly or indirectly from  
15 any business or activity associated with the organization or  
16 operation of such nonprofit organization.

17 (q) Any bona fide distribution in partial or total  
18 liquidation of a person, whether or not the assets being  
19 distributed include securities of any other person and whether  
20 or not wholly or partially in exchange for the securities of the  
21 person making the distribution, and any stock split and any  
22 stock dividend, where the corporation distributing the dividend  
23 is not the issuer, if nothing of value is given by stockholders  
24 for the dividend other than the surrender of a right to a cash  
25 or property dividend in lieu of the stock and if the dividend is  
26 issued pro rata by class; provided, however, in the case of a  
27 distribution or dividend by a corporation not the issuer, such  
28 corporation shall file with the commission, ten days prior to  
29 the intended date of the distribution or dividend, a statement  
30 containing the facts and circumstances surrounding the

1 distribution or dividend.

2 (r) Any transaction or class of transactions as to which the  
3 commission by regulation or order finds that registration is not  
4 necessary or appropriate for the protection of investors.

5 Section 204. Exemption Proceedings.--(a) The commission may  
6 by regulation as to any type of security or transaction, or by  
7 order in a particular case, as to any security or transaction  
8 increase the number of purchasers or offerees permitted, or  
9 waive the conditions in either of sections 202 or 203.

10 (b) The commission may by order deny or revoke any exemption  
11 specified in section 202 or 203 with respect to a specific  
12 security or transaction. No such order may be entered without  
13 appropriate prior notice to all interested parties, opportunity  
14 for hearing, and written findings of fact and conclusions of  
15 law, except that the commission may by order summarily deny or  
16 revoke any of the specified exemptions pending final  
17 determination of any proceeding under this section. Upon the  
18 entry of a summary order, the commission shall promptly notify  
19 all interested parties that it has been entered and reasons  
20 therefor and that within fifteen days of the receipt of a  
21 written request the matter will be set down for hearing. If no  
22 hearing is requested and none is ordered by the commission, the  
23 order will remain in effect until it is modified or vacated by  
24 the commission. If a hearing is requested or ordered, the  
25 commission, after notice of and opportunity for hearing to all  
26 interested persons, may modify or vacate the order or extend it  
27 until final determination. No order under this section may  
28 operate retroactively. No person may be considered to have  
29 violated section 201 by reason of any offer or sale effected  
30 after the entry of an order under this section if he sustains

1 the burden of proof that he did not know, and in the exercise of  
2 reasonable care could not have known, of the order.

3 (c) In any proceeding under this act, the burden of proving  
4 an exemption or an exception from a definition is upon the  
5 person claiming it.

6 Section 205. Registration by Coordination.--(a) Registration  
7 by coordination may be used for any offering for which a  
8 registration statement has been filed under the Securities Act  
9 of 1933 or for any proposed sale pursuant to the exemption  
10 contained in section 3 (b) of such act where such registration  
11 statement or notification of proposed sale has not become  
12 effective.

13 (b) A registration statement under this section shall  
14 contain the following information and be accompanied by the  
15 following documents in addition to the information specified in  
16 section 207 (b) and the consent to service of process required  
17 by section 701:

18 (i) Two copies of the preliminary prospectus or offering  
19 circular filed under the Securities Act of 1933;

20 (ii) If the commission by regulation requires, a copy of the  
21 articles of incorporation and bylaws or their substantial  
22 equivalents currently in effect, a copy of any agreements with  
23 or among underwriters, a copy of any indenture or other  
24 instrument governing the issuance of the security to be  
25 registered, and a specimen or copy of the security;

26 (iii) If the commission by regulation or order requires, any  
27 other information, or copies of any documents, filed under the  
28 Securities Act of 1933; and

29 (iv) An undertaking to forward to the commission all future  
30 amendments to the Federal prospectus or offering circular, other

1 than an amendment which merely delays the effective date of the  
2 registration statement, not later than the first business day  
3 after they are forwarded to or filed with the Securities and  
4 Exchange Commission, or such longer period as the commission  
5 permits.

6 (c) A registration statement under this section  
7 automatically becomes effective at the moment the Federal  
8 registration statement or notification becomes effective if (i)  
9 no stop order is in effect in this State and no proceeding is  
10 pending under section 208; (ii) and the registration statement  
11 has been on file with the commission for at least ten days;  
12 (iii) a statement of the maximum and minimum proposed offering  
13 prices and the maximum underwriting discounts and commissions  
14 has been on file for two full business days, or such shorter  
15 period as the commission permits; and (iv) the offering is made  
16 within these limitations.

17 (d) The registrant shall notify the commission promptly by  
18 telephone or telegram of the date and time when the Federal  
19 registration statement became effective and the content of the  
20 price amendment, if any, and shall file a post-effective  
21 amendment promptly containing the information and documents in  
22 the price amendment. "Price amendment" means the final Federal  
23 amendment which includes a statement of the offering price,  
24 underwriting and selling discounts or commissions, amount of  
25 proceeds, conversion rates, call prices and other matters  
26 dependent upon the offering price. Upon failure to receive the  
27 required notification and post-effective amendment with respect  
28 to the price amendment, the commission may enter a stop order,  
29 without notice or hearing, retroactively denying effectiveness  
30 to the registration statement or suspending its effectiveness

1 until compliance with this subsection is effected, if it  
2 promptly notifies the registrant by telephone or telegram of the  
3 issuance of such order. If the registrant proves compliance with  
4 the requirements of this subsection as to notice and post-  
5 effective amendment, the stop order shall be vacated as of the  
6 time of its entry. The commission may by regulation or order  
7 waive any of the conditions specified in subsection (b) or (c).

8 (e) If the Federal registration statement becomes effective  
9 before all the conditions in this section are satisfied and they  
10 are not waived, the registration statement automatically becomes  
11 effective as soon as all the conditions are satisfied. If the  
12 registrant advises the commission of the date when the Federal  
13 registration statement is expected to become effective, the  
14 commission shall promptly advise the registrant by telephone or  
15 telegram, at the registrant's expense, whether all the  
16 conditions are satisfied and whether it then contemplates the  
17 institution of a proceeding under section 208; but this advice  
18 by the commission does not preclude the institution of such a  
19 proceeding at any time.

20 Section 206. Registration by Qualification.--(a) Any  
21 security may be registered by qualification.

22 (b) A registration statement under this section shall  
23 contain the information specified in section 207 (b), shall be  
24 accompanied by the consent to service of process required by  
25 section 701 and shall contain the following information and be  
26 accompanied by the following documents:

27 (1) with respect to the issuer and any significant  
28 subsidiary: its name, address, and form of organization; the  
29 state or foreign jurisdiction and date of its organization; the  
30 general character and location of its business; a description of

1 its physical properties and equipment; and a statement of the  
2 general competitive conditions in the industry or business in  
3 which it is or will be engaged;

4 (2) with respect to every director and officer of the  
5 issuer, or person occupying a similar status or performing  
6 similar functions: his name, address, and principal occupation  
7 for the past five years; the amount of securities of the issuer  
8 held by him as of a specified date within thirty days of the  
9 filing of the registration statement; the amount of the  
10 securities covered by the registration statement to which he has  
11 indicated his intention to subscribe; and a description of any  
12 material interest in any material transaction with the issuer or  
13 any significant subsidiary effected within the past three years  
14 or proposed to be effected;

15 (3) with respect to persons covered by clause (2): the  
16 remuneration paid during the past twelve months and estimated to  
17 be paid during the next twelve months, directly or indirectly,  
18 by the issuer (together with all predecessors, parents,  
19 subsidiaries, and affiliates) to all those persons in the  
20 aggregate;

21 (4) with respect to any person owning of record, or  
22 beneficially if known, ten per cent or more of the outstanding  
23 shares of any class of equity security of the issuer: the  
24 information specified in clause (2) other than his occupation;

25 (5) with respect to every promoter if the issuer was  
26 organized within the past three years: the information specified  
27 in clause (2), any amount paid to him within that period or  
28 intended to be paid to him, and the consideration for any such  
29 payment;

30 (6) with respect to any person on whose behalf any part of

1 the offering is to be made in a non-issuer distribution: his  
2 name and address; the amount of securities of the issuer held by  
3 him as of the date of the filing of the registration statement;  
4 a description of any material interest in any material  
5 transaction with the issuer or any significant subsidiary  
6 effected within the past three years or proposed to be effected;  
7 and a statement of his reasons for making the offering;

8 (7) the capitalization and long-term debt (on both a current  
9 and pro forma basis) of the issuer and any significant  
10 subsidiary, including a description of each security outstanding  
11 or being registered or otherwise offered, and a statement of the  
12 amount and kind of consideration (whether in the form of cash,  
13 physical assets, services, patents, goodwill, or anything else)  
14 for which the issuer or any subsidiary has issued any of its  
15 securities within the past two years or is obligated to issue  
16 any of its securities;

17 (8) the kind and amount of securities to be offered; the  
18 proposed offering price or the method by which it is to be  
19 computed; any variation therefrom at which any proportion of the  
20 offering is to be made to any person or class of persons other  
21 than the underwriters, with a specification of any such person  
22 or class; the basis upon which the offering is to be made if  
23 otherwise than for cash; the estimated aggregate underwriting  
24 and selling discounts or commissions and finders' fees  
25 (including separately cash, securities, contracts, or anything  
26 else of value to accrue to the underwriters or finders in  
27 connection with the offering) or, if the selling discounts or  
28 commissions are variable; the basis of determining them and  
29 their maximum and minimum amounts; the estimated amounts of  
30 other selling expenses, including legal, engineering, and



1 accounting charges; the name and address of every underwriter  
2 and every recipient of a finder's fee; a copy of any  
3 underwriting or selling-group agreement pursuant to which the  
4 distribution is to be made, or the proposed form of any such  
5 agreement whose terms have not yet been determined; and a  
6 description of the plan of distribution of any securities which  
7 are to be offered otherwise than through an underwriter;

8 (9) the estimated cash proceeds to be received by the issuer  
9 from the offering; the purposes for which the proceeds are to be  
10 used by the issuer; the amount to be used for each purpose; the  
11 order or priority in which the proceeds will be used for the  
12 purposes stated; the amounts of any funds to be raised from  
13 other sources to achieve the purposes stated; the sources of any  
14 such funds; and, if any part of the proceeds is to be used to  
15 acquire any property (including goodwill) otherwise than in the  
16 ordinary course of business, the names and addresses of the  
17 vendors, the purchase price, the names of any persons who have  
18 received commissions in connection with the acquisition, and the  
19 amounts of any such commissions and any other expense in  
20 connection with the acquisition (including the cost of borrowing  
21 money to finance the acquisition);

22 (10) a description of any stock options or other security  
23 options outstanding, or to be created in connection with the  
24 offering, together with the amount of any such options held or  
25 to be held by every person required to be named in clause (2),  
26 (4), (5), (6), or (8) and by any person who holds or will hold  
27 ten per cent or more in the aggregate of any such options;

28 (11) the dates of, parties to, and general effect concisely  
29 stated of, every management or other material contract made or  
30 to be made otherwise than in the ordinary course of business if

1 it is to be performed in whole or in part at or after the filing  
2 of the registration statement or was made within the past two  
3 years, together with a copy of every such contract; and a  
4 description of any pending litigation or proceeding to which the  
5 issuer is a party and which materially affects its business or  
6 assets (including any such litigation or proceeding known to be  
7 contemplated by governmental authorities);

8 (12) a copy of any prospectus, pamphlet, circular, form  
9 letter, advertisement, or other sales literature intended as of  
10 the effective date to be used in connection with the offering;

11 (13) a specimen or copy of the security being registered; a  
12 copy of the issuer's articles of incorporation and bylaws, or  
13 their substantial equivalents, as currently in effect; and a  
14 copy of any indenture or other instrument covering the security  
15 to be registered;

16 (14) a signed or conformed copy of an opinion of counsel as  
17 to the legality of the security being registered (with an  
18 English translation if it is in a foreign language), which shall  
19 state whether the security when sold will be legally issued,  
20 fully paid, and non-assessable, and, if a debt security, a  
21 binding obligation of the issuer;

22 (15) the written consent of any accountant, engineer,  
23 appraiser, or other person whose profession gives authority to a  
24 statement made by him, if any such person is named as having  
25 prepared or certified a report or valuation (other than a public  
26 and official document or statement) which is used in connection  
27 with the registration statement;

28 (16) a balance sheet of the issuer as of a date within four  
29 months prior to the filing of the registration statement; a  
30 profit and loss statement and analysis of surplus for each of

1 the three fiscal years preceding the date of the balance sheet  
2 and for any period between the close of the last fiscal year and  
3 the date of the balance sheet, or for the period of the issuer's  
4 and any predecessors' existence if less than three years; and,  
5 if any part of the proceeds of the offering is to be applied to  
6 the purchase of any business, the same financial statements  
7 which would be required if that business were the registrant, or  
8 such other financial statements as may be required pursuant to  
9 section 609 (c); and

10 (17) such additional information as the commission requires  
11 by regulation or order.

12 For purposes of this section 206 (b) the commission may  
13 classify issuers and types of securities.

14 (c) Registration under this section becomes effective when  
15 the commission so orders. If a registration statement has been  
16 on file for at least thirty days and all information required by  
17 the commission has been furnished, the person filing the  
18 statement may at any time file a written request that the  
19 commission take action within ten days following the filing of  
20 such request. If a request is filed and the commission takes no  
21 action within the period, the registration becomes effective at  
22 the end of the ten-day period.

23 (d) The commission may by regulation or order require as a  
24 condition of registration under this section that a prospectus  
25 containing any designated part of the information contained in  
26 the registration statement or filed with it be sent or given to  
27 each person to whom an offer is made before or concurrently  
28 with: the first written offer made to him, otherwise than by  
29 means of a public advertisement, by or for the account of the  
30 issuer or any other person on whose behalf the offering is made,

1 or by any underwriter or broker-dealer who is offering part of  
2 an unsold allotment or subscription taken by him as a  
3 participant in the distribution; or the confirmation of any sale  
4 made by or for the account of any person; or the payment  
5 pursuant to any sale; or the delivery of the security pursuant  
6 to any sale; whichever first occurs.

7 Section 207. General Registration Provisions.--(a) A  
8 registration statement may be filed by the issuer, any other  
9 person on whose behalf the offering is to be made or a licensed  
10 broker-dealer.

11 (b) Every registration statement shall specify: (i) the  
12 amount of securities to be offered in this State; (ii) the  
13 states in which a registration statement or application in  
14 connection with the offering has been or is to be filed; (iii)  
15 any adverse order, judgment or decree entered in connection with  
16 the offering by the regulatory authorities in any state or by  
17 any court or the Securities and Exchange Commission, or any  
18 withdrawal with prejudice of a registration statement or  
19 application relating to the offering; and (iv) the names of all  
20 underwriters and broker-dealers selling or offering the  
21 securities in this State. Where the names of all underwriters or  
22 broker-dealers are not known at the time of filing of the  
23 registration statement, such list may be supplemented from time  
24 to time prior to or after effectiveness, provided that no delay  
25 of effectiveness or suspension shall be caused by the filing of  
26 any such supplement.

27 (c) Any document filed under this act or a predecessor law  
28 within five years preceding the filing of a registration  
29 statement may be incorporated by reference in the registration  
30 statement.

1 (d) The commission may by regulation or otherwise permit the  
2 omission of any item of information or document from any  
3 registration statement.

4 (e) The commission may by regulation or order require as a  
5 condition of registration by qualification or as a condition of  
6 registration by coordination (if more than sixty-six and two-  
7 thirds per cent of the issue of securities part or all of which  
8 is to be registered by coordination is to be sold in  
9 Pennsylvania) that a report by an accountant, engineer,  
10 appraiser or other professional person be filed. The commission  
11 may also designate one of its employes to make an examination of  
12 the business and records of an issuer of securities for which a  
13 registration statement has been filed by qualification.

14 (f) In the case of a nonissuer distribution, information may  
15 not be required under section 206 (b) or section 207 (k) unless  
16 it is known to the person filing the registration statement or  
17 to the persons on whose behalf the distribution is to be made,  
18 or can be furnished by them without unreasonable effort or  
19 expense.

20 (g) The commission may by regulation or order require as a  
21 condition of registration that any security issued within the  
22 past two years or to be issued to a promoter for a consideration  
23 substantially different from the public offering price, or to  
24 any person for a consideration other than cash, be deposited in  
25 escrow; or that the proceeds from the sale of the registered  
26 security in this State be escrowed until the issuer receives a  
27 specified amount from the sale of the security either in this  
28 State or elsewhere; or it may impose both such requirements:  
29 Provided, however, That this subsection (g) shall not apply to  
30 any security registered by coordination if the issuer has been

1 in existence for more than three years: And provided further,  
2 That with respect to securities registered by coordination no  
3 escrow hereunder shall be required to extend beyond three years.  
4 The commission may by regulation or order determine the  
5 conditions of any escrow required hereunder, but may not reject  
6 a depository solely because of location in another state.

7 (h) The commission may by regulation require that debt  
8 securities of designated classes to be registered by  
9 qualification shall be issued under a trust indenture containing  
10 such provisions as it determines, but such provisions shall not  
11 be in addition to or inconsistent with the terms required or  
12 permitted by the Trust Indenture Act of 1939.

13 (i) The commission may by regulation require (i) with  
14 respect to registration by coordination that a copy of each form  
15 of subscription or sale contract used or proposed to be used in  
16 this State be filed with the commission prior to its use in this  
17 State; and (ii) with respect to registration by qualification  
18 that, as a condition of registration, any security registered be  
19 sold only on a specified form of subscription or sale contract;  
20 and (iii) that a signed or conformed copy of each such contract  
21 be preserved for any period up to three years.

22 (j) A registration statement is effective for one year from  
23 its effective date, or any longer period during which the  
24 security is being offered or distributed in a nonexempted  
25 transaction by or for the account of the issuer or other person  
26 on whose behalf the offering is being made, or by any  
27 underwriter or broker-dealer who is still offering part of an  
28 unsold allotment or subscription taken by him as a participant  
29 in the distribution, provided that the commission has been  
30 notified of such continued offering and the period thereof. Any

1 such extension of the offering period for securities registered  
2 by qualification shall be subject to regulations established by  
3 the commission. The fact that a registration statement has been  
4 effective in this State with respect to any security does not  
5 permit sales of securities of the same class by the issuer or an  
6 affiliate of the issuer if such person did not file the  
7 registration statement, unless a separate registration statement  
8 is filed and declared effective with respect thereto, or an  
9 exemption from registration is available. A registration  
10 statement may not be withdrawn after its effective date if any  
11 of the securities registered have been sold in this State,  
12 unless permitted by regulation or order of the commission. No  
13 registration statement is effective during the time a stop order  
14 is in effect under section 208.

15 (k) During the effective period of a registration statement,  
16 the commission may by regulation require the person who filed  
17 the registration statement to file reports with the commission,  
18 not more often than quarterly, to keep reasonably current the  
19 information contained in the registration statement and to  
20 disclose the progress of the offering; provided, however, that  
21 no person need comply with any such regulation of the commission  
22 if such person files with the commission copies of all reports  
23 such person is required to file with the Securities and Exchange  
24 Commission and if such reports are filed in a timely manner. If  
25 any of the securities registered have been sold in the State,  
26 the commission may by regulation extend the period for filing  
27 the reports for an additional term not exceeding two years from  
28 the date the registration became effective or the date of its  
29 last amendment or extension.

30 (l) A registration statement relating to any continuous

1 offering of securities may be amended after its effective date  
2 so as to increase the specified amount of securities proposed to  
3 be offered. The amendment becomes effective when the commission  
4 so orders.

5 (m) Each person who accepts an offer to purchase securities  
6 registered by qualification directly from an issuer or an  
7 affiliate of an issuer shall have the right to withdraw his  
8 acceptance without incurring any liability to the seller,  
9 underwriter (if any) or any other person, within two business  
10 days after he receives a prospectus relating to the offering  
11 (which is not materially different from the final prospectus  
12 relating to such offering) and a notice explaining the  
13 provisions of this subsection. As used herein, the term "final  
14 prospectus" shall mean the document prepared in accordance with  
15 such regulations as the commission may provide, to be used by  
16 the seller in connection with an offering of securities in this  
17 State after the registration of such securities has become  
18 effective under this act. Each person who accepts an offer to  
19 purchase securities exempted from registration by section 203  
20 (d), (f), (p) or (r), directly from an issuer or affiliate of an  
21 issuer shall have the right to withdraw his acceptance without  
22 incurring any liability to the seller, underwriter (if any) or  
23 any other person, within two business days after he enters into  
24 a binding contract of purchase, or makes any payment for the  
25 securities being offered or the exemption becomes effective,  
26 whichever is later.

27 Section 208. Denial, Suspension, and Revocation of  
28 Registrations.--(a) The commission may issue a stop order  
29 denying effectiveness to, or suspending or revoking the  
30 effectiveness of, any registration statement if it finds that



1 the order is in the public interest and that:

2 (i) The registration statement as of its effective date or  
3 as of any earlier date in the case of an order denying  
4 effectiveness, or any amendment filed under section 207 (l) as  
5 of its effective date, or any report under section 207 (k) is  
6 incomplete in any material respect or contains any statement  
7 which was, in the light of the circumstances under which it was  
8 made, false or misleading with respect to any material fact, or  
9 omitted to state a material fact necessary in order to make the  
10 statements made, in the light of the circumstances under which  
11 they are made, not misleading;

12 (ii) Any provision of this act or any regulation, order or  
13 condition lawfully imposed under this act has been wilfully  
14 violated, in connection with the offering by: (A) the person  
15 filing the registration statement, (B) the issuer, (C) any  
16 partner, officer or director of the issuer, (D) any person  
17 occupying a similar status or performing similar functions, (E)  
18 any affiliate of the issuer, but only if the person filing the  
19 registration statement is an affiliate of the issuer, or (F) any  
20 broker-dealer;

21 (iii) The securities are the subject of an administrative  
22 stop order or similar order or a permanent or temporary  
23 injunction of any court of competent jurisdiction entered under  
24 any other Federal or State act applicable to the offering, but  
25 the commission may not institute a proceeding against an  
26 effective registration statement under this section more than  
27 one year from the date of the order or injunction relied on, and  
28 it may not enter an order under this section on the basis of an  
29 order or injunction entered under any other state act unless  
30 that order or injunction was based on facts which would

1 currently constitute a ground for a stop order under this act;

2 (iv) The issuer's enterprise or method of business includes  
3 or would include activities which are illegal where performed;

4 (v) The offering has been or would be made with unreasonable  
5 amounts of underwriters' and sellers' discounts, commissions or  
6 other compensation, or promoters' profits or participation, or  
7 unreasonable amounts or kinds of options, or has worked or  
8 tended to work a fraud upon purchasers or would so operate,  
9 provided that any underwriting compensation approved by a  
10 national securities association registered under the Securities  
11 Exchange Act of 1934 with respect to the underwriting activities  
12 of its members shall not be deemed unreasonable under this  
13 section;

14 (vi) The applicant or registrant has failed to pay the  
15 proper filing fee; but the commission may only enter a denial  
16 order under this subsection, and it shall vacate any such order  
17 when the deficiency has been corrected; or

18 (vii) Advertising prohibited by section 606 has been used in  
19 connection with the sale or offering of the securities.

20 (b) The commission may not institute a stop order proceeding  
21 against an effective registration statement on the basis of a  
22 fact or transaction known to it when the registration statement  
23 became effective unless the proceeding is instituted within  
24 thirty days after effectiveness.

25 (c) The commission may issue a summary order denying,  
26 postponing, suspending or revoking the effectiveness of a  
27 registration statement pending final determination of any  
28 proceeding under this section. Upon the entry of the order, the  
29 commission shall promptly notify each person specified in  
30 subsection (d) that it has been entered and the reasons therefor

1 and that within fifteen days after the receipt of a written  
2 request the matter will be set down for hearing. If no hearing  
3 is requested or ordered, the commission, after notice of and  
4 opportunity for hearing to each person specified in subsection  
5 (d); may modify or vacate the order or extend it until final  
6 determination.

7 (d) No stop order may be entered under this section except  
8 under subsection (c) without appropriate prior notice to the  
9 applicant or registrant, the issuer and the person on whose  
10 behalf the securities are to be or have been offered;  
11 opportunity for hearing; and written findings of fact and  
12 conclusions of law.

13 (e) The commission may vacate or modify a stop order if it  
14 finds that the conditions which prompted its entry have changed  
15 or that it is otherwise in the public interest to do so.

16 Section 209. Books, Records and Accounts.--Every issuer  
17 registering securities for sale in this State or who has sold  
18 securities in this State pursuant to an exemption contained in  
19 section 202 (e), 203 (d), 203 (p) or 203 (r) shall at all times  
20 keep and maintain a complete set of books, records, and accounts  
21 of such sales and the disposition of the proceeds thereof for a  
22 period of three years following the last sale of securities in  
23 this State or one year after the disposition of all proceeds,  
24 whichever is longer, and shall thereafter, at such times as are  
25 required by the commission, make and file in the office of the  
26 commission, a report, setting forth the securities sold by it  
27 under such registration or exemption, the proceeds derived  
28 therefrom and the disposition thereof.

29 PART III

30 REGISTRATION OF BROKER-DEALERS, AGENTS

1 AND INVESTMENT ADVISERS

2 Section 301. Registration Requirement.--Unless exempted  
3 under section 302 hereof:

4 (a) It is unlawful for any person to transact business in  
5 this State as a broker-dealer or agent unless he is registered  
6 under this act.

7 (b) It is unlawful for any broker-dealer or issuer to employ  
8 an agent to represent him in this State unless the agent is  
9 registered under this act. The registration of an agent is not  
10 effective during any period when he is not associated with a  
11 specified broker-dealer registered under this act or a specified  
12 issuer. No agent shall at any time represent more than one  
13 broker-dealer or issuer, except that where affiliated  
14 organizations are registered broker-dealers, an agent may  
15 represent one or more of such organizations. When an agent  
16 begins or terminates a connection with a broker-dealer or  
17 issuer, or begins or terminates those activities which make him  
18 an agent, the agent as well as the broker-dealer or issuer shall  
19 promptly notify the commission. The commission may adopt a  
20 temporary registration procedure to permit agents to change  
21 employers without suspension of their registrations hereunder.

22 (c) It is unlawful for any person to transact business in  
23 this State as an investment adviser unless he is so registered  
24 or registered as a broker-dealer under this act or unless he is  
25 exempted under section 302 (d).

26 (d) It is unlawful for any licensed broker-dealer, agent or  
27 investment adviser to effect a transaction in securities,  
28 directly or indirectly, in this State if the registrant is in  
29 violation of this act, or any regulation or order promulgated  
30 under this act of which he has notice, if such violation (i) is

1 a material violation; (ii) relates to transactions effected in  
2 this State; and (iii) has been committed by such registrant, or  
3 if the information contained in his application for  
4 registration, as of the date of such transaction, is incomplete  
5 in any material respect or is false or misleading with respect  
6 to any material fact.

7 (e) Every registration expires two years from its effective  
8 date unless renewed. The commission by regulation may prepare an  
9 initial schedule for registration renewals so that subsequent  
10 renewals of registrations effective on or after April 1, 1972  
11 may be staggered. For this purpose the commission may adjust the  
12 registration fee proportionately. No registration is effective  
13 after its expiration, unless a renewal application has been  
14 timely filed, and expiration of a registration for which no  
15 renewal application has been filed is deemed an application for  
16 withdrawal under section 305 (f).

17 Section 302. Exemptions.--The following persons shall be  
18 exempted from the registration provisions of section 301:

19 (a) A broker-dealer registered under the Securities Exchange  
20 Act of 1934, who has not previously had any certificate denied  
21 or revoked under this act or any predecessor statute, if he has  
22 no place of business in this State and, during any period of  
23 twelve consecutive months, he does not direct offers to sell or  
24 buy into this State in any manner to persons other than broker-  
25 dealers, institutional investors or governmental agencies and  
26 other instrumentalities designated by regulation of the  
27 commission, or to more than five other customers in this State,  
28 whether or not the offeror or any of the offerees is then  
29 present in this State.

30 (b) An agent in so far as he effects transactions on behalf

1 of a broker-dealer who is exempted by the provisions of  
2 subsection (a).

3 (c) A bank not registered as a broker-dealer under this act  
4 executing orders for the purchase or sale of securities for the  
5 account of the purchaser or seller thereof.

6 (d) A person registered under the Investment Advisers Act of  
7 1940, who has not previously had any certificate denied or  
8 revoked under this act or any predecessor statute, if (i) his  
9 only clients in this State are other investment advisers,  
10 broker-dealers, institutional investors or governmental agencies  
11 and other instrumentalities designated by regulation of the  
12 commission, or (ii) during any period of twelve consecutive  
13 months he does not direct business communications into this  
14 State in any manner to more than five clients other than those  
15 specified in clause (i) above, whether or not he or any of the  
16 persons to whom the communications are directed is then present  
17 in this State.

18 (e) Any bona fide officer, director, partner or employe of  
19 an issuer, or an individual occupying similar status or  
20 performing similar functions, if such person does not receive  
21 any compensation, directly or indirectly, for his activities on  
22 behalf of an issuer in connection with any security or  
23 transaction except those exempted under section 202 or 203.

24 (f) The commission may by such regulations as it deems  
25 necessary or appropriate in the public interest or for the  
26 protection of investors, either unconditionally or upon  
27 specified terms and conditions or for specified periods, exempt  
28 from the provisions of section 301 any class of persons  
29 specified in such regulations.

30 Section 303. Registration Procedure.--(a) (i) A broker-

1 dealer, agent, or investment adviser may obtain an initial or  
2 renewal license by filing with the commission an application  
3 together with a consent to service of process pursuant to  
4 section 701. The application shall contain such information, and  
5 in such detail, as the commission by rule requires concerning  
6 the applicant's form and place of organization, proposed method  
7 of doing business, and financial condition, the qualifications  
8 and experience of the applicant, including, in the case of a  
9 broker-dealer or investment adviser, the qualifications and  
10 experience of any partner, officer, director, or affiliate, or a  
11 person occupying a similar status or performing similar  
12 functions any injunction or administrative order or conviction  
13 referred to in section 305 (a) (ii), information about  
14 affiliates or predecessors of the applicant, and any other  
15 matters which the commission determines are relevant to the  
16 application.

17 (ii) If no denial order is in effect and no proceeding is  
18 pending under section 305, the registration becomes effective on  
19 the thirtieth day after the filing of the application therefor  
20 or any material amendment thereto, or on such earlier date as  
21 the commission may order. The commission is directed to  
22 cooperate with other securities administrators and regulatory  
23 authorities to simplify and coordinate registration, application  
24 and renewal procedures.

25 (b) A registered broker-dealer or investment adviser may  
26 file an application for registration of a successor, whether or  
27 not the successor is then in existence, for the unexpired  
28 portion of the registrant's term. There shall be no filing fee.

29 (c) The commission may by regulation prescribe standards of  
30 qualification with respect to training, experience and knowledge

1 of the securities business and provide for an examination, which  
2 may be written or oral or both, to be taken by any class of or  
3 all applicants, as well as persons who represent or will  
4 represent an investment adviser, and the commission may by order  
5 require an examination of a licensed broker-dealer, agent or  
6 investment adviser for due cause.

7 (d) The commission may by regulation require a minimum  
8 capital for broker-dealers and investment advisers and establish  
9 limitations on aggregate indebtedness of broker-dealers in  
10 relation to net capital and may classify broker-dealers and  
11 investment advisers for purposes of such requirements. The  
12 commission may not, however, with respect to any broker-dealer  
13 who is a member of the National Association of Securities  
14 Dealers, Inc. or who is registered with the Securities and  
15 Exchange Commission require a higher minimum capital or lower  
16 ratio of aggregate indebtedness to net capital than is contained  
17 in the rules or regulations adopted by such association or  
18 commission.

19 (e) The commission may by regulation require surety bonds to  
20 be posted by any broker-dealer, investment adviser, and any  
21 issuer who employs agents in connection with any security or  
22 transaction not exempted by section 202 or 203 in an amount not  
23 exceeding ten thousand dollars (\$10,000), and all bonds required  
24 shall provide for suit thereon by injured customers, clients or  
25 purchasers, but no bond may be required of any registered  
26 broker-dealer or investment adviser whose net capital exceeds  
27 the amount prescribed in this section 303 or by regulation for  
28 this purpose. Such bond, unless cancelled as provided herein,  
29 shall be in effect during the entire period that a registration  
30 is in effect. Every bond shall contain a provision that such



1 bond is not cancellable, except on thirty-days prior written  
2 notice to the person by whom the bond was posted and the  
3 commission, provided that such cancellation shall not affect any  
4 liability incurred or accrued prior to the effective date of  
5 such cancellation.

6 Section 304. Post-Registration Provisions.--(a) Every  
7 registered broker-dealer and investment adviser shall make and  
8 keep all accounts, correspondence, memoranda, papers, books and  
9 other records which the commission by regulation prescribes. All  
10 records required shall be preserved for three years unless the  
11 commission by regulation prescribes otherwise for particular  
12 types of records. All required records shall be kept within this  
13 State or shall, at the request of the commission, be made  
14 available at any time for examination by it either in the  
15 principal office of the registrant or by production of exact  
16 copies thereof in this State.

17 (b) Every registered broker-dealer and investment adviser  
18 shall file such financial reports as the commission by  
19 regulation prescribes.

20 (c) If the information contained in any document filed with  
21 the commission is or becomes inaccurate or incomplete in any  
22 material respect, the registrant shall promptly file a  
23 correcting amendment.

24 (d) The commission shall make periodic examinations, within  
25 or without this State, of each broker-dealer and investment  
26 adviser at reasonable times and in reasonable scope. These  
27 examinations may be made without prior notice to the broker-  
28 dealer or investment adviser. For the purpose of avoiding  
29 unnecessary duplication of examinations, the commission, in so  
30 far as it deems it practicable in administering this subsection,

1 shall cooperate with securities administrators of other states,  
2 the Securities and Exchange Commission, and any national  
3 securities exchange or national securities association  
4 registered under the Securities Exchange Act of 1934 or any  
5 other department or agency of this State.

6 (e) The commission may by regulation prohibit unreasonable  
7 charges, commissions or other compensation of broker-dealers and  
8 investment advisers, provided that any charges, commissions, or  
9 other compensation consistent with rates set by a national  
10 securities exchange, when applied to transactions on that  
11 exchange, or by the Securities and Exchange Commission or  
12 national securities association registered under the Securities  
13 Exchange Act of 1934, shall not be deemed unreasonable under  
14 this section. Any underwriting compensation permitted by a  
15 national securities association registered under the Securities  
16 Exchange Act of 1934 with respect to the underwriting activities  
17 of its members shall not be deemed unreasonable under this  
18 section.

19 (f) The commission may prescribe rules which it finds  
20 appropriate in the public interest and for the protection of  
21 investors for the conduct of business by broker-dealers and  
22 investment advisers who are not members of the National  
23 Association of Securities Dealers, Inc. or any other national  
24 securities association registered under the Securities Exchange  
25 Act of 1934, which association has adopted rules of conduct.

26 (g) All broker-dealers and investment advisers registered  
27 hereunder shall display copies of their currently effective  
28 licenses, bearing the seal of the commission, prominently in  
29 each place of business within this State. Each such certificate  
30 shall contain the names of such persons as the commission shall

1 by rule provide.

2 Section 305. Denial, Suspension and Revocation of  
3 Registration.--(a) The commission may, by order, deny, suspend,  
4 or revoke any registration or may censure any registrant if it  
5 finds that such order is in the public interest and that such  
6 registrant or applicant, or in the case of any broker-dealer or  
7 investment adviser, any affiliate thereof, whether prior or  
8 subsequent to becoming associated with such person:

9 (i) Has, in any application for registration or in any  
10 report required to be filed with the commission under this act,  
11 or in any proceeding before the commission, wilfully made or  
12 caused to be made any statement which was at the time and in the  
13 light of the circumstances under which it was made false or  
14 misleading with respect to any material fact, or has wilfully  
15 omitted to state in any such application, report or proceeding,  
16 any material fact which is required to be stated therein or  
17 necessary in order to make the statements made, in the light of  
18 the circumstances under which they are made, not misleading, or  
19 has wilfully failed to amend or supplement such an application,  
20 report or statement in a timely manner in accordance with rules  
21 which may be adopted by the commission; or

22 (ii) Has, within ten years of the date of the commission's  
23 action, been either (A) convicted of a felony or misdemeanor, or  
24 (B) held liable in a civil action by final judgment of a court  
25 based upon conduct showing moral turpitude, and the commission  
26 finds that any such felony, misdemeanor or civil action (I)  
27 involved the purchase or sale of any security, or any other  
28 aspect of the securities business, (II) arose out of the conduct  
29 of the business of a broker-dealer, investment adviser or issuer  
30 with respect to a security or transaction not exempt under

1 section 202 or 203, (III) involved embezzlement, fraudulent  
2 conversion or misappropriation of property, funds or securities,  
3 or (IV) involved the violation of section 1341, 1342 or 1343 of  
4 Title 18 of the United States Code; or

5 (iii) Is permanently or temporarily enjoined by any court of  
6 competent jurisdiction from engaging in or continuing any  
7 conduct or practice involving any aspect of the securities  
8 business or involving fraudulent conduct in the banking or  
9 insurance business; or

10 (iv) Is subject to any currently effective order or order  
11 entered within the past five years of the Securities and  
12 Exchange Commission or the securities administrator of any other  
13 state denying registration to or revoking or suspending the  
14 registration of such person as a broker-dealer, agent or  
15 investment adviser or is subject to any currently effective  
16 order of any national securities association or national  
17 securities exchange (as defined in the Securities Exchange Act  
18 of 1934) suspending or expelling such person from membership in  
19 such association or exchange, or is the subject of a currently  
20 effective United States Postal Service fraud order; but the  
21 commission may not institute a revocation or suspension  
22 proceeding under this subsection on the basis of an order under  
23 another state law more than one year after termination of the  
24 effectiveness of the order relied on and unless the order was  
25 based on facts which would currently constitute grounds for an  
26 order under this section; or

27 (v) Has wilfully violated any provision of the Securities  
28 Act of 1933, the Securities Exchange Act of 1934, the Trust  
29 Indenture Act of 1939, the Investment Advisers Act of 1940, the  
30 Investment Company Act of 1940 or this act, or any predecessor

1 law, or of any rule or regulation under any of such statutes; or

2 (vi) Has wilfully aided, abetted, counseled, commanded,  
3 induced, or procured the violation by any other person of any of  
4 the statutes or rules or regulations referred to in subsection  
5 (v); or

6 (vii) Has failed reasonably to supervise his agents, if he  
7 is a broker-dealer, or his employes, if he is an investment  
8 adviser, but no person shall be deemed to have failed in such  
9 supervision if there have been established procedures, and a  
10 system for applying such procedures, which would reasonably be  
11 expected to prevent and detect, in so far as practicable, any  
12 violation of statutes, rules or orders described in subsection  
13 (v) and if such person has reasonably discharged the duties and  
14 obligations incumbent upon him by reason of such procedures and  
15 system without reasonable cause to believe that such procedures  
16 and system were not being complied with; or

17 (viii) Is the subject of a currently effective order of the  
18 commission denying, suspending or revoking his registration in  
19 any other capacity under this act; or

20 (ix) Has engaged in dishonest or unethical practices in the  
21 securities business or has taken unfair advantage of a customer;  
22 or

23 (x) Is insolvent, either in the sense that his liabilities  
24 exceed his assets or in the sense that he cannot meet his  
25 obligations as they mature, or is in such financial condition  
26 that he cannot continue in business with safety to his  
27 customers, or has not sufficient financial responsibility to  
28 carry out the obligations incident to his operations provided  
29 that the commission has made a specific finding of insolvency,  
30 absence of safety or insufficient financial responsibility; or

1 (xi) Is not qualified on the basis of such factors as  
2 training, experience and knowledge of the securities business;  
3 except as otherwise provided in subsection (b); or

4 (xii) Is selling or has sold, or is offering or has offered  
5 for sale, in this State securities through any unregistered  
6 agent required to be registered under this act or for any  
7 broker-dealer or issuer with knowledge that such broker-dealer  
8 or issuer had not or has not complied with this act; or

9 (xiii) Has made any material misrepresentation to or  
10 withheld or concealed from or omitted to state to the commission  
11 or any of its representatives any material fact necessary in  
12 order to make the statements made, in the light of the  
13 circumstances under which they are made, not misleading, or has  
14 refused to furnish information reasonably requested by the  
15 commission.

16 (b) The following provisions govern the application of  
17 section 305 (a) (xi):

18 (i) The commission may not enter an order against a broker-  
19 dealer on the basis of the lack of qualification of any person  
20 other than (A) the broker-dealer himself if he is an individual,  
21 or (B) an agent of the broker-dealer.

22 (ii) The commission may not enter an order against an  
23 investment adviser on the basis of the lack of qualification of  
24 any person other than (A) the investment adviser himself if he  
25 is an individual, or (B) any other person who represents the  
26 investment adviser in doing any of the acts which make him an  
27 investment adviser.

28 (iii) The commission may not enter an order solely on the  
29 basis of lack of experience if the applicant or registrant is  
30 qualified by training or knowledge or both.

1 (iv) The commission shall consider that an agent who will  
2 work under the supervision of a registered broker-dealer need  
3 not have the same qualifications as a broker-dealer.

4 (v) The commission shall consider that an investment adviser  
5 is not necessarily qualified solely on the basis of experience  
6 as a broker-dealer or agent. When it finds that an applicant for  
7 initial or renewal registration as a broker-dealer is not  
8 qualified as an investment adviser, it may by order condition  
9 the applicant's registration as a broker-dealer upon his not  
10 transacting business in this State as an investment adviser.

11 (vi) The commission may by rule provide for an examination,  
12 which may be written or oral or both, to be taken by any class  
13 of or all applicants, as well as persons who represent or will  
14 represent an investment adviser in doing any of the acts which  
15 make him an investment adviser.

16 (c) The commission may not institute a suspension or  
17 revocation proceeding on the basis of a fact or transaction  
18 known to it when the registration became effective unless the  
19 proceeding is instituted within thirty days after such effective  
20 date.

21 (d) The commission may by order summarily deny, postpone or  
22 suspend an application for registration pending final  
23 determination of any proceeding under this section. Upon the  
24 entry of the order, the commission shall promptly notify the  
25 applicant or registrant, as well as the employer or prospective  
26 employer if the applicant or registrant is an agent, that it has  
27 been entered and of the reasons therefor and that within fifteen  
28 days after the receipt of a written request the matter will be  
29 set down for hearing. If no hearing is requested and none is  
30 ordered by the commission, the order will remain in effect until

1 it is modified or vacated by the commission. If a hearing is  
2 requested or ordered, the commission, after notice of and  
3 opportunity for hearing, may modify or vacate the order or  
4 extend it until final determination.

5 (e) If the commission finds that any registrant or applicant  
6 is no longer in existence or has ceased to do business as a  
7 broker-dealer, agent or investment adviser, or is subject to an  
8 adjudication of mental incompetence or to the control of a  
9 committee, conservator or guardian, or cannot be located after  
10 reasonable search, the commission may by order revoke the  
11 registration or deny the application.

12 (f) Withdrawal from the status of a registered broker-  
13 dealer, agent or investment adviser becomes effective on the  
14 thirtieth day after receipt of an application to withdraw, or  
15 within such shorter period as the commission determines, unless  
16 a revocation or suspension proceeding is pending before the  
17 commission when the application is filed or a proceeding to  
18 revoke or suspend or to impose conditions upon the withdrawal is  
19 instituted before the commission within thirty days after the  
20 application is filed. If a proceeding is so pending or  
21 instituted, withdrawal becomes effective at such time and upon  
22 such conditions as the commission by order determines. If no  
23 proceeding is so pending or instituted and withdrawal  
24 automatically becomes effective, the commission may institute a  
25 revocation or suspension proceeding under subsection (a) (ii)  
26 within one year after withdrawal became effective and enter a  
27 revocation or suspension order as of the last date on which the  
28 registration was in effect.

29 (g) No order may be entered under this section except under  
30 subsection (d) without appropriate prior notice to the applicant



1 or registrant as well as the employer or prospective employer if  
2 the applicant or registrant is an agent, opportunity for hearing  
3 and written findings of fact and conclusions of law. In cases of  
4 denial orders, such findings and conclusions shall be provided  
5 only if requested by the applicant.

6 Section 306. Prohibited Employment.--(a) It is unlawful for  
7 any person, as to whom an order suspending or revoking his  
8 registration is in effect, willfully to become or to be employed  
9 in any capacity by any broker-dealer or investment adviser or in  
10 the position of agent for an issuer without the consent of the  
11 commission; and it is unlawful for any broker-dealer, investment  
12 adviser or issuer to permit such a person to become or to remain  
13 a person employed by him without the consent of the commission  
14 if such broker-dealer, investment adviser or issuer knew, or in  
15 the exercise of reasonable care should have known, of such  
16 order.

17 (b) No issuer (except for a broker-dealer registered  
18 hereunder) shall employ any person as an agent hereunder if such  
19 issuer knew, or in the exercise of reasonable care should have  
20 known, that such person has at any time within the twelve  
21 previous months participated in this State as an agent, officer  
22 or director of another issuer in the sale of securities of that  
23 issuer, which securities were registered under section 205 or  
24 206.

#### 25 PART IV

#### 26 FRAUDULENT AND PROHIBITED PRACTICES

27 Section 401. Sales and Purchases.--It is unlawful for any  
28 person, in connection with the offer, sale or purchase of any  
29 security in this State, directly or indirectly:

30 (a) To employ any device, scheme or artifice to defraud;

1 (b) To make any untrue statement of a material fact or to  
2 omit to state a material fact necessary in order to make the  
3 statements made, in the light of the circumstances under which  
4 they are made, not misleading; or

5 (c) To engage in any act, practice or course of business  
6 which operates or would operate as a fraud or deceit upon any  
7 person.

8 Section 402. Market Manipulation.--It is unlawful for any  
9 person, directly or indirectly, in this State:

10 (a) For the purpose of creating a false or misleading  
11 appearance of active trading in a security or a false or  
12 misleading appearance with respect to the market for a security:

13 (i) to effect any transaction in the security which involves  
14 no change in the beneficial ownership thereof; or

15 (ii) to enter any order or orders for the purchase (or sale)  
16 of the security with the knowledge that an order or orders of  
17 substantially the same size, at substantially the same time, and  
18 at substantially the same price for the sale (or purchase) of  
19 the security, have been or will be entered by or for the same or  
20 affiliated persons;

21 (b) To effect, alone or with one or more other persons, a  
22 series of transactions in any security creating actual or  
23 apparent active trading in the security or raising or depressing  
24 the price of the security for the purpose of inducing the  
25 purchase or sale of the security by others; or

26 (c) To induce the purchase or sale of any security by the  
27 circulation or dissemination of information to the effect that  
28 the price of the security will or is likely to rise or fall  
29 because of market operations of any one or more persons  
30 conducted for the purpose of raising or depressing the price of

1 the security, if he is selling or offering to sell or purchasing  
2 or offering to purchase the security or is receiving a  
3 consideration, directly or indirectly, from any such person.

4 Section 403. Prohibited Transactions; Broker-dealers and  
5 Agents.--No broker-dealer or agent shall effect any transaction  
6 in, or induce or attempt to induce the purchase or sale of, any  
7 security in this State by means of any manipulative, deceptive  
8 or other fraudulent scheme, device, or contrivance, fictitious  
9 quotation, or in violation of this act or any regulation or  
10 order hereunder.

11 Section 404. Prohibited Activities; Investment Advisers.--It  
12 is unlawful for any investment adviser, directly or indirectly,  
13 in this State:

14 (a) To employ any device, scheme, or artifice to defraud any  
15 client or prospective client.

16 (b) To engage in any transaction, practice, or course of  
17 business which operates as a fraud or deceit upon any client or  
18 prospective client.

19 (c) Acting as principal for his own account, knowingly to  
20 sell any security to or purchase any security from a client for  
21 whom he is acting as investment adviser, or, acting as broker  
22 for a person other than such client, knowingly to effect any  
23 sale or purchase of any security for the account of such client,  
24 without disclosing to such client in writing before the  
25 completion of the transaction the capacity in which he is acting  
26 and obtaining the written consent of the client to such  
27 transaction.

28 (d) To engage in any act, practice, or course of business  
29 which is fraudulent, deceptive, or manipulative.

30 (e) To represent that he is an investment counsel or to use

1 the name "investment counsel" as descriptive of his business  
2 unless his principal business consists of acting as investment  
3 adviser and a substantial part of his business consists of  
4 rendering investment advisory services on the basis of the  
5 individual needs of his clients.

6 (f) Unless an adviser is registered as a broker-dealer under  
7 this act, to take and have custody of any securities or funds of  
8 any client if he fails to meet such requirements therefor as may  
9 be prescribed by the commission by regulation.

10 Section 405. Contract Requirements.--It is unlawful for any  
11 investment adviser to enter into, extend, or renew any  
12 investment advisory contract unless it provides in writing:

13 (1) that the investment adviser shall not be compensated on  
14 the basis of a share of capital gains upon or capital  
15 appreciation of the funds or any portion of the funds of the  
16 client;

17 (2) that no assignment of the contract may be made by the  
18 investment adviser without the consent of the other party to the  
19 contract; and

20 (3) that the investment adviser, if a partnership, shall  
21 notify the other party to the contract of any change in the  
22 membership of the partnership within a reasonable time after the  
23 change.

24 Clause (1) does not prohibit an investment advisory contract  
25 which provides for compensation based upon the total value of a  
26 fund averaged over a definite period, or as of definite dates or  
27 taken as of a definite date, or in any other manner permitted by  
28 the Investment Advisers Act of 1940, and the rules and  
29 regulations promulgated thereunder or any contract for the  
30 rendering of investment advisory services to an institutional

1 investor. "Assignment," as used in clause (2), includes any  
2 direct or indirect transfer or hypothecation of an investment  
3 advisory contract by the assignor or of a controlling block of  
4 the assignor's outstanding voting securities by a security  
5 holder of the assignor; but, if the investment adviser is a  
6 partnership, no assignment of an investment advisory contract is  
7 considered to result from the death or withdrawal of a minority  
8 of the members of the investment adviser having only a minority  
9 interest in the business of the investment adviser, or from the  
10 admission to the investment adviser of one or more members who,  
11 after admission, will be only a minority of the members and will  
12 have only a minority interest in the business.

13 Section 406. Inside Information.--It is unlawful for an  
14 issuer or any person who is an officer, director, or affiliate  
15 of an issuer or any other person whose relationship to the  
16 issuer gives him access, directly or indirectly, to material  
17 information about the issuer not generally available to the  
18 public, to purchase or sell any security of the issuer in this  
19 State at a time when he knows material information about the  
20 issuer gained from such relationship, which information (a)  
21 would significantly affect the market price of that security;  
22 (b) is not generally available to the public; and (c) he knows  
23 is not intended to be so available, unless he has reason to  
24 believe that the person selling to or buying from him is also in  
25 possession of the information.

26 Section 407. Misleading Filings; Misrepresentations of  
27 Commission Approval.--(a) It is unlawful for any person to make  
28 or cause to be made, in any document filed with the commission  
29 or in any proceeding under this act, any statement which is, at  
30 the time and in the light of the circumstances under which it is

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

5 (b) It is unlawful for any person registered as a broker-  
6 dealer, agent or investment adviser under this act to represent  
7 or imply in any manner whatsoever that such person has been  
8 sponsored, recommended, or approved or that his abilities or  
9 qualifications have in any respect been passed upon by the  
10 commission. Nothing in this section prohibits a statement (other  
11 than in a paid advertisement) that a person is registered under  
12 this act, if such statement is true in fact and if the effect of  
13 such registration is not misrepresented.

14 (c) (i) Neither the fact that an application for  
15 registration of securities under this act has been filed nor the  
16 fact that such application becomes effective constitutes a  
17 finding by the commission that any document filed under this act  
18 is true, complete or not misleading. Neither any such fact nor  
19 the fact that an exemption is available for a security or a  
20 transaction means that the commission has passed upon the merits  
21 or qualifications of, or recommended or given approval to any  
22 person, security or transaction.

23 (ii) It is unlawful to make, or cause to be made, to any  
24 prospective purchaser or any other person, any representation  
25 inconsistent with clause (i) of this subsection.

26 PART V

27 ENFORCEMENT

28 Section 501. Civil Liabilities.--(a) Any person who: (i)  
29 offers or sells a security in violation of section 407 (c) or at  
30 any time when such person has committed a material violation of

1 section 301, or any regulation relating to either section 301 or  
2 407 (c), or any order under this act of which he has notice; or  
3 (ii) offers or sells a security in violation of sections 401,  
4 403, 404 or otherwise by means of any untrue statement of a  
5 material fact or any omission to state a material fact necessary  
6 in order to make the statements made, in the light of the  
7 circumstances under which they are made, not misleading, the  
8 purchaser not knowing of the untruth or omission, and who does  
9 not sustain the burden of proof that he did not know and in the  
10 exercise of reasonable care could not have known of the untruth  
11 or omission, shall be liable to the person purchasing the  
12 security from him, who may sue either at law or in equity to  
13 recover the consideration paid for the security, together with  
14 interest at the legal rate from the date of payment, less the  
15 amount of any income or distributions, in cash or in kind,  
16 received on the security, upon the tender of the security, or  
17 for damages if he no longer owns the security. Damages are the  
18 amount that would be recoverable upon a tender less the value of  
19 the security when the purchaser disposed of it, plus interest at  
20 the legal rate from the date of disposition. Tender shall  
21 require only notice of willingness to exchange the security for  
22 the amount specified. Any notice may be given by service as in  
23 civil actions or by certified mail addressed to the last known  
24 address of the person liable.

25 (b) Any person who purchases a security in violation of  
26 sections 401, 403, 404 or otherwise by means of any untrue  
27 statement of a material fact or any omission to state a material  
28 fact necessary in order to make the statements made, in light of  
29 the circumstances under which they are made, not misleading,  
30 shall be liable to the person selling the security to him, who

1 may sue either at law or in equity to recover the security, plus  
2 any income or distributions, in cash or in kind, received by the  
3 purchaser thereon, upon tender of the consideration received, or  
4 for damages if the purchaser no longer owns the security.

5 Damages are the excess of the value of the security when the  
6 purchaser disposed of it, plus interest at the legal rate from  
7 the date of disposition, over the consideration paid for the  
8 security. Tender requires only notice of willingness to pay the  
9 amount specified in exchange for the security. Any notice may be  
10 given by service as in civil actions or by certified mail to the  
11 last known address of the person liable.

12 (c) Any person who wilfully participates in any act or  
13 transaction in violation of section 402 shall be liable to any  
14 other person who purchases or sells any security at a price  
15 which was affected by the act or transaction for the damages  
16 sustained as a result of such act or transaction. Damages shall  
17 be the difference between the price at which the other person  
18 purchased or sold securities and the market value which the  
19 securities would have had at the time of his purchase or sale in  
20 the absence of the act or transaction, plus interest at the  
21 legal rate.

22 (d) Any investment adviser who violates section 405 shall be  
23 liable to the other party to the investment advisory contract  
24 for all fees paid under such contract to the investment adviser,  
25 less any profits earned by such party through transactions  
26 effected as a result of advice given under the contract, plus  
27 interest at the legal rate. In addition, either party may, at  
28 any time, declare the contract null and void as of the date of  
29 such declaration.

30 (e) Any person who violates section 406 shall be liable to



1 the person who purchases a security from him or sells a security  
2 to him in violation of section 406, for damages equal to the  
3 difference between the price at which such security was  
4 purchased or sold and the market value which such security would  
5 have had at the time of the purchase or sale if the information  
6 known to the defendant had been publicly disseminated prior to  
7 that time and a reasonable time had elapsed for the market to  
8 absorb the information, plus interest at the legal rate, unless  
9 the defendant proves that the plaintiff knew the information or  
10 that the plaintiff would have purchased or sold at the same  
11 price even if the information had been revealed to him.

12 Section 502. Violation of Registration Requirements.--Any  
13 person who violates section 201 or any material condition  
14 imposed under section 206 or 207 shall be liable to the person  
15 purchasing the security offered or sold in violation of section  
16 201 from him who may sue either at law or in equity to recover  
17 the consideration paid for the security, together with interest  
18 at the legal rate from the date of payment, less the amount of  
19 any income or distributions, in cash or in kind, received on the  
20 security, upon the tender of the security, or for damages if he  
21 no longer owns the security. Damages shall be the amount that  
22 would be recoverable upon a tender less the value of the  
23 security when the purchaser disposed of it and interest at the  
24 legal rate from the date of disposition. Any person on whose  
25 behalf an offering is made and any underwriter of the offering,  
26 whether on a best efforts or a firm commitment basis, shall be  
27 jointly and severally liable under this section, but in no event  
28 shall any underwriter be liable in any suit or suits authorized  
29 under this section for damages in excess of the total price at  
30 which the securities underwritten by him and distributed to the

1 public were offered to the public. Tender requires only notice  
2 of willingness to exchange the security for the amount  
3 specified. Any notice may be given by service as in civil  
4 actions or by certified mail addressed to the last known address  
5 of the person liable. No person shall be liable under this  
6 section if the sale of the security is registered prior to the  
7 payment or receipt of any part of the consideration for the  
8 security sold, even though an offer to sell or a contract of  
9 sale may have been made or entered into without registration.

10 Section 503. Joint and Several Liability; Contribution;  
11 Corporation's Right of Indemnification.--(a) Every affiliate of  
12 a person liable under section 501 or 502, every partner,  
13 principal executive officer or director of such person, every  
14 person occupying a similar status or performing similar  
15 functions, every employe of such person who materially aids in  
16 the act or transaction constituting the violation, and every  
17 broker-dealer or agent who materially aids in the act or  
18 transaction constituting the violation, are also liable jointly  
19 and severally with and to the same extent as such person, unless  
20 the person liable hereunder proves that he did not know, and in  
21 the exercise of reasonable care could not have known, of the  
22 existence of the facts by reason of which the liability is  
23 alleged to exist.

24 (b) A corporation which is liable under this act shall have  
25 a right of indemnification against any of its affiliates whose  
26 wilful violation of any provision of this act gave rise to such  
27 liability. All persons civilly liable under this act shall have  
28 a right of contribution against all other persons similarly  
29 liable, based upon each person's proportionate share of the  
30 total liability, except that no person whose wilful violation of

1 any provision of this act has given rise to any civil liability  
2 shall have any right of contribution against any other person  
3 guilty merely of a negligent violation.

4 Section 504. Time Limitations on Rights of Action.--(a) No  
5 action shall be maintained to enforce any liability created  
6 under section 501 (or section 503 in so far as it relates to  
7 that section) unless brought before the expiration of three  
8 years after the act or transaction constituting the violation or  
9 the expiration of one year after the plaintiff receives actual  
10 notice or upon the exercise of reasonable diligence should have  
11 known of the facts constituting the violation, whichever shall  
12 first expire.

13 (b) No action shall be maintained to enforce any liability  
14 created under section 502 (or section 503 in so far as it  
15 relates to that section) unless brought before the expiration of  
16 two years after the violation upon which it is based or the  
17 expiration of one year after the plaintiff receives actual  
18 notice or upon the exercise of reasonable diligence should have  
19 known of the facts constituting such violation, whichever shall  
20 first expire.

21 (c) No action shall be maintained to enforce any right of  
22 indemnification or contribution created by section 503 unless  
23 brought before the expiration of one year after final judgment  
24 based upon the liability for which the right of indemnification  
25 or contribution exists.

26 (d) No purchaser may commence an action under section 501,  
27 502 or 503 if, before suit is commenced, the purchaser has  
28 received a written offer: (i) stating the respect in which  
29 liability under such section may have arisen and fairly advising  
30 the purchaser of his rights; offering to repurchase the security

1 for cash, payable on delivery of the security, equal to the  
2 consideration paid, together with interest at the legal rate  
3 from the date of payment, less the amount of any income or  
4 distributions, in cash or in kind, received thereon or, if the  
5 purchaser no longer owns the security, offering to pay the  
6 purchaser upon acceptance of the offer an amount in cash equal  
7 to the damages computed in accordance with section 501 (a); and  
8 (ii) stating that the offer may be accepted by the purchaser at  
9 any time within a specified period of not less than thirty days  
10 after the date of receipt thereof, or such shorter period as the  
11 commission may by rule prescribe; and the purchaser has failed  
12 to accept such offer in writing within the specified period.

13 (e) No seller may commence an action under section 501, 502  
14 or 503 if, before suit is commenced, the seller has received a  
15 written offer: (i) stating the respect in which liability under  
16 such section may have arisen and fairly advising the seller of  
17 his rights; (ii) offering to return the security plus the amount  
18 of any income or distributions, in cash or in kind, received  
19 thereon upon payment of the consideration received, or, if the  
20 purchaser no longer owns the security, offering to pay the  
21 seller upon acceptance of the offer an amount in cash equal to  
22 the damages computed in accordance with section 501 (b); and  
23 (iii) providing that the offer may be accepted by the seller at  
24 any time within a specified period of not less than thirty days  
25 after the date of receipt thereof, or such shorter period as the  
26 commission may by regulation prescribe; and the seller has  
27 failed to accept the offer in writing within the specified  
28 period.

29 (f) Offers under subsection (d) or (e) of this section 504  
30 shall be in the form and contain the information the commission

1 by rule prescribes. Every offer under this subsection shall be  
2 delivered to the offeree personally or sent by certified mail  
3 addressed to him at his last known address. If an offer is not  
4 performed in accordance with its terms, suit by the offeree  
5 under section 501, 502 or 503, shall be permitted without regard  
6 to subsections (d) and (e) of this section 504.

7 Section 505. Death of Plaintiff or Defendant.--Every cause  
8 of action under this act survives the death of any person who  
9 might have been a plaintiff or defendant.

10 Section 506. Limitation of Liability.--Except as explicitly  
11 provided in this act, no civil liability in favor of any private  
12 party shall arise against any person by implication from or as a  
13 result of the violation of any provision of this act or any rule  
14 or order hereunder. Nothing in this act shall limit any  
15 liability which might exist by virtue of any other statute or  
16 under common law if this act were not in effect.

17 Section 507. No Waiver of Right of Action.--Any condition,  
18 stipulation or provision binding any person acquiring any  
19 security to waive compliance with any provision of this act or  
20 any rule or order hereunder is void.

21 Section 508. Limitation on Plaintiffs.--No person may base  
22 any suit on any contract in violation of this act or any rule or  
23 order hereunder if he has made or engaged in the performance of  
24 such contract or has acquired any purported right under any such  
25 contract with knowledge of the facts by reason of which its  
26 making or performance was in violation.

27 Section 509. Right of Commission to Bring Action; Class  
28 Actions.--(a) Whenever it appears to the commission that any  
29 person has engaged or is about to engage in any act or practice  
30 constituting a violation of any provision of this act or any

1 rule or order hereunder, it may in its discretion bring an  
2 action in the name of the people of the Commonwealth of  
3 Pennsylvania in the Commonwealth Court or in any of the several  
4 courts of common pleas of Pennsylvania to enjoin the acts or  
5 practices or to enforce compliance with this act or any rule or  
6 order hereunder. Upon a proper showing, a permanent or  
7 preliminary injunction, restraining order, or writ of mandamus  
8 shall be granted, and a receiver or conservator may be appointed  
9 for the defendant or the defendant's assets. The court may not  
10 require the commission to post a bond.

11 (b) The commission may, with the approval of the Attorney  
12 General, include in any action authorized by subsection (a) a  
13 claim for restitution or damages under section 501, 502 or 503  
14 on behalf of the persons injured by the act or practice  
15 constituting the subject matter of the action, and the court  
16 shall have jurisdiction to award appropriate relief to such  
17 persons, if the court finds that enforcement of the rights of  
18 such persons by private civil action, whether by class action or  
19 otherwise, would be so burdensome or expensive as to be  
20 impractical.

21 Section 510. Investigations and Subpoenas.--(a) The  
22 commission in its discretion:

23 (i) May make such public or private investigations within or  
24 without this State as it deems necessary to determine whether  
25 any person has violated or is about to violate this act or any  
26 rule or order hereunder, or to aid in the enforcement of this  
27 act or in the prescribing of rules and forms hereunder;

28 (ii) May, for a reasonable time not exceeding thirty days,  
29 take possession of the books, records, accounts and other papers  
30 pertaining to the business of any broker-dealer or investment

1 adviser or pertaining to the activities of any issuer in  
2 connection with any transaction in a security, whether or not  
3 exempted under section 202 or 203 and the use of any proceeds  
4 obtained therefrom, and place a keeper in exclusive charge of  
5 them in the place where they are usually kept. During such  
6 possession no person shall remove or attempt to remove any of  
7 the books, records, accounts, or other papers except pursuant to  
8 a court order or with the consent of the commission; but the  
9 directors, officers, partners, and employes of the broker-  
10 dealer, investment adviser or issuer may examine them, and  
11 employes shall be permitted to make entries therein reflecting  
12 current transactions.

13 (iii) May require or permit any person to file a statement  
14 in writing, under oath or otherwise as the commission  
15 determines, as to all the facts and circumstances concerning the  
16 matter being investigated;

17 (iv) May publish information concerning any violation of  
18 this act or any rule or order hereunder or concerning  
19 securities, or practices in the sale thereof, which appear or  
20 tend to be unfair, inequitable or fraudulent, but only where it  
21 deems such publication to be in the public interest and for the  
22 protection of investors; and

23 (v) May hold hearings, upon reasonable notice, in respect of  
24 any matters arising out of the administration of this act.

25 (b) For the purpose of any investigation, hearing or  
26 proceeding under this act, the commission or any officer  
27 designated by it may administer oaths and affirmations, subpoena  
28 witnesses, compel their attendance, take evidence and require  
29 the production of any books, papers, correspondence, memoranda,  
30 agreements or other documents or records which the commission

1 deems relevant or material to the inquiry.

2 (c) In case of contumacy by, or refusal to obey a subpoena  
3 issued to, any person, the Commonwealth Court or any of the  
4 several courts of common pleas of Pennsylvania, upon application  
5 by the commission, may issue to the person an order requiring  
6 him to appear before the commission, or the officer designated  
7 by it, there to produce documentary evidence, if so ordered, or  
8 to give evidence touching the matter under investigation or in  
9 question. Failure to obey the order of the court may be punished  
10 by the court as a contempt.

11 (d) (i) If, in a proceeding before the commission, any  
12 person shall refuse to testify or to produce evidence of any  
13 other kind on the ground that his testimony or evidence may tend  
14 to incriminate him, that person may be ordered to give such  
15 testimony. The order to testify shall not be given except upon  
16 an order of court after a hearing in which the Attorney General  
17 has established a need for the grant of immunity, as hereinafter  
18 provided;

19 (ii) The Attorney General may petition the Commonwealth  
20 Court or the court of common pleas of the county in which such  
21 person resides (if he is a resident of this State) for an order  
22 requiring any person to testify or produce evidence, which  
23 petition may be joined in by the district attorney of such  
24 county. Such petition shall set forth the nature of the  
25 investigation and the need for the immunization of the witness;

26 (iii) No such witness shall be prosecuted or subjected to  
27 any penalty or forfeiture, nor shall there be any liability on  
28 the part of and no cause of action of any nature shall arise  
29 against, any such witness for or on account of any transaction,  
30 matter or thing concerning which he is compelled, after having



1 claimed his privilege against self-incrimination, to testify or  
2 produce evidence, nor shall testimony so compelled be used as  
3 evidence in any criminal proceeding against him in any court;

4 (iv) No person so ordered to testify or to produce evidence,  
5 shall be exempt from any punishment or forfeiture for perjury  
6 committed by him while so testifying. Such testimony shall be  
7 admissible against him in any criminal action or other  
8 proceeding concerning such perjury;

9 (v) Any person who shall refuse or decline to testify or  
10 produce evidence of any other kind after being granted immunity  
11 and ordered by the court shall be guilty of criminal contempt  
12 and, upon conviction thereof, shall be sentenced to pay a fine  
13 of not exceeding one thousand dollars (\$1,000), or to undergo  
14 imprisonment for a period not exceeding one year, or both.

15 Section 511. Criminal Penalties.--Any person who wilfully  
16 violates any material provision of this act, except section 407  
17 (a), or any rule under this act, or any order of which he has  
18 notice, or who violates section 407 (a) knowing that the  
19 statement made was false or misleading in any material respect,  
20 may be fined not more than five thousand dollars (\$5,000) or  
21 imprisoned not more than five years, or both. Each of the acts  
22 specified shall constitute a separate offense and a prosecution  
23 or conviction for any one of such offenses shall not bar  
24 prosecution or conviction for any other offense. No indictment  
25 or information may be returned under this act more than five  
26 years after the alleged violation.

27 PART VI

28 ADMINISTRATION

29 Section 601. Administration.--(a) This act shall be  
30 administered by the commission, which shall consist of three

1 commissioners appointed by the Governor with the advice and  
2 consent of the Senate. The commissioners shall hold office at  
3 the pleasure of the Governor and until their successors are duly  
4 appointed and qualified. A quorum of the commission shall be a  
5 majority of the commissioners then serving. Any action taken at  
6 a meeting at which a quorum of the commission is present shall  
7 be the lawful act of the commission for all purposes.

8 (b) The commission shall also employ a secretary, who shall  
9 certify to all actions of the commission and shall make and keep  
10 all files and records of proceedings before it.

11 (c) It is unlawful for the commission or any of its officers  
12 or employes to use for personal benefit any information which is  
13 filed with or obtained by the commission and which is not  
14 generally available to the public. Nothing in this act  
15 authorizes the commission or any of its officers or employes to  
16 disclose such confidential information except among themselves  
17 or to other securities administrators, regulatory authorities or  
18 governmental agencies, or when necessary or appropriate in a  
19 proceeding or investigation under this act or any other law of  
20 this State. No provision of this act either creates or derogates  
21 from any privilege which exists at common law or otherwise when  
22 documentary or other evidence is sought under a subpoena  
23 directed to the commission or any of its officers or employes.

24 (d) The principal office of the commission shall be in  
25 Harrisburg. It shall establish and maintain offices in such  
26 other towns or cities throughout the State as it may, from time  
27 to time, determine.

28 (e) The commission shall adopt a seal bearing the  
29 inscription: "Pennsylvania Securities Commission." The seal  
30 shall be affixed to or imprinted on all orders or certificates

1 issued by it and such other instruments as the commission  
2 directs. All courts shall take judicial notice of the seal.

3 Section 602. Fees.--(a) The commission shall charge and  
4 collect the fees fixed in this section and remit them to the  
5 General Fund.

6 (b) The filing fees for sales of securities under this act  
7 shall be as follows:

8 (1) one hundred dollars (\$100) for exemption filings under  
9 section 203 (i), except as provided in clause (4) below;

10 (2) two hundred fifty dollars (\$250) for every registration  
11 statement filed under section 205, except as provided in clause  
12 (4) below;

13 (3) one hundred dollars (\$100) plus one-twentieth of one per  
14 cent of the maximum aggregate offering price at which such  
15 securities are offered in this State for every registration  
16 statement filed under section 206, except that the maximum  
17 filing fee shall be one thousand dollars (\$1,000);

18 (4) in the case of an offering of securities by an open-end  
19 or closed-end investment company, face amount certificate  
20 company or unit investment trust, as such terms are defined in  
21 the Investment Company Act of 1940, the filing fee shall be the  
22 same as specified in clause (3) above; and

23 (5) when a registration statement is withdrawn before the  
24 effective date or a pre-effective stop order is entered under  
25 section 208, the commission shall retain one hundred dollars  
26 (\$100) from the filing fee.

27 (c) The fee for filing an application for exemption from  
28 registration under section 203 (o) (ii) shall be two hundred  
29 fifty dollars (\$250). There shall be no filing fee for an  
30 application under section 203 (o) (i).

1 (d) Every applicant for an initial or renewal license under  
2 section 301 shall pay a filing fee of two hundred fifty dollars  
3 (\$250) in the case of a broker-dealer, fifty dollars (\$50) in  
4 the case of an agent and two hundred dollars (\$200) in the case  
5 of an investment adviser. The term of an agent's registration  
6 hereunder shall be concurrent with that of his employer, if a  
7 broker-dealer. When an agent changes employers, there shall be a  
8 ten dollar (\$10) fee; no additional registration fee shall be  
9 paid unless the term of registration of his new employer (if a  
10 broker-dealer) expires after the term of his present  
11 registration, in which case an additional fee, prorated to allow  
12 for the time of expiration of his new employer's registration,  
13 shall be paid. A broker-dealer maintaining any office within  
14 this State shall pay an additional filing fee of eighty dollars  
15 (\$80) for each office. When an application is denied or  
16 withdrawn or a registration revoked, the filing fee shall be  
17 retained.

18 (e) The fee for the commission's acting as an escrow holder  
19 for securities under section 207 is seventy-five dollars (\$75).

20 (f) The fee for any examination, audit, or investigation is  
21 the actual amount of all salary costs and other compensation  
22 paid to the persons making the examination, audit, or  
23 investigation, plus the actual amount of expenses reasonably  
24 incurred in the performance of the work. Such fee shall only be  
25 payable by a registrant, applicant for registration, issuer or  
26 other person in connection with an investigation by the  
27 commission where such person has been found guilty of a  
28 violation of the provisions of this act.

29 (g) The commission may fix by regulation a reasonable charge  
30 for any publication issued under its authority.

1 (h) The commission may fix by regulation reasonable charges  
2 for the cost of administering examinations required for  
3 registration under this act by section 301.

4 Section 603. Administrative Files.--(a) A document is filed  
5 when it is received by the commission.

6 (b) The commission shall keep a register of all registrants  
7 and registration statements which are or have ever been  
8 effective under this act and predecessor laws and all denial,  
9 suspension or revocation orders which have been entered under  
10 this act and predecessor laws. The register shall be open for  
11 public inspection except with respect to summary suspensions  
12 under sections 208 (c) and 305 (d).

13 (c) The information contained in or filed with any  
14 registration statement, application or report shall be made  
15 available to the public in accordance with regulations  
16 prescribed by the commission; provided that, upon proper showing  
17 of the registrant or issuer, the commission shall treat certain  
18 filings as confidential.

19 (d) The commission upon request shall furnish to any person,  
20 at a reasonable charge, photostatic or other copies, certified  
21 under seal of the commission if certification is requested, of  
22 any entry in the register or any order or other document made  
23 available to the public under subsection (c) above.

24 Section 604. Interpretive Opinions of Commission.--The  
25 commission in its discretion may honor requests from interested  
26 persons for interpretive opinions and may make such opinions  
27 available to the public under section 603 (c).

28 Section 605. Commissioners and Commission Employes;  
29 Relationship with Licensed Persons or Qualified Organizations.--  
30 (a) Neither the commissioners nor any employe, clerk or servant

1 of the commission, during their respective terms of employment,  
2 shall be interested as a director, officer, shareholder, member,  
3 partner, agent, or employe of any person who, during the period  
4 of such official's or employe's association with the commission,  
5 (i) was licensed or applied for license as a broker-dealer,  
6 agent or investment adviser under this act, or (ii) applied for  
7 or secured the registration of securities under this act.

8 (b) Nothing contained in subsection (a) shall prohibit the  
9 holding or purchasing of any securities by any employe, clerk,  
10 or servant in accordance with such regulations as the commission  
11 shall adopt for the purpose of protecting the public interest  
12 and avoiding conflicts of interest with respect to such  
13 employes, clerks and servant.

14 (c) Nothing contained in subsection (a) shall prohibit the  
15 holding or purchasing of any securities by any commissioner if;  
16 either (i) the commissioner, together with his spouse, minor  
17 children and parents or other relatives who are members of his  
18 household, owns less than one-tenth of one per cent of any class  
19 of outstanding securities of any issuer described in subsection  
20 (a) (ii); or (ii) such security is held or purchased through a  
21 management account or trust administered by a bank or trust  
22 company authorized to do business in this State which has sole  
23 investment discretion regarding the holding, purchase and sale  
24 of securities, and (A) the commissioner did not, directly or  
25 indirectly, advise, counsel, command or suggest the holding,  
26 purchase or sale of any such security or furnish any information  
27 relating to any such security to such bank or trust company, and  
28 (B) such account or trust does not at any time have more than  
29 ten per cent of its total assets invested in the securities of  
30 any one issuer or hold more than five per cent of the

1 outstanding shares or units of any class of securities of any  
2 one issuer. Each commissioner shall report to the Governor not  
3 less often than quarterly all holdings, purchases, and sales of  
4 securities by him, which reports shall be retained by the  
5 Governor's office as public documents.

6 Section 606. Miscellaneous Powers of Commission.--(a) The  
7 commission may, by regulation, require any issuer of securities  
8 registered under this act or exempted from registration under  
9 section 203 (d), (o), or (q), which issuer is not a reporting  
10 company, to distribute financial information to its shareholders  
11 at least annually.

12 (b) If in its opinion the public interest and the protection  
13 of investors, so require, the commission may apply to a court of  
14 competent jurisdiction for an order, suspending all trading in  
15 this State by broker-dealers and agents in any security for any  
16 period.

17 (c) No person shall publish in this State any advertisement  
18 concerning any security (other than tombstone advertisements  
19 permitted under the Securities Act of 1933 and the Investment  
20 Company Act of 1940 and the rules and regulations promulgated  
21 thereunder) except in accordance with such rules as the  
22 commission may promulgate from time to time. No person shall  
23 publish any advertisement concerning any security in this State  
24 after the commission finds that the advertisement contains any  
25 statement that is false or misleading or omits to make any  
26 statement necessary in order to make the statements made, in the  
27 light of the circumstances under which they are made, not  
28 misleading and so notifies the person in writing. Such  
29 notification may be given summarily without notice or hearing.  
30 At any time after the issuance of a notification under this

1 section, the person desiring to use the advertisement may  
2 request in writing that the order be rescinded. Upon the receipt  
3 of such a written request, the matter shall be set down for  
4 hearing to commence within thirty days after such receipt unless  
5 the person making the request consents to a later date. After  
6 such hearing, the commission shall determine whether to affirm  
7 and continue or to rescind such order.

8 (d) The commission may, by regulation, delegate any powers  
9 specified in this act to be exercised by the commission to  
10 members of the commission's staff, except for powers related to  
11 hearings.

12 Section 607. Hearings and Judicial Review.--(a) Within  
13 thirty days after any order has become effective without a  
14 hearing, any interested party may apply to the commission for a  
15 hearing in respect to any matters determined by the order, and a  
16 hearing shall be held within thirty days after the application  
17 is filed. After the hearing the commission may modify the order  
18 as it deems appropriate.

19 (b) Within thirty days after any order has become effective  
20 after a hearing, any interested party may apply to the  
21 commission for a rehearing. The commission may grant and hold a  
22 rehearing if in its judgment sufficient reasons therefor appear.  
23 After rehearing, the commission may vacate or modify the order,  
24 and any order vacating the original order shall have the same  
25 effect as an original order. Failure to grant an application for  
26 rehearing within thirty days from the date of the filing shall  
27 constitute a denial; and failure, within fifteen days after the  
28 conclusion of a rehearing, to issue an order affirming, vacating  
29 or modifying the original order shall constitute an affirmation  
30 of the original order.



1 (c) Disciplinary hearings and rehearings shall be public  
2 unless the commission grants a request joined in by all parties  
3 that the hearing be conducted privately. Investigatory hearings  
4 shall not be open to members of the general public unless all  
5 parties to the hearing agree otherwise.

6 (d) Orders of the commission shall be subject to judicial  
7 review in accordance with law, but orders originally entered  
8 without a hearing may be reviewed only if the party seeking  
9 review has requested a hearing within the time provided by  
10 subsection (a).

11 Section 608. Injunction Procedure.--(a) No injunction shall  
12 issue in any proceeding under this act suspending or staying any  
13 order of the commission, except upon application to the  
14 Commonwealth Court of Pennsylvania or the presiding judge  
15 thereof, notice of which shall be given to the commission and  
16 other parties to the proceeding, and except after an opportunity  
17 for a hearing thereon. No injunction shall issue in any other  
18 proceeding or action, in any court, which shall have the effect  
19 of delaying or preventing any such order from becoming  
20 effective, unless the parties to the proceeding before the  
21 commission are also parties to the court proceeding or action  
22 and except after notice and opportunity for a hearing.

23 (b) No injunction shall issue in any proceeding under  
24 section 607 or in any other proceeding or action suspending or  
25 staying any order of the commission or having the effect of  
26 delaying or preventing any such order from becoming effective  
27 unless an undertaking is entered into on the part of the  
28 petitioner or plaintiff, with a surety and in the sum the court  
29 or the presiding judge thereof directs or approves, to the  
30 effect that the petitioner or plaintiff will pay all damages

1 which any party sustains by the suspension or stay of the order  
2 or the delay or prevention of the order's becoming effective,  
3 and to such other effect as the court or judge directs, and no  
4 order or judgment in any proceeding or action shall be stayed on  
5 appeal therefrom unless a like undertaking is entered into by  
6 the petitioner or plaintiff.

7 Section 609. Regulations, Forms and Orders.--(a) The  
8 commission may make, amend and rescind any regulations, forms  
9 and orders that are necessary to carry out this act, including  
10 regulations and forms governing registration statements,  
11 applications and reports, and defining any terms, whether or not  
12 used in this act, insofar as the definitions are not  
13 inconsistent with this act. All regulations of the commission  
14 (other than those relating solely to its internal  
15 administration) shall be of general application and future  
16 effect and shall be made, amended or rescinded in accordance  
17 with the act of June 4, 1945 (P.L.1388), known as the  
18 "Administrative Agency Law," and the act of July 31, 1968  
19 (P.L.240), known as the "Commonwealth Documents Law," and no  
20 regulation shall be effective until a public hearing is held  
21 thereon or until thirty days after the regulation is published  
22 pursuant to such "Commonwealth Documents Law." For the purpose  
23 of rules and forms, the commission may classify securities,  
24 persons and matters within its jurisdiction, and prescribe  
25 different requirements for different classes. The commission  
26 may, in its discretion, waive any requirement of any regulation  
27 or form in situations where, in its opinion, such requirement is  
28 not necessary in the public interest or for the protection of  
29 investors.

30 (b) No regulation, form or order may be made, amended or

1 rescinded unless the commission finds that the action is  
2 necessary or appropriate in the public interest and for the  
3 protection of investors and consistent with the purposes fairly  
4 intended by the policy and provisions of this act.

5 (c) The commission may by regulation or order prescribe the  
6 kind, form and content of financial statements required under  
7 this act, the fiscal or other periods and dates for such  
8 statements, the circumstances under which consolidated or other  
9 combining financial statements shall be filed, or other  
10 requirements it deems necessary for financial statement  
11 presentation purposes, and whether any required financial  
12 statements shall be certified by independent public or certified  
13 accountants in good standing with this State. All financial  
14 statements shall be prepared reflecting conformity with  
15 generally accepted accounting principles consistently applied,  
16 unless variance therefrom is disclosed in an acceptable manner,  
17 and shall reflect pertinent disclosures by financial notes or  
18 other form, where required for that data in compliance with  
19 pronouncements by recognized authoritative accounting bodies or  
20 if applicable, by governmental agencies, and unless otherwise  
21 permitted by regulation or order.

22 (d) No provision of this act imposing any liability applies  
23 to any act done or omitted in good faith in conformity with any  
24 regulation, form or order of the commission, notwithstanding  
25 that the regulation form or order may later be amended or  
26 rescinded or be determined to be invalid for any reason.

27 (e) The commission may propose and adopt regulations under  
28 this act prior to its effective date, provided that such  
29 regulations do not take effect until on or after the effective  
30 date of this act.

1 Section 610. Destruction of Documents and Records.--The  
2 commission may make such regulations with respect to record  
3 retention as it may deem appropriate and desirable, consistent  
4 with law.

5 PART VII

6 GENERAL PROVISIONS

7 Section 701. Service of Process.--(a) Every applicant for  
8 registration under this act, and every issuer which proposes to  
9 offer a security in this State through any person acting as  
10 agent, shall file with the commission, in such form as it by  
11 regulation prescribes, an irrevocable consent appointing the  
12 secretary of the commission, or his successor in office, to be  
13 his attorney to receive service of any lawful process in any  
14 noncriminal suit, action or proceeding against him or his  
15 successor, executor or administrator which arises under this act  
16 or any regulation or order hereunder after the consent has been  
17 filed, with the same validity as if served personally on the  
18 person filing the consent. The consent need not be filed by a  
19 person who has filed a consent in connection with a previous  
20 registration or license which is then in effect. Service may be  
21 made by leaving a copy of the process in the office of the  
22 commission, but it is not effective unless the plaintiff  
23 promptly sends notice of the service and a copy of the process  
24 by registered or certified mail to the defendant or respondent  
25 at his last address on file with the commission, and the  
26 plaintiff's affidavit of compliance with this subsection is  
27 filed in the case on or before the return day of the process, or  
28 within such time as the court allows.

29 (b) When any person, including any nonresident of this  
30 State, engages in conduct prohibited or made actionable by this

1 act or any regulation or order hereunder, and he has not filed a  
2 consent to service of process under subsection (a) and personal  
3 jurisdiction over him cannot otherwise be obtained in this  
4 State, that conduct shall be considered equivalent to his  
5 appointment of the secretary of the commission to be his  
6 attorney to receive service of any lawful process in any  
7 noncriminal suit, action or proceeding against him or his  
8 successor, executor or administrator which arises out of that  
9 conduct and which is brought under this act or any regulation or  
10 order hereunder, with the same validity as if served on him  
11 personally. Service may be made by leaving a copy of the process  
12 in the office of the commission, but it is not effective unless  
13 the plaintiff, who may be the commission in a suit, action or  
14 proceeding instituted by it, promptly sends notice of the  
15 service and a copy of the process by registered or certified  
16 mail to the defendant or respondent at his last known address or  
17 takes other steps which are reasonably calculated to give actual  
18 notice; and the plaintiff's affidavit of compliance with this  
19 subsection is filed in the case on or before the return day of  
20 the process or within such time as the court allows.

21 (c) When process is served under this section the court, or  
22 the commission in a proceeding before it, shall order such  
23 continuance as is necessary to afford the defendant or  
24 respondent reasonable opportunity to defend.

25 Section 702. Scope of Act.--(a) The provisions of this act  
26 concerning sales and offers to sell apply to persons who sell or  
27 offer to sell when (i) a sale or offer to sell is made in this  
28 State or when (ii) an offer to purchase is made and accepted in  
29 this State. The provisions concerning purchases and offers to  
30 purchase apply to persons who buy or offer to buy when (i) a

1 purchase or offer to purchase is made in this State or when (ii)  
2 an offer to sell is made and accepted in this State.

3 (b) For the purpose of this section, an offer to sell or to  
4 purchase is made in this State, whether or not either party is  
5 then present in this State, when the offer originates from this  
6 State or is directed by the offeror to this State and received  
7 by the offeree in this State; provided, however, for the purpose  
8 of section 201 an offer to sell which is not directed to or  
9 received by the offeree in this State is not made in this State.

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

19 (d) An offer to sell or to purchase is not made in this  
20 State when the publisher circulates, or there is circulated on  
21 his behalf in this State, any bona fide newspaper or other  
22 publication of general, regular and paid circulation which is  
23 not published in this State, or a radio or television program  
24 originating outside this State is received in this State.

25 Section 703. Statutory Policy.--(a) This act shall be so  
26 construed as to effectuate its general purpose to make uniform  
27 the law of those states which enact the "Uniform Securities Act"  
28 and to coordinate the interpretation and administration of this  
29 act with related Federal regulation.

30 (b) If any provision of this act or the application thereof

1 to any person or circumstance is held invalid, the invalidity  
2 shall not affect other provisions or applications of this act  
3 which can be given effect without the invalid provision or  
4 application, and to this end the provisions of this law are  
5 declared to be severable.

6 Section 704. Prior Law.--(a) Except as expressly provided in  
7 this section, prior law exclusively governs all suits, actions,  
8 prosecutions or proceedings which are pending or may be  
9 initiated on the basis of facts or circumstances occurring  
10 before the effective date of this act.

11 (b) No civil suit or action may be maintained to enforce any  
12 liability under prior law unless brought within any period of  
13 limitation which applied when the cause of action accrued.

14 (c) All effective certificates, orders, consents, and  
15 registrations under prior law, all administrative orders  
16 relating to the same and all conditions imposed upon the same  
17 remain in effect so long as they would have remained in effect  
18 if this act had not been enacted. They are considered to have  
19 been filed, entered, or imposed under this act, but are governed  
20 by prior law.

21 (d) Prior law applies in respect of any offer or sale made  
22 within six months after the effective date of this act pursuant  
23 to an offering begun in good faith before its effective date on  
24 the basis of an exemption available under prior law.

25 (e) Judicial review of all administrative orders as to which  
26 review proceedings have not been instituted by the effective  
27 date of this act are governed by section 607, except that no  
28 review proceeding may be instituted unless the petition is filed  
29 within any period of limitation which applied to a review  
30 proceeding when the order was entered and in any event within

1 sixty days after the effective date of this act.

2 Section 705. Effective Date.--This act shall take effect

3 ~~October 1, 1972~~ JANUARY 1, 1973.

←