

1987

Session Law 87-316

Florida Senate & House of Representatives

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House of Representatives, Florida Senate &, "Session Law 87-316" (1987). *Staff Analysis*. 699.
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By Representative Abrams

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A bill to be entitled
An act relating to securities transactions;
amending s. 48.151, F.S.; expanding the
Comptroller's responsibility as an agent for
service of process with respect to violations
of ch. 517, F.S., relating to securities
transactions; amending s. 517.021, F.S.;
excluding certain persons from the definition
of the term "dealer"; amending s. 517.082,
F.S.; authorizing the registration of certain
securities filed under the Investment Company
Act of 1940; deleting restrictions on the
registration of securities due to the
commission of reportable acts, amending s.
517.161, F.S.; providing grounds for the
revocation, denial, or suspension of the
registration of a dealer, investment adviser,
associated person, or branch office; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 48.151, Florida
Statutes, is amended to read:

48.151 Service on statutory agents for certain
persons.--

(4) The Comptroller is the agent for service of
process for any issuer as defined in s. 517.021, or any
dealer, investment adviser, or associated person registered
with the Department of Banking and Finance, for any violation
of any provision of chapter 517.

| | | |
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| 1 | Section 2. Paragraph (b) of subsection (9) of section | 1.19 |
| 2 | 517.021, Florida Statutes, 1986 Supplement, is amended to | 1.20 |
| 3 | read: | |
| 4 | 517.021 Definitions.--When used in this chapter, | 1.21 |
| 5 | unless the context otherwise indicates, the following terms | 1.23 |
| 6 | have the following respective meanings: | 1.25 |
| 7 | (9) | 1.26 |
| 8 | (b) The term "dealer" does not include the following: | 1.27 |
| 9 | 1. Any licensed practicing attorney who renders or | 1.28 |
| 10 | performs any of such services in connection with the regular | 1.31 |
| 11 | practice of his profession; | |
| 12 | 2. Any bank authorized to do business in this state, | 1.34 |
| 13 | except nonbank subsidiaries of a bank; | |
| 14 | 3. Any trust company having trust powers which it is | 1.36 |
| 15 | authorized to exercise in this state, which renders or | 1.37 |
| 16 | performs services in a fiduciary capacity incidental to the | 1.38 |
| 17 | exercise of its trust powers; | 1.39 |
| 18 | 4. Any wholesaler selling exclusively to dealers; | 1.40 |
| 19 | 5. Any person buying and selling <u>for his own account</u> | 1.41 |
| 20 | exclusively through a registered dealer or stock exchange; or | 1.43 |
| 21 | 6. Pursuant to s. 517.061(11), any person associated | 1.45 |
| 22 | with an issuer of securities if such person is a bona fide | 1.48 |
| 23 | employee of the issuer who has not participated in the | |
| 24 | distribution or sale of any securities within the preceding 12 | 1.50 |
| 25 | months and who primarily performs, or is intended to perform | |
| 26 | at the end of the distribution, substantial duties for, or on | 1.52 |
| 27 | behalf of, the issuer other than in connection with | |
| 28 | transactions in securities. | 1.53 |
| 29 | Section 3. Subsections (1), (3), and (4) of section | 1.54 |
| 30 | 517.082, Florida Statutes, 1986 Supplement, are amended to | 1.55 |
| 31 | read: | |

| | | |
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| 1 | 517.082 Notification registration.-- | 1.56 |
| 2 | (1) Except as provided in subsection (3), Securities | 1.57 |
| 3 | offered or sold pursuant to a registration statement filed | 1.59 |
| 4 | under the Securities Act of 1933 or the Investment Company Act | |
| 5 | of 1940 shall be entitled to registration by notification in | 1.60 |
| 6 | the manner provided in subsection (2), provided that prior to | 1.61 |
| 7 | the offer or sale the registration statement has become | 1.62 |
| 8 | effective. | |
| 9 | (3) <u>Except for securities offered or sold pursuant to</u> | 1.63 |
| 10 | <u>a registration statement filed under the Investment Company</u> | 1.64 |
| 11 | <u>Act of 1940,</u> the provisions of this section may not be used to | 1.65 |
| 12 | register the following securities: | 1.66 |
| 13 | (a) securities <u>if</u> where the offering price at the time | 1.69 |
| 14 | of effectiveness with the Securities and Exchange Commission | 1.70 |
| 15 | is \$5 or less per share or per unit, unless such securities | |
| 16 | are listed or designated, or approved for listing or | 1.71 |
| 17 | designation upon notice of issuance, on a stock exchange | 1.72 |
| 18 | registered pursuant to the Securities Exchange Act of 1934 or | |
| 19 | on the National Association of Securities Dealers Automated | 1.73 |
| 20 | Quotation (NASDAQ) System, or unless such securities are of | 1.74 |
| 21 | the same issuer and of senior or substantially equal rank to | 1.75 |
| 22 | securities so listed or designated. | |
| 23 | (b) Securities issued or principally underwritten by | 1:10s |
| 24 | any issuer or any underwriter who has within the preceding 18 | 1.78 |
| 25 | years committed any reportable act material to an evaluation | 1.79 |
| 26 | of the offering: | |
| 27 | (4) For purposes of this section, the term: | 1:10s |
| 28 | (a) "Underwriter" includes any partner, director, or | 1.81 |
| 29 | executive officer of such underwriter; | 1.83 |
| 30 | (b) "issuer" includes the predecessor of the issuer; | 1:10s |
| 31 | an affiliated issuer; any director, executive officer, or | 2.1 |

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| 1 | general partner of the issuer; any person with the power to | |
| 2 | vote or direct the disposition of 10 percent or more of any | 2.3 |
| 3 | class of the issuer's equity securities; or any promoter of | 2.4 |
| 4 | the issuer currently connected with the issuer in any | |
| 5 | capacity; | |
| 6 | (c) -- "Reportable act" means: | 1:10s |
| 7 | 1. -- Involvement in either state or federal bankruptcy | 1:10s |
| 8 | proceedings either as the bankrupt petitioner or as the | 2.7 |
| 9 | subject of an involuntary petition; | |
| 10 | 2. -- Conviction of or entry of a plea of guilty or no | 1:10s |
| 11 | contest to any criminal act, excluding traffic violations or | 2.9 |
| 12 | other minor offenses; | |
| 13 | 3. -- Being the subject of any order, judgment, or | 1:10s |
| 14 | decree, not subsequently reversed, suspended, or vacated, of | 2.11 |
| 15 | any court of competent jurisdiction permanently or temporarily | |
| 16 | enjoining or otherwise limiting the following activities: | 2.12 |
| 17 | a. -- Acting as a futures commission merchant; | 1:10s |
| 18 | introducing broker; commodity trading adviser; commodity pool | 2.14 |
| 19 | operator; floor broker; leverage transaction merchant; any | |
| 20 | other person regulated by the Commodity Futures Trading | 2.15 |
| 21 | Commission; or an associated person of any of the foregoing; | 2.16 |
| 22 | acting as an investment adviser; underwriter; broker; or | |
| 23 | dealer in securities or as an affiliated person; director; or | 2.17 |
| 24 | employee of any investment company; bank; savings and loan | |
| 25 | association; or insurance company; or engaging in or | 2.18 |
| 26 | continuing any conduct or practice in connection with such | 2.19 |
| 27 | activity; | |
| 28 | b. -- Engaging in any type of business practice; or | 1:10s |
| 29 | c. -- Engaging in any activity in connection with the | 2.21 |
| 30 | purchase or sale of any security or commodity or in connection | 2.22 |
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| 1 | with any violation of federal or state securities or | |
| 2 | commodities laws; | 2.23 |
| 3 | 4-- Being the subject of any order, judgment, or | 1:105 |
| 4 | decree, not subsequently reversed, suspended, or vacated, or | 2.25 |
| 5 | of any authority barring, suspending, or otherwise limiting | |
| 6 | for more than 60 days the right of such person to engage in | 2.26 |
| 7 | any activity described in subparagraph 3, or being | 2.27 |
| 8 | associated in a business relationship with persons engaged in | 2.28 |
| 9 | any such activity; or | |
| 10 | 5-- Having been found by a court of competent | 2.29 |
| 11 | jurisdiction, any state agency, the Securities and Exchange | 2.30 |
| 12 | Commission, or the Commodity Futures Trading Commission of | |
| 13 | having violated any federal or state securities or commodities | 2.32 |
| 14 | law, if such judgment or finding has not been subsequently | 2.33 |
| 15 | reversed, suspended, or vacated; | |
| 16 | (d)-- "Reportable act" does not include any act that | 2.34 |
| 17 | would otherwise be a reportable act pursuant to paragraph (c); | 2.35 |
| 18 | if the department determines by the following procedure that | 2.36 |
| 19 | the public interest and protection of investors do not require | |
| 20 | that such act be treated as a reportable act to preclude | 2.37 |
| 21 | registration of securities as provided in subsections (1) and | |
| 22 | (2); | 2.38 |
| 23 | 1-- The department shall receive, on such forms as it | 1:105 |
| 24 | may prescribe, detailed disclosure of the nature of the | 2.40 |
| 25 | reportable act.-- Such disclosure shall be duly signed by the | 2.41 |
| 26 | applicant, issuer or underwriter to which the reportable act is | 2.42 |
| 27 | charged, sworn to by any person having knowledge of the facts; | |
| 28 | and filed with the department; | 2.43 |
| 29 | 2-- The department may require the applicant, issuer or | 1:105 |
| 30 | underwriter to submit to the department such relevant | 2.45 |
| 31 | information as the department may in its judgment deem | |

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| 1 | necessary to enable it to ascertain whether said act is such | 2.46 |
| 2 | that it should preclude the issuer or underwriter from | |
| 3 | registering securities as provided in subsections (1) and (2); | 2.47 |
| 4 | 3.--All statements, exhibits, and documents of every | 1:10s |
| 5 | kind required by the department under this section, except | 2.49 |
| 6 | properly certified public documents, shall be verified by the | |
| 7 | oath of the applicant issuer or underwriter in such manner and | 2.50 |
| 8 | form as may be required by the department; | 2.51 |
| 9 | 4.--Within 90 days of receipt of all requested | 1:10s |
| 10 | disclosures, the department shall determine whether said act | 2.52 |
| 11 | will be treated as a reportable act for purposes of this | |
| 12 | section and may issue a statement to the applicant issuer or | 2.53 |
| 13 | underwriter of the results of said determination together with | 2.54 |
| 14 | notice of any applicable hearing rights under s. 120.57.--A | 2.55 |
| 15 | decision of the department not to issue such a statement | |
| 16 | within the 90-day period shall constitute a determination that | 2.57 |
| 17 | said act shall not be treated as a reportable act for purposes | |
| 18 | of this section; | 2.58 |
| 19 | 5.--At any hearing on the department's determination | 1:10s |
| 20 | under this paragraph, the applicant issuer or underwriter | 2.60 |
| 21 | shall have the burden to establish that its act should not be | |
| 22 | deemed a reportable act for purposes of this section.--In no | 2.62 |
| 23 | event shall a determination under this paragraph be deemed in | |
| 24 | any way to effect the issuer's or underwriter's duty to | 2.63 |
| 25 | disclose such act to purchasers of securities or in any other | |
| 26 | transaction to which it is relevant; | 2.64 |
| 27 | Section 4. Paragraphs (1), (j), and (k) of subsection | 2.65 |
| 28 | (1) and subsections (2), (3), and (4) of section 517.161, | 2.66 |
| 29 | Florida Statutes, 1986 Supplement, are amended to read: | |
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| 1 | 517.161 Revocation, denial, or suspension of | 2.67 |
| 2 | registration of dealer, investment adviser, or associated | 2.68 |
| 3 | <u>person, or branch office,--</u> | 2.69 |
| 4 | (1) Registration under s. 517.12 may be denied or any | 2.70 |
| 5 | registration granted may be revoked, restricted, or suspended | 2.71 |
| 6 | by the department if the department determines that such | 2.72 |
| 7 | applicant or registrant: | |
| 8 | (i) <u>Has exercised management or policy control over or</u> | 2.73 |
| 9 | <u>owned 10 percent or more of the securities of any dealer or</u> | |
| 10 | <u>investment adviser that has been declared bankrupt, or had a</u> | 2.74 |
| 11 | <u>trustee appointed under the Securities Investor Protection</u> | |
| 12 | <u>Act; or</u> is, in the case of a dealer or investment adviser, | 2.75 |
| 13 | insolvent; | |
| 14 | (j) Has been convicted of, or has entered a plea of | 2.77 |
| 15 | <u>guilty or nolo contendere</u> to, a crime against the laws of this | 2.78 |
| 16 | state or any other state or of the United States <u>which relates</u> | 2.79 |
| 17 | <u>to registration as a dealer, investment adviser, issuer of</u> | 2.81 |
| 18 | <u>securities, associated person, or branch office or which</u> | |
| 19 | <u>relates to the application for such registration or which</u> | 2.82 |
| 20 | <u>involves</u> involving moral turpitude or fraudulent or dishonest | 2.83 |
| 21 | dealing; or | 2.84 |
| 22 | (k) Has had a final judgment entered against him in a | 3.2 |
| 23 | civil action upon grounds of fraud, embezzlement, | 3.3 |
| 24 | misrepresentation, or deceit; or | |
| 25 | (l) (k) Is of bad business repute. | 3.4 |
| 26 | (2) The payment <u>or anticipated payment</u> of any amount | 3.5 |
| 27 | from the Securities Guaranty Fund in settlement of a claim or | 3.6 |
| 28 | in satisfaction of a judgment against <u>an applicant or</u> | 3.7 |
| 29 | <u>registrant</u> a licensee constitutes prima facie grounds for <u>the</u> | 3.8 |
| 30 | <u>denial of the applicant's application for registration or the</u> | 3.9 |
| 31 | | |

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| 1 | revocation of the <u>registrant's registration license-of-such</u> | 3.10 |
| 2 | <u>licensee.</u> | |
| 3 | (3) In the event the department determines to deny an | 3.12 |
| 4 | application or revoke a registration, it shall enter a final | 3.13 |
| 5 | order with its findings on the register of dealers and | 3.14 |
| 6 | associated persons; and denial, suspension, or revocation of | 3.15 |
| 7 | the registration of a dealer or investment adviser shall also | 3.16 |
| 8 | <u>deny, suspend, or revoke the registration of all his</u> | 3.17 |
| 9 | <u>associated persons.</u> | 3.18 |
| 10 | (4) It shall be sufficient cause for denial of an | 3.21 |
| 11 | application or revocation of registration, in the case of a | |
| 12 | partnership, corporation, or unincorporated association, if | 3.23 |
| 13 | <u>any member of the partnership or any officer, or director, or</u> | 1:10s |
| 14 | <u>ultimate equitable owner as defined in s. 607.004, of the</u> | 3.25 |
| 15 | corporation or association has been guilty of an act or | 3.28 |
| 16 | omission which would be cause for denying or revoking the | |
| 17 | registration of an individual dealer, investment adviser, or | 3.30 |
| 18 | associated person. | |
| 19 | Section 5. This act shall take effect upon becoming a | 3.31 |
| 20 | law. | |

SENATE SUMMARY

Designates the Comptroller as the agent for service of process for any registered dealer, investment adviser, or associated person for any violation of any provision of ch. 517, F.S., relating to securities transactions. Restricts the definition of the term "dealer," as used in the Florida Securities and Investor Protection Act, to exclude persons buying and selling securities for their own accounts exclusively through a registered dealer or stock exchange. Eliminates restrictions on the registration of securities offered or sold pursuant to a registration statement filed under the Investment Company Act of 1940. Permits the registration of securities issued or underwritten by persons who have committed reportable acts. Provides for the denial, revocation, or suspension of the registration of a dealer, investment adviser, associated person, or branch office if the registrant has been declared bankrupt, had a trustee appointed under the Securities Investor Protection Act, or committed a crime that relates to registration or an application for registration.

By Senator Hair

This publication was produced at an average cost of 1.5 cents per page for the information of members of the Legislature and the public.

1 A bill to be entitled

2 An act relating to securities transactions;

3 amending s. 48.151, F.S.; expanding the

4 Comptroller's responsibility as an agent for

5 service of process with respect to violations

6 of ch 517, F.S., relating to securities

7 transactions; amending s. 517.021, F.S.;

8 excluding certain persons from the definition

9 of the term "dealer"; amending s. 517.082,

10 F.S.; authorizing the registration of certain

11 securities filed under the Investment Company

12 Act of 1940; deleting restrictions on the

13 registration of securities due to the

14 commission of reportable acts; amending s.

15 517.161, F.S.; providing grounds for the

16 revocation, denial, or suspension of the

17 registration of a dealer, investment adviser,

18 associated person, or branch office; providing

19 an effective date.

20

21 Be It Enacted by the Legislature of the State of Florida;

22

23 Section 1. Subsection (4) of section 48.151, Florida

24 Statutes, is amended to read:

25 48.151 Service on statutory agents for certain

26 persons.--

27 (4) The Comptroller is the agent for service of

28 process for any issuer as defined in s. 517.021, or any

29 dealer, investment adviser, or associated person registered

30 with the Department of Banking and Finance, for any violation

31 of any provision of chapter 517.

1 Section 2. Paragraph (b) of subsection (9) of section
2 517.021, Florida Statutes, 1986 Supplement, is amended to
3 read:

4 517.021 Definitions.--When used in this chapter,
5 unless the context otherwise indicates, the following terms
6 have the following respective meanings:

7 (9)

8 (b) The term "dealer" does not include the following:

9 1. Any licensed practicing attorney who renders or
10 performs any of such services in connection with the regular
11 practice of his profession;

12 2. Any bank authorized to do business in this state,
13 except nonbank subsidiaries of a bank;

14 3. Any trust company having trust powers which it is
15 authorized to exercise in this state, which renders or
16 performs services in a fiduciary capacity incidental to the
17 exercise of its trust powers;

18 4. Any wholesaler selling exclusively to dealers;

19 5. Any person buying and selling for his own account
20 exclusively through a registered dealer or stock exchange; or

21 6. Pursuant to s. 517.061(11), any person associated
22 with an issuer of securities if such person is a bona fide
23 employee of the issuer who has not participated in the
24 distribution or sale of any securities within the preceding 12
25 months and who primarily performs, or is intended to perform
26 at the end of the distribution, substantial duties for, or on
27 behalf of, the issuer other than in connection with
28 transactions in securities.

29 Section 3. Subsections (3) and (4) of section 517.082,
30 Florida Statutes, 1986 Supplement, are amended to read:

31 517.082 Notification registration.--

1 (3) Except for securities offered or sold pursuant to
2 a registration statement filed under the Investment Company
3 Act of 1940, the provisions of this section may not be used to
4 register the following securities:

5 (a) securities if where the offering price at the time
6 of effectiveness with the Securities and Exchange Commission
7 is \$5 or less per share or per unit, unless such securities
8 are listed or designated, or approved for listing or
9 designation upon notice of issuance, on a stock exchange
10 registered pursuant to the Securities Exchange Act of 1934 or
11 on the National Association of Securities Dealers Automated
12 Quotation (NASDAQ) System, or unless such securities are of
13 the same issuer and of senior or substantially equal rank to
14 securities so listed or designated.

15 (b) ~~Securities issued or principally underwritten by~~
16 ~~any issuer or any underwriter who has within the preceding 18~~
17 ~~years committed any reportable act material to an evaluation~~
18 ~~of the offering;~~

19 ~~(4) For purposes of this section, the term~~

20 ~~(a) "Underwriter" includes any partner, director, or~~
21 ~~executive officer of such underwriter;~~

22 ~~(b) "Issuer" includes the predecessor of the issuer;~~
23 ~~an affiliated issuer; any director, executive officer, or~~
24 ~~general partner of the issuer; any person with the power to~~
25 ~~vote or direct the disposition of 10 percent or more of any~~
26 ~~class of the issuer's equity securities; or any promoter of~~
27 ~~the issuer currently connected with the issuer in any~~
28 ~~capacity;~~

29 ~~(c) "Reportable act" means:~~

1 1:--~~Involvement in either state or federal bankruptcy~~
2 ~~proceedings either as the bankrupt petitioner or as the~~
3 ~~subject of an involuntary petition;~~

4 2:--~~Conviction of or entry of a plea of guilty or no~~
5 ~~contest to any criminal act, excluding traffic violations or~~
6 ~~other minor offenses;~~

7 3:--~~Being the subject of any order, judgment, or~~
8 ~~decree, not subsequently reversed, suspended, or vacated, of~~
9 ~~any court of competent jurisdiction permanently or temporarily~~
10 ~~enjoining or otherwise limiting the following activities:~~

11 a:--~~Acting as a futures commission merchant,~~
12 ~~introducing broker, commodity trading adviser, commodity pool~~
13 ~~operator, floor broker, leverage transaction merchant, any~~
14 ~~other person regulated by the Commodity Futures Trading~~
15 ~~Commission, or an associated person of any of the foregoing,~~
16 ~~acting as an investment adviser, underwriter, broker, or~~
17 ~~dealer in securities or as an affiliated person, director, or~~
18 ~~employee of any investment company, bank, savings and loan~~
19 ~~association, or insurance company, or engaging in or~~
20 ~~continuing any conduct or practice in connection with such~~
21 ~~activity;~~

22 b:--~~Engaging in any type of business practice; or~~

23 c:--~~Engaging in any activity in connection with the~~
24 ~~purchase or sale of any security or commodity or in connection~~
25 ~~with any violation of federal or state securities or~~
26 ~~commodities laws;~~

27 4:--~~Being the subject of any order, judgment, or~~
28 ~~decree, not subsequently reversed, suspended, or vacated, or~~
29 ~~of any authority barring, suspending, or otherwise limiting~~
30 ~~for more than 60 days the right of such person to engage in~~
31 ~~any activity described in sub-subparagraph 3.a. or being~~

1 associated in a business relationship with persons engaged in
2 any such activity; or

3 5:--Having been found by a court of competent
4 jurisdiction, any state agency, the Securities and Exchange
5 Commission, or the Commodity Futures Trading Commission of
6 having violated any federal or state securities or commodities
7 law, if such judgment or finding has not been subsequently
8 reversed, suspended, or vacated;

9 (d)--"Reportable act" does not include any act that
10 would otherwise be a reportable act pursuant to paragraph (c),
11 if the department determines by the following procedure that
12 the public interest and protection of investors do not require
13 that such act be treated as a reportable act to preclude
14 registration of securities as provided in subsections (1) and
15 (2);

16 1:--The department shall receive, on such forms as it
17 may prescribe, detailed disclosure of the nature of the
18 reportable act. Such disclosure shall be duly signed by the
19 applicant, issuer or underwriter to whom the reportable act is
20 charged, sworn to by any person having knowledge of the facts,
21 and filed with the department;

22 2:--The department may require the applicant, issuer or
23 underwriter to submit to the department such relevant
24 information as the department may in its judgment deem
25 necessary to enable it to ascertain whether said act is such
26 that it should preclude the issuer or underwriter from
27 registering securities as provided in subsections (1) and (2);

28 3:--All statements, exhibits, and documents of every
29 kind required by the department under this section, except
30 properly certified public documents, shall be verified by the
31

1 oath-of-the-applicant-issuer-or-underwriter-in-such-manner-and
2 form-as-may-be-required-by-the-department-

3 4.--Within-90-days-of-receipt-of-all-requested
4 disclosures,-the-department-shall-determine-whether-said-act
5 will-be-treated-as-a-reportable-act-for-purposes-of-this
6 section-and-may-issue-a-statement-to-the-applicant-issuer-or
7 underwriter-of-the-results-of-said-determination-together-with
8 notice-of-any-applicable-hearing-rights-under-s-120.57--A
9 decision-of-the-department-not-to-issue-such-a-statement
10 within-the-90-day-period-shall-constitute-a-determination-that
11 said-act-shall-not-be-treated-as-a-reportable-act-for-purposes
12 of-this-section-

13 5.--At-any-hearing-on-the-department's-determination
14 under-this-paragraph,-the-applicant-issuer-or-underwriter
15 shall-have-the-burden-to-establish-that-its-act-should-not-be
16 deemed-a-reportable-act-for-purposes-of-this-section--in-no
17 event-shall-a-determination-under-this-paragraph-be-deemed-in
18 any-way-to-effect-the-issuer's-or-underwriter's-duty-to
19 disclose-such-act-to-purchasers-of-securities-or-in-any-other
20 transaction-to-which-it-is-relevant-

21 Section 4. Paragraphs (i), (j), and (k) of subsection
22 (1) and subsections (2), (3), and (4) of section 517.161,
23 Florida Statutes, 1986 Supplement, are amended to read:

24 517.161 Revocation, denial, or suspension of
25 registration of dealer, investment adviser, or associated
26 person, or branch office.--

27 (1) Registration under s. 517.12 may be denied or any
28 registration granted may be revoked, restricted, or suspended
29 by the department if the department determines that such
30 applicant or registrant:

1 (1) Has exercised management or policy control over or
2 owned 10 percent or more of the securities of any dealer or
3 investment adviser that has been declared bankrupt, or had a
4 trustee appointed under the Securities Investor Protection
5 Act; or is, in the case of a dealer or investment adviser,
6 insolvent;

7 (2) Has been convicted of, or has entered a plea of
8 guilty or nolo contendere to, a crime against the laws of this
9 state or any other state or of the United States which relates
10 to registration as a dealer, investment adviser, issuer of
11 securities, associated person, or branch office or which
12 relates to the application for such registration or which
13 involves involving moral turpitude or fraudulent or dishonest
14 dealing; ~~or~~

15 (k) Has had a final judgment entered against him in a
16 civil action upon grounds of fraud, embezzlement,
17 misrepresentation, or deceit; or

18 (1)(k) Is of bad business repute.

19 (2) The payment or anticipated payment of any amount
20 from the Securities Guaranty Fund in settlement of a claim or
21 in satisfaction of a judgment against an applicant or
22 registrant a-licensee constitutes prima facie grounds for the
23 denial of the applicant's application for registration or the
24 revocation of the registrant's registration ~~license-of-such~~
25 ~~licensee.~~

26 (3) In the event the department determines to deny an
27 application or revoke a registration, it shall enter a final
28 order with its findings on the register of dealers and
29 associated persons; and denial, suspension, or revocation of
30 the registration of a dealer or investment adviser shall also
31

1 deny, suspend, or revoke the registration of all his
2 associated persons.

3 (4) It shall be sufficient cause for denial of an
4 application or revocation of registration, in the case of a
5 partnership, corporation, or unincorporated association, if
6 any member of the partnership or any officer, or director, or
7 ultimate equitable owner as defined in s. 607.004, of the
8 corporation or association has been guilty of an act or
9 omission which would be cause for denying or revoking the
10 registration of an individual dealer, investment adviser, or
11 associated person.

12 Section 5. This act shall take effect upon becoming a
13 law.

14 *****

15
16 SENATE SUMMARY

17 Designates the Comptroller as the agent for service of
18 process for any registered dealer, investment adviser, or
19 associated person for any violation of any provision of
20 ch. 517, F.S., relating to securities transactions.
21 Restricts the definition of the term "dealer," as used in
22 the Florida Securities and Investor Protection Act, to
23 exclude persons buying and selling securities for their
24 own accounts exclusively through a registered dealer or
25 stock exchange. Eliminates restrictions on the
26 registration of securities offered or sold pursuant to a
27 registration statement filed under the Investment Company
28 Act of 1940. Permits the registration of securities
29 issued or underwritten by persons who have committed
30 reportable acts. Provides for the denial, revocation, or
31 suspension of the registration of a dealer, investment
adviser, associated person, or branch office if the
registrant has been declared bankrupt, had a trustee
appointed under the Securities Investor Protection Act,
or committed a crime that relates to registration or an
application for registration.

LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

| | | | | |
|-----------------------|-----------------|------------------------|-----------------|-----|
| Year | Session Law No. | 87 2/16 | LOF Cite | #pp |
| Prime Bill # | Sponsor | Comp./Sim. Bills | X 9. X 9. X 506 | |
| JLMC Hist. Leq. Cites | Senate pp.#s | 103-4 | House pp.#s | #pp |
| Committee of Ref. | Senate | Previous versions? 710 | | |
| | House | | | |

Committee Records

| H/S | Committee | Year | Record Series: Folder Title, etc. | Location Cite | #pp |
|-----|-----------|------|-----------------------------------|---------------|-----|
| H | Comm. on | 1981 | Bill No. HP 506 | 19/1737 | |
| " | " | " | Original (1981) | 19/1733 | |
| " | " | " | (1981) | 19/1731 | |
| S | Sen. on | " | Bill No. SB 527 | 18/1682 | |

Senate/House Journals

| Page | ? | Date | #pp | Page | ? | Date | #pp |
|--------|---|--------------|-----|------|---|------|-----|
| HJ 751 | | May 28, 1981 | | | | | |

Tape Recordings

| H/S/Floor | Committee/subcommittee | Date | # Tapes | Location Cite |
|-----------|------------------------|------|---------|---------------|
| | | | | |

Other Documentation

| Record series title, folder title, etc. | Location Cite | #pp |
|---|---------------|-----|
| | | |

LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

| | | | |
|------------------------------|----------------------------------|--|-----------------|
| Year <i>1987</i> | Session Law No. <i>87-316</i> | LOF Cite <i>I,ii, 2053 2055</i> | #pp <i>3</i> |
| Prime Bill# <i>SB 529</i> | Sponsor | Comp./Sim. Bills <i>6 1217 1313</i> | |
| JLMC Hist. Leg. Cites | Senate pp.#s <i>103-47174</i> | House pp.#s <i>368 389-90</i> | #pp <i>6</i> |
| Committee of Ref. | Senate | Previous versions? | |
| | House | | |

Committee Records

| H/S | Committee | Year | Record Series: Folder Title, etc. | Location Cite | #pp |
|-----------------------------|-----------|------|-----------------------------------|----------------|-----|
| | | | <i>7</i> | <i>19/1738</i> | |
| | | | <i>7</i> | <i>19/1741</i> | |
| <i>See also 187-237</i> | | | | | |

Senate/House Journals

| Page | ? | Date | #pp | Page | ? | Date | #pp |
|------|---|------|-----|------|---|------|-----|
| | | | | | | | |

Tape Recordings

| H/S | Floor | Committee/subcommittee | Date | # Tapes | Location Cite |
|-----|-------|------------------------|------|---------|---------------|
| | | | | | |

Other Documentation

| Record series title, folder title, etc. | Location Cite | #pp |
|---|---------------|-----|
| | | |

HOUSE AMENDMENT FOR DRAFTING ONLY

1 Amendment No. 01 Bill No. HB 1219
2 Committee on _____
3 Offered by Rep(s) _____
4

5 On page 2, lines 24 - 30,
6 strike all of said lines
7
8 and insert: other instrumentality thereof ; provided that no
9 person shall directly or indirectly offer or sell securities
10 under this subsection if the issuer or guarantor is in default
11 or has been in default anytime after December 31, 1975 as to
12 principal or interest:

13 (a) With respect to an obligation issued by the issuer
14 or successor of the issuer; or

15 (b) With respect to an obligation guaranteed by the
16 guarantor or successor of the guarantor,

17
18 except by an offering circular containing full and fair
19 disclosure as prescribed by rule of the department.
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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

| <u>ANALYST</u> | <u>STAFF DIRECTOR</u> | <u>REFERENCE</u> | <u>ACTION</u> |
|--------------------|-----------------------|------------------|---------------|
| 1. Jones <i>JJ</i> | Fort <i>FB</i> | 1. COM | _____ |
| 2. _____ | _____ | 2. _____ | _____ |
| 3. _____ | _____ | 3. _____ | _____ |
| 4. _____ | _____ | 4. _____ | _____ |

SUBJECT:

Securities Transactions

BILL NO. AND SPONSOR:

SB 529 by
Senator Hair

I. SUMMARY:

A. Present Situation:

Presently, chapter 48, F.S., governs service of process, while ch. 517, F.S., the Securities Investor Protection Act, addresses security transactions. In addition, s. 48.151(4), F.S., authorizes the Comptroller to be the agent for service of process concerning any issuer (as defined in s. 517.021, F.S.) for violations of ch. 517, F.S.

Section 517.021(9)(b), F.S., lists activities which are not within the definition of a dealer. Under s. 517.021(9)(b), F.S., a dealer does not include "any person buying and selling exclusively through a registered dealer. . ." Securities which may be registered by notification, a more simplified registration process, are enumerated within s. 517.082, F.S. Lastly, s. 517.161, F.S., provides when a registration under s. 517.12, F.S., may be denied or a granted registration may be revoked or suspended by the department.

B. Effect of Proposed Changes:

Section 1: The bill designates the comptroller as the agent for service of process purposes. The comptroller acts in this capacity for any registered dealer, investment advisor, or associated person registered with the department concerning a violation of ch. 517, F.S.

Section 2: The bill excludes from the definition of a dealer any person who exclusively buys and sells, through a registered dealer, for his own account.

Section 3: The proposed changes would authorize the use of s. 517.082, F.S., to register securities which were filed under the Investment Company Act of 1940. The bill would prohibit the use of s. 517.082, F.S., for the registration of penny stocks (stocks valued at \$5 or less per share) except when such stocks are mutual funds or certain registered investment securities.

Furthermore, the bill amends s. 517.082, F.S., resulting in the displacement of the Reportable Act provision. Thus, the bill permits the registration of securities issued or underwritten by persons who have committed reportable acts. Previously, reportable acts required disclosure to the department by the registrant/applicant.

Section 4: The bill authorizes the department to deny a pending registration under s. 517.12, F.S., and to revoke or suspend an existing registration under the following conditions:

(1) When the applicant or registrant has been declared bankrupt or had a trustee appointed under the Securities Investor Protection Act.

(2) When the applicant or registrant has entered a plea of guilty or nolo contendere to a crime which relates to registration or an application for registration.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

There will be no substantial economic impact on the public as a result of this bill.

B. Government:

The Department of Banking and Finance does not foresee this bill having any material economic effect upon the department.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STORAGE NAME: fsa -b529

Date: June 17, 1987

HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
FINAL STAFF ANALYSIS

19 1737

ENACTED BILL #: SB 529

RELATING TO: Securities

SPONSOR(S): Senator Hair

EFFECTIVE DATE: Upon becoming a law

BECAME LAW: _____

CHAPTER 87- , LAWS OF FLORIDA

COMPANION BILL(S): HB 566

OTHER COMMITTEES OF REFERENCE: (1) None

(2) _____

I. SUMMARY:

This bill contains the suggested revisions by the Department of Banking and Finance (department) to the Securities Act which refine and strengthen the comprehensive securities law legislation enacted in 1986. Further, it requires additional disclosures if the issuer or guarantor of governmental securities has been in default of obligation since 1975. Finally, it clarifies the tax status of trusts which contain only tax-exempt assets.

A. Current Law & Present Situation:

Chapter 48, Florida Statutes, governs service of process, while Chapter 517, Florida Statutes, addresses security transactions (Securities and Investor Protection Act). In addition, s. 48.151(4), F.S., authorizes the Comptroller to be the agent for service of process concerning any issuer (as defined in s. 517.021, F.S.) for violations of Chapter 517.

In 1986, the Legislature enacted significant revisions to Chapter 517 pursuant to recommendations of the Comptroller's Task Force on Securities Regulation. That legislation, the Securities Industry Standards Act of 1986, raised the standards for securities dealers and for securities that could be sold in Florida. Penny stocks, those securities sold for under \$5 a share, were subjected to greater pre-registration scrutiny due to their high risk and the potential for their use as a device to defraud investors. Another provision required additional

scrutiny for securities of companies whose insiders have committed certain "reportable acts" or acts of misconduct. The reportable act provision has proven unworkable in practice and, moreover, unnecessary because of the "penny stock" requirements and the department's ability to deny registration of problem offerings.

Presently, a security issued or guaranteed by a governmental entity is exempt from registration with the Division of Securities in the Department of Banking and Finance. Over the last few years, several communities have defaulted on their development bonds and the bond holders have not been able to collect.

B. Effect of Proposed Changes:

Section 1. The bill designates the Comptroller as the agent for service of process for any registered dealer, investment adviser, or associated person registered with the department for any violation of the Securities Act.

Section 2. This section excludes from the definition of dealer any person who exclusively buys and sells, through a registered dealer, for his own account. It also expands the definitional section to include definitions of "guarantor" and "guaranty".

Section 3. This section requires a governmental entity to disclose to investors the fact that it had defaulted on any obligation it had issued or guaranteed since 1975 before it could make another security offering.

Section 4. The proposal refines the penny stock provision to exempt from the stricter merit review requirements mutual funds and similar investment company securities that may have unit prices under the \$5 threshold. Additionally, the bill repeals the language of the 1986 act relating to "reportable acts" because of its unmanageable nature. Notwithstanding, by employing other provisions of the securities law, the department will still be able to deny registration to a dealer who has committed a reportable act.

Section 5. This section closes a loophole in the law by authorizing the department to deny a pending registration or revoke an existing license of an applicant or dealer who is attempting to hide behind the cloak of the corporate veil. Additionally, it provides for denial, revocation, restriction or suspension of a license of a bankrupt and of a person who has pled guilty to a crime which relates to securities registration. Finally, it deems as grounds for denial of registration, the payment or anticipated payment of any amount from the Securities Guaranty Fund as settlement of a claim against the applicant.

Sections 6 & 7. These sections clarify that certain trusts that contain nothing but assets which are exempt from intangible tax are themselves exempt from the tax. For example, such a trust would contain nothing but tax exempt bonds of the State or its political subdivisions. On the other hand, if a trust contains any obligations that are subject to Florida's intangible tax, the shares or units of that trust would also be subject to the tax.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

This bill helps strengthen the state's commitment to pursue, both criminally and civilly, those individuals who profit from economic crimes, and assure that the commitment keeps pace with the level and sophistication of these criminal activities (s. 187.201(7)(b)15, F.S.).

IV. COMMENTS:

None

V. LEGISLATIVE HISTORY:

A. Enacted Bill:

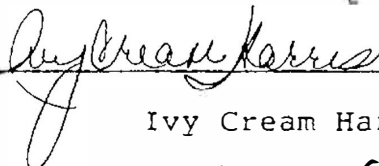
Senate Bill 529 by Senator Hair was prefiled on March 24, 1987 and referred to the Commerce Committee. The committee, on April 14, reported it favorably and the Senate passed it on April 28 by a vote of 36-0 (SJ 00227). On May 28 the House substituted it for House Bill 566 and adopted several amendments. One of the amendments added the text of another securities bill (CS/HB 1219 and SB 1116) which required additional disclosures if the issuer or guarantor of governmental securities had been in default of obligation since 1975. The other amendment clarified that certain trusts that contain nothing but assets which are exempt from intangible tax are themselves exempt from the tax. Moreover, if a trust contained any obligations that were subject to Florida's intangible tax, the shares or units of that trust would also be subject to the tax. The amended bill then passed

the House by a vote of 116-0 (HJ 00751). The Senate took up the House Message on June 2, concurred in the amendments, and passed the bill by a 35-0 vote (SJ 00578).

B. Disposition of Companion:

House Bill 566 by Representative Abrams was referred to the Commerce Committee and heard by its Banking and Commerce Subcommittee on April 24. It was favorably recommended by the subcommittee and subsequently by the full committee on April 28. On May 28 the House laid this bill on the table and substituted the companion bill, Senate Bill 529 (HJ 00750).

VI. PREPARED BY:



Ivy Cream Harris

VII. STAFF DIRECTOR:



H. Fred Varn

STORAGE NAME: sa-b566

Date: April 24, 1987

Revised: _____

Revised: _____

HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
STAFF ANALYSIS

19 1737

BILL #: HB 566

RELATING TO: Securities

SPONSOR(S): Representative Abrams

EFFECTIVE DATE: Upon becoming a law

COMPANION BILL(S): SB 529 by Hair

OTHER COMMITTEES OF REFERENCE: (1) None

(2) _____

I. SUMMARY:

This bill contains the suggested revisions by the Department of Banking and Finance (department) to the Securities Act. It further refines and strengthens the comprehensive securities law legislation enacted in 1986.

A. Current Law & Present Situation:

Chapter 48, Florida Statutes, governs service of process, while Chapter 517, Florida Statutes, addresses security transactions (Securities and Investor Protection Act). In addition, s. 48.151(4), F.S., authorizes the Comptroller to be the agent for service of process concerning any issuer (as defined in s. 517.021, F.S.) for violations of Chapter 517.

In 1986, the Legislature enacted significant revisions to Chapter 517 pursuant to recommendations of the Comptroller's Task Force on Securities Regulation. That legislation, the Securities Industry Standards Act of 1986, raised the standards for securities dealers and for securities that could be sold in Florida. Penny stocks, those securities sold for under \$5 a share, were subjected to greater pre-registration scrutiny due to their high risk and the potential for their use as a device to defraud investors. Another provision required additional scrutiny for securities of companies whose insiders have committed certain "reportable acts" or acts of misconduct. The reportable act provision has proven unworkable in practice and, moreover, unnecessary because of the "penny stock" requirements and the department's ability to deny registration of problem offerings.

B. Effect of Proposed Changes:

Section 1. The bill designates the Comptroller as the agent for service of process for any registered dealer, investment adviser, or associated person registered with the department for any violation of the Securities Act.

Section 2. This section excludes from the definition of dealer any person who exclusively buys and sells, through a registered dealer, for his own account.

Section 3. The proposal refines the penny stock provision to exempt from the stricter merit review requirements mutual funds and similar investment company securities that may have unit prices under the \$5 threshold. Additionally, the bill repeals the language of the 1986 act relating to "reportable acts" because of its unmanageable nature. Notwithstanding, by employing other provisions of the securities law, the department will still be able to deny registration to a dealer who has committed a reportable act.

Section 4. This section closes a loophole in the law by authorizing the department to deny a pending registration or revoke an existing license of an applicant or dealer who is attempting to hide behind the cloak of the corporate veil. Additionally, it provides for denial, revocation, restriction or suspension of a license of a bankrupt and of a person who has pled guilty to a crime which relates to securities registration. Finally, it deems as grounds for denial of registration, the payment or anticipated payment of any amount from the Securities Guaranty Fund as settlement of a claim against the applicant.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

This bill helps strengthen the state's commitment to pursue, both criminally and civilly, those individuals who profit from economic crimes, and assure that the commitment keeps pace with the level and sophistication of these criminal activities (s. 187.201(7)(b)15, F.S.).

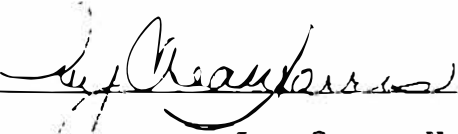
IV. COMMENTS:

None

V. AMENDMENTS:

None

VI. PREPARED BY:



Ivy Cream Harris

VII. STAFF DIRECTOR:



H. Fred Varn

STORAGE NAME: sa- 1219

COPY

Date: April 24, 1987

Revised: _____

Revised: _____

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HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
STAFF ANALYSIS

BILL #: HB 1219

RELATING TO: Securities/Registration

SPONSOR(S): Representative Abrams

EFFECTIVE DATE: October 1, 1987

COMPANION BILL(S): SB 1116 by Weinstein

OTHER COMMITTEES OF REFERENCE: (1) None

(2) _____

I. SUMMARY:

This bill requires registration of governmental securities if the issuer or guarantor has been in default of obligation since 1975.

A. Current Law & Present Situation:

Presently, a security issued or guaranteed by a governmental entity is exempt from registration with the Division of Securities (division) in the Department of Banking and Finance. Over the last few years, several communities have defaulted on their development bonds and the bond holders have not been able to collect.

B. Effect of Proposed Changes:

This bill would require a governmental entity to register a security offering with the division if it had defaulted on any obligation it had issued or guaranteed since 1975. Definitions of guarantor and guaranty are added to the definitional section of Chapter 517, the Security and Investor Protection Act.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

The cost of registering governmental securities would be very high. This prohibitive expense might preclude economically distressed communities from offering bonds because they would not be able to afford the registration fee. It is these very communities which probably need to float bonds to raise operating capital for the community.

Depending on how many governmental entities wanted to issue bonds, the administrative expense could be extremely high. To become registered, any government security would be subject to a rather extensive and costly review by the division.

III. STATE COMPREHENSIVE PLAN IMPACT:

No significant impact

IV. COMMENTS:

None

V. AMENDMENTS:

None

VI. PREPARED BY:


Ivy Cream Harris

VII. STAFF DIRECTOR:


H. Fred Varn