

# SENATE BILL No. 391

April 22, 2003, Introduced by Senator SCOTT and referred to the Committee on Appropriations.

A bill to amend 1964 PA 265, entitled  
"Uniform securities act,"  
by amending sections 202 and 305 (MCL 451.602 and 451.705), as  
amended by 2000 PA 494.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 202. (a) A broker-dealer, agent, or investment adviser  
2 may obtain an initial registration by filing with the  
3 administrator an application together with a consent to service  
4 of process pursuant to section 414(g). The application shall  
5 contain the information that the administrator by rule requires  
6 concerning any of the following:

7       (1) The applicant's form and place of organization.

8       (2) The applicant's proposed method of doing business.

9       (3) The qualifications and business history of the applicant;

10 in the case of a broker-dealer or investment adviser, the

1 qualifications and business history of any partner, officer, or  
2 director, any person occupying a similar status or performing  
3 similar functions, or any person directly or indirectly  
4 controlling the broker-dealer or investment adviser; and, in the  
5 case of an investment adviser, the qualifications and business  
6 history of any employee.

7 (4) Any injunction or administrative order or conviction of a  
8 misdemeanor or of a felony.

9 (5) The applicant's financial condition and history.

10 (b) The administrator may by rule or order require an  
11 applicant for initial registration to publish an announcement of  
12 the application in 1 or more specified newspapers published in  
13 this state. Registration becomes effective upon order of the  
14 administrator. The administrator may by rule or order establish  
15 classes of or otherwise condition the registration of  
16 broker-dealers, agents, or investment advisers.

17 (c) ~~Every~~ **Through September 30, 2003, every** applicant for  
18 registration shall pay a filing fee and every registrant shall  
19 pay an annual fee of \$250.00 in the case of a broker-dealer,  
20 \$30.00 in the case of an agent, and \$150.00 in the case of an  
21 investment adviser. ~~Every~~ **Through September 30, 2003, every**  
22 applicant filing an application for registration of a successor  
23 pursuant to subsection (d) shall pay a filing fee of \$100.00 for  
24 the unexpired portion of the year. ~~A~~ **Through September 30,**  
25 **2003, a** registered agent who has terminated his or her connection  
26 with a broker-dealer shall pay a transfer fee of \$10.00 when  
27 transferring his or her connection to another broker-dealer.

1 Beginning October 1, 2003, the amount of the fees paid to the  
2 administrator in any state fiscal year under this subsection  
3 shall be established by a fee schedule contained in an  
4 appropriation act for that fiscal year.

5 (d) A registered broker-dealer or investment adviser may file  
6 an application for registration of a successor, whether or not  
7 the successor is then in existence. The administrator may grant  
8 or deny the application.

9 (e) An applicant for registration under this act or an issuer  
10 who offers or sells a security in this state through any person  
11 shall file with the administrator, in the form prescribed by the  
12 administrator by rule or order, an irrevocable consent to service  
13 of process.

14 (f) Subject to the requirements of section 15 ~~of title I~~ of  
15 the securities exchange act of 1934, 15 U.S.C. 78o, and section  
16 222 of the investment advisers act of 1940, 15 U.S.C. 80b-18a,  
17 the administrator may by rule or order require a minimum capital  
18 for registered broker-dealers and investment advisers and  
19 prescribe a ratio between net capital and aggregate  
20 indebtedness. If the registrant fails to comply with the minimum  
21 net capital requirement, the registrant shall immediately cease  
22 all investment advisory or securities business operations and  
23 promptly notify the administrator of its failure to maintain the  
24 required net capital, of the steps to be taken to cure the net  
25 capital deficiency, and of its anticipated date of reopening  
26 business operations. The registrant shall not reactivate its  
27 securities or investment advisory business operations without

1 prior notification to the administrator.

2 (g) Except as otherwise provided in this section, the  
3 administrator may require a fidelity bond from a broker-dealer,  
4 agent, or investment adviser who is required to be registered  
5 under this act. The administrator may not require a bond from a  
6 broker-dealer that is registered under the securities exchange  
7 act of 1934 or an investment adviser that maintains its principal  
8 place of business in a state other than this state if the  
9 investment adviser is registered in that other state and is in  
10 compliance with that state's bonding requirements, if any.

11 (h) Unless the requirement is waived by rule or order of the  
12 administrator, all persons, including but not limited to  
13 partners, officers, directors, and agents employed by a  
14 broker-dealer or investment adviser who are regularly employed  
15 within this state shall, as a condition of employment, be  
16 fingerprinted. The administrator may process the fingerprint  
17 cards with the federal bureau of investigation and the department  
18 of state police either directly or through the national  
19 association of securities dealers. The fingerprints or  
20 information relating to the fingerprints shall be used for the  
21 official use of the administrator only.

22 Sec. 305. (a) A registration statement may be filed by the  
23 issuer, any other person on whose behalf the offering is to be  
24 made, or a registered broker-dealer.

25 (b) ~~Every~~ **Through September 30, 2003, every** person filing a  
26 registration statement shall pay a filing fee of 1/10 of 1% of  
27 the maximum aggregate offering price at which the registered

1 securities are to be offered in this state, but the fee shall in  
2 no case be less than \$100.00 or more than \$1,250.00. ~~When~~  
3 **Through September 30, 2003, when** an application for registration  
4 is withdrawn before the effective date or a preeffective stop  
5 order is issued, the administrator shall retain a fee of \$100.00  
6 if the initial review has not been commenced, and the full filing  
7 fee after review has been commenced. **Beginning October 1, 2003,**  
8 **the amount of the fees paid to the administrator in any state**  
9 **fiscal year under this subsection shall be established by a fee**  
10 **schedule contained in an appropriation act for that fiscal year.**

11 (c) Every registration statement shall specify all of the  
12 following:

13 (1) The amount of securities to be offered in this state.

14 (2) The states in which a registration statement or similar  
15 document in connection with the offering has been or is to be  
16 filed.

17 (3) Any withdrawal or any adverse order, judgment, or decree  
18 entered in connection with the offering by the regulatory  
19 authorities in each state or by any court or the securities and  
20 exchange commission.

21 (d) Any document filed under this act or a predecessor act  
22 within 5 years preceding the filing of a registration statement  
23 may be incorporated by reference in the registration statement to  
24 the extent that the document is currently accurate.

25 (e) The administrator may by rule or otherwise permit the  
26 omission of any item of information or document from any  
27 registration statement.

1 (f) The administrator may by rule or order require as a  
2 condition of registration by qualification or coordination both  
3 of the following:

4 (1) That any security issued or to be issued to a promoter  
5 for a consideration substantially different from the public  
6 offering price, or to any person for a consideration other than  
7 cash, be deposited in escrow.

8 (2) That the proceeds from the sale of the registered  
9 security in this state be impounded until the issuer receives a  
10 specified amount from the sale of the security either in this  
11 state or elsewhere. The administrator may by rule or order  
12 determine the conditions of any escrow or impounding required  
13 under this subsection, and, after prior notice and opportunity  
14 for hearing, may order the cancellation in whole or in part of  
15 any security deposited in escrow if necessary for the protection  
16 of security holders. The administrator may not reject a  
17 depository solely because of location in another state.

18 (g) The administrator may by rule or order impose conditions  
19 under which a security registered by qualification may be sold,  
20 if it finds that the conditions are reasonable and in the public  
21 interest.

22 (h) Every registration statement is effective for 1 year from  
23 its effective date, except during the time a stop order is in  
24 effect under section 306. A registration statement may be  
25 extended by the administrator by rule or order. All outstanding  
26 securities of the same class as a registered security are  
27 considered to be registered for the purpose of any nonissuer

1 transaction so long as the registration statement is effective or  
2 the issuer has a class of securities that have been subject to  
3 the reporting requirements of section 13 or 15(d) ~~of title I~~ of  
4 the securities exchange act of 1934, 15 U.S.C. 78m and 78o, for  
5 not less than 9 months before the transaction and all reports  
6 required by that act have been filed for that period. A  
7 registration statement may not be withdrawn for 1 year from its  
8 effective date if any securities of the same class are  
9 outstanding. A registration statement may be withdrawn otherwise  
10 only in the discretion of the administrator.

11 (i) For the period that the registration statement is  
12 effective, the administrator may by rule or order require the  
13 person who filed the registration statement to file reports, not  
14 more often than quarterly, to keep reasonably current the  
15 information contained in the registration statement and to  
16 disclose the progress of the offering.

17 (j) A registration statement relating to a security may be  
18 amended after its effective date to increase the securities  
19 specified as proposed to be offered. As to securities not yet  
20 sold, an amendment becomes effective upon the administrator's  
21 order. In the case of securities that are sold in an amount in  
22 excess of the amount or number of securities specified in an  
23 effective registration statement, as proposed to be offered, the  
24 person or persons who filed the registration statement may, in  
25 accordance with rules the administrator shall promulgate as  
26 necessary or appropriate in the public interest and for the  
27 protection of investors, elect to have the registration of those

1 securities considered effective as of the time of their sale,  
2 upon payment to the administrator within 6 months after the sale  
3 of a registration fee equal to the difference between the  
4 registration fee previously paid and the amount of the fee that  
5 would have otherwise been applicable to those additional  
6 securities if they had been included in the registration  
7 statement, if any, plus a late registration fee. ~~of~~ **The amount**  
8 **of the late registration fee is \$250.00 through September 30,**  
9 **2003. Beginning October 1, 2003, the amount of the late**  
10 **registration fee shall be established by a fee schedule contained**  
11 **in an appropriation act for that fiscal year.** Upon the election  
12 and payment, the registration statement shall be considered to  
13 have been in effect with respect to those shares. Every person  
14 filing an amendment under this subsection shall pay a filing fee,  
15 ~~calculated in the manner specified in~~ **determined under**  
16 subsection (b), with respect to the additional securities.

17 (k) Fees, expense reimbursements, and fines received under  
18 this act shall be deposited in the state treasury to the credit  
19 of the administrator, to be used pursuant to legislative  
20 appropriation by the administrator in carrying out those duties  
21 required by law. After the payment of the amounts appropriated  
22 by the legislature for the necessary expenses incurred in the  
23 administration of this act, the money remaining shall be credited  
24 to the general fund of this state.

25 (l) Fees and fines received under this act shall not be  
26 expended for partisan political activity.

27 (m) This section does not apply to securities registered



1 under section 304a.