

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Dave Roberts**

A BILL ACT 298 OF 1991
HOUSE BILL 1173

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8 **For An Act To Be Entitled**

9 "AN ACT TO AUTHORIZE THE SECURITIES COMMISSIONER TO WAIVE
10 THE PROVISIONS OF ARKANSAS CODE 23-42-305 WHICH REQUIRE
11 INVESTMENT ADVISORS WHO DO NOT MAINTAIN CUSTOMER FUNDS TO
12 MAINTAIN AT LEAST \$25,000 NET WORTH, EVIDENCED BY AN
13 ANNUAL AUDITED FINANCIAL STATEMENT ACCOMPANIED BY AN
14 OPINION PREPARED BY AN INDEPENDENT CPA; AND FOR OTHER
15 PURPOSES."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code 23-42-305(a)&(b) are hereby amended to read as
20 follows:

21 "(a) (1) The commissioner shall require registered broker-dealers to post
22 a corporate surety bond in the amount of one hundred thousand dollars
23 (\$100,000), registered investment advisers to post a corporate surety bond in
24 the amount of fifty thousand dollars (\$50,000), and an agent for the issuer to
25 post a corporate surety bond in the amount of twenty-five thousand dollars
26 (\$25,000).

27 (2) In no event shall the total liability of the surety to all persons,
28 cumulative or otherwise, exceed the amounts specified in the bond.

29 (3) Every bond shall provide that no suit may be maintained to enforce
30 any liability on the bond unless brought within five (5) years after the sale
31 or other act upon which it is based.

32 (4) Every bond shall provide for suit thereon by any person who has a
33 cause of action under this chapter.

34 (b) However, in lieu of a corporate surety bond:

35 (1) A broker-dealer registered with the Securities and Exchange
36 Commission, who is also a member of the National Association of Securities
37 Dealers and a member of the Securities Investor Protection Corporation and

1 whose agents are registered with the National Association of Securities
2 Dealers, may maintain a fidelity bond covering each agent in a form
3 substantially similar to the standard form of brokers' blanket bond
4 promulgated by the Surety Association of America, in the following amounts:

- 5 Dealer with 1 to 5 agents.....\$40,000
- 6 Dealer with 6 to 10 agents.....\$50,000
- 7 Dealer with 11 to 15 agents\$60,000
- 8 Dealer with 16 to 20 agents.....\$70,000
- 9 Dealer with 21 to 30 agents.....\$80,000

10 Dealer with over 30 agents.....\$100,000 and
11 covering, at least, fidelity on premises, in transit, misplacement, forgery
12 and alteration including check forgery, securities loss including securities
13 forgery, and fraudulent trading;

14 (2) A broker-dealer registered with the Securities and Exchange
15 Commission who is a member of the National Association of Securities Dealers
16 and who operates as a sole proprietor which has no agent other than the sole
17 proprietor shall keep and maintain at least fifty thousand dollars (\$50,000)
18 personal net worth evidenced by an annual audited financial statement prepared
19 by an independent certified public accountant and filed with the commissioner;
20 or

21 (3) Unless the commissioner by rule or order prescribes otherwise, an
22 investment adviser who is registered with the Securities and Exchange
23 Commission, and who does not maintain customer funds, shall keep and maintain
24 at least twenty-five thousand dollars (\$25,000) net worth evidenced by an
25 annual audited financial statement accompanied by an opinion acceptable to the
26 commissioner prepared by an independent certified public accountant and filed
27 with the commissioner; or

28 (4) The commissioner shall accept any appropriate deposit of cash or
29 securities issued by the federal government, the State of Arkansas, or any
30 political subdivision thereof and having a market value of an amount equal to
31 the required corporate surety bond. The deposits of cash and securities shall
32 not be withdrawn until five (5) years after the last effective date of
33 registration or the last effective date for which the deposit was used as a
34 requirement."

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1 SECTION 2. All provisions of this Act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 3. If any provision of this Act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the Act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 Act are declared to be severable.

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11 SECTION 4. All laws and parts of laws in conflict with this Act are
12 hereby repealed.

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APPROVED: 3-1-91

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