

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Webb

A Bill

SENATE BILL 411

For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
SECURITIES ACT; AND FOR OTHER PURPOSES."

Subtitle

"AN ACT TO AMEND VARIOUS SECTIONS OF THE
ARKANSAS SECURITIES ACT."

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

SECTION 1. Arkansas Code 23-42-102 is amended to read as follows:

"§ 23-42-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) Commissioner means the Securities Commissioner;

(2) Agent means any individual, other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

(A) Agent does not include an individual who represents an issuer in:

(i) Effecting transactions in a security exempted by § 23-42-503(a)(1)-(5) or (9)-(11), and any other transactions in a security exempted by other clauses of § 23-42-503 which the commissioner may by rule or order prescribe;

(ii) Effecting transactions exempted by § 23-42-504 unless otherwise required by § 23-42-504;

(iii) Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or

1 (iv) Effecting transactions involving a reorganization or
2 any other individual assisting the issuer or any other constituent party in
3 the process of the reorganization so long as such individual is not employed
4 for the primary purpose of obtaining or soliciting proxies, consents or other
5 required means of approval from the security holders of the issuer or any
6 other constituent party to the reorganization and receives no compensation
7 other than his regular salary and reimbursement for actual expenses, if any,
8 incurred in good faith in the course of such duties or activities.

9 (B) A partner, officer, or director of a broker-dealer or
10 issuer, or a person occupying a similar status or performing similar
11 functions, is an agent only if he otherwise comes within this definition;
12

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

16 (A) An agent;

17 (B) An issuer;

18 (C) A bank, savings institution, savings and loan association,
19 or trust company; or

20 (D) A person who has no place of business in this state if:

21 (i) He effects transactions in this state exclusively with
22 or through:

23 (a) The issuers of the securities involved in the
24 transactions;

25 (b) Other broker-dealers; or

26 (c) Banks, savings institutions, savings and loan
27 associations, trust companies, insurance companies, investment companies as
28 defined in the Investment Company Act of 1940, pension or profit-sharing
29 trusts, or other financial institutions or institutional buyers, whether
30 acting for themselves or as trustees; or

31 (ii) During any period of twelve (12) consecutive months,
32 he does not direct more than fifteen (15) offers to sell or buy into this
33 state in any manner to persons other than those specified in subdivision
34 (3)(D)(i) of this subsection, whether or not the offeror or any of the
35 offerees are then present in this state;

1 (4)(A) Farm cooperative means any cooperative formed for the purpose
2 of:

3 (i) Purchasing, producing, processing, marketing,
4 distributing, or selling crops or livestock for, or on behalf of, its
5 members; or

6 (ii) Purchasing, marketing, or distributing meat, dairy,
7 bakery, produce, or other food or grocery products for, or on behalf of, its
8 members.

9 (B) Farm cooperative shall not include any association formed
10 for the purpose of purchasing food or grocery products for, or on behalf of,
11 consumers;

12 (5) Fraud, deceit, and defraud are not limited to common-law
13 deceit;

14 (6) Guaranteed means guaranteed as to payment of principal,
15 interest, or dividends;

16 (7) Investment adviser means any person who, for compensation,
17 engages in the business of advising others, either directly or through
18 publications or writings, as to the value of securities or as to the
19 advisability of investing in, purchasing, or selling securities or who, for
20 compensation, issues or promulgates analyses or reports concerning
21 securities. Investment adviser does not include:

22 (A) A bank, savings and loan association, credit union, or trust
23 company;

24 (B) A lawyer, accountant, engineer, or teacher whose performance
25 of these services is solely incidental to the practice of his profession;

26 (C) A broker-dealer whose performance of these services is
27 solely incidental to the conduct of his business as a broker-dealer and who
28 receives no special compensation for them;

29 (D) A publisher of any bona fide newspaper, news column,
30 newsletter, news magazine, or business or financial publication or service of
31 general, regular, and paid circulation, whether communicated in hard copy
32 form, by electronic means, or otherwise, that does not consist of the
33 rendering of advice on the basis of the specific investment situation of each
34 client;

35 (E) A person who has no place of business in this state if:

1 (i) His only clients in this state are other investment
2 advisers, broker-dealers, banks, savings institutions, trust companies,
3 insurance companies, investment companies as defined in the Investment
4 Company Act of 1940, pension or profit-sharing trusts, or other financial
5 institutions or institutional buyers, whether acting for themselves or as
6 trustees; or

7 (ii) During any period of twelve (12) consecutive months
8 he does not direct business communications into this state in any manner to
9 more than five (5) clients other than those specified in subdivision
10 (7)(E)(i) of this subsection, whether or not he or any of the persons to whom
11 the communications are directed is then present in this state; or

12 (F) Such other persons not within the intent of this paragraph
13 as the commissioner may by rule or order designate;

14 (8) Issuer means every person who issues or proposes to issue any
15 security, except that:

16 (A) With respect to certificates of deposit, voting-trust
17 certificates, or collateral-trust certificates, or with respect to
18 certificates of interest or shares in an unincorporated investment trust not
19 having a board of directors or persons performing similar functions or of the
20 fixed, restricted management, or unit type, the term issuer means the
21 persons performing the acts and assuming the duties of depositor or manager
22 pursuant to the provisions of the trust or other agreement or instrument
23 under which the securities are issued;

24 (B) In the case of an unincorporated association which provides
25 by its articles for limited liability of any or all of its members, or in the
26 case of a trust, committee, or other legal entity, the trustees or members
27 thereof shall not be individually liable as issuers of any security issued by
28 the association, trust, committee, or other legal entity;

29 (C) With respect to equipment-trust certificates or like
30 securities, the term issuer means the person by whom the equipment or
31 property is, or is to be, used; and

32 (D) With respect to fractional undivided interests in oil, gas,
33 or other mineral rights, the term issuer means the owner of the right or of
34 any whole or fractional interest in the right who creates fractional
35 interests therein for the purpose of the offering;

1 (9) Nonissuer means not directly or indirectly for the benefit of
2 the issuer;

3 (10) Person means an individual, a corporation, a limited liability
4 company, a partnership, an association, a joint-stock company, a trust where
5 the interests of the beneficiaries are evidenced by a security, an
6 unincorporated organization, a government, or a political subdivision of a
7 government;

8 (11) Representative means any partner, officer, director of an
9 investment adviser, or a person occupying a similar status or performing
10 similar functions, or other individual employed by or associated with an
11 investment adviser, except clerical or ministerial personnel, who (1) makes
12 any recommendation or otherwise renders advice regarding securities, (2)
13 manages accounts or portfolios of clients, (3) determines which
14 recommendation or advice regarding securities should be given, or (4)
15 supervises employees who perform any of the foregoing;

16 (12) (A) Sale or sell includes every contract of sale of, contract
17 to sell, or disposition of a security or interest in a security for value.

18 (B) Offer or offer to sell includes every attempt or offer
19 to dispose of, or solicitation of an offer to buy, a security or interest in
20 a security for value.

21 (C) Any security given or delivered with, or given as a bonus on
22 account of, any purchase of securities or any other thing is considered to
23 constitute part of the subject of the purchase and to have been offered and
24 sold for value.

25 (D) A purported gift of assessable stock is considered to
26 involve an offer and sale.

27 (E) Every other sale or offer of a warrant or right to purchase
28 or subscribe to another security of the same or another issuer, as well as
29 every sale or offer of a security which gives the holder a present or future
30 right or privilege to convert into another security of the same or another
31 issuer, is considered to include an offer of the other security.

32 (F) The terms defined in this subdivision do not include:

33 (i) Any bona fide pledge or loan;

34 (ii) Any stock dividend, whether the corporation

35 distributing the dividend is the issuer of the stock or not, if nothing of

1 value is given by stockholders for the dividend other than the surrender of a
2 right to a cash or property dividend when each stockholder may elect to take
3 the dividend in cash or property or in stock;

4 (iii) Any stock split, reverse stock split, or change in
5 par value which involves the substitution of a security of an issuer for
6 another security of the same issuer; or

7 (iv) Any act incident to a judicially approved
8 reorganization in which a security is issued in exchange for one (1) or more
9 outstanding securities, claims, or property interests, or partly in such
10 exchange and partly for cash;

11 (13) Securities Act of 1933, Securities Exchange Act of 1934,
12 Public Utility Holding Company Act of 1935, and Investment Company Act of
13 1940 mean the federal statutes of those names, as amended;

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

25 (B) Security does not include any insurance or endowment
26 policy or annuity contract or variable annuity contract issued by any
27 insurance company;

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

30

31 SECTION 2. Arkansas Code 23-42-106(a) is amended to read as follows:

32 "(a)(1) Any person who commits the following acts is liable to the
33 person buying the security from him, who may sue either at law or in equity
34 to recover the consideration paid for the security, together with interest at
35 six percent (6%) per year from the date of payment, costs, and reasonable

1 attorney's fees, less the amount of any income received on the security, upon
2 the tender of the security, or for damages if he no longer owns the security:

3 (A) Offers or sells a security in violation of §§
4 23-42-301, 23-42-212(b), or § 23-42-501 or of any rule or order under §
5 23-42-502 which requires the affirmative approval of sales literature before
6 it is used, or in violation of any condition imposed under §§ 23-42-403(d),
7 23-42-404(g), or § 23-42-404(i); or

8 (B) Offers or sells a security by means of any untrue
9 statement of a material fact or any omission to state a material fact
10 necessary in order to make the statements made, in the light of circumstances
11 under which they are made, not misleading, the buyer not knowing of the
12 untruth or omission, and who does not sustain the burden of proof that he did
13 not know, and in the exercise of reasonable care could not have known, of the
14 untruth or omission;

15 (2) Damages are the amount that would be recoverable upon a
16 tender less the value of the security when the buyer disposed of it and
17 interest at six percent (6%) per year from the date of disposition."
18

19 SECTION 3. Arkansas Code 23-42-202 is amended to read as follows:

20 "§ 23-42-202. Delegation of authority by commissioner.

21 (a) The commissioner may delegate to any employee of the department ,
22 under any conditions which he deems appropriate any responsibilities of the
23 commissioner as set forth in this chapter, the Savings and Loan Act, §
24 23-37-101 et seq., the Credit Union Act, § 23-35-101 et seq., or any other
25 act for which the commissioner is responsible.

26 (b) The commissioner, subject to any restrictions which he in his
27 discretion deems appropriate, may delegate to any employee of the department,
28 the exercise or discharge in the commissioner's name of any power, duty, or
29 function, whether ministerial, discretionary, or of whatever character,
30 vested by this chapter in the commissioner."
31

32 SECTION 4. Arkansas Code 23-42-203(d) is amended to read as follows:

33 "(d) Nothing herein shall prevent the commissioner or any officers or
34 employees of the State Securities Department from sharing with state or
35 federal law enforcement authorities, other state or federal regulatory

1 *authorities*, or self-regulatory organizations authorized by law any
2 information which they may have or obtain in aid of the enforcement of this
3 chapter or any other securities act or the criminal provisions of any laws."
4

5 SECTION 5. Arkansas Code 23-42-204(c) is amended to read as follows:

6 "(c) In prescribing rules and forms, the commissioner may cooperate
7 with the securities administrators of the other states, individually and as a
8 group represented by the North American Securities Administrators
9 Association, with the Securities and Exchange Commission and with self-
10 regulatory organizations with a view to effectuating the policy of this
11 chapter to achieve maximum uniformity in the form and content of registration
12 statements, applications, rules, and reports wherever practicable. Where
13 the commissioner incorporates by reference in the rules and forms of the
14 commissioner a form, rule, or portion thereof in accordance with this
15 subsection, any change in that form, rule, or portion thereof shall become
16 part of the rules and forms of the commissioner unless the commissioner shall
17 *by order decline to accept such change within thirty (30) days of its*
18 *adoption or promulgation.*"
19

20 SECTION 6. Arkansas Code 23-42-206(a)(3) is amended to read as
21 follows:

22 "(3) A document received by the commissioner's designee may be
23 destroyed after the reproduction of the document by photograph,
24 microphotograph, or electronic means of a permanent nature, may be
25 transferred to a permanent storage location maintained by the Central
26 Registration Depository, the Securities Registration Depository or such other
27 central depository system as may be determined by the commissioner, or may be
28 transferred to the commissioner to be disposed of in the manner of a document
29 received by the commissioner."
30

31 SECTION 7. Arkansas Code 23-42-206(c) is amended to read as follows:

32 "(c) The commissioner, in his discretion, may rely upon and coordinate
33 with the Securities and Exchange Commission, the National Association of
34 Securities Dealers, the Municipal Securities Rule Making Board, the North
35 American Securities Administrators Association, and any other securities

1 regulatory agencies which he deems appropriate for the proper maintenance of
2 certain common registrations, records, and other documents maintained by the
3 other regulatory agencies."

4

5 SECTION 8. Arkansas Code 23-42-207(b)(6) is amended to read as
6 follows:

7 "(6) Financial records of broker-dealers, investment advisers, agents,
8 or representatives obtained during or as a result of an examination by the
9 department.

10 (A) However, when those records are required by this chapter to
11 be filed with the department as part of a registration, annual renewal, or
12 otherwise, the records, including financial statements prepared by certified
13 public accountants, shall be public unless sections of the information are
14 bound separately and marked privileged and confidential by the broker-dealer,
15 investment adviser, agent, or representative upon its submission in which
16 case it shall be deemed nonpublic until ten (10) days after the commissioner
17 has given the broker-dealer, investment adviser, agent, or representative
18 notice that an order will be entered deeming the material public.

19 (B) If the broker-dealer, investment adviser, agent, or
20 representative believes the commissioner's order is incorrect, the
21 broker-dealer, investment adviser, agent, or representative may seek an
22 injunction from the Circuit or Chancery Court of Pulaski County ordering the
23 department to hold the information as nonpublic pending a final order of a
24 court of competent jurisdiction if the order of the commissioner is appealed
25 pursuant to applicable law;"

26

27 SECTION 9. Arkansas Code 23-42-208 is amended to read as follows:

28 "§ 23-42-208. Cooperation with other regulatory agencies.

29 (a) The commissioner may enter into an arrangement, agreement, or
30 other working relationship with federal, other state, and self-regulatory
31 authorities whereby documents may be filed and maintained in the Central
32 Registration Depository with the National Association of Securities Dealers,
33 the Securities Registration Depository with the North American Securities
34 Administrators Association, such other central depository system as
35 determined by the commissioner, or other agencies or authorities.

1 (b) It is the intent of this section that the commissioner be provided
2 the authority to reduce duplication of filings, reduce administrative costs,
3 and establish uniform procedures, forms, and administration with the states
4 and federal authorities.

5 (c) The commissioner may permit initial and renewal registration
6 filings required under this chapter to be filed with the Securities and
7 Exchange Commission, the National Association of Securities Dealers, North
8 American Securities Administrator Association, or other similar authorities.

9 (d) The commissioner may accept uniform securities examinations or
10 other procedures designed to implement a uniform national securities
11 regulatory system or facilitate common practices and procedures among the
12 states."

13

14 SECTION 10. Arkansas Code 23-42-209 is amended to read as follows:

15 "§ 23-42-209. Injunction, mandamus, or other ancillary relief.

16 (a)(1) Whenever it appears to the commissioner, upon sufficient
17 grounds or evidence satisfactory to the commissioner, that any person has
18 engaged or is about to engage in any act or practice constituting a violation
19 of any provision of this chapter or any rule or order under this chapter, he
20 may summarily order the person to cease and desist from the act or practice.
21 *Upon the entry of the order, the commissioner shall promptly notify such*
22 *person that the order has been entered, of the reasons therefore, and of his*
23 *right to a hearing on the order.*

24 (2) *A hearing shall be held on the written request of the person*
25 *aggrieved by the order if such request is received by the commissioner within*
26 *thirty (30) days of the date of the entry of the order, or if ordered by the*
27 *commissioner. If no hearing is requested and none is ordered by the*
28 *commissioner, the order will remain in effect until it is modified or vacated*
29 *by the commissioner. If a hearing is requested or ordered, the commissioner,*
30 *after notice of an opportunity for hearing, may affirm, modify or vacate the*
31 *order.*

32 (3) The commissioner may, after issuance of an order as set
33 forth above, apply to the Chancery Court of Pulaski County to temporarily or
34 permanently enjoin the act or practice and to enforce compliance with this
35 chapter or any rule or order under this chapter. However, the commissioner

1 may, without issuing such an order, apply directly to the Chancery Court of
2 Pulaski County for the aforesaid relief.

3 (4) Upon a proper showing, a permanent or temporary injunction,
4 restraining order, or writ of mandamus shall be granted.

5 (5) The court may not require the commissioner to post a bond.

6 (b) The commissioner may also seek and the appropriate court shall,
7 upon proper showing, grant any other ancillary relief which may be in the
8 public interest, including the appointment of a receiver, temporary receiver,
9 conservator, declaratory judgment, obtaining an accounting, disgorgement,
10 *assessment of a fine in an amount of not more than the total amount of money*
11 *received in connection with any violation*, or other relief as may be
12 appropriate in the public interest.

13 (c) Nothing herein shall prohibit or restrict the informal disposition
14 of a proceeding or allegations which might give rise to a proceeding by
15 stipulation, settlement, consent or default in lieu of a formal or informal
16 hearing on the allegations or in lieu of the sanctions authorized by this
17 section."

18

19 SECTION 11. Arkansas Code 23-42-301(e) is amended to read as follows:

20 "§ 23-42-301. Registration required.

21 (a) It is unlawful for any person to transact business in this state
22 as a broker-dealer or agent unless he is registered under this chapter.

23 (b)(1) It is unlawful for any registered broker-dealer or issuer to
24 employ an unregistered agent except a nonresident agent who is registered by
25 any other state securities administrator and who effects transactions in this
26 state exclusively with registered broker-dealers.

27 (2) The registration of an agent is not effective during any
28 period when he is not associated with a particular broker-dealer registered
29 under this chapter or with a particular issuer.

30 (3)(A) When an agent begins or terminates a connection with a
31 broker-dealer or issuer, or begins or terminates those activities which make
32 him an agent, then the broker-dealer or issuer shall promptly notify the
33 commissioner or the commissioner's designee.

34 (B) When an agent terminates his registration with or
35 withdraws his registration from a broker-dealer or issuer, a subsequent

1 application by the agent for registration shall be considered an initial
2 registration and shall be deemed a notification by the agent of termination
3 or withdrawal of the previous registration or application.

4 (4) The commissioner may by rule establish provisions for
5 concurrent registration with more than one (1) broker-dealer or issuer.

6 (c) It is unlawful for any person to transact business in this state
7 as an investment adviser or representative unless he is so registered under
8 this chapter.

9 (d) Every registration expires December 31 of each year unless the
10 registration is renewed.

11 (e)(1) At least one (1) officer or partner, who shall have direct
12 supervision over the purchase and sale of securities in Arkansas, shall be:

13 (A) Registered as an agent and designated a principal of a
14 broker-dealer; or

15 (B) Registered as an agent of the issuer and shall satisfy
16 qualifications set by the commissioner. Provided however, an agent of the
17 issuer for an open-end investment company as defined in the Investment
18 Company Act of 1940 need not be an officer or partner of the issuer.

19 (2) Each broker-dealer which has *an office located in Arkansas*
20 *shall designate at least one principal who is a resident of this state.*

21 (3) Upon the removal of the officer or partner designated under
22 this subsection from the broker-dealer or issuer, or upon the removal of the
23 principal from the direct supervision of the purchase and sale of securities
24 in Arkansas, the issuer or broker-dealer must again satisfy this provision."

25

26 SECTION 12. Arkansas Code 23-42-302 is amended to read as follows:

27 "§ 23-42-302. Registration procedure.

28 (a) A broker-dealer, agent, investment adviser, or representative may
29 obtain an initial or renewal registration by filing with the commissioner or
30 the commissioner's designee an application and fee together with a consent to
31 service of process pursuant to § 23-42-107(a).

32 (b) The commissioner may by rule set forth the form and content of the
33 application and establish a procedure for renewal registration or initial
34 registration whereby registration may become effective prior to the filing of
35 a completed application or fee.

1 (c) The application shall contain whatever information the
2 commissioner by rule requires concerning such matters as:

3 (1) The applicant's form and place of organization;

4 (2) The applicant's proposed method of doing business;

5 (3) The qualifications, disciplinary history, and business
6 history of the applicant, including, in the case of a broker-dealer or
7 investment adviser, the qualifications and history of any partner, officer,
8 director, person occupying a similar status or performing similar functions,
9 or any persons directly or indirectly controlling the broker-dealer or
10 investment adviser;

11 (4) Any investigation, proceeding, order, injunction, arrest, or
12 conviction of any felony or misdemeanor; and

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

14 (d) The commissioner may provide for a written examination to be taken
15 by each class of applicants to be used as one (1) of the bases in determining
16 an applicant's qualifications to be registered. Any agent, broker-dealer,
17 investment adviser, or representative shall be exempt from examination,
18 except such part as relates to this chapter, if he was engaged in the
19 securities business in Arkansas on July 1, 1959, and was registered with the
20 National Association of Securities Dealers or the Federal Securities and
21 Exchange Commission.

22 (e) The commissioner is authorized to conduct an investigation in
23 order that he may determine the fitness of any applicant. Each applicant
24 shall pay to the commissioner an investigation fee, and the amount of each
25 fee shall be determined on the same basis as is the examination fee required
26 of broker-dealers under § 23-42-306(d).

27 (f) If no denial order is in effect or no proceeding is pending under
28 § 23-42-308, registration becomes effective on the thirtieth day after the
29 application is completed. The commissioner may determine an earlier effective
30 date upon review of the application.

31 (g) Applications which have not been completed within a period of one
32 hundred and eighty (180) days after filing with the commissioner may be
33 deemed abandoned and considered withdrawn by the applicant, provided the
34 applicant has been notified of the deficiencies to the application and
35 afforded a reasonable opportunity to correct such deficiencies.

1 (h) A registered broker-dealer or investment adviser may file an
2 application for registration of a successor, whether or not the successor is
3 then in existence. Such application shall comply with the requirements for an
4 initial application."

5

6 SECTION 13. Arkansas Code 23-42-303 is amended to read as follows:

7 "§ 23-42-303. Minimum net capital requirement.

8 (a) The commissioner shall require a minimum net capital for
9 registered broker-dealers in the amount of twenty-five thousand dollars
10 (\$25,000) and for investment advisers in the amount of twelve thousand five
11 hundred dollars (\$12,500).

12 (b) No registered broker-dealer shall permit his aggregate
13 indebtedness to exceed fifteen hundred percent (1500%) of the net capital of
14 the broker-dealer.

15 (c) The commissioner shall define net capital and aggregate
16 indebtedness by rule.

17 (d) Subsections (a) and (b) shall not apply to broker-dealers
18 registered with the Securities and Exchange Commission who are also members
19 of the National Association of Securities Dealers or investment advisers
20 registered with the Securities and Exchange Commission."

21

22 SECTION 14. Arkansas Code 23-42-304(a) is amended to read as follows:

23 "(a) Every applicant for initial or renewal registration shall pay a
24 filing fee of:

25 (1) Three hundred dollars (\$300) in the case of a broker-dealer;

26 (2) Seventy-five dollars (\$75.00) in the case of an agent, of
27 which twenty-five dollars (\$25.00) shall be designated as special revenues
28 and shall be deposited in the Securities Department Fund;

29 (3) Three hundred dollars (\$300) in the case of an investment
30 adviser; and

31 (4) Seventy-five dollars (\$75.00) in the case of a
32 representative, of which twenty-five dollars (\$25.00) shall be designated as
33 special revenues and shall be deposited in the Securities Department Fund."

34

35 SECTION 15. Arkansas Code 23-42-305(a)(1) is amended to read as

1 follows:

2 "(a)(1) The commissioner shall require registered broker-dealers to
3 post a corporate surety bond in the amount of one hundred thousand dollars
4 (\$100,000), registered investment advisers to post a corporate surety bond in
5 the amount of fifty thousand dollars (\$50,000), and, unless the commissioner
6 prescribes otherwise, an agent for the issuer to post a corporate surety bond
7 in the amount of twenty-five thousand dollars (\$25,000)."

8

9 SECTION 16. Arkansas Code 23-42-305(b) is amended to read as follows:

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

11 (1) A broker-dealer registered with the Securities and Exchange
12 Commission, who is also a member of the National Association of Securities
13 Dealers and either a member of the Securities Investor Protection Corporation
14 or excluded from being a member thereof, and whose agents are registered with
15 the National Association of Securities Dealers, may maintain a fidelity bond
16 covering each agent in a form substantially similar to the standard form of
17 brokers' blanket bond promulgated by the Surety Association of America, in
18 the following amounts:

19	Dealer with 1 to 5 agents.....	\$40,000
20	Dealer with 6 to 10 agents	\$50,000
21	Dealer with 11 to 15 agents	\$60,000
22	Dealer with 16 to 20 agents	\$70,000
23	Dealer with 21 to 30 agents	\$80,000
24	Dealer with over 30 agents	\$100,000

25 and covering, at least, fidelity on premises, in transit, misplacement,
26 forgery and alteration including check forgery, securities loss including
27 securities forgery, and fraudulent trading;

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

35 (3) Unless the commissioner by rule or order
prescribes otherwise, an investment adviser who is registered with the

1 Securities and Exchange Commission, and who does not maintain customer funds,
2 shall keep and maintain at least twenty-five thousand dollars (\$25,000) net
3 worth evidenced by an annual audited financial statement accompanied by an
4 opinion acceptable to the commissioner prepared by an independent certified
5 public accountant and filed with the commissioner; or

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

13

14 SECTION 17. Arkansas Code 23-42-306(d)(3) is amended to read as
15 follows:

16 "(3) For the purpose of avoiding unnecessary duplication of
17 examination, the commissioner, insofar as he deems it practicable in
18 administering this subsection, may cooperate with the securities
19 administrators of other states, the Securities and Exchange Commission, any
20 national securities exchange or national securities association registered
21 under the Securities Exchange Act of 1934, or any other jurisdiction, agency,
22 or organization charged by law or statute with regulating or prosecuting any
23 aspect of the securities business, and in so cooperating may share any
24 information he or his representatives may obtain as a result of any
25 investigation or examination. Examination shall include the right to
26 reproduce copies of the records referred to in subsection (a) of this
27 section."

28

29 SECTION 18. Arkansas Code 23-42-307 is amended to read as follows:

30 "§ 23-42-307. Unlawful acts by investment advisers.

31 (a) It is unlawful for any person who receives, directly or
32 indirectly, any consideration from another person primarily for advising the
33 other person as to the value of securities or their purchase or sale, whether
34 through the issuance of analyses, reports, or otherwise:

35 (1) To employ any device, scheme, or artifice to defraud the

1 other person;

2 (2) To engage in any act, practice, or course of business which
3 operates or would operate as a fraud or deceit upon the other person; or

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

7 (b) It is unlawful for any investment adviser to enter into, extend,
8 or renew any investment advisory contract unless it provides in writing that:

9 (1) Except as may be permitted by rule or order of the
10 commissioner, the investment adviser shall not be compensated on the basis of
11 a share of capital gains upon or capital appreciation of the funds or any
12 portion of the funds of the client. This subdivision does not prohibit an
13 investment advisory contract which provides for compensation based upon the
14 total value of a fund averaged over a definite period, or as of definite
15 dates, or taken as of a definite date;

16 (2) No assignment of the contract may be made by the investment
17 adviser without the consent of the other party to the contract.

18 (A) Assignment, as used in subdivision (b)(2) of this
19 section, includes any direct or indirect transfer or hypothecation of an
20 investment advisory contract by the assignor, or of a controlling block of
21 the assignor's outstanding voting securities, by a security holder of the
22 assignor.

23 (B) However, if the investment adviser is a partnership,
24 no assignment of an investment advisory contract is considered to result from
25 the death or withdrawal of a minority of the members of the investment
26 adviser having only a minority interest in the business of the investment
27 adviser, or from the admission to the investment adviser of one (1) or more
28 members who, after admission, will be only a minority of the members and will
29 have only a minority interest in the business; and

30 (3) The investment adviser, if a partnership, shall notify the
31 other party to the contract of any change in the membership of the
32 partnership within a reasonable time after the change.

33 (c) It is unlawful for any investment adviser to take or have custody
34 of any securities or funds of any client if:

35 (1) The commissioner by rule prohibits custody; or

1 (2) In the absence of rule, the investment adviser fails to
2 notify the commissioner that he has or may have custody."

3

4 SECTION 19. Arkansas Code 23-42-308 is amended to read as follows:

5 "§ 23-42-308. Denial, suspension, revocation, or withdrawal of
6 registration, and other penalties.

7 (a) The commissioner may by order deny, suspend, or revoke any
8 registration if he finds that:

9 (1) The order is in the public interest; and

10 (2) The applicant or registrant or, in the case of a
11 broker-dealer or investment adviser, any partner, officer, or director; any
12 person occupying a similar status or performing similar functions; or any
13 person directly or indirectly controlling the broker-dealer or investment
14 adviser:

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

20 (B) Has willfully violated or willfully failed to comply
21 with any provision of this chapter or a predecessor act or any rule or order
22 under this chapter or a predecessor act;

23 (C) Has been convicted, within the past ten (10) years, of
24 any misdemeanor involving a security or any aspect of the securities
25 business, or of any felony or has pending against him a charge of unlawful
26 conduct involving securities or any aspect of the securities business;

27 (D) Is permanently or temporarily enjoined by any court of
28 competent jurisdiction from engaging in or continuing any conduct or practice
29 involving any aspect of the securities business;

30 (E) Is the subject of an order of the commissioner
31 denying, suspending, or revoking registration as a broker-dealer, agent,
32 investment adviser, or representative;

33 (F)(i) Is the subject of an order entered within the past
34 five (5) years by:

35 (a) The securities administrator of any other

- 1 state;
- 2 (b) Any national securities, commodities, or
3 banking agency or jurisdiction;
- 4 (c) Any national securities or commodities
5 exchange;
- 6 (d) Any securities or commodities
7 self-regulatory organization;
- 8 (e) Any registered securities association or
9 clearing agency denying, revoking, suspending, or expelling him from
10 registration as a broker-dealer, agent, investment adviser, or representative
11 or the substantial equivalent of those terms; or
- 12 (f) Is the subject of a United States postal
13 fraud order;
- 14 (ii) However, the commissioner may not institute a
15 revocation or suspension proceeding under subdivision (a)(2)(F) of this
16 section more than five (5) years from the date of the order relied on; and
- 17 (iii) He may not enter an order under subdivision
18 (a)(2)(F) of this section on the basis of an order under another state act
19 unless that order was based on facts which would currently constitute a
20 ground for an order under this section;
- 21 (G) Has engaged in dishonest or unethical practices in the
22 securities business;
- 23 (H) Is insolvent, either in the sense that his liabilities
24 exceed his assets or in the sense that he cannot meet his obligations as they
25 mature; but the commissioner may not enter an order against a broker-dealer
26 or investment adviser under this subdivision without a finding of insolvency
27 as to the broker-dealer or investment adviser;
- 28 (I) Is not qualified on the basis of such factors as
29 training, experience, and knowledge of the securities business, except that:
- 30 (i) The commissioner may not enter an order against
31 a broker-dealer on the basis of the lack of qualification of any person other
32 than the broker-dealer himself, if he is an individual; or an agent of the
33 broker-dealer;
- 34 (ii) The commissioner may not enter an order against
35 an investment adviser on the basis of the lack of qualification of any person

1 other than the investment adviser himself, if he is an individual, or any
2 other person who represents the investment adviser in doing any of the acts
3 which make him an investment adviser;

4 (iii) The commissioner may not enter an order solely
5 on the basis of lack of experience if the applicant or registrant is
6 qualified by training or knowledge or both;

7 (iv) The commissioner shall consider that an agent
8 who will work under the supervision of a registered broker-dealer need not
9 have the same qualifications as a broker-dealer;

10 (v) The commissioner shall consider that an
11 investment adviser or representative is not necessarily qualified solely on
12 the basis of experience as a broker-dealer or agent;

13 (J) Has failed reasonably to supervise the agents of the
14 broker-dealer or the representatives of the investment adviser;

15 (K) Has failed to pay the proper filing fee, but the
16 commissioner may enter only a denial order under subdivision (a)(2)(K) of
17 this section, and he shall vacate the order when the deficiency has been
18 corrected.

19 (b) The commissioner may not institute a suspension or
20 revocation proceeding solely on the basis of a final judicial or
21 administrative order known to him when registration became effective unless
22 the proceeding is instituted within one hundred eighty (180) days after
23 registration or unless the applicant or registrant waives such time
24 limitation. For the purpose of this provision, a final judicial or
25 administrative order shall not include an order that is stayed or subject to
26 further review or appeal. This provision shall not apply to renewal

27 (c)(1) The commissioner may by order summarily postpone or suspend
28 registration pending final determination of any proceeding under this
29 section.

30 (2) Upon the entry of the order, the commissioner
31 shall promptly notify the applicant or registrant, as well as the employer or
32 prospective employer if the applicant or registrant is an agent or
33 representative, that the order has been entered, and of the reasons therefor,
34 and that within fifteen (15) days after the receipt of a written request the
35 matter will be set down for hearing.

(3) If no hearing is requested and none is ordered by the

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

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

11 (e) Withdrawal from registration as a broker-dealer, agent, investment
12 adviser, or representative becomes effective thirty (30) days after receipt
13 of an application to withdraw, or within such shorter period of time as the
14 commissioner may determine, unless a revocation or suspension proceeding is
15 pending when the application is filed or a proceeding to revoke or suspend or
16 to impose conditions upon the withdrawal is instituted within thirty (30)
17 days after the application is filed.

18 (1) If a proceeding is pending or instituted, then withdrawal
19 becomes effective at such time and upon such conditions as the commissioner
20 by order determines.

21 (2) If no proceeding is pending or instituted and withdrawal
22 automatically becomes effective, the commissioner may nevertheless institute
23 a revocation or suspension proceeding under subdivision (a)(2)(B) of this
24 section within one (1) year after withdrawal became effective and may enter a
25 revocation or suspension order as of the last date on which registration was
26 effective.

27 (f) No order may be entered under any part of this section, except the
28 first sentence of subsection (c) of this section, without:

29 (1) Appropriate prior notice to the applicant or registrant and
30 to the employer or prospective employer if the applicant or registrant is an
31 agent or representative;

32 (2) Opportunity for hearing; and

33 (3) Written findings of fact and conclusions of law.

34 (g) In addition to the authority granted in parts (a) through (e) of
35 this section, upon notice and opportunity for hearing as provided in part (f)

1 hereof, the commissioner may fine any broker-dealer, agent, investment
2 adviser, or representative up to a maximum of five thousand dollars (\$5,000)
3 for each separate violation of this chapter.

4 (h) Nothing herein shall prohibit or restrict the informal disposition
5 of a proceeding or allegations which might give rise to a proceeding by
6 stipulation, settlement, *consent* or default in lieu of a formal or informal
7 hearing on the allegations or in lieu of the sanctions authorized by this
8 section."

9

10 SECTION 20. Arkansas Code 23-42-401(a) is amended to read as follows:

11 "(a) The following securities may be registered by notification,
12 whether or not they are also eligible for registration by coordination under
13 § 23-42-402:

14 (1) Any security whose issuer and any predecessors have been in
15 continuous operation for at least five (5) years if:

16 (A) There has been no default during the current fiscal
17 year or within the three (3) preceding fiscal years in the payment of
18 principal, interest, or dividends on any security of the issuer, or any
19 predecessor, with a fixed maturity or a fixed interest or dividend provision;
20 and

21 (B) The issuer and any predecessors during the past three
22 (3) fiscal years have had average net earnings, determined in accordance with
23 generally accepted accounting practices, which:

24 (i) Are applicable to all securities without a fixed
25 maturity or a fixed interest or dividend provision outstanding at the date
26 the registration statement is filed and are equal to at least three percent
27 (3%) of the amount of the outstanding securities as measured by the maximum
28 offering price or the market price on a day, selected by the registrant,
29 within thirty (30) days before the date of filing the registration statement,
30 whichever is higher, or book value on a day, selected by the registrant,
31 within ninety (90) days of the date of filing the registration statement to
32 the extent that there is neither a readily determinable market price nor a
33 cash offering price; or

34 (ii) If the issuer and any predecessors have not had any
35 security of the type specified in subdivision (a)(1)(B)(i) of this section

1 outstanding for three (3) full fiscal years equal to at least five percent
2 (5%) of the amount as measured in subdivision (a)(1)(B)(i) of this section of
3 all securities which will be outstanding if all the securities being offered
4 or proposed to be offered, whether or not they are proposed to be registered
5 or offered in this state, are issued;

6 (2) Any security, other than a certificate of interest or
7 participation in an oil, gas, or mining title or lease or in payments out of
8 production under such a title or lease, registered for nonissuer distribution
9 if:

10 (A) Any security of the same class has ever been
11 registered under this chapter or a predecessor act; or

12 (B) The security being registered was originally issued
13 pursuant to an exemption under this chapter or a predecessor act."

14

15 SECTION 21. Arkansas Code 23-42-402 is amended to read as follows:

16 "§ 23-42-402. Registration by coordination.

17 (a) Any security for which a registration statement has been filed
18 under the Securities Act of 1933 in connection with the same offering may be
19 registered by coordination.

20 (b) A registration statement under this section shall contain the
21 following information and be accompanied by the following documents in
22 addition to the information specified in § 23-42-404(c) and the consent to
23 service of process required by § 23-42-107(a):

24 (1) One (1) copy of the prospectus together with all amendments
25 filed under the Securities Act of 1933;

26 (2) If the commissioner, by rule or otherwise, requires, a copy
27 of the articles of incorporation and bylaws or their substantial equivalents
28 currently in effect, a copy of any agreements with or among underwriters, a
29 copy of any indenture or other instrument governing the issuance of the
30 security to be registered, and a specimen or copy of the security;

31 (3) If the commissioner requests, any other information, or
32 copies of any other documents, filed under the Securities Act of 1933; and

33 (4) An undertaking to forward all amendments to the federal
34 registration statement, other than an amendment which merely delays the
35 effective date, promptly and in any event not later than the first business

1 day after the day they are forwarded to or filed with the Securities and
2 Exchange Commission, whichever first occurs.

3 (c)(1) A registration statement under this section automatically
4 becomes effective at the moment the federal registration statement becomes
5 effective if all the following conditions are satisfied:

6 (A) No stop order is in effect and no proceeding is
7 pending under § 23-42-405;

8 (B) The registration statement has been on file with the
9 commissioner for at least ten (10) days; and

10 (C) A statement of the maximum and minimum proposed
11 offering prices and the maximum underwriting discounts and commissions has
12 been on file for two (2) full business days or such shorter period as the
13 commissioner permits by rule or otherwise, and the offering is made within
14 those limitations.

15 (2) The registrant shall promptly notify the commissioner by
16 telephone or telegram of the date and time when the federal registration
17 statement became effective and the content of the price amendment, if any,
18 and shall promptly file a post-effective amendment containing the information
19 and documents in the price amendment.

20 (A) Price amendment means the final federal amendment
21 which includes a statement of the offering price, underwriting and selling
22 discounts or commissions, amount of proceeds, conversion rates, call prices,
23 and other matters dependent upon the offering price.

24 (B) Upon failure to receive the required notification and
25 post-effective amendment with respect to the price amendment, the
26 commissioner may enter a stop order, without notice or hearing, retroactively
27 denying effectiveness to the registration statement or suspending its
28 effectiveness until there is compliance with this subsection, if he promptly
29 notifies the registrant by telephone or telegram and promptly confirms by
30 letter or telegram when he notifies by telephone of the issuance of the
31 order. If the registrant proves compliance with the requirements of this
32 subsection as to notice and post-effective amendment, the stop order is void
33 as of the time of its entry.

34 (3) The commissioner may by rule or otherwise waive either or
35 both of the conditions specified in subdivisions (c)(1)(A) and (B) of this

1 section.

2 (4) If the federal registration statement becomes effective
3 before all the conditions in this subsection are satisfied and they are not
4 waived, the registration statement automatically becomes effective as soon as
5 all the conditions are satisfied. If the registrant advises the commissioner
6 of the date when the federal registration statement is expected to become
7 effective, the commissioner shall promptly advise the registrant by
8 telephone, telegram, or by electronic means at the registrant's expense,
9 whether all the conditions are satisfied and whether he then contemplates the
10 institution of a proceeding under § 23-42-405; but this advice by the
11 commissioner does not preclude the institution of such a proceeding at any
12 time."

13

14 SECTION 22. Arkansas Code 23-42-403(b) is amended to read as follows:

15 "(b) A registration statement under this section shall contain the
16 following information and be accompanied by the following documents in
17 addition to the information specified in § 23-42-404(c) and the consent to
18 service of process required by § 23-42-107:

19 (1) With respect to the issuer and any significant subsidiary:

20 (A) Its name, address, and form of organization;

21 (B) The state or foreign jurisdiction and date of its
22 organization;

23 (C) The general character and location of its business;

24 (D) A description of its physical properties and
25 equipment; and

26 (E) A statement of the general competitive conditions in
27 the industry or business in which it is or will be engaged;

28 (2) With respect to every director and officer of the issuer, or
29 person occupying a similar status or performing similar functions:

30 (A) His name, address, and principal occupation for the
31 past five (5) years;

32 (B) The amount of securities of the issuer held by him as
33 of a specified date within thirty (30) days of the filing of the registration
34 statement;

35 (C) The amount of the securities covered by the

1 registration statement to which he has indicated his intention to subscribe;
2 and

3 (D) A description of any material interest in any material
4 transaction with the issuer or any significant subsidiary effected within the
5 past three (3) years or proposed to be effected;

6 (3) With respect to persons covered by subdivision (b)(2) of
7 this section, the remuneration paid during the past twelve (12) months and
8 estimated to be paid during the next twelve (12) months, directly or
9 indirectly, by the issuer, together with all predecessors, parents,
10 subsidiaries, and affiliates, to all those persons in the aggregate;

11 (4) With respect to any person owning of record, or beneficially
12 if known, ten percent (10%) or more of the outstanding shares of any class of
13 equity security of the issuer, the information specified in subdivision
14 (b)(2) of this section, other than his occupation;

15 (5) With respect to every promoter if the issuer was organized
16 within the past three (3) years:

17 (A) The information specified in subdivision (b)(2) of
18 this section;

19 (B) Any amount paid to him within that period or intended
20 to be paid to him; and

21 (C) The consideration for the payment;

22 (6) With respect to any person on whose behalf any part of the
23 offering is to be made in a nonissuer distribution:

24 (A) His name and address;

25 (B) The amount of securities of the issuer held by him as
26 of the date of the filing of the registration statement;

27 (C) A description of any material interest in any material
28 transaction with the issuer or any significant subsidiary effected within the
29 past three (3) years or proposed to be effected;

30 (7) The capitalization and long-term debt, on both a current and
31 a pro forma basis, of the issuer and any significant subsidiary, including a
32 description of each security outstanding or being registered or otherwise
33 offered, and a statement of the amount and kind of consideration, whether in
34 the form of cash, physical assets, services, patents, goodwill, or anything
35 else, for which the issuer or any subsidiary has issued any of its securities

1 within the past two (2) years or is obligated to issue any of its securities;

2 (8)(A) The kind and amount of securities to be offered;

3 (B) The proposed offering price or the method by which it
4 is to be computed;

5 (C) Any variation therefrom at which any portion of the
6 offering is to be made to any person or class of persons other than the
7 underwriters, with a specification of the person or class;

8 (D) The basis upon which the offering is to be made if
9 otherwise than for cash;

10 (E) The estimated aggregate underwriting and selling
11 discounts or commissions and finders' fees, including, separately, cash,
12 securities, contracts, or anything else of value to accrue to the
13 underwriters or finders in connection with the offering, or, if the selling
14 discounts or commissions are variable, the basis of determining them and
15 their maximum and minimum amounts;

16 (F) The estimated amounts of other selling expenses,
17 including legal, engineering, and accounting charges;

18 (G) The name and address of every underwriter and every
19 recipient of a finder's fee;

20 (H) A copy of any underwriting or selling-group agreement
21 pursuant to which the distribution is to be made, or the proposed form of any
22 such agreement whose terms have not yet been determined; and

23 (I) A description of the plan of distribution of any
24 securities which are to be offered otherwise than through an underwriter;

25 (9)(A) The estimated cash proceeds to be received by the issuer
26 from the offering;

27 (B) The purposes for which the proceeds are to be used by
28 the issuer;

29 (C) The amount to be used for each purpose;

30 (D) The order or priority in which the proceeds will be
31 used for the purposes stated;

32 (E) The amounts of any funds to be raised from other
33 sources to achieve the purposes stated;

34 (F) The sources of any such funds; and

35 (G) If any part of the proceeds is to be used to acquire

1 any property, including goodwill, otherwise than in the ordinary course of
2 business, the names and addresses of the vendors, the purchase price, the
3 names of any persons who have received commissions in connection with the
4 acquisition, the amounts of those commissions, and any other expense in
5 connection with the acquisition, including the cost of borrowing money to
6 finance the acquisition;

7 (10) A description of any stock options or other security
8 options outstanding or to be created in connection with the offering,
9 together with the amount of those options held or to be held by every person
10 required to be named in subdivision (b)(2), (4), (5), (6), or (8) of this
11 section and by any person who holds or will hold ten percent (10%) or more in
12 the aggregate of those options;

13 (11) The dates of, parties to, and general effect, concisely
14 stated, of every management or other material contract made or to be made
15 otherwise than in the ordinary course of business, if it is to be performed
16 in whole or in part at or after the filing of the registration statement or
17 was made within the past two (2) years, together with a copy of every such
18 contract and with a description of any pending litigation or proceeding to
19 which the issuer is a party and which materially affects its business or
20 assets, including any such litigation or proceeding known to be contemplated
21 by governmental authorities;

22 (12) A copy of any prospectus, pamphlet, circular, form letter,
23 advertisement, television, radio, or other sales literature intended as of
24 the effective date to be used in connection with the offering;

25 (13)(A) A specimen or copy of the security being registered;

26 (B) A copy of the issuer's articles of incorporation and
27 bylaws, or their substantial equivalents, as currently in effect; and

28 (C) A copy of any indenture or other instrument covering
29 the security to be registered;

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

35 (15) The written consent of any accountant, engineer, appraiser,

1 or other person whose profession gives authority to a statement made by him,
2 if any such person is named as having prepared or certified a report or
3 valuation, other than a public and official document or statement, which is
4 used in connection with the registration statement;

5 (16)(A) A balance sheet of the issuer as of a date within four
6 (4) months prior to the filing of the registration statement;

7 (B) A profit and loss statement and analysis of surplus
8 for each of the three (3) fiscal years preceding the date of the balance
9 sheet and for any period between the close of the last fiscal year and the
10 date of the balance sheet, or for the period of the issuer's and any
11 predecessors' existence if less than three (3) years; and

12 (C) If any part of the proceeds of the offering is to be
13 applied to the purchase of any business, the same financial statements which
14 would be required if that business were the registrant; and

15 (17) Such additional information as the commissioner requires by
16 rule or order."

17

18 SECTION 23. Arkansas Code 23-42-404 is amended to read as follows:

19 "§ 23-42-404. Registration statements generally.

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

23 (b)(1) Every person filing a registration statement shall pay a filing
24 fee of one-tenth of one percent (0.1%) of the maximum aggregate offering
25 price at which the registered securities are to be offered in this state, but
26 the fee shall in no case be less than one hundred fifty dollars (\$150) nor
27 more than two thousand dollars (\$2,000). Any portion of the fee in excess of
28 one thousand dollars (\$1,000) shall be designated as special revenues and
29 shall be deposited in the Securities Department Fund. When a registration
30 statement is withdrawn before the effective date or a preeffective stop order
31 is entered under § 23-42-405, the commissioner shall retain one hundred fifty
32 dollars (\$150) of the filing fee.

33 (2) Sales of securities in excess of the amount of securities to
34 have been offered in this state shall require the person filing the
35 registration statement to pay a filing fee, calculated in the manner

1 specified in subdivision (b)(1) of this section, for all securities sold. In
2 addition, if the sales are in excess of one hundred five percent (105%) of
3 the amount to have been offered, the person filing the registration statement
4 shall pay a penalty fee of two hundred dollars (\$200).

5 (c)(1) The initial registration statement of an open-end investment
6 company, as defined in the Investment Company Act of 1940, as amended filed
7 pursuant to this subsection shall be effective for a period ending two (2)
8 months after the registrant_s fiscal year end. Thereafter, the open-end
9 investment company must renew the registration by submitting the appropriate
10 registration forms and fees within two (2) months after the expiration of the
11 registrant_s fiscal year end.

12 (2) The registration statement of a unit investment trust, as
13 defined in the Investment Company Act of 1940, as amended, filed pursuant to
14 this subsection shall be effective for one (1) year from the date of
15 effectiveness granted by the Securities and Exchange Commission.

16 (d) Every registration statement shall specify:

17 (1) The amount of securities to be offered in this state;

18 (2) The states in which a registration statement or similar
19 document in connection with the offering has been or is to be filed; and

20 (3) Any adverse order, judgment, or decree entered in connection
21 with the offering by the regulatory authorities in each state or by any court
22 or the Securities and Exchange Commission.

23 (e) Any document filed under this chapter or a predecessor act, within
24 five (5) years preceding the filing of a registration statement, may be
25 incorporated by reference in the registration statement to the extent that
26 the document is currently accurate.

27 (f) The commissioner may by rule or otherwise permit the omission of
28 any item of information or document from any registration statement.

29 (g) In the case of a nonissuer distribution, information may not be
30 required under § 23-42-403 or subsection (m) of this section unless it is
31 known to the person filing the registration statement or to the persons on
32 whose behalf the distribution is to be made, or can be furnished by them
33 without unreasonable effort or expense.

34 (h)(1) The commissioner may, by rule or order, require as a condition
35 of registration by qualification or coordination that:

1 (A) Any security issued within the past three (3) years or
2 to be issued to a promoter for a consideration substantially different from
3 the public offering price, or to any person for a consideration other than
4 cash, be deposited in escrow;

5 (B) The proceeds from the sale of the registered security
6 be impounded until the issuer receives a specified amount.

7 (2) The commissioner may by rule or order determine the
8 conditions of any escrow or impounding required hereunder, but he may not
9 reject a depository solely because of location in another state.

10 (i) The commissioner may require the issuer, as a condition of
11 registration by qualification, to escrow up to ten percent (10%) of the
12 maximum aggregate price of the offering from the offering proceeds under such
13 terms and conditions as he deems appropriate for up to three (3) years from
14 the date of termination of the offering or to post a corporate surety bond
15 for up to ten percent (10%) of the maximum aggregate price of the offering
16 for up to three (3) years from the date of termination of the offering. Any
17 security holder having a right under this chapter against the issuer shall
18 have a right of action against the escrow or corporate surety bond.

19 (j) The commissioner may by rule or order require as a condition of
20 registration that any security registered by qualification or coordination be
21 sold only on an approved form of subscription or sale contract and that a
22 signed or conformed copy of each subscription or sale contract be filed with
23 the commissioner or preserved for any period up to three (3) years specified
24 in the rule or order.

25 (k) Every registration statement, except those filed pursuant to
26 subsection (c) above, is effective for one (1) year from its effective date
27 and, upon renewal, for any longer period during which the security is being
28 offered or distributed in a nonexempted transaction except during the time a
29 stop order is in effect.

30 (l) Renewal registration for the succeeding twelve-month period may be
31 issued upon written application and upon payment of fees as provided by this
32 section for original registration, even though the maximum fee was paid the
33 preceding period, without filing of further statements or furnishing any
34 further information except as requested by the commissioner. All applications
35 for renewal received after the expiration of the previous registration shall

1 be treated as original applications.

2 (m)(1) All outstanding securities of the same class as a registered
3 security are considered to be registered for the purpose of any non-issuer
4 transactions:

5 (A) So long as the registration statement is effective,
6 whether by original or renewal registration; and

7 (B) Between the thirtieth day after the entry of any stop
8 order suspending or revoking the effectiveness of the registration statement
9 under § 23-42-405, if the registration statement did not relate in whole or
10 in part to a nonissuer distribution, and one (1) year from the effective date
11 of the registration statement.

12 (2) A registration statement may not be withdrawn for one (1)
13 year from its effective date if any securities of the same class are
14 outstanding. A registration statement may be withdrawn otherwise only in the
15 discretion of the commissioner.

16 (n) So long as a registration statement is effective, the commissioner
17 may by rule or order require the person who filed the registration to keep
18 reasonably current the information contained in the registration statement
19 and to disclose the progress of the offering.

20 (o) A registration statement relating to a security may be amended
21 after its effective date so as to increase the securities specified as
22 proposed to be offered. The amendment becomes effective when the commissioner
23 so orders. Every person filing such an amendment shall pay a filing fee,
24 calculated in the manner specified in subsection (b) of this section, with
25 respect to the additional securities proposed to be offered.

26 (p) The State Securities Department is hereby authorized to promulgate
27 such rules and regulations necessary to administer the fees, rates, tolls, or
28 charges for services established by §§ 23-42-304 and 23-42-404 and is
29 directed to prescribe and collect such fees, rates, tolls, or charges for the
30 services by the State Securities Department in such manner as may be
31 necessary to support the programs of the department as directed by the
32 Governor and the General Assembly."

33

34 SECTION 24. Arkansas Code 23-42-405(a) is amended to read as follows:

35 "(a) The commissioner may issue a stop order denying effectiveness to,

1 or suspending or revoking the effectiveness of, any registration statement if
2 he finds that:

3 (1) The order is in the public interest; and

4 (2)(A) The registration statement, as of its effective date or
5 as of any earlier date in the case of an order denying effectiveness, or any
6 amendment under § 23-42-404(n) as of its effective date, or any report under
7 § 23-42-404(n), is incomplete in any material respect or contains any
8 statement which was, in the light of the circumstances under which it was
9 made, false or misleading with respect to any material fact;

10 (B) Any provision of this chapter or any rule, order, or
11 condition lawfully imposed under this chapter has been willfully violated, in
12 connection with the offering, by:

13 (i) The person filing the registration statement;

14 (ii) The issuer, any partner, officer, or director
15 of the issuer, any person occupying a similar status or performing similar
16 functions, or any person directly or indirectly controlling or controlled by
17 the issuer, but only if the person filing the registration statement is
18 directly or indirectly controlled by or acting for the issuer; or

19 (iii) Any underwriter;

20 (C) The security registered or sought to be registered is
21 the subject of an administrative stop order or similar order or a permanent
22 or temporary injunction of any court of competent jurisdiction entered under
23 any other federal or state act applicable to the offering, but:

24 (i) The commissioner may not institute a proceeding
25 against an effective registration statement under this subdivision more than
26 one (1) year from the date of the order or injunction relied on; and

27 (ii) He may not enter an order under subdivision
28 (a)(2)(C) of this section on the basis of an order or injunction entered
29 under any other state act unless that order or injunction was based on facts
30 which would currently constitute a ground for a stop order under this
31 section;

32 (D) The issuer's enterprise or method of business includes
33 or would include activities which are illegal where performed;

34 (E)(i) The offering has worked or tended to work a fraud
35 upon purchasers or would so operate; or

1 (ii) Any aspect of the offering is substantially
2 unfair, unjust, inequitable, or oppressive;

3 (F) The offering has been or would be made with
4 unreasonable amounts of underwriters' and sellers' discounts, commissions, or
5 other compensation, unreasonable amounts of promoters' profits or
6 participation, or unreasonable amounts or kinds of options;

7 (G) When a security is sought to be registered by
8 notification, it is not eligible for such registration;

9 (H) When a security is sought to be registered by
10 coordination, there has been a failure to comply with the undertaking
11 required by § 23-42-402(b)(4); or

12 (I) The applicant or registrant has failed to pay the
13 proper filing fee. The commissioner may enter only a denial order under this
14 subdivision, and he shall vacate any such order when the deficiency has been
15 corrected."

16

17 SECTION 25. Arkansas Code 23-42-503(a) is amended to read as follows:

18 "(a) The following securities are exempted from §§ 23-42-501 and
19 23-42-502:

20 (1)(A) Any security, including a revenue obligation, issued or
21 guaranteed by the United States, any state, any political subdivision of a
22 state, or any agency or corporate or other instrumentality of one (1) or more
23 of the foregoing, or any certificate of deposit for any of the foregoing;

24 (B) Any securities that are offered and sold pursuant to
25 Section 4(5) of the Securities Act of 1933 or that are mortgage related
26 securities as that term is defined in section 3(a)(41) of the Securities
27 Exchange Act of 1934 are not securities exempt from registration under this
28 section in the same manner as obligations issued or guaranteed as to
29 principal and interest by the United States or any agency or instrumentality
30 thereof. These instruments, commonly referred to as private mortgage-backed
31 securities, may be exempt from the registration requirements of this chapter
32 provided that the transaction or the securities are otherwise exempt under
33 this section. This provision specifically overrides the preemption of state
34 law contained in section 106(c) of the Secondary Mortgage Market Enhancement
35 Act of 1984, Public Law 98-440, of the United States;

1 (2) Any security issued or guaranteed by Canada, any Canadian
2 province, any political subdivision of any Canadian province, any agency or
3 corporate or other instrumentality of one (1) or more of the foregoing, or by
4 any other foreign government with which the United States currently maintains
5 diplomatic relations, if the security is recognized as a valid obligation by
6 the issuer or guarantor;

7 (3) Any security issued by and representing an interest in or a
8 debt of any bank organized under the laws of the United States, or any
9 federally insured savings bank, or any bank, savings institution, or trust
10 company organized and supervised under the laws of any state, or any bank
11 holding company regulated under the Bank Holding Company Act of 1956, as
12 amended;

13 (4) Any security issued by and representing an interest in or a
14 debt of any state or federal savings and loan association, or any federally
15 insured savings bank, or any building and loan or similar association
16 organized under the laws of any state and authorized to do business in this
17 state, or any savings and loan holding company regulated by the Office of
18 Thrift Supervision or its successor;

19 (5) Any security issued by any federal credit union or any
20 credit union, industrial loan association, or similar association organized
21 and supervised under the laws of this state;

22 (6) Any security issued or guaranteed by any railroad, other
23 common carrier, public utility, or holding company which is:

24 (A) Subject to the jurisdiction of the Interstate Commerce
25 Commission;

26 (B) A registered holding company under the Public Utility
27 Holding Company Act of 1935 or a subsidiary of such a company within the
28 meaning of that act;

29 (C) Regulated in respect of its rates and charges by a
30 governmental authority of the United States or any state; or

31 (D) Regulated in respect of the issuance or guarantee of
32 the security by a governmental authority of the United States, any state,
33 Canada, or any Canadian province;

34 (7)(A) Any security listed or approved for listing upon notice
35 of issuance on the New York Stock Exchange, the American Stock Exchange, the

1 Midwest Stock Exchange, or any other stock exchange approved by the
2 commissioner;

3 (B) Any security listed or designated, or approved for
4 listing or designation upon notice of issuance, on an interdealer quotation
5 system, if such interdealer quotation system has adopted the criteria for
6 listing or designation as set forth in Securities Act Release No. 6810 (Dec.
7 16, 1988); 53 Federal Register 52550 (December 28, 1988); provided, however,
8 that the commissioner shall have authority, after notice and hearing, to
9 terminate this exemption as to a system upon written findings of fact and
10 conclusions of law which are subject to judicial review, that the listing or
11 designation standards have been so changed or insufficiently applied that the
12 protection to investors contemplated by the exemption no longer exists;

13 (C) Any other security of an issuer exempt under
14 subdivision (a)(7)(A) or (B) of this section which is of senior or
15 substantially equal rank;

16 (D) Any security called for by subscription rights or
17 warrants listed or approved pursuant to subdivision (a)(7)(A) or (B) of this
18 section;

19 (E) Any warrant or right to purchase or subscribe to any
20 of the foregoing;

21 (8) Any security issued by any person organized and operated not
22 for private profit but exclusively for religious, educational, benevolent,
23 charitable, fraternal, social, athletic, or reformatory purposes, or as a
24 chamber of commerce or trade or professional association;

25 (9) Any commercial paper which arises out of a current
26 transaction or the proceeds of which have been or are to be used for current
27 transactions, and which evidences an obligation to pay cash within nine (9)
28 months of the date of issuance, exclusive of days of grace, or any renewal of
29 the paper which is likewise limited, or any guarantee of the paper or of the
30 renewal;

31 (10) Any investment contract or other security issued in
32 connection with an employees' stock purchase, savings, pension, profit
33 sharing, stock bonus, stock option, or similar benefit plan if, in the case
34 of plans which do not meet the requirements for qualification under the
35 United States Internal Revenue Code, there is filed with the commissioner

1 prior to any offer or sale a notice specifying the terms of the plan and the
2 commissioner does not by order disallow the exemption within ten (10) days;

3 (11) Any annuity contract issued by any not-for-profit
4 corporation as defined in § 4-28-202 and § 4-33-140(6) under a permit issued
5 by the Insurance Department of the State of Arkansas; and

6 (12) Any security as to which the commissioner by rule or order
7 finds that registration is not necessary or appropriate in the public
8 interest or for the protection of investors."

9

10 SECTION 26. Arkansas Code 23-42-503(d) is amended to read as follows:

11 "(d)(1) Before any security may be issued as an exempted security
12 under subdivision (a)(3)-(6), (8), or subsection (c) of this section, a proof
13 of exemption must first be filed with the commissioner and the commissioner
14 by order shall not have disallowed the exemption within the next five (5)
15 full business days.

16 (2) The proof of exemption shall contain a statement of the grounds
17 upon which the exemption is claimed and a designation of the subsection of
18 this section under which the exemption is claimed.

19 (3) Proofs of exemption which have not been completed within a period
20 of one hundred eighty (180) days after filing with the commissioner may be
21 deemed abandoned and considered withdrawn by the applicant, provided the
22 applicant has been notified of the deficiencies to the proof and afforded a
23 reasonable opportunity to correct such deficiencies.

24 (4) Each offering shall be effective only for twelve (12) consecutive
25 months unless the commissioner by rule or order shall extend the period of
26 time to not more than five (5) years.

27 (5) For every proof of exemption filed with the commissioner there
28 shall be paid to the commissioner a filing fee of one hundred dollars (\$100),
29 except that for a proof of exemption filed under subdivision (a)(8) of this
30 section, the filing fee is one-tenth of one percent (0.1%) of the maximum
31 aggregate offering price at which the securities are to be offered in this
32 state. The fee shall in no case be less than one hundred dollars (\$100) nor
33 more than five hundred dollars (\$500). The commissioner shall have authority
34 under this subsection to amend or rescind the filing fees by rule or order if
35 the commissioner determines that the fee is excessive under the

1 circumstances."

2

3 SECTION 27. Arkansas Code 23-42-504 is amended to read as follows:

4 "§ 23-42-504. Exempted transactions.

5 (a) The following transactions are exempted from §§ 23-42-501 and
6 23-42-502:

7 (1) Any isolated nonissuer transactions, whether effected
8 through a broker-dealer or not, provided that repeated or successive
9 transactions shall be prima facie evidence that the transactions are not
10 isolated nonissuer transactions;

11 (2) Any nonissuer distribution of an outstanding security if:

12 (A) A recognized securities manual contains the names of
13 the issuer's officers and directors, a balance sheet of the issuer as of a
14 date within eighteen (18) months, and a profit and loss statement for either
15 the fiscal year preceding that date or the most recent year of operations; or

16 (B) The security has a fixed maturity or a fixed interest
17 or dividend provision and there has been no default during the current fiscal
18 year or within the three (3) preceding fiscal years, or during the existence
19 of the issuer and any predecessors if less than three (3) years, in the
20 payment of principal, interest, or dividends on the security;

21 (3) Any nonissuer transaction effected by or through a
22 registered broker-dealer pursuant to an unsolicited order or offer to buy;
23 but the commissioner may by rule require that the customer acknowledge, upon
24 a specified form, that the sale was unsolicited and that a signed copy of
25 each form be preserved by the broker-dealer for a specified period;

26 (4) Any transaction between the issuer or other person on whose
27 behalf the offering is made and an underwriter, or among underwriters;

28 (5) Any transaction in a bond or other evidence of indebtedness
29 secured by a real or chattel mortgage or deed of trust, or by an agreement
30 for the sale of real estate or chattels if the entire mortgage, deed of
31 trust, or agreement, together with all the bonds or other evidences of
32 indebtedness secured thereby, is offered and sold as a unit;

33 (6) Any transactions by an executor, administrator, sheriff,
34 marshal, receiver, trustee in bankruptcy, guardian, or conservator;

35 (7) Any transaction executed by a bona fide pledgee without any

1 purpose of evading this chapter;

2 (8) Any offer or sale to a bank, savings institution, trust
3 company, insurance company, investment company as defined in the Investment
4 Company Act of 1940, pension or profit-sharing trust, or other financial
5 institution or institutional buyer, or to a broker-dealer, whether the
6 purchaser is acting for itself or in some fiduciary capacity. The
7 commissioner may by order, upon petition by any person, determine if the
8 petitioner may be deemed, upon the basis of knowledge, experience, volume,
9 and number of transactions, and other securities background, an
10 institutional buyer for purposes of this subdivision;

11 (9) Any transaction pursuant to an offer directed by the offeror
12 to not more than twenty-five (25) persons other than those designated in
13 subdivision (a)(8) of this section in this state during any period of twelve
14 (12) consecutive months, whether or not the offeror or any of the offerees is
15 then present in this state, if:

16 (A) The seller reasonably believes that all the buyers in
17 this state are purchasing for investment; and

18 (B) No commission or other remuneration is paid or given
19 directly or indirectly for soliciting any prospective buyer in this state.
20 However, the commissioner may by rule or order, as to any security or
21 transaction or any type of security or transaction, withdraw or further
22 condition this exemption, or increase or decrease the number of offerees
23 permitted, or waive the conditions in subdivisions (9)(A) and (B) of this
24 subsection with or without the substitution of a limitation on remuneration;

25 (10) Any offer or sale of a preorganization certificate or
26 subscription if:

27 (A) No commission or other remuneration is paid or given
28 directly or indirectly for soliciting any prospective subscriber;

29 (B) The number of subscribers does not exceed twenty-five
30 (25); and

31 (C) No payment is made by any subscriber;

32 (11) Any transaction pursuant to an offer to existing security
33 holders of the issuer, including persons who at the time of the transaction
34 are holders of convertible securities or warrants, if no commission or other
35 remuneration, other than a standby commission, is paid or given directly or

1 indirectly for soliciting any security holder in this state, unless the
2 commissioner shall, upon written application, permit the payment of a
3 commission or other remuneration with or without the substitution of a
4 limitation on remuneration; (12) Any offer, but not a sale, of
5 a security for which registration statements have been filed under both this
6 chapter and the Securities Act of 1933 if no order or refusal order is in
7 effect and no public proceeding or examination looking toward such an order
8 is pending under either act;

9 (13) Any nonissuer transaction by a person who does not control,
10 and is not controlled by or under common control with, the issuer if:

11 (A) The transaction is at a price reasonably related to
12 the current market price;

13 (B) The security is registered with the United States
14 Securities and Exchange Commission under section 12 of the Securities
15 Exchange Act of 1934 and the issuer files reports with the United States
16 Securities and Exchange Commission pursuant to section 13 or 15(d) of that
17 act; and

18 (C) A copy of the registration statement filed with the
19 United States Securities and Exchange Commission has been filed with the
20 commissioner, together with copies of any other reports and exhibits which he
21 may by rule or order require;

22 (14) Any transaction pursuant to an offer or sale provided that
23 all of the following conditions are met:

24 (A) There shall be no more than thirty-five (35)
25 purchasers of the securities being offered;

26 (B) The issuer and any person acting on its behalf who
27 offers, offers to sell, offers for sale, or sells the securities shall have
28 reasonable grounds to believe and shall believe immediately prior to making
29 any sale, after making reasonable inquiry, either:

30 (i) That the purchaser has such knowledge and
31 experience in financial and business matters that he is capable of evaluating
32 the merits and risks of the prospective investment; or

33 (ii) That the purchaser and his purchaser
34 representatives together have such knowledge and experience in financial and
35 business matters that they are capable of evaluating the merits and risks of

1 the prospective investment and that the purchaser is able to bear the
2 economic risk of the investment;

3 (C) Each buyer is purchasing for investment and not taking
4 with a view to distribution;

5 (D) The securities may only be sold through a
6 broker-dealer or agent of the issuer registered under this chapter, or a
7 person exempt from the registration requirements who meets the qualifications
8 which are established by the commissioner pursuant to rule-making authority;

9 (E) An exemption is not claimed nor has an exemption been
10 filed pursuant to subdivision (a)(9) of this section within twelve (12)
11 months of the effective date of this exemption.

12 (F) An offering under this subdivision shall be effective
13 for a period of twelve (12) months, and the offeror shall furnish to the
14 commissioner a list of purchasers within fifteen (15) days after the
15 expiration of the twelve-month period unless sooner requested by the
16 commissioner; and

17 (G) The commissioner shall by rule prescribe and subject
18 the transaction to the terms, conditions, and fees prescribed therein and may
19 by rule or order permit the payment, directly or indirectly, of a commission
20 or other remuneration for soliciting any purchaser in this state. The
21 commissioner may by rule or order, as to any security or transaction or any
22 type of security or transaction, withdraw or further condition this exemption
23 or increase or decrease the number of purchasers permitted, or waive the
24 conditions in subdivisions (14)(A) through (F);

25 (15) Any other transaction which the commissioner by rule or
26 order exempts as not being necessary or appropriate in the public interest
27 for the protection of investors.

28 (b)(1) Before any transaction shall be executed as an exempted
29 transaction under subdivisions (a)(9)-(11) or (14) of this section, except in
30 the case of dividend reinvestment programs pursuant to subdivision (a)(11) of
31 this section, a proof of exemption must first be filed with the commissioner
32 and the commissioner by order shall not have disallowed the exemption within
33 the next five (5) full business days. Before any dividend reinvestment
34 program shall be executed as an exempt transaction under subdivision (a)(11)
35 of this section, an initial proof of exemption shall be filed; thereafter in

1 every fifth year a proof of exemption must be filed with the commissioner and
2 the commissioner by order must not have disallowed the exemption within the
3 next five (5) full business days.

4 (2) The proof of exemption shall contain a statement of the
5 grounds upon which the exemption is claimed and a designation of the
6 subsection of this section under which the exemption is claimed.

7 (3) Proofs of exemption which have not been completed within a
8 period of one hundred eighty (180) days after filing with the commissioner
9 may be deemed abandoned and considered withdrawn by the applicant, provided
10 the applicant has been notified of the deficiencies to the proof and afforded
11 a reasonable opportunity to correct such deficiencies.

12 (4)(A) For every proof of exemption filed with the commissioner
13 under subdivision (a)(9) of this section, there shall be paid to the
14 commissioner a filing fee of one-tenth of one percent (0.1%) of the maximum
15 aggregate offering price at which the securities are to be offered in this
16 state, but the fee shall in no case be less than twenty-five dollars (\$25.00)
17 or more than five hundred dollars (\$500).

18 (B) For every proof of exemption filed with the
19 commissioner under subdivision (a)(10) or (11) of this section, there shall
20 be paid to the commissioner a filing fee of fifty dollars (\$50.00).

21 (C) For every proof of exemption filed with the
22 commissioner under subdivision (a)(14) of this section, there shall be paid
23 to the commissioner a filing fee of one tenth of one percent (1/10 of 1%) of
24 the maximum aggregate offering price at which the securities are to be
25 offered in this state, but the fee shall in no case be less than one hundred
26 dollars (\$100) or more than five hundred dollars (\$500).

27 (D) The commissioner shall have authority under this
28 subsection to amend or rescind the filing fees by rule or order if the
29 commissioner determines that the fee is excessive under the circumstances."

30

31 SECTION 28. All provisions of this act of a general and permanent
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
33 Code Revision Commission shall incorporate the same in the Code.

34

35 SECTION 29. If any provision of this act or the application thereof to

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

5

6 SECTION 30. All laws and parts of laws in conflict with this act are
7 hereby repealed.

8

/s/Webb

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