

1 A bill to be entitled
2 An act relating to securities transactions;
3 amending s. 517.12, F.S.; limiting certain
4 assessment fee reductions under certain
5 circumstances; amending s. 517.1203, F.S.;
6 providing for allocations from the Securities
7 Guaranty Fund for certain purposes; providing
8 for certain additional disbursements from the
9 fund; extending the period for filing claims;
10 creating s. 517.1204, F.S.; creating the
11 Investment Fraud Restoration Financing
12 Corporation; providing purposes; providing for
13 a board of directors; providing powers and
14 duties of the corporation; authorizing the
15 department and the corporation to enter into
16 service contracts for certain purposes;
17 authorizing the corporation to issue evidences
18 of indebtedness for payment of certain claims;
19 providing requirements and limitations;
20 authorizing the corporation to validate bond
21 obligations; exempting the corporation from
22 certain taxes and assessments; providing
23 application; prohibiting benefits or earnings
24 of the corporation from inuring to private
25 persons; providing for reversion of corporate
26 property to the Securities Guaranty Fund upon
27 dissolution of the corporation; providing for
28 the State Board of Administration to be trustee
29 of the corporation's securities; amending s.
30 517.131, F.S.; providing a limitation on
31 allocations from the Securities Guaranty Fund

1 under certain circumstances; providing an
2 effective date.

3
4 WHEREAS, it is a fundamental regulatory duty of the
5 Division of Securities and Investor Protection of the
6 Department of Banking and Finance to ensure the integrity of
7 the Florida securities market in accordance with chapter 517,
8 Florida Statutes, and

9 WHEREAS, it is the duty of the Division of Securities
10 and Investor Protection to successfully conduct investigations
11 of fraudulent securities transactions and to discover
12 falsification or concealment of facts for the benefit of the
13 investing public, and

14 WHEREAS, during the period beginning in April 1985
15 through October 1985, personnel in the Division of Securities
16 and Investor Protection, with regard to investors doing
17 business with GIC Government Securities, Inc., were remiss in
18 permitting the sale of securities which should not have been
19 allowed to be sold pursuant to chapter 517, Florida Statutes,
20 and failed to prevent the falsification or concealment of
21 facts, and

22 WHEREAS, as a result of that failure, over 1,300
23 Florida citizens, many of whom were elderly, lost their life
24 savings or suffered devastating monetary losses because of
25 doing business with GIC Government Securities, Inc., which at
26 the time was inadequately regulated by the Division of
27 Securities and Investor Protection, and

28 WHEREAS, the victimization by GIC Government
29 Securities, Inc., of investors has harmed the integrity of the
30 Florida securities market as well as the trust vested in the
31 state to regulate this market, and

1 WHEREAS, such harm threatens the viability of these
2 markets and consequently the economic welfare of the state and
3 its citizens, and

4 WHEREAS, the Legislature has sought to repair the harm
5 these fraudulent securities activities have inflicted on the
6 integrity of the Florida securities market and the trust
7 vested in the state to regulate this market by establishing a
8 program to reimburse these victims for unrecoverable losses
9 due to unsatisfied judgments and unrecompensable bankruptcy
10 claims, and

11 WHEREAS, many of the victims of GIC Government
12 Securities, Inc., were unable to obtain adequate reimbursement
13 for claims filed with the Securities Guaranty Fund under s.
14 517.131, Florida Statutes, and

15 WHEREAS, many of the victims of GIC Government
16 Securities, Inc., obtained judgments which were unsatisfied,
17 failed to be recompensed by the bankruptcy courts, and were
18 unable to obtain adequate reimbursement from the Securities
19 Guaranty Fund under s. 517.131, Florida Statutes, and

20 WHEREAS, the Legislature created s. 517.1203, Florida
21 Statutes, for the purpose of reimbursing victims of GIC
22 Government Securities, Inc., for the full amount of their
23 monetary losses, and

24 WHEREAS, annual revenues allocated to reimburse victims
25 of GIC Government Securities, Inc., are limited and have
26 proven insufficient to meet claims as they are approved, and

27 WHEREAS, many of the victims of GIC Government
28 Securities, Inc., are elderly and may not live long enough to
29 have funds sufficient to reimburse them become available, and

30 WHEREAS, it is necessary to fulfill the intent and
31 purposes of chapter 517, Florida Statutes, and further it is

1 hereby determined to be in the best interest of, and necessary
2 for the protection of, the public health, safety, and general
3 welfare of the residents of this state, and therefore a
4 paramount public purpose, to provide for the creation of a
5 nonprofit public benefit corporation to assist in reimbursing
6 the victims of GIC Government Securities, Inc., and to
7 authorize the department to enter into one or more service
8 contracts with such corporation for the provision of financing
9 services related to such functions and to make payments
10 thereunder from the amount on deposit in the Securities
11 Guaranty Fund, subject to annual appropriation by the
12 Legislature, and

13 WHEREAS, to achieve these purposes and in order to
14 facilitate and expedite the remedial measures instituted by
15 the Legislature with respect to the victims of GIC Government
16 Securities, Inc., it is in the best interest of the residents
17 of this state to authorize such corporation to issue evidences
18 of indebtedness payable from amounts paid by the Department of
19 Banking and Finance under any such service contract entered
20 into between the department and such corporation, and

21 WHEREAS, the Legislature is taking this action only
22 after balancing all the competing needs of the state, NOW,
23 THEREFORE,

24

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

26

27 Section 1. Subsection (10) of section 517.12, Florida
28 Statutes, is amended to read:

29 517.12 Registration of dealers, associated persons,
30 investment advisers, and branch offices.--

31

1 (10) An applicant for registration shall pay an
 2 assessment fee of \$200, in the case of a dealer or investment
 3 adviser, or \$40, in the case of an associated person. The
 4 assessment fee of an associated person shall be reduced to \$30
 5 but only after the department determines upon a determination,
 6 by final order of the department, that sufficient funds have
 7 been allocated to the Securities Guaranty Fund pursuant to s.
 8 517.1203 to satisfy all valid claims filed in accordance with
 9 s. 517.1203(2) and after all amounts payable under any service
 10 contract entered into by the department pursuant to s.
 11 517.1204, and all notes, bonds, certificates of indebtedness,
 12 other obligations, or evidences of indebtedness secured by
 13 such notes, bonds, certificates of indebtedness, or other
 14 obligations, have been paid or provision has been made for the
 15 payment of such amounts, notes, bonds, certificates of
 16 indebtedness, other obligations, or evidences of indebtedness.
 17 An associated person not having current fingerprint cards
 18 filed with the National Association of Securities Dealers or a
 19 national securities exchange registered with the Securities
 20 and Exchange Commission shall be assessed an additional fee to
 21 cover the cost for said fingerprint cards to be processed by
 22 the department. Such fee shall be determined by rule of the
 23 department. Each dealer and each investment adviser shall pay
 24 an assessment fee of \$100 for each office in this state,
 25 except its designated principal office. Such fees become the
 26 revenue of the state, except for those assessments provided
 27 for under s. 517.131(1) until such time as the Securities
 28 Guaranty Fund satisfies the statutory limits, and are not
 29 returnable in the event that registration is withdrawn or not
 30 granted.
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1 Section 2. Section 517.1203, Florida Statutes, is
2 amended to read:

3 517.1203 Allocation and disbursement of assessment
4 fees.--

5 (1) Notwithstanding s. 517.131(1) ~~and until the~~
6 ~~department determines by final order that sufficient funds~~
7 ~~have been allocated to the Securities Guaranty Fund pursuant~~
8 ~~to this section to satisfy all valid claims filed in~~
9 ~~accordance with subsection (2)~~, an additional amount equal to
10 25 percent of all revenues received as assessment fees
11 pursuant to s. 517.12(10) and (11) from persons applying for
12 or renewing registrations as associated persons shall be
13 allocated to the Securities Guaranty Fund and disbursed as
14 provided in this section. This allocation shall continue until
15 the department determines, by final order, that sufficient
16 funds have been allocated to the Securities Guaranty Fund
17 pursuant to this section to satisfy all valid claims filed in
18 accordance with subsection (2) and until all amounts payable
19 under any service contract entered into by the department
20 pursuant to s. 517.1204, and all notes, bonds, certificates of
21 indebtedness, other obligations, or evidences of indebtedness
22 secured by such notes, bonds, certificates of indebtedness or
23 other obligations, have been paid or provision has been made
24 for the payment of such amounts, notes, bonds, certificates of
25 indebtedness, other obligations, or evidences of indebtedness.
26 This assessment fee shall be part of the regular license fee
27 and shall be transferred to or deposited into the Securities
28 Guaranty Fund. The moneys allocated to the Securities
29 Guaranty Fund under this section shall not be included in the
30 calculation of the allocation of the assessment fees referred
31 to in s. 517.131(1)(b). Moneys allocated under this section

1 in excess of the valid claims filed pursuant to subsection (2)
2 shall be allocated to the Anti-Fraud Trust Fund.

3 (2)(a) Notwithstanding the provisions of ss. 517.131
4 and 517.141, moneys allocated to in the Securities Guaranty
5 Fund under this section shall be used to pay amounts payable
6 under any service contract entered into by the department
7 pursuant to s. 517.1204, subject to annual appropriation by
8 the Legislature, and to pay investors who have filed claims
9 with the Department of Banking and Finance after October 1,
10 1996, and on or before December 31, 1998 ~~1997~~, who have:

11 1. Received a final judgment against an associated
12 person of GIC Government Securities, Inc., based upon
13 allegations which would amount to a violation of s. 517.07 or
14 s. 517.301; or

15 2. Demonstrated to the department that the claimant
16 has suffered monetary damages as a result of the acts or
17 actions of GIC Government Securities, Inc., or any associated
18 person thereof, based upon allegations which would amount to a
19 violation of s. 517.07 or s. 517.301.

20 (b)1. Claims shall be paid in the order that they have
21 been filed with the department, unless the department has
22 noticed its intent to deny the claim in whole or in part. If
23 a notice of intent to deny a claim in whole or in part is
24 issued, the claim shall not be paid until a final order has
25 been entered which is not subject to an order staying its
26 effect.

27 2. If at any time the money in the Securities Guaranty
28 Fund allocated under this section is insufficient to satisfy
29 any valid claim or portion of a valid claim approved by the
30 department under this section, the department shall prorate
31 the payment based upon the ratio that the person's claim bears

1 to the total approved claims filed on the same day. The
2 department shall satisfy the unpaid claims as soon as a
3 sufficient amount of money has been deposited in or
4 transferred to the fund as provided in this section.

5 3. A claimant shall not be substantially affected by
6 the payment of another person's claim.

7 (c) Claims shall be limited to the amount of the
8 investment, reduced by any amounts received from a bankruptcy
9 proceeding or from any other source. If an investor is
10 deceased, the award shall be made to the surviving spouse. If
11 the investor and surviving spouse are both deceased, the award
12 shall be made pursuant to the laws of descent and
13 distribution. Neither the department nor the Investment Fraud
14 Restoration Financing Corporation shall make payment to
15 assignees, secured parties, lien creditors, or other such
16 entities.

17 (3) In rendering a determination, the department may
18 rely on records from the bankruptcy proceeding regarding GIC
19 Government Securities, Inc., unless there is good cause to
20 believe that the record is not genuine.

21 (4) Amounts deposited into the Securities Guaranty
22 Fund pursuant to this section shall be applied to or allocated
23 for payment of amounts payable by the department pursuant to
24 paragraph (2)(a), under a service contract entered into by the
25 department pursuant to s. 517.1204, subject to annual
26 appropriation by the Legislature, before making or providing
27 for any other disbursements from the fund.

28 Section 3. Section 517.1204, Florida Statutes, is
29 created to read:

30 517.1204 Investment Fraud Restoration Financing
31 Corporation.--

1 (1) The Investment Fraud Restoration Financing
2 Corporation is hereby created as a nonprofit public benefit
3 corporation for the purpose of financing the remedial measures
4 instituted by the Legislature with respect to the victims of
5 GIC Government Securities, Inc., and the payment of approved
6 claims pursuant to s. 517.1203. The fulfillment of the
7 purposes of the corporation promotes the health, safety, and
8 general welfare of the people of the state and serves
9 essential governmental functions and a paramount public
10 purpose. The corporation shall terminate on July 1, 2021, or
11 upon fulfillment of all of the purposes of this section,
12 whichever occurs earlier.

13 (2) The corporation shall be governed by a board of
14 directors consisting of the assistant comptroller, the
15 Secretary of Elderly Affairs or the secretary's designee and
16 the executive director of the Department of Veterans' Affairs
17 or the executive director's designee. The executive director
18 of the State Board of Administration shall be the chief
19 executive officer of the corporation and shall direct and
20 supervise the administrative affairs of the corporation and
21 shall control, direct, and supervise the operation of the
22 corporation. The corporation shall also have such other
23 officers as may be determined by the board of directors.

24 (3) The corporation shall have all the powers of a
25 corporate body under the laws of this state to the extent not
26 inconsistent with or restricted by the provisions of this
27 section, including, but not limited to, the power to:

28 (a) Adopt, amend, and repeal bylaws not inconsistent
29 with this section.

30 (b) Sue and be sued.

31 (c) Adopt and use a common seal.

1 (d) Acquire, purchase, hold, lease, and convey such
2 real and personal property as may be proper or expedient to
3 carry out the purposes of the corporation and this section,
4 and to sell, lease, or otherwise dispose of such property.

5 (e) Elect or appoint and employ such officers, agents,
6 and employees as the corporation deems advisable to operate
7 and manage the affairs of the corporation, which officers,
8 agents, and employees may be officers or employees of the
9 department and the state agencies represented on the board of
10 directors of the corporation.

11 (f) Borrow money and issue notes, bonds, certificates
12 of indebtedness, or other obligations or evidences of
13 indebtedness necessary to pay claims approved pursuant to s.
14 517.1203 payable from the Securities Guaranty Fund.

15 (g) Make and execute any and all contracts, trust
16 agreements, and other instruments and agreements necessary or
17 convenient to accomplish the purposes of the corporation and
18 this section.

19 (h) Select, retain, and employ professionals,
20 contractors, or agents, which may include the Division of Bond
21 Finance of the State Board of Administration, as is necessary
22 or convenient to enable or assist the corporation in carrying
23 out the purposes of the corporation and this section.

24 (i) Do any act or thing necessary or convenient to
25 carry out the purposes of the corporation and this section and
26 the powers provided in this section.

27 (4) The corporation is authorized to enter into one or
28 more service contracts with the department pursuant to which
29 the corporation shall provide services to the department in
30 connection with financing the functions and activities
31 provided for in s. 517.1203. The department may enter into

1 one or more such service contracts with the corporation and
 2 provide for payments under such contracts pursuant to s.
 3 517.1203(2)(a), subject to annual appropriation by the
 4 Legislature. The proceeds from such service contracts may be
 5 used for the costs and expenses of administration of the
 6 corporation after payments as set forth in subsection (5).
 7 Each service contract shall have a term not to exceed 15 years
 8 and shall terminate no later than July 1, 2021. The aggregate
 9 amount payable from the Securities Guaranty Fund under all
 10 such service contracts shall not exceed the amount provided by
 11 s. 517.1203(1). In compliance with provisions of s. 287.0641
 12 and other applicable provisions of law, the obligations of the
 13 department under such service contracts shall not constitute a
 14 general obligation of the state or a pledge of the faith and
 15 credit or taxing power of the state nor shall such obligations
 16 be construed in any manner as an obligation of the State Board
 17 of Administration or entities for which it invests funds,
 18 other than the department as provided in this section, but
 19 shall be payable solely from amounts available in the
 20 Securities Guaranty Fund, subject to annual appropriation. In
 21 compliance with this subsection and s. 287.0582, such service
 22 contracts shall expressly include the following statement:
 23 "The State of Florida's performance and obligation to pay
 24 under this contract is contingent upon an annual appropriation
 25 by the Legislature."
 26 (5) The corporation may issue and incur notes, bonds,
 27 certificates of indebtedness, or other obligations or
 28 evidences of indebtedness payable from and secured by amounts
 29 payable to the corporation by the department under a service
 30 contract entered into pursuant to subsection (4) for the
 31 purpose of the simultaneous payment of all claims approved

1 pursuant to s. 517.1203. The term of any such note, bond,
2 certificate of indebtedness, or other obligation or evidence
3 of indebtedness shall not exceed 15 years. The corporation may
4 select a financing team and issue obligations through
5 competitive bidding or negotiated contracts, whichever is most
6 cost-effective. Any such indebtedness of the corporation
7 shall not constitute a debt or obligation of the state or a
8 pledge of the faith and credit or taxing power of the state,
9 but shall be payable from and secured by payments made by the
10 department under the service contract pursuant to subsection
11 (4).

12 (6) The corporation shall pay all claims approved
13 pursuant to s. 517.1203 as determined by and at the direction
14 of the department.

15 (7) The corporation is exempt from taxation and
16 assessments of any nature whatsoever upon its income and any
17 property, assets, or revenues acquired, received, or used in
18 the furtherance of the purposes provided in this chapter. The
19 obligations of the corporation incurred pursuant to subsection
20 (5) and the interest and income on such obligations and all
21 security agreements, letters of credit, liquidity facilities,
22 or other obligations or instruments arising out of, entered
23 into in connection with, or given to secure payment of such
24 obligations are exempt from all taxation, provided such
25 exemption does not apply to any tax imposed by chapter 220 on
26 the interest, income, or profits on debt obligations owned by
27 corporations.

28 (8) The corporation may validate any bonds issued
29 pursuant to this section, as provided in chapter 75. The
30 validation complaint shall be filed only in the circuit court
31 for Leon County. The notice required under s. 75.06 shall be

1 published in Leon County and the complaint and order of the
2 circuit court shall be served only on the State Attorney for
3 the Second Judicial Circuit. The provisions of ss. 75.04(2)
4 and 75.06(2) shall not apply to a validation complaint filed
5 as authorized in this subsection. The validation of the first
6 bonds issued pursuant to this section may be appealed to the
7 Supreme Court and such appeal shall be handled on an expedited
8 basis.

9 (9) The corporation shall not take any action which
10 will materially and adversely affect the rights of holders of
11 any obligations issued under this section as long as such
12 obligations are outstanding.

13 (10) The corporation shall not be deemed to be a
14 special district for purposes of chapter 189 or a unit of
15 local government for purposes of part III of chapter 218. The
16 provisions of chapters 120 and 215, except the limitation on
17 interest rates provided by s. 215.84 which applies to
18 obligations of the corporation issued pursuant to this
19 section, and part I of chapter 287, except ss. 287.0582 and
20 287.0641, shall not apply to this section, the corporation
21 created in this section, the service contracts entered into
22 pursuant to this section, or debt obligations issued by the
23 corporation as provided in this section.

24 (11) In no event shall any of the benefits or earnings
25 of the corporation inure to the benefit of any private person,
26 except those persons identified pursuant to s. 517.1203.

27 (12) Upon dissolution of the corporation, title to all
28 property owned by the corporation shall revert to the
29 Securities Guaranty Fund.

30 (13) The corporation may contract with the State Board
31 of Administration to serve as trustee with respect to debt

1 obligations issued by the corporation as provided by this
 2 section and to hold, administer, and invest proceeds of such
 3 debt obligations and other funds of the corporation and to
 4 perform other services required by the corporation. The State
 5 Board of Administration may perform such services and may
 6 contract with others to provide all or a part of such services
 7 and to recover the costs and expenses of providing such
 8 services.

9 Section 4. Paragraph (a) of subsection (1) of section
 10 517.131, Florida Statutes, is amended to read:

11 517.131 Securities Guaranty Fund.--

12 (1)(a) The Treasurer shall establish a Securities
 13 Guaranty Fund. An amount not exceeding 20 percent of all
 14 revenues received as assessment fees pursuant to s. 517.12(10)
 15 and (11) for dealers and investment advisers and an amount not
 16 exceeding 10 percent of all revenues received as assessment
 17 fees pursuant to s. 517.12(10) and (11) for associated persons
 18 shall be allocated to the fund. An additional amount not
 19 exceeding 3.5 percent of all revenues received as assessment
 20 fees for associated persons pursuant to s. 517.12(10) and (11)
 21 shall be allocated to the Securities Guaranty Fund but only
 22 after the department determines ~~upon a determination~~, by final
 23 ~~order of the department~~, that sufficient funds have been
 24 allocated to the fund pursuant to s. 517.1203 to satisfy all
 25 valid claims filed in accordance with s. 517.1203(2) and after
 26 all amounts payable under any service contract entered into by
 27 the department pursuant to s. 517.1204, and all notes, bonds,
 28 certificates of indebtedness, other obligations, or evidences
 29 of indebtedness secured by such notes, bonds, certificates of
 30 indebtedness or other obligations, have been paid or provision
 31 has been made for the payment of such amounts, notes, bonds,

1 certificates of indebtedness, other obligations, or evidences
2 of indebtedness. This assessment fee shall be part of the
3 regular license fee and shall be transferred to or deposited
4 in the Securities Guaranty Fund.

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

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