

By Senator Horne

6-588-98

See HB

1 A bill to be entitled
2 An act relating to securities transactions;
3 amending s. 517.021, F.S.; revising certain
4 definitions; amending s. 517.051, F.S.;
5 specifying additional securities as exempt from
6 certain registration requirements; specifying
7 priority of application; amending s. 517.061,
8 F.S.; clarifying the exemption of certain
9 securities in certain transactions from
10 registration requirements; specifying
11 additional transactions as exempt from certain
12 registration requirements; amending ss.
13 517.081, 517.082, 517.12, F.S.; authorizing the
14 Department of Banking and Finance to adopt
15 certain rules for electronic deposits and
16 filings; correcting a cross reference;
17 including certain notice filing requirements
18 within application of certain registration
19 provisions; requiring certain dealers to comply
20 with net capital and ratio requirements;
21 providing application; creating s. 517.1201,
22 F.S.; specifying notice filing requirements for
23 federal covered advisers; prohibiting certain
24 activities; providing for certain fees;
25 authorizing the Department of Banking and
26 Finance to adopt rules; providing for permits
27 for certain purposes; amending ss. 517.1205,
28 517.131, F.S.; including federal covered
29 advisers within application of certain
30 registration requirements; amending s. 517.161,
31 F.S.; specifying additional conditions for

1 denial, revocation, restriction, or suspension
2 of certain registrations; amending s. 517.302,
3 F.S.; providing for additional uses of moneys
4 in the Anti-Fraud Trust Fund; amending s.
5 517.311, F.S.; clarifying application of false
6 representation and deceptive words
7 proscriptions to notice filings; providing an
8 appropriation; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsections (8)-(19) of section 517.021,
13 Florida Statutes, are renumbered as subsections (9)-(20),
14 respectively, a new subsection (8) is added to said section,
15 and subsection (2) and paragraph (b) of renumbered subsection
16 (12) of said section are amended, to read:

17 517.021 Definitions.--When used in this chapter,
18 unless the context otherwise indicates, the following terms
19 have the following respective meanings:

20 (2) "Associated person" means:

21 (a) With respect to a dealer or investment adviser,
22 any of the following:

23 1.(a) Any partner, officer, director, or branch
24 manager of a dealer or investment adviser or any person
25 occupying a similar status or performing similar functions;

26 2.(b) Any natural person directly or indirectly
27 controlling or controlled by such dealer or investment
28 adviser, other than an employee whose function is only
29 clerical or ministerial; or

30 3.(c) Any natural person, other than a dealer,
31 employed, appointed, or authorized by a dealer, investment

1 adviser, or issuer to sell securities in any manner or act as
2 an investment adviser as defined in this section.

3

4 The partners of a partnership and the executive officers of a
5 corporation or other association registered as a dealer, and
6 any person whose transactions in this state are limited to
7 those transactions described in s. 15(h)(2) of the Securities
8 Exchange Act of 1934, are not "associated persons" within the
9 meaning of this definition.

10 (b) With respect to a federal covered adviser, any
11 person who is an investment adviser representative and who has
12 a place of business in this state, as such terms are defined
13 in Rule 203A-3 of the Securities and Exchange Commission
14 adopted under the Investment Advisers Act of 1940.

15 (8) "Federal covered adviser" means a person who is
16 registered or required to be registered under s. 203 of the
17 Investment Advisers Act of 1940 or who is excluded from the
18 definition of investment adviser under s. 202(a)(11) of the
19 Investment Advisers Act of 1940, as such provisions existed on
20 July 9, 1997. The term "federal covered adviser" does not
21 include any person who is excluded from the definition of
22 investment adviser under subparagraphs (12)(b)1.-8.

23 (12)(11)

24 (b) The term "investment adviser" does not include the
25 following:

26 1. Any licensed practicing attorney whose performance
27 of such services is solely incidental to the practice of her
28 or his profession;

29 2. Any licensed certified public accountant whose
30 performance of such services is solely incidental to the
31 practice of his profession;

1 3. Any bank authorized to do business in this state;

2 4. Any bank holding company as defined in the Bank
3 Holding Company Act of 1956, as amended, authorized to do
4 business in this state;

5 5. Any trust company having trust powers which it is
6 authorized to exercise in the state, which trust company
7 renders or performs services in a fiduciary capacity
8 incidental to the exercise of its trust powers;

9 6. Any person who renders investment advice
10 exclusively to insurance or investment companies;

11 7. Any person who does not hold herself or himself out
12 to the general public as an investment adviser and has ~~at~~
13 ~~least 6 but~~ no more than 15 clients within 12 consecutive
14 months in this state; ~~or~~

15 8. Any person whose transactions in this state are
16 limited to those transactions described in s. 222(d) of the
17 Investment Advisers Act of 1940. Those clients listed in
18 subparagraph 5. may not be included when determining the
19 number of clients of an investment adviser for purposes of s.
20 222(d) of the Investment Advisers Act of 1940; or;

21 9. A federal covered adviser.

22 Section 2. Subsection (9) of section 517.051, Florida
23 Statutes, is amended to read:

24 517.051 Exempt securities.--The exemptions provided
25 herein from the registration requirements of s. 517.07 are
26 self-executing and do not require any filing with the
27 department prior to claiming such exemption. Any person who
28 claims entitlement to any of these exemptions bears the burden
29 of proving such entitlement in any proceeding brought under
30 this chapter. The registration provisions of s. 517.07 do not
31 apply to any of the following securities:

1 (9) A security issued by a corporation organized and
2 operated exclusively for religious, educational, benevolent,
3 fraternal, charitable, or reformatory purposes and not for
4 pecuniary profit, no part of the net earnings of which
5 corporation inures to the benefit of any private stockholder
6 or individual, or any security of a fund that is excluded from
7 the definition of an investment company under s. 3(c)(10)(B)
8 of the Investment Company Act of 1940; provided that no person
9 shall directly or indirectly offer or sell securities under
10 this subsection except by an offering circular containing full
11 and fair disclosure, as prescribed by the rules of the
12 department, of all material information, including, but not
13 limited to, a description of the securities offered and terms
14 of the offering, a description of the nature of the issuer's
15 business, a statement of the purpose of the offering and the
16 intended application by the issuer of the proceeds thereof,
17 and financial statements of the issuer prepared in conformance
18 with generally accepted accounting principles. Section 6(c) of
19 the Philanthropy Protection Act of 1995, P.L. 104-62, shall
20 not preempt any provision of this chapter.

21 Section 3. Subsection (17) of section 517.061, Florida
22 Statutes, is amended, and subsection (20) is added to said
23 section, to read:

24 517.061 Exempt transactions.--The exemption for each
25 transaction listed below is self-executing and does not
26 require any filing with the department prior to claiming such
27 exemption. Any person who claims entitlement to any of the
28 exemptions bears the burden of proving such entitlement in any
29 proceeding brought under this chapter. The registration
30 provisions of s. 517.07 do not apply to any of the following
31

1 transactions; however, such transactions are subject to the
2 provisions of ss. 517.301, 517.311, and 517.312:

3 (17)(a) The offer or sale of securities, as agent or
4 principal, by a dealer registered pursuant to s. 517.12, when
5 such securities are offered or sold at a price reasonably
6 related to the current market price of such securities,
7 provided such securities are:

8 1. Securities of an issuer for which reports are
9 required to be filed by s. 13 or s. 15(d) of the Securities
10 Exchange Act of 1934, as amended;

11 2. Securities of a company registered under the
12 Investment Company Act of 1940, as amended;

13 3. Securities of an insurance company, as that term is
14 defined in s. 2(a)(17) of the Investment Company Act of 1940,
15 as amended;

16 4. Securities, other than any security that is a
17 federal covered security pursuant to s. 18(b)(1) of the
18 Securities Act of 1933 and is not subject to any registration
19 or filing requirements under this act, which appear in any
20 list of securities dealt in on any stock exchange registered
21 pursuant to the Securities Exchange Act of 1934, as amended,
22 and which securities have been listed or approved for listing
23 upon notice of issuance by such exchange, and also all
24 securities senior to any securities so listed or approved for
25 listing upon notice of issuance, or represented by
26 subscription rights which have been so listed or approved for
27 listing upon notice of issuance, or evidences of indebtedness
28 guaranteed by companies any stock of which is so listed or
29 approved for listing upon notice of issuance, such securities
30 to be exempt only so long as such listings or approvals remain
31 in effect. The exemption provided for herein does not apply

1 when the securities are suspended from listing approval for
2 listing or trading; ~~or~~

3 ~~5. Securities as to which the following information is~~
4 ~~published in a recognized manual of securities for a period of~~
5 ~~not less than 90 days prior to the transaction:~~

6 ~~a. A balance sheet as of a date not more than 18~~
7 ~~months prior to the date of the sale; and~~

8 ~~b. Profit and loss statements for a period of not less~~
9 ~~than 2 years next prior to the date of the balance sheet or~~
10 ~~for the period as of the date of the balance sheet if the~~
11 ~~period of existence is less than 2 years.~~

12 (b) The exemption provided in this subsection does not
13 apply if the sale is made for the direct or indirect benefit
14 of an issuer or controlling persons of such issuer or if such
15 securities constitute the whole or part of an unsold allotment
16 to, or subscription or participation by, a dealer as an
17 underwriter of such securities.

18 (c) This exemption shall not be available for any
19 securities which have been denied registration by the
20 department pursuant to s. 517.111. Additionally, the
21 department may deny this exemption with reference to any
22 particular security, other than a federal covered security, by
23 order published in such manner as the department finds proper.

24 (20) Any nonissuer transaction by a registered
25 associated person of a registered dealer, and any resale
26 transaction by a sponsor of a unit investment trust registered
27 under the Investment Company Act of 1940, in a security of a
28 class that has been outstanding in the hands of the public for
29 at least 90 days provided, at the time of the transaction:

30 (a) The issuer of the security is actually engaged in
31 business and is not in the organization stage or in bankruptcy

1 or receivership and is not a blank check, blind pool, or shell
2 company whose primary plan of business is to engage in a
3 merger or combination of the business with, or an acquisition
4 of, any unidentified person;

5 (b) The security is sold at a price reasonably related
6 to the current market price of the security;

7 (c) The security does not constitute the whole or part
8 of an unsold allotment to, or a subscription or participation
9 by, the broker-dealer as an underwriter of the security;

10 (d) A nationally recognized securities manual
11 designated by rule or order of the department or a document
12 filed with the Securities and Exchange Commission that is
13 publicly available through the commission's electronic data
14 gathering and retrieval system contains:

15 1. A description of the business and operations of the
16 issuer;

17 2. The names of the issuer's officers and directors,
18 if any, or, in the case of an issuer not domiciled in the
19 United States, the corporate equivalents of such persons in
20 the issuer's country of domicile;

21 3. An audited balance sheet of the issuer as of a date
22 within 18 months before such transaction or, in the case of a
23 reorganization or merger in which parties to the
24 reorganization or merger had such audited balance sheet, a pro
25 forma balance sheet; and

26 4. An audited income statement for each of the
27 issuer's immediately preceding 2 fiscal years, or for the
28 period of existence of the issuer, if in existence for less
29 than 2 years or, in the case of a reorganization or merger in
30 which the parties to the reorganization or merger had such
31 audited income statement, a pro forma income statement; and

1 (e) The issuer of the security has a class of equity
2 securities listed on a national securities exchange registered
3 under the Securities Exchange Act of 1934 or designated for
4 trading on the National Association of Securities Dealers
5 Automated Quotation System, unless:

6 1. The issuer of the security is a unit investment
7 trust registered under the Investment Company Act of 1940;

8 2. The issuer of the security has been engaged in
9 continuous business, including predecessors, for at least 3
10 years; or

11 3. The issuer of the security has total assets of at
12 least \$2 million based on an audited balance sheet as of a
13 date within 18 months before such transaction or, in the case
14 of a reorganization or merger in which parties to the
15 reorganization or merger had such audited balance sheet, a pro
16 forma balance sheet.

17 Section 4. Subsection (2) and paragraph (g) of
18 subsection (3) of section 517.081, Florida Statutes, are
19 amended to read:

20 517.081 Registration procedure.--

21 (2) The department shall receive and act upon
22 applications to have securities registered and may prescribe
23 forms on which it may require such applications to be
24 submitted. Applications shall be duly signed by the applicant,
25 sworn to by any person having knowledge of the facts, and
26 filed with the department. The department may establish, by
27 rule, procedures for depositing fees and filing documents by
28 electronic means provided such procedures provide the
29 department with the information and data required by this
30 section.An application may be made either by the issuer of
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1 the securities for which registration is applied or by any
2 registered dealer desiring to sell the same within the state.

3 (3) The department may require the applicant to submit
4 to the department the following information concerning the
5 issuer and such other relevant information as the department
6 may in its judgment deem necessary to enable it to ascertain
7 whether such securities shall be registered pursuant to the
8 provisions of this section:

9 (g)1. A specimen copy of the security and a copy of
10 any circular, prospectus, advertisement, or other description
11 of such securities.

12 2. The department shall adopt a form for a simplified
13 offering circular to be used solely by corporations to
14 register, under this section, securities of the corporation
15 that are sold in offerings in which the aggregate offering
16 price in any consecutive 12-month period does not exceed the
17 amount provided in s. 3(b) of the Securities Act of 1933
18 ~~lesser of the aggregate offering price in 17 C.F.R. s. 230.251~~
19 ~~or \$5 million.~~ The following issuers shall not be eligible to
20 submit a simplified offering circular adopted pursuant to this
21 subparagraph:

22 a. An issuer seeking to register securities for resale
23 by persons other than the issuer.

24 b. An issuer who is subject to any of the
25 disqualifications described in 17 C.F.R. s. 230.262, adopted
26 pursuant to the Securities Act of 1933, or who has been or is
27 engaged or is about to engage in an activity that would be
28 grounds for denial, revocation, or suspension under s.
29 517.111. For purposes of this subparagraph, an issuer includes
30 an issuer's director, officer, shareholder who owns at least
31 10 percent of the shares of the issuer, promoter, or selling

1 agent of the securities to be offered or any officer,
2 director, or partner of such selling agent.

3 c. An issuer who is a development-stage company that
4 either has no specific business plan or purpose or has
5 indicated that its business plan is to merge with an
6 unidentified company or companies.

7 d. An issuer of offerings in which the specific
8 business or properties cannot be described.

9 e. Any issuer the department determines is ineligible
10 if the form would not provide full and fair disclosure of
11 material information for the type of offering to be registered
12 by the issuer.

13 f. Any corporation which has failed to provide the
14 department the reports required for a previous offering
15 registered pursuant to this subparagraph.

16
17 As a condition precedent to qualifying for use of the
18 simplified offering circular, a corporation shall agree to
19 provide the department with an annual financial report
20 containing a balance sheet as of the end of the issuer's
21 fiscal year and a statement of income for such year, prepared
22 in accordance with generally accepted accounting principles
23 and accompanied by an independent accountant's report. If the
24 issuer has more than 100 security holders at the end of a
25 fiscal year, the financial statements must be audited. Annual
26 financial reports must be filed with the department within 90
27 days after the close of the issuer's fiscal year for each of
28 the first 5 years following the effective date of the
29 registration.

30 Section 5. Subsections (1), (3), and (4) of section
31 517.082, Florida Statutes, are amended to read:

1 517.082 Notification registration.--

2 (1) Except as provided in subsection (3), securities
3 offered or sold pursuant to a registration statement filed
4 under the Securities Act of 1933 ~~or the Investment Company Act~~
5 ~~of 1940~~ shall be entitled to registration by notification in
6 the manner provided in subsection (2), provided that prior to
7 the offer or sale the registration statement has become
8 effective.

9 (3) Except for ~~securities offered or sold pursuant to~~
10 ~~a registration statement filed under the Investment Company~~
11 ~~Act of 1940~~, units of limited partnership interests, or such
12 other securities as the department describes by rule as exempt
13 from this subsection due to high investment quality, the
14 provisions of this section may not be used to register
15 securities if the offering price at the time of effectiveness
16 with the Securities and Exchange Commission is \$5 or less per
17 share, unless such securities are listed or designated, or
18 approved for listing or designation upon notice of issuance,
19 on a stock exchange registered pursuant to the Securities
20 Exchange Act of 1934 or on the National Association of
21 Securities Dealers Automated Quotation (NASDAQ) System, or
22 unless such securities are of the same issuer and of senior or
23 substantially equal rank to securities so listed or
24 designated.

25 (4) In lieu of filing with the department the
26 application, fees, and documents for registration required by
27 subsection (2), the department may establish, by rule,
28 procedures for depositing the deposit of fees and the filing
29 of documents by electronic means to be made through the
30 ~~Securities Registration Depository as developed under contract~~
31 ~~with the North American Securities Administrators Association,~~

1 ~~inc.~~, provided such procedures ~~shall~~ provide the department
2 with the information and data required by this section.
3 ~~Should a filer be unable to use the Securities Registration~~
4 ~~Depository, such filings, including the statutory fee, may be~~
5 ~~made directly with the department.~~

6 Section 6. Subsections (1), (4), (6), and (9) and
7 paragraph (b) of subsection (12) of section 517.12, Florida
8 Statutes, are amended to read:

9 517.12 Registration of dealers, associated persons,
10 investment advisers, and branch offices.--

11 (1) No dealer, associated person, or issuer of
12 securities shall sell or offer for sale any securities in or
13 from offices in this state, or sell securities to persons in
14 this state from offices outside this state, by mail or
15 otherwise, unless the person has been registered with the
16 department pursuant to the provisions of this section. The
17 department shall not register any person as an associated
18 person of a dealer ~~or investment adviser~~ unless the dealer ~~or~~
19 ~~investment adviser~~ with which the applicant seeks registration
20 is lawfully registered with the department pursuant to this
21 chapter.

22 (4) No investment adviser or associated person of an
23 investment adviser shall engage in business from offices in
24 this state, or render investment advice to persons of this
25 state, by mail or otherwise, unless the investment adviser and
26 associated persons have been registered with the department
27 pursuant to this section. The department shall not register
28 any person as an associated person of an investment adviser
29 unless the investment adviser with which the applicant seeks
30 registration is in compliance with the notice filing
31 requirements of s. 517.1201 or is lawfully registered with the

1 department pursuant to this chapter.A dealer or associated
2 person who is registered pursuant to this section may render
3 investment advice upon notification to and approval from the
4 department.

5 (6) A dealer, associated person, investment adviser,
6 or branch office, in order to obtain registration, must file
7 with the department a written application, on ~~in~~ a form which
8 the department may by rule prescribe, verified under oath. The
9 department may establish, by rule, procedures for depositing
10 fees and filing documents by electronic means provided such
11 procedures provide the department with the information and
12 data required by this section.Each dealer or investment
13 adviser must also file an irrevocable written consent to
14 service of civil process similar to that provided for in s.
15 517.101. The application shall contain such information as
16 the department may require concerning such matters as:

17 (a) The name of the applicant and the address of its
18 principal office and each office in this state.

19 (b) The applicant's form and place of organization;
20 and, if the applicant is a corporation, a copy of its articles
21 of incorporation and amendments to the articles of
22 incorporation or, if a partnership, a copy of the partnership
23 agreement.

24 (c) The applicant's proposed method of doing business
25 and financial condition and history, including a certified
26 financial statement showing all assets and all liabilities,
27 including contingent liabilities of the applicant as of a date
28 not more than 90 days prior to the filing of the application.

29 (d) The names and addresses of all associated persons
30 of the applicant to be employed in this state and the offices
31 to which they will be assigned.

1 (9)(a) All dealers, except securities dealers who are
2 designated by the Federal Reserve Bank of New York as primary
3 government securities dealers or securities dealers registered
4 as issuers of securities, shall comply with the net capital
5 and ratio requirements imposed pursuant to the Securities
6 Exchange Act of 1934. The department may by rule require a
7 dealer to file with the department any financial or
8 operational information that is required to be filed by the
9 Securities Exchange Act of 1934 or any rules adopted under
10 such act.

11 (b) The department may by rule require the maintenance
12 of a minimum net capital for securities ~~registered~~ dealers who
13 are designated by the Federal Reserve Bank of New York as
14 primary government securities dealers and securities dealers
15 registered as issuers of securities and investment advisers,
16 or prescribe a ratio between net capital and aggregate
17 indebtedness, to assure adequate protection for the investing
18 public. The provisions of this section shall not apply to any
19 investment adviser that maintains its principal place of
20 business in a state other than this state, provided such
21 investment adviser is registered in the state where it
22 maintains its principal place of business and is in compliance
23 with such state's net capital requirements.

24 (12)

25 (b) Every dealer, ~~or~~ investment adviser, or federal
26 covered adviser shall promptly file with the department, as
27 prescribed by rules adopted by the department, notice as to
28 the termination of employment of any associated person
29 registered for such dealer or investment adviser in this state
30 and shall also furnish the reason or reasons for such
31 termination.

1 Section 7. Section 517.1201, Florida Statutes, is
2 created to read:

3 517.1201 Notice filing requirements for federal
4 covered advisers.--

5 (1) It is unlawful for a person to transact business
6 in this state as a federal covered adviser unless such person
7 has made a notice filing with the department. A notice filing
8 under this section shall consist of a copy of those documents
9 that have been filed or are required to be filed by the
10 federal covered adviser with the Securities and Exchange
11 Commission that the department by rule requires to be filed,
12 together with a consent to service of process and a filing fee
13 of \$200. The department may establish by rule procedures for
14 the deposit of fees and the filing of documents to be made
15 through electronic means, if the procedures provide to the
16 department the information and data required by this section.

17 (2) A notice filing shall be effective upon receipt.
18 A notice filing shall expire on December 31 of the year in
19 which the filing became effective unless the federal covered
20 adviser has renewed the filing on or before that date. A
21 federal covered adviser may renew a notice filing by
22 furnishing to the department such information that has been
23 filed or is required to be filed with the Securities and
24 Exchange Commission, as the department may require, together
25 with a renewal fee of \$200 and the payment of any amount due
26 and owing the department pursuant to any agreement with the
27 department. Any federal covered adviser who has not renewed a
28 notice filing by the time a current notice filing expires may
29 request reinstatement of such notice filing by filing with the
30 department, on or before January 31 of the year following the
31 year the notice filing expires, such information that has been

1 filed or is required to be filed with the Securities and
2 Exchange Commission as may be required by the department,
3 together with the payment of \$200 and a late fee equal to
4 \$200. Any reinstatement of a notice filing granted by the
5 department during the month of January shall be deemed
6 effective retroactive to January 1 of that year.

7 (3) The department may require, by rule, a federal
8 covered adviser who has made a notice filing pursuant to this
9 section to file with the department copies of any amendments
10 filed or required to be filed with the Securities and Exchange
11 Commission.

12 (4) The department may issue a permit to evidence the
13 effectiveness of a notice filing for a federal covered
14 adviser.

15 (5) A notice filing may be terminated by filing notice
16 of such termination with the department. Unless another date
17 is specified by the federal covered adviser, such notice shall
18 be effective upon its receipt by the department.

19 (6) All fees collected under this section become the
20 revenue of the state, except for those assessments provided
21 for under s. 517.131(1) until such time as the Securities
22 Guaranty Fund satisfies the statutory limits, and are not
23 returnable in the event that a notice filing is withdrawn.

24 Section 8. Section 517.1205, Florida Statutes, is
25 amended to read:

26 517.1205 Registration of associated persons specific
27 as to securities dealer, ~~or~~ investment adviser, or federal
28 covered adviser identified at time of registration
29 approval.--Inasmuch as this chapter is intended to protect
30 investors in securities offerings and other investment
31 transactions regulated by that chapter, its provisions are to

1 | be construed to require full and fair disclosure of all, but
2 | only, those matters material to the investor's evaluation of
3 | the offering or other transaction. It should, furthermore, be
4 | construed to impose the standards provided by law on all those
5 | seeking to participate in the state's securities industry
6 | through registration as a securities dealer ~~dealers~~,
7 | investment adviser ~~advisers~~, or ~~their~~ associated person. To
8 | this end, it is declared to be the intent of the Legislature
9 | that the registration of associated persons required by law is
10 | specific to the securities dealer, or investment adviser, or
11 | federal covered adviser identified at the time such
12 | registration is approved. Notwithstanding any interpretation
13 | of law to the contrary, the historical practice of the
14 | Department of Banking and Finance, reflected in its rules,
15 | that requires a new application for registration from a
16 | previously registered associated person when that person seeks
17 | to be associated with a new securities dealer or investment
18 | adviser is hereby ratified and approved as consistent with
19 | legislative intent. It is, finally, declared to be the intent
20 | of the Legislature that while approval of an application for
21 | registration of a securities dealer, investment adviser,
22 | associated person, or branch office requires a finding of the
23 | applicant's good repute and character, such finding is
24 | precluded by a determination that the applicant may be denied
25 | registration on grounds provided by law.

26 | Section 9. Paragraph (a) of subsection (1) of section
27 | 517.131, Florida Statutes, is amended to read:

28 | 517.131 Securities Guaranty Fund.--

29 | (1)(a) The Treasurer shall establish a Securities
30 | Guaranty Fund. An amount not exceeding 20 percent of all
31 | revenues received as assessment fees pursuant to s. 517.12(10)

1 and (11) for dealers and investment advisers or s. 517.1201
2 for federal covered advisers and an amount not exceeding 10
3 percent of all revenues received as assessment fees pursuant
4 to s. 517.12(10) and (11) for associated persons shall be
5 allocated to the fund. An additional amount not exceeding 3.5
6 percent of all revenues received as assessment fees for
7 associated persons pursuant to s. 517.12(10) and (11) shall be
8 allocated to the Securities Guaranty Fund upon a
9 determination, by final order of the department, that
10 sufficient funds have been allocated to the fund pursuant to
11 s. 517.1203 to satisfy all valid claims filed in accordance
12 with s. 517.1203(2). This assessment fee shall be part of the
13 regular license fee and shall be transferred to or deposited
14 in the Securities Guaranty Fund.

15 Section 10. Paragraph (m) of subsection (1) of section
16 517.161, Florida Statutes, is amended to read:

17 517.161 Revocation, denial, or suspension of
18 registration of dealer, investment adviser, associated person,
19 or branch office.--

20 (1) Registration under s. 517.12 may be denied or any
21 registration granted may be revoked, restricted, or suspended
22 by the department if the department determines that such
23 applicant or registrant:

24 (m) Has been the subject of any decision, finding,
25 injunction, suspension, prohibition, revocation, denial,
26 judgment, or administrative order by any court of competent
27 jurisdiction, administrative law judge, or by any state or
28 federal agency, national securities, commodities, or option
29 exchange, or national securities, commodities, or option
30 association, involving a violation of any federal or state
31 securities or commodities law or any rule or regulation

1 promulgated thereunder, or any rule or regulation of any
2 national securities, commodities, or options exchange or
3 national securities, commodities, or options association, or
4 has been the subject of any injunction or adverse
5 administrative order by a state or federal agency regulating
6 banking, insurance, finance or small loan companies, real
7 estate, mortgage brokers, or other related or similar
8 industries. For purposes of this subsection, the department
9 may not deny registration to any applicant who has been
10 continuously registered with the department for 5 years from
11 the entry of such decision, finding, injunction, suspension,
12 prohibition, revocation, denial, judgment, or administrative
13 order provided such decision, finding, injunction, suspension,
14 prohibition, revocation, denial, judgment, or administrative
15 order has been timely reported to the department pursuant to
16 the department's rules and regulations.

17 Section 11. Paragraph (a) of subsection (3) of section
18 517.302, Florida Statutes, is amended to read:

19 517.302 Criminal penalties; alternative fine;
20 Anti-Fraud Trust Fund; time limitation for criminal
21 prosecution.--

22 (3) In lieu of a fine otherwise authorized by law, a
23 person who has been convicted of or who has pleaded guilty or
24 no contest to having engaged in conduct in violation of the
25 provisions of this chapter may be sentenced to pay a fine that
26 does not exceed the greater of three times the gross value
27 gained or three times the gross loss caused by such conduct,
28 plus court costs and the costs of investigation and
29 prosecution reasonably incurred.

30 (a) There is created within the department a trust
31 fund to be known as the Anti-Fraud Trust Fund. Any amounts

1 assessed as costs of investigation and prosecution under this
2 subsection shall be deposited in the trust fund. Funds
3 deposited in such trust fund shall be used, when authorized by
4 appropriation, for investigation and prosecution of
5 administrative, civil, and criminal actions arising under the
6 provisions of this chapter. Funds may also be used to improve
7 the public's awareness and understanding of prudent investing.

8 Section 12. Subsection (2) and paragraph (a) of
9 subsection (4) of section 517.311, Florida Statutes, are
10 amended to read:

11 517.311 False representations; deceptive words;
12 enforcement.--

13 (2) It is unlawful for any person registered or
14 required to be registered, or subject to the notice
15 requirements, under any section of this chapter, including
16 such persons and issuers within the purview of ss. 517.051 and
17 517.061, to misrepresent that such person has been sponsored,
18 recommended, or approved, or that her or his abilities or
19 qualifications have in any respect been passed upon, by the
20 state or any agency or officer of the state or by the United
21 States or any agency or officer of the United States.

22 (4)(a) No provision of subsection (1) or subsection
23 (2) shall be construed to prohibit a statement that a person
24 or security is registered or has made a notice filing under
25 this chapter if such statement ~~of registration~~ is required by
26 the provisions of this chapter or rules promulgated
27 thereunder, if such statement is true in fact, and if the
28 effect of such statement ~~of registration~~ is not
29 misrepresented.

30 Section 13. The sum of \$75,000 is hereby appropriated
31 from the Anti-Fraud Trust Fund in the Department of Banking

1 and Finance, to the department, for fiscal year 1998-1999, to
2 be used to improve the public's awareness and understanding of
3 prudent investing.

4 Section 14. This act shall take effect upon becoming a
5 law.

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8 LEGISLATIVE SUMMARY

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10 Conforms various securities registration provisions to
11 include related federal provisions of law. Authorizes the
12 Department of Banking and Finance to provide for
13 depositing fees and filing documents electronically. See
14 bill for details.
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