

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1019

Short Title: Exempt Nat. Market System Securities.

(Public)

Sponsors: Representative Miller.

Referred to: Commerce.

April 5, 1989

A BILL TO BE ENTITLED

AN ACT TO EXEMPT SECURITIES DESIGNATED OR APPROVED FOR DESIGNATION UPON NOTICE OF ISSUANCE ON THE NATIONAL ASSOCIATION OF SECURITIES DEALERS AUTOMATED QUOTATION NATIONAL MARKET SYSTEM FROM THE REGISTRATION AND FILING REQUIREMENTS OF THE NORTH CAROLINA SECURITIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-16 is amended by adding a new subdivision to read:

"(15) Any securities designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automated Quotation National Market System registered under the Securities Exchange Act of 1934; any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing; provided that the Administrator may decertify the National Association of Securities Dealers Automated Quotation National Market System designation by rule pursuant to Chapter 150B of the General Statutes if the Administrator finds that the system's designation standards have been so changed or insufficiently applied that the protection of investors contemplated by the standards for designation in Securities Act Release 33-6810, 53 Federal Register 52550 (Dec. 28, 1988), is no longer afforded; and provided further that the Administrator may deny the exemption by rule pursuant to Chapter 150B of the General

1 Statutes as to a category of securities when necessitated by the public
2 interest and for the protection of investors."

3 Sec. 2. G.S. 78A-18(a) reads as rewritten:

4 "(a) The Administrator may by order deny or revoke any exemption specified in
5 subdivisions (8), (9), ~~(11)~~(11), or (15) of G.S. 78A-16 or in 78A-17 with respect to a
6 specific security or transaction. No such order may be entered without appropriate prior
7 notice to all interested parties, opportunity for hearing, and written findings of fact and
8 conclusions of law, except that the Administrator may by order summarily deny or
9 revoke any of the specified exemptions pending final determination of any proceeding
10 under this section. Upon the entry of a summary order, the Administrator shall promptly
11 notify all interested parties that it has been entered and of the reasons therefor and that
12 within 15 days of the receipt of a written request the matter will be set down for hearing.
13 If no hearing is requested and none is ordered by the Administrator, the order will
14 remain in effect until it is modified or vacated by the Administrator. If a hearing is
15 requested or ordered, the Administrator, after notice of an opportunity for hearing to all
16 interested persons, may not modify or vacate the order or extend it until final
17 determination. No order under this subsection may operate retroactively. No person may
18 be considered to have violated G.S. 78A-24 or 78A-49(d) by reason of any offer or sale
19 effected after the entry of an order under this subsection if he sustains the burden of
20 proof that he did not know, and in the exercise of reasonable care could not have
21 known, of the order."

22 Sec. 3. This act shall become effective October 1, 1989.