

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 439*

Short Title: Securities/Investment Advisers/AB.

(Public)

Sponsors: Senator Reeves.

Referred to: Commerce.

March 20, 1997

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE NORTH CAROLINA SECURITIES ACT AND THE
INVESTMENT ADVISERS ACT TO THE NATIONAL SECURITIES MARKETS
IMPROVEMENT ACT OF 1996.

The General Assembly of North Carolina enacts:

I. Securities

Section 1. G.S. 78A-2(9) reads as rewritten:

"(9) 'Salesman' means any individual other than a dealer who represents a dealer in effecting or attempting to effect purchases or sales of securities. 'Salesman' does not include an individual who represents (i) an issuer in effecting transfers in securities described in sub-subdivision (2)d. of this section or in effecting transactions in a covered security as described in Section 18(b)(3) of the Securities Act of 1933 [15 U.S.C. § 77r(b)(3)] and Section 18(b)(4)(D) of the Securities Act of 1933 [15 U.S.C. § 77r(b)(4)(d)]; or (ii) a dealer in effecting transactions in this State limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934 [15 U.S.C. § 78o(h)(2)]. A partner, executive officer, or director of a dealer, or a person occupying a similar status or performing similar functions, is a salesman only if he otherwise comes within this definition."

1 Section 2. G.S. 78A-2 is amended by adding a new subdivision to read:

2 "(11a) 'Security covered under federal law' means any security that is a
3 covered security under Section 18(b) of the Securities Act of 1933
4 [15 U.S.C. § 77r(b)] or rules or regulations adopted under that
5 section. 'Security covered under federal law' does not include a
6 security for which a fee required by this Article has not been paid
7 and promptly remedied following written notification from the
8 Administrator to the issuer of the nonpayment or underpayment of
9 the fee.'"

10 Section 3. Effective October 10, 1999, G.S. 78A-2(11a), as enacted by Section
11 2 of this act, reads as rewritten:

12 "(11a) 'Security covered under federal law' means any security that is a
13 covered security under Section 18(b) of the Securities Act of 1933
14 [15 U.S.C. §77r(b)] or rules or regulations adopted under that
15 section. 'Security covered under federal law' does not include a security
16 for which a fee required by this Article has not been paid and promptly
17 remedied following written notification from the Administrator to the
18 issuer of the nonpayment or underpayment of the fee."

19 Section 4. The title to Article 4 of Chapter 78A reads as rewritten:

20 **"ARTICLE 4.**

21 **"REGISTRATION AND NOTICE FILING PROCEDURES OF SECURITIES."**

22 Section 5. G.S. 78A-24 reads as rewritten:

23 **"§ 78A-24. Registration requirement.**

24 It is unlawful for any person to offer or sell any security in this State unless (i) it is
25 registered under this ~~Chapter or Chapter~~, (ii) the security or transaction is exempted under
26 G.S. 78A-16 or 78A-17 and such exemption has not been denied or revoked under ~~G.S.~~
27 ~~78A-18.~~ G.S. 78A-18, or (iii) it is a security covered under federal law."

28 Section 6. Article 4 of Chapter 78A of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 78A-31. Securities covered under federal law.**

31 (a) The Administrator, by rule or order, may require the filing of any of the
32 following documents with regard to a security covered under Section 18(b)(2) of the
33 Securities Act of 1933 [15 U.S.C. § 77r(b)(2)]:

34 (1) Prior to the initial offer of the security in this State, all documents that
35 are part of a federal registration statement filed with the Securities and
36 Exchange Commission under the Securities Act of 1933, together with a
37 consent to service of process signed by the issuer and with the payment
38 of a notice filing fee of one-tenth of one percent (1/10 of 1%) of the
39 maximum aggregate offering price at which the securities covered under
40 federal law are to be offered in this State, but the notice filing fee shall
41 not be less than twenty-five dollars (\$25.00) or more than one thousand
42 six hundred dollars (\$1,600).

1 (2) After the initial offer of the security in this State, all documents that are
2 part of an amendment to a federal registration statement filed with the
3 Securities and Exchange Commission under the Securities Act of 1933,
4 which shall be filed concurrently with the Administrator.

5 (3) A report of the value of securities covered under federal law that are
6 offered or sold in this State.

7 (b) With regard to any security that is covered under Section 18(b)(4)(D) of the
8 Securities Act of 1933 [15 U.S.C. § 77r(b)(4)(d)], the Administrator, by rule or order,
9 may require the issuer to file a notice on SEC Form D [17 C.F.R. § 239.500] and a
10 consent to service of process signed by the issuer no later than 15 days after the first sale
11 of the security in this State. The Administrator may, by rule, establish a fee to recover
12 costs for filing required by this section, not to exceed one hundred fifty dollars (\$150.00).

13 (c) The Administrator, by rule or order, may require the filing of any document
14 filed with the Securities and Exchange Commission under the Securities Act of 1933,
15 with respect to a security covered under Section 18(b)(3) or (4) of the Securities Act of
16 1933 [15 U.S.C. § 77r(b)(3) or (4)]. The Administrator may, by rule, establish a fee to
17 recover costs for any filing required under this section, not to exceed one hundred fifty
18 dollars (\$150.00).

19 (d) The Administrator may issue a stop order suspending the offer and sale of a
20 security covered under 18(b)(1) of the Securities Act of 1933 [15 U.S.C. § 77r(b)(1)], if
21 the Administrator finds that (i) the order is in the public interest, and (ii) there is a failure
22 to comply with any condition established under this section.

23 (e) The Administrator, by rule or order, may waive any of the requirements set by
24 this section."

25 Section 7. G.S. 78A-38 reads as rewritten:

26 **"§ 78A-38. Post-registration provisions.**

27 (a) Every registered dealer shall make and keep such accounts, correspondence,
28 memoranda, papers, books, and other records as the Administrator by rule prescribes.
29 prescribes, except as provided by Section 15 of the Securities Exchange Act of 1934 [15
30 U.S.C. § 78o]. All records so required shall be preserved for three years unless the
31 Administrator by rule prescribes otherwise for particular types of records.

32 (b) Every registered dealer shall file such financial reports as the Administrator by
33 rule prescribes. prescribes, except as provided by Section 15 of the Securities Exchange
34 Act of 1934 [15 U.S.C. § 78o].

35 (c) If the information contained in any document filed with the Administrator is or
36 becomes inaccurate or incomplete in any material respect, the registrant shall promptly
37 file a correcting amendment unless notification of the correction has been given under
38 G.S. 78A-36(b).

39 (d) All the records referred to in subsection (a) of this section are subject at any
40 time or from time to time to such reasonable periodic, special, or other examinations by
41 representatives of the Administrator, within or without this State, as the Administrator
42 deems necessary or appropriate in the public interest or for the protection of investors.
43 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,

1 insofar as he deems it practicable in administering this subsection, may cooperate with
2 the securities administrators of other states, the Securities and Exchange Commission,
3 and any national securities exchange or national securities association registered under
4 the Securities Exchange Act of 1934."

5 Section 8. G.S. 78A-49(d) reads as rewritten:

6 "(d) The Administrator may by rule or order require the filing of any prospectus,
7 pamphlet, circular, form letter, advertisement, or other sales literature or advertising
8 communication addressed or intended for distribution to prospective investors, unless the
9 security or transaction is exempted by G.S. 78A-16 or 78A-17 (except 78A-17(9), (17))
10 and such exemption has not been denied or revoked under ~~G.S. 78A-18~~. G.S. 78A-18 or is
11 a security covered under federal law."

12 Section 9. G.S. 78A-63(a) reads as rewritten:

13 "(a) Sections 78A-8, 78A-10, 78A-24, 78A-31, 78A-36(a), and 78A-56 apply to
14 persons who sell or offer to sell when (i) an offer to sell is made in this State, or (ii) an
15 offer to buy is made and accepted in this State."

16 Section 10. G.S. 78A-63(f) reads as rewritten:

17 "(f) Every applicant for registration under this Chapter and every issuer who
18 proposes to offer a security in this State through any person acting on an agency basis in
19 the common-law sense shall file with the Administrator, in such form as he by rule
20 prescribes, an irrevocable consent appointing the Administrator or his successor in office
21 to be his attorney to receive service of any lawful process in any noncriminal suit, action
22 or proceeding against him or his successor, executor or administrator which arises under
23 this Chapter or any rule or order hereunder after the consent has been filed, with the same
24 force and validity as if served personally on the person filing the consent. A person who
25 has filed such a consent in connection with a previous registration or notice filing need
26 not file another. Service may be made by leaving a copy of the process in the office of the
27 Administrator, but it is not effective unless (i) the plaintiff, who may be the Administrator
28 in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and
29 a copy of the process by registered mail to the defendant or respondent at his address on
30 file with the Administrator, and (ii) the plaintiff's affidavit of compliance with the
31 subsection is filed in the case on or before the return day of the process, if any, or within
32 such further time as the court allows."

34 II. Investment Advisers

35 Section 11. G.S. 78C-2 reads as rewritten:

36 "§ 78C-2. Definitions.

37 When used in this Chapter, the definitions of G.S. 78A-2 shall apply along with the
38 following, unless the context otherwise requires:

- 39 (1) 'Investment adviser' means any person who, for compensation, engages
40 in the business of advising others, either directly or through publications
41 or writings, as to the value of securities or as to the advisability of
42 investing in, purchasing, or selling securities, or who, for compensation
43 and as part of a regular business, issues or promulgates analyses or

1 reports concerning securities. 'Investment adviser' also includes
2 financial planners and other persons who, as an integral component of
3 other financially related services, provide the foregoing investment
4 advisory services to others for compensation and as a part of a business
5 or who hold themselves out as providing the foregoing investment
6 advisory services to others for compensation. 'Investment adviser' does
7 not include:

- 8 a. An investment adviser representative or a person excluded from
9 the definition of investment adviser representative pursuant to
10 G.S. 78C-2(3)c.;
- 11 b. A bank, savings institution, or trust company;
- 12 c. A lawyer, accountant, engineer, or teacher whose performance of
13 any such services is solely incidental to the practice of his
14 profession;
- 15 d. A dealer or its salesman whose performance of these services is
16 solely incidental to the conduct of its business as a dealer and
17 who receives no special compensation for them;
- 18 e. A publisher of any newspaper, news column, newsletter, news
19 magazine, or business or financial publication or service, whether
20 communicated in hard copy form, or by electronic means, or
21 otherwise, that does not consist of the rendering of advice on the
22 basis of the specific investment situation of each client;
- 23 f. A person solely by virtue of such person's services to or on
24 behalf of any 'business development company' as defined in
25 Section 202(a)(22) of the Investment Advisers Act of 1940
26 provided the business development company is not an
27 'investment company' by reason of Section 3(c)(1) of the
28 Investment Company Act of 1940, as both acts were in effect on
29 June 1, 1988;
- 30 g. A personal representative of a decedent's estate, guardian,
31 conservator, receiver, attorney in fact, trustee in bankruptcy,
32 trustee of a testamentary trust, or a trustee of an inter vivos trust,
33 not otherwise engaged in providing investment advisory services,
34 and the performance of these services is not a part of a plan or
35 scheme to evade registration or the substantive requirements of
36 this Chapter;
- 37 h. A licensed real estate agent or broker whose only compensation
38 is a commission on real estate sold;
- 39 i. An individual or company primarily engaged in acting as a
40 business broker whose only compensation is a commission on the
41 sale of a business;
- 42 j. An individual who, as an employee, officer or director of, or
43 general partner in, another person and in the course of

- 1 performance of his duties as such, provides investment advice to
2 such other person, or to entities that are affiliates of such other
3 person, or to employee benefit plans of such other person or its
4 affiliated entities, or, with respect to such employee benefit
5 plans, to employees of such other person or its affiliated entities;
- 6 k. Any person who is exempt from registration under the
7 Investment Advisers Act of 1940 by operation of Section
8 203(b)(3) of said act or by operation of any rule or regulation
9 promulgated by the United States Securities and Exchange
10 Commission under or related to said Section 203(b)(3) provided
11 that any reference in this sub-subsection to any statute, rule or
12 regulation shall be deemed to incorporate said statute, rule or
13 regulation (and any statute, rule or regulation referenced therein)
14 as in effect on June 1, 1988;
- 15 l. An employee of a person described in subdivision b., e., f., g., h.,
16 or j. of G.S. 78C-2(1) acting on behalf of such person within the
17 scope of his employment;
- 18 m. An investment adviser who is covered under federal law as
19 defined in subdivision (4) of this section.
- 20 ~~m.n.~~ Such other persons not within the intent of this subsection as
21 the Administrator may by rule or order designate.
- 22 (2) 'Investment Advisers Act of 1940' means the federal statute of that name
23 as amended before or after the effective date of this Chapter.
- 24 (3) 'Investment adviser representative' means any partner, officer, director
25 (or a person occupying a similar status or performing similar functions)
26 or other individual ~~employed by or associated with an investment adviser,~~
27 ~~except clerical personnel, who: except clerical or ministerial personnel,~~
28 who is employed by or associated with an investment adviser that is
29 registered or required to be registered under this Chapter, or who has a
30 place of business located in this State and is employed by or associated
31 with an adviser excluded under the definition of 'investment adviser
32 covered under federal law', and who:
- 33 a. Makes any recommendations or otherwise renders advice
34 regarding securities directly to clients,
- 35 b. Manages accounts or portfolios of clients,
- 36 c. Determines which recommendations or advice regarding
37 securities should be given; provided, however if there are
38 more than five such persons employed by or associated with
39 an investment adviser, who do not otherwise come within the
40 meaning of G.S. 78C-2(3)a., b., d., or e., then only the direct
41 supervisors of such persons are deemed to be investment
42 adviser representatives under G.S. 78C-2(3)c.,

- 1 d. Solicits, offers or negotiates for the sale of or sells investment
2 advisory services, unless such person is a dealer or salesman
3 registered under Chapter 78A of the General Statutes and the
4 person would not be an investment adviser representative
5 except for the performance of the activities described in G.S.
6 78C-2(3)d., or
7 e. Directly supervises investment adviser representatives as
8 defined in G.S. 78C-2(3)a., b., c. (unless such investment
9 adviser representatives are already required to register due to
10 their role as supervisors by operation of G.S. 78C-2(3)c.), or
11 d. in the performance of the foregoing activities.

12 (4) 'Investment adviser covered under federal law' means any adviser who
13 is (i) registered under Section 203 of the Investment Advisers Act of
14 1940 [15 U.S.C. § 80b-3]; or (ii) excluded from the definition of
15 'investment adviser' under Section 202(a)(11) of the Investment
16 Advisers Act of 1940 [15 U.S.C. § 80b-2(a)(11)]. 'Investment adviser
17 covered under federal law' does not include advisers who have received
18 written notification of nonpayment or underpayment of a fee and have
19 failed and refused to pay the fee.'

20 Section 12. Effective October 10, 1999, G.S. 78C-4, as enacted by Section 11
21 of this act, reads as rewritten:

22 "(4) 'Investment adviser covered under federal law' means any adviser who
23 is (i) registered under Section 203 of the Investment Advisers Act of
24 1940 [15 U.S.C. § 80b-3]; or (ii) excluded from the definition of
25 'investment adviser' under Section 202(a)(11) of the Investment
26 Advisers Act of 1940 [15 U.S.C. § 80b-2(a)(11)]. ~~'Investment adviser~~
27 ~~covered under federal law' does not include advisers who have received~~
28 ~~written notification of nonpayment or underpayment of a fee and have failed~~
29 ~~and refused to pay the fee.'~~

30 Section 13. The title to Article 3 of Chapter 78C reads as rewritten:

31 **"ARTICLE 3.**

32 **"REGISTRATION AND NOTICE FILING PROCEDURES OF INVESTMENT**
33 **ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES."**

34 Section 14. G.S. 78C-16 reads as rewritten:

35 **"§ 78C-16. Registration and notice filing requirement.**

36 (a) It is unlawful for any person to transact business in this State as an investment
37 adviser or as an investment adviser representative unless:

- 38 (1) ~~He~~ The person is ~~so~~ registered under this Chapter;
39 (2) ~~His~~ The person's only clients in this State are investment companies as
40 defined in the Investment Company Act of 1940, other investment
41 advisers, investment advisers covered under federal law, dealers, banks,
42 trust companies, savings institutions, savings and loan associations,
43 insurance companies, employee benefit plans with assets of not less than

1 one million dollars (\$1,000,000), and governmental agencies or
2 instrumentalities, whether acting for themselves or as trustees with
3 investment control, or other institutional investors as are designated by
4 rule or order of the Administrator;

5 (3) ~~He has no place of business in the State and during any period of 12~~
6 ~~consecutive months does not direct business communications into this~~
7 ~~State in any manner to more than 10 clients, other than those specified~~
8 ~~in subdivision (2), whether or not he or any of the persons to whom the~~
9 ~~communications are directed is then present in the State; or~~ The person
10 has no place of business in this State, and during the preceding 12-
11 month period has had not more than five clients, other than those
12 specified in subdivision (2) of this subsection, who are residents of this
13 State; or

14 (4) ~~He~~ The person is an investment adviser representative employed by or
15 associated with an investment adviser exempt from registration under
16 subdivisions (2) or (3), above.

17 (b) ~~It is unlawful for any investment adviser required to be registered to~~
18 ~~employ or associate an investment adviser representative unless the investment adviser~~
19 ~~representative is registered under this Chapter. The registration of an investment adviser~~
20 ~~representative is not effective during any period when he is not employed by or~~
21 ~~associated with an investment adviser registered under this Chapter. When an investment~~
22 ~~adviser representative begins or terminates employment or association with an investment~~
23 ~~adviser, the investment adviser shall promptly notify the Administrator. It is unlawful for~~
24 ~~any (i) person required to be registered as an investment adviser under this Chapter to~~
25 ~~employ an investment adviser representative unless the investment adviser representative~~
26 ~~is registered under this Chapter, provided that the registration of an investment adviser~~
27 ~~representative is not effective during any period when the representative is not employed~~
28 ~~by an investment adviser registered under this Chapter; or (ii) investment adviser covered~~
29 ~~under federal law to employ, supervise, or associate with an investment adviser~~
30 ~~representative having a place of business located in this State, unless the investment~~
31 ~~adviser representative is registered under this Chapter, or is exempt from registration.~~
32 When an investment adviser representative begins or terminates employment with an
33 investment adviser, the investment adviser (in case of G.S. 78C-16(b)(i)), or the
34 investment adviser representative (in case of G.S. 78C-16(b)(ii)) shall notify promptly the
35 Administrator. No investment adviser representative may be registered with more than
36 one investment adviser unless each of the investment advisers which employs or
37 associates the investment adviser representative is under common ownership or control.

38 (c) Every registration or notice filing expires December 31st of each year unless
39 renewed.

40 (d) Except with respect to investment advisers whose only clients are those
41 described in G.S. 78C-16(a)(2), it is unlawful for any investment adviser covered under
42 federal law to conduct advisory business in this State unless the investment adviser
43 complies with the provisions of G.S. 78C-17."

1 Section 15. G.S. 78C-17 read as rewritten:

2 **"§ 78C-17. Registration procedures.**

3 (a) An investment adviser, or investment adviser representative may obtain an
4 initial or renewal registration by filing with the Administrator or his designee an
5 application together with a consent to service of process pursuant to G.S. 78C-46(b). The
6 application shall contain whatever information the Administrator by rule requires
7 concerning such matters as:

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

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

10 (3) The qualifications and business history of the applicant; in the case of
11 an investment adviser, the qualifications and business history of any
12 partner, officer, or director, any person occupying a similar status or
13 performing similar functions, or any person directly or indirectly
14 controlling the investment adviser;

15 (4) Any injunction or administrative order or conviction of a misdemeanor
16 involving a security or any aspect of the securities business and any
17 conviction of a felony;

18 (5) The applicant's financial condition and history; and

19 (6) Any information to be furnished or disseminated to any client or
20 prospective client.

21 If no denial order is in effect and no proceeding is pending under G.S. 78C-19,
22 registration becomes effective at noon of the 30th day after an application is filed. The
23 Administrator may by rule or order specify an earlier effective date, and he may by order
24 defer the effective date until noon of the 30th day after the filing of any amendment.
25 Registration of an investment adviser automatically constitutes registration of any
26 investment adviser representative who is a partner, executive officer, or director, or a
27 person occupying a similar status or performing similar functions.

28 (a1) The Administrator may require investment advisers covered under federal law
29 to file with the Administrator any documentation filed with the Securities and Exchange
30 Commission as a condition of doing business in this State. This subsection does not
31 apply to investment advisers covered under federal law whose only clients are those
32 described in G.S. 78C-16(a)(2).

33 (b) Every applicant for initial or renewal registration shall pay a filing fee of two
34 hundred dollars (\$200.00) in the case of an investment adviser, and forty-five dollars
35 (\$45.00) in the case of an investment adviser representative. When an application is
36 denied or withdrawn, the Administrator shall retain the fee.

37 (c) A registered investment adviser may file an application for registration of a
38 successor, whether or not the successor is then in existence, for the unexpired portion of
39 the year. There shall be no filing fee.

40 (c1) Every person acting as an investment adviser covered under federal law in this
41 State shall pay an initial filing fee of one hundred dollars (\$100.00) and a renewal notice
42 filing fee of one hundred dollars (\$100.00).

1 (d) The Administrator may by rule establish minimum net capital requirements not
2 to exceed one hundred thousand dollars (\$100,000) for registered investment advisers,
3 subject to the limitations of Section 222 of the Investment Advisers Act of 1940 [15
4 U.S.C. § 80(b)-18a], which may include different requirements for those investment
5 advisers who maintain custody of clients' funds or securities or who have discretionary
6 authority over same and those investment advisers who do not.

7 (e) The Administrator may by rule require registered investment advisers who
8 have custody of or discretionary authority over client funds or securities to post surety
9 bonds in amounts up to one hundred thousand dollars (\$100,000), subject to the
10 limitations of Section 222 of the Investment Advisers Act of 1940 [15 U.S.C. § 80(b)-
11 18a], and may determine their conditions. Any appropriate deposit of cash or securities
12 shall be accepted in lieu of any bond so required. No bond may be required of any
13 investment adviser whose minimum net capital, which may be defined by rule, exceeds
14 one hundred thousand dollars (\$100,000). Every bond shall provide for suit thereon by
15 any person who has a cause of action under G.S. 78C-38 and, if the Administrator by rule
16 or order requires, by any person who has a cause of action not arising under this Chapter.
17 Every bond shall provide that no suit may be maintained to enforce any liability on the
18 bond unless brought within the time limitations of G.S. 78C-38(d)."

19 Section 16. G.S. 78C-18 reads as rewritten:

20 "**§ 78C-18. Post-Registration provisions.**

21 (a) Every registered investment adviser shall make and keep such accounts,
22 correspondence, memoranda, papers, books and records as the Administrator by rule
23 ~~prescribes.~~ prescribes, except as provided by Section 222 of the Investment Advisers Act
24 of 1940 [15 U.S.C. § 80(b)-18a].

25 All records so required shall be preserved for three years unless the Administrator by
26 rule prescribes otherwise for particular types of records.

27 (b) With respect to investment advisers, the Administrator may require that certain
28 information be furnished or disseminated as necessary or appropriate in the public
29 interest or for the protection of investors and advisory clients. To the extent determined
30 by the Administrator in his discretion, information furnished to clients or prospective
31 clients of an investment adviser pursuant to the Investment Advisers Act of 1940 and the
32 rules thereunder may be used in whole or partial satisfaction of this requirement.

33 (c) Every registered investment adviser shall file such financial reports as the
34 Administrator by rule ~~prescribes.~~ prescribes, except as provided by Section 222 of the
35 Investment Advisers Act of 1940 [15 U.S.C. § 80(b)-18a].

36 (d) If the information contained in any document filed with the Administrator is or
37 becomes inaccurate or incomplete in any material respect, the registrant or an investment
38 adviser covered under federal law shall promptly file a correcting amendment-amendment,
39 if the document is filed with respect to a registrant or when the amendment is required to
40 be filed with respect to an investment adviser covered under federal law, unless
41 notification of the correction has been given under G.S. 78C-16(b).

42 (e) All the records referred to in subsection (a) of this section are subject at any
43 time or from time to time to such reasonable periodic, special, or other examinations by

1 representatives of the Administrator, within or without this State, as the Administrator
2 deems necessary or appropriate in the public interest or for the protection of investors.
3 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,
4 insofar as he deems it practicable in administering this subsection, may cooperate with
5 the securities administrators of other states, the Securities and Exchange Commission,
6 and any national securities exchange or national securities association registered under
7 the Securities Exchange Act of 1934."

8 Section 17. G.S. 78C-46(b) reads as rewritten:

9 "(b) Every applicant for registration under this Chapter shall file with the
10 Administrator, in such form as he by rule prescribes, an irrevocable consent appointing
11 the Administrator or his successor in office to be his attorney to receive service of any
12 lawful process in any noncriminal suit, action or proceeding against him or his successor,
13 executor or administrator which arises under this Chapter or any rule or order hereunder
14 after the consent has been filed, with the same force and validity as if served personally
15 on the person filing the consent. A person who has filed such a consent in connection
16 with a previous registration or notice filing need not file another. Service may be made
17 by leaving a copy of the process in the office of the Administrator, but it is not effective
18 unless (i) the plaintiff, who may be the Administrator in a suit, action, or proceeding
19 instituted by him, forthwith sends notice of the service and a copy of the process by
20 registered or certified mail to the defendant or respondent at his last address on file with
21 the Administrator, and (ii) the plaintiff's affidavit of compliance with the subsection is
22 filed in the case on or before the return day of the process, if any, or within such further
23 time as the court allows."

24 Section 18. Sections 3 and 12 of this act become effective October 10, 1999.
25 The remainder of this act becomes effective October 1, 1997, and Sections 1 through 10
26 of this act apply to securities offered or sold and to persons who offer or sell securities on
27 or after that date. Sections 11 through 17 of this act apply to advisory business conducted
28 on or after October 1, 1997.