

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 439\*  
Commerce Committee Substitute Adopted 4/10/97

Short Title: Securities/Investment Advisers/AB.

(Public)

Sponsors:

Referred to:

March 20, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO CONFORM THE NORTH CAROLINA SECURITIES ACT AND THE  
3 INVESTMENT ADVISERS ACT TO THE NATIONAL SECURITIES MARKETS  
4 IMPROVEMENT ACT OF 1996.

5 The General Assembly of North Carolina enacts:

6 **I. Securities**

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

8 "1. The security is exempted under subdivisions (1), (2), (3),  
9 (4), (5), (7), (9), (10), (11), (13), or (14) of G.S. 78A-16,  
10 or the transaction is exempted under G.S. 78A-17, and  
11 such exemption has not been denied or revoked under  
12 G.S. 78A-18, or the transaction is in a security covered  
13 under federal law, or".

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

15 "(9) 'Salesman' means any individual other than a dealer who represents a  
16 dealer in effecting or attempting to effect purchases or sales of  
17 securities. 'Salesman' does not include an individual who represents (i)  
18 an issuer in effecting transactions in a security described in sub-  
19 subdivision (2)d. of this section or a security covered under federal law,

1 provided no commission or other special remuneration is paid or given  
2 directly or indirectly for soliciting any prospective purchaser in this  
3 State; or (ii) a dealer in effecting transactions in this State limited to  
4 those transactions described in Section 15(h)(2) of the Securities  
5 Exchange Act of 1934 [15 U.S.C. § 78o(h)(2)]. A partner, executive  
6 officer, or director of a dealer, or a person occupying a similar status or  
7 performing similar functions, is a salesman only if he otherwise comes  
8 within this definition."

9 Section 3. G.S. 78A-2 is amended by adding a new subdivision to read:

10 "(11a) 'Security covered under federal law' means any security that is a covered  
11 security under Section 18(b) of the Securities Act of 1933 [15 U.S.C. §  
12 77r(b)] or rules or regulations adopted under that section. 'Security  
13 covered under federal law' does not include a security for which a fee  
14 required by this Article has not been paid and promptly remedied  
15 following written notification from the Administrator to the issuer of the  
16 nonpayment or underpayment of the fee.'"

17 Section 4. Effective October 10, 1999, G.S. 78A-2(11a), as enacted by Section  
18 3 of this act, reads as rewritten:

19 "(11a) 'Security covered under federal law' means any security that is a covered  
20 security under Section 18(b) of the Securities Act of 1933 [15 U.S.C. §  
21 77r(b)] or rules or regulations adopted under that section. ~~'Security~~  
22 ~~covered under federal law' does not include a security for which a fee required~~  
23 ~~by this Article has not been paid and promptly remedied following written~~  
24 ~~notification from the Administrator to the issuer of the nonpayment or~~  
25 ~~underpayment of the fee.'~~"

26 Section 5. G.S. 78A-17(16) reads as rewritten:

27 "(16) Any offer to purchase or to sell or any sale or issuance of a security  
28 security, other than a security covered under federal law, pursuant to a  
29 plan approved by the Administrator after a hearing conducted pursuant  
30 to the provisions of G.S. 78A-30 of this Chapter. G.S. 78A-30."

31 Section 6. The title to Article 4 of Chapter 78A reads as rewritten:

#### 32 "ARTICLE 4.

### 33 "REGISTRATION AND NOTICE FILING PROCEDURES OF SECURITIES."

34 Section 7. G.S. 78A-24 reads as rewritten:

#### 35 "**§ 78A-24. Registration requirement.**

36 It is unlawful for any person to offer or sell any security in this State unless (i) it is  
37 registered under this ~~Chapter or Chapter~~, (ii) the security or transaction is exempted under  
38 G.S. 78A-16 or 78A-17 and such exemption has not been denied or revoked under ~~G.S.~~  
39 ~~78A-18. G.S. 78A-18~~, or (iii) it is a security covered under federal law."

40 Section 8. G.S. 78A-30(d) reads as rewritten:

41 "(d) The Administrator's authority under this section shall extend to the issuance or  
42 the delivery of securities or ~~the delivery of~~ other consideration:

43 (1) By any corporation organized under the laws of this State; or

- 1           (2) In any transaction which is subject to the registration or qualification  
2 requirements of this Chapter or which would be so subject except for  
3 the availability of an exemption under G.S. 78A-16 or ~~78A-17~~ or by  
4 ~~reason of G.S. 78A-2(8)(f)-78A-17~~, by reason of G.S. 78A-2(8)(f), or by  
5 reason that the security is a security covered under federal law."

6           Section 9. Article 4 of Chapter 78A of the General Statutes is amended by  
7 adding a new section to read:

8 **"§ 78A-31. Securities covered under federal law.**

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

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

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

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

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

33           (c) The Administrator, by rule or order, may require the filing of any document  
34 filed with the Securities and Exchange Commission under the Securities Act of 1933,  
35 with respect to a security covered under Section 18(b)(3) or (4) of the Securities Act of  
36 1933 [15 U.S.C. § 77r(b)(3) or (4)]. The Administrator may, by rule, establish a fee to  
37 recover costs for any filing required under this section, not to exceed one hundred fifty  
38 dollars (\$150.00).

39           (d) The Administrator may issue a stop order or a cease and desist order  
40 suspending the offer and sale of a covered security except a covered security under  
41 Section 18(b)(1) of the Securities Act of 1933 [15 U.S.C. § 77r(b)(1)], if the  
42 Administrator finds that (i) the order is in the public interest, and (ii) there is a failure to  
43 comply with any condition established under this section.

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

3 Section 10. G.S. 78A-38 reads as rewritten:

4 "**§ 78A-38. Post-registration provisions.**

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

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

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

17 (d) All the records referred to in subsection (a) of this section are subject at any  
18 time or from time to time to such reasonable periodic, special, or other examinations by  
19 representatives of the Administrator, within or without this State, as the Administrator  
20 deems necessary or appropriate in the public interest or for the protection of investors.  
21 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,  
22 insofar as he deems it practicable in administering this subsection, may cooperate with  
23 the securities administrators of other states, the Securities and Exchange Commission,  
24 and any national securities exchange or national securities association registered under  
25 the Securities Exchange Act of 1934."

26 Section 11. G.S. 78A-49(d) reads as rewritten:

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

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

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

37 Section 13. G.S. 78A-63(f) reads as rewritten:

38 "(f) Every applicant for registration under this Chapter and every issuer who  
39 proposes to offer a security in this State through any person acting on an agency basis in  
40 the common-law sense shall file with the Administrator, in such form as he by rule  
41 prescribes, an irrevocable consent appointing the Administrator or his successor in office  
42 to be his attorney to receive service of any lawful process in any noncriminal suit, action  
43 or proceeding against him or his successor, executor or administrator which arises under

1 this Chapter or any rule or order hereunder after the consent has been filed, with the same  
2 force and validity as if served personally on the person filing the consent. A person who  
3 has filed such a consent in connection with a previous registration or notice filing need  
4 not file another. Service may be made by leaving a copy of the process in the office of the  
5 Administrator, but it is not effective unless (i) the plaintiff, who may be the Administrator  
6 in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and  
7 a copy of the process by registered mail to the defendant or respondent at his address on  
8 file with the Administrator, and (ii) the plaintiff's affidavit of compliance with the  
9 subsection is filed in the case on or before the return day of the process, if any, or within  
10 such further time as the court allows."

## 11 12 **II. Investment Advisers**

13 Section 14. G.S. 78C-2 reads as rewritten:

### 14 **"§ 78C-2. Definitions.**

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

- 17 (1) 'Investment adviser' means any person who, for compensation, engages  
18 in the business of advising others, either directly or through publications  
19 or writings, as to the value of securities or as to the advisability of  
20 investing in, purchasing, or selling securities, or who, for compensation  
21 and as part of a regular business, issues or promulgates analyses or  
22 reports concerning securities. 'Investment adviser' also includes  
23 financial planners and other persons who, as an integral component of  
24 other financially related services, provide the foregoing investment  
25 advisory services to others for compensation and as a part of a business  
26 or who hold themselves out as providing the foregoing investment  
27 advisory services to others for compensation. 'Investment adviser' does  
28 not include:
- 29 a. An investment adviser representative or a person excluded from  
30 the definition of investment adviser representative pursuant to  
31 G.S. 78C-2(3)c.;
  - 32 b. A bank, savings institution, or trust company;
  - 33 c. A lawyer, accountant, engineer, or teacher whose performance of  
34 any such services is solely incidental to the practice of his  
35 profession;
  - 36 d. A dealer or its salesman whose performance of these services is  
37 solely incidental to the conduct of its business as a dealer and  
38 who receives no special compensation for them;
  - 39 e. A publisher of any newspaper, news column, newsletter, news  
40 magazine, or business or financial publication or service, whether  
41 communicated in hard copy form, or by electronic means, or  
42 otherwise, that does not consist of the rendering of advice on the  
43 basis of the specific investment situation of each client;

- 1 f. A person solely by virtue of such person's services to or on  
2 behalf of any 'business development company' as defined in  
3 Section 202(a)(22) of the Investment Advisers Act of 1940  
4 provided the business development company is not an  
5 'investment company' by reason of Section 3(c)(1) of the  
6 Investment Company Act of 1940, as both acts were in effect on  
7 June 1, 1988;
- 8 g. A personal representative of a decedent's estate, guardian,  
9 conservator, receiver, attorney in fact, trustee in bankruptcy,  
10 trustee of a testamentary trust, or a trustee of an inter vivos trust,  
11 not otherwise engaged in providing investment advisory services,  
12 and the performance of these services is not a part of a plan or  
13 scheme to evade registration or the substantive requirements of  
14 this Chapter;
- 15 h. A licensed real estate agent or broker whose only compensation  
16 is a commission on real estate sold;
- 17 i. An individual or company primarily engaged in acting as a  
18 business broker whose only compensation is a commission on the  
19 sale of a business;
- 20 j. An individual who, as an employee, officer or director of, or  
21 general partner in, another person and in the course of  
22 performance of his duties as such, provides investment advice to  
23 such other person, or to entities that are affiliates of such other  
24 person, or to employee benefit plans of such other person or its  
25 affiliated entities, or, with respect to such employee benefit  
26 plans, to employees of such other person or its affiliated entities;
- 27 k. Any person who is exempt from registration under the  
28 Investment Advisers Act of 1940 by operation of Section  
29 203(b)(3) of said act or by operation of any rule or regulation  
30 promulgated by the United States Securities and Exchange  
31 Commission under or related to said Section 203(b)(3) provided  
32 that any reference in this sub-subsection to any statute, rule or  
33 regulation shall be deemed to incorporate said statute, rule or  
34 regulation (and any statute, rule or regulation referenced therein)  
35 as in effect on June 1, 1988;
- 36 l. An employee of a person described in subdivision b., e., f., g., h.,  
37 or j. of G.S. 78C-2(1) acting on behalf of such person within the  
38 scope of his employment;
- 39 m. An investment adviser who is covered under federal law as  
40 defined in subdivision (4) of this section.
- 41 ~~m-n.~~ Such other persons not within the intent of this subsection as  
42 the Administrator may by rule or order designate.

- 1 (2) 'Investment Advisers Act of 1940' means the federal statute of that name  
2 as amended before or after the effective date of this Chapter.
- 3 (3) 'Investment adviser representative' means any partner, officer, director  
4 (or a person occupying a similar status or performing similar functions)  
5 or other individual ~~employed by or associated with an investment adviser,~~  
6 ~~except clerical personnel, who:~~ except clerical or ministerial personnel,  
7 who is employed by or associated with an investment adviser that is  
8 registered or required to be registered under this Chapter, or who has a  
9 place of business located in this State and is employed by or associated  
10 with an adviser excluded under the definition of 'investment adviser  
11 covered under federal law', and who:
- 12 a. Makes any recommendations or otherwise renders advice  
13 regarding securities directly to clients,
- 14 b. Manages accounts or portfolios of clients,
- 15 c. Determines which recommendations or advice regarding  
16 securities should be given; provided, however if there are  
17 more than five such persons employed by or associated with  
18 an investment adviser, who do not otherwise come within the  
19 meaning of G.S. 78C-2(3)a., b., d., or e., then only the direct  
20 supervisors of such persons are deemed to be investment  
21 adviser representatives under G.S. 78C-2(3)c.,
- 22 d. Solicits, offers or negotiates for the sale of or sells investment  
23 advisory services, unless such person is a dealer or salesman  
24 registered under Chapter 78A of the General Statutes and the  
25 person would not be an investment adviser representative  
26 except for the performance of the activities described in G.S.  
27 78C-2(3)d., or
- 28 e. Directly supervises investment adviser representatives as  
29 defined in G.S. 78C-2(3)a., b., c. (unless such investment  
30 adviser representatives are already required to register due to  
31 their role as supervisors by operation of G.S. 78C-2(3)c.), or  
32 d. in the performance of the foregoing activities.
- 33 (4) 'Investment adviser covered under federal law' means any adviser who  
34 is (i) registered under Section 203 of the Investment Advisers Act of  
35 1940 [15 U.S.C. § 80b-3]; or (ii) excluded from the definition of  
36 'investment adviser' under Section 202(a)(11) of the Investment  
37 Advisers Act of 1940 [15 U.S.C. § 80b-2(a)(11)]. 'Investment adviser  
38 covered under federal law' does not include advisers who have received  
39 written notification of nonpayment or underpayment of a fee and have  
40 failed and refused to pay the fee."

41 Section 15. Effective October 10, 1999, G.S. 78C-2(4) as enacted by Section  
42 14 of this act, reads as rewritten:



1 ~~adviser representative begins or terminates employment or association with an investment~~  
2 ~~adviser, the investment adviser shall promptly notify the Administrator. It is unlawful for~~  
3 ~~any (i) person required to be registered as an investment adviser under this Chapter to~~  
4 ~~employ an investment adviser representative unless the investment adviser representative~~  
5 ~~is registered under this Chapter, provided that the registration of an investment adviser~~  
6 ~~representative is not effective during any period when the representative is not employed~~  
7 ~~by an investment adviser registered under this Chapter; or (ii) investment adviser covered~~  
8 ~~under federal law to employ, supervise, or associate with an investment adviser~~  
9 ~~representative having a place of business located in this State, unless the investment~~  
10 ~~adviser representative is registered under this Chapter, or is exempt from registration.~~  
11 ~~When an investment adviser representative begins or terminates employment with an~~  
12 ~~investment adviser, the investment adviser (in case of G.S. 78C-16(b)(i)), or the~~  
13 ~~investment adviser representative (in case of G.S. 78C-16(b)(ii)) shall notify promptly the~~  
14 ~~Administrator. No investment adviser representative may be registered with more than~~  
15 ~~one investment adviser unless each of the investment advisers which employs or~~  
16 ~~associates the investment adviser representative is under common ownership or control.~~

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

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

23 Section 18. G.S. 78C-17 reads as rewritten:

24 **"§ 78C-17. Registration procedures.**

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

- 30 (1) The applicant's form and place of organization;
- 31 (2) The applicant's proposed method of doing business;
- 32 (3) The qualifications and business history of the applicant; in the case of  
33 an investment adviser, the qualifications and business history of any  
34 partner, officer, or director, any person occupying a similar status or  
35 performing similar functions, or any person directly or indirectly  
36 controlling the investment adviser;
- 37 (4) Any injunction or administrative order or conviction of a misdemeanor  
38 involving a security or any aspect of the securities business and any  
39 conviction of a felony;
- 40 (5) The applicant's financial condition and history; and
- 41 (6) Any information to be furnished or disseminated to any client or  
42 prospective client.

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

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

13 (b) Every applicant for initial or renewal registration shall pay a filing fee of two  
14 hundred dollars (\$200.00) in the case of an investment adviser, and forty-five dollars  
15 (\$45.00) in the case of an investment adviser representative. When an application is  
16 denied or withdrawn, the Administrator shall retain the fee.

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

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

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

29 (e) The Administrator may by rule require registered investment advisers who  
30 have custody of or discretionary authority over client funds or securities to post surety  
31 bonds in amounts up to one hundred thousand dollars (\$100,000), subject to the  
32 limitations of Section 222 of the Investment Advisers Act of 1940 [15 U.S.C. § 80(b)-  
33 18a], and may determine their conditions. Any appropriate deposit of cash or securities  
34 shall be accepted in lieu of any bond so required. No bond may be required of any  
35 investment adviser whose minimum net capital, which may be defined by rule, exceeds  
36 one hundred thousand dollars (\$100,000). Every bond shall provide for suit thereon by  
37 any person who has a cause of action under G.S. 78C-38 and, if the Administrator by rule  
38 or order requires, by any person who has a cause of action not arising under this Chapter.  
39 Every bond shall provide that no suit may be maintained to enforce any liability on the  
40 bond unless brought within the time limitations of G.S. 78C-38(d)."

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

42 "**§ 78C-18. Post-Registration provisions.**

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

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

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

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

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

22 (e) All the records referred to in subsection (a) of this section are subject at any  
23 time or from time to time to such reasonable periodic, special, or other examinations by  
24 representatives of the Administrator, within or without this State, as the Administrator  
25 deems necessary or appropriate in the public interest or for the protection of investors.  
26 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,  
27 insofar as he deems it practicable in administering this subsection, may cooperate with  
28 the securities administrators of other states, the Securities and Exchange Commission,  
29 and any national securities exchange or national securities association registered under  
30 the Securities Exchange Act of 1934."

31 Section 20. G.S. 78C-46(b) reads as rewritten:

32 "(b) Every applicant for registration under this Chapter shall file with the  
33 Administrator, in such form as he by rule prescribes, an irrevocable consent appointing  
34 the Administrator or his successor in office to be his attorney to receive service of any  
35 lawful process in any noncriminal suit, action or proceeding against him or his successor,  
36 executor or administrator which arises under this Chapter or any rule or order hereunder  
37 after the consent has been filed, with the same force and validity as if served personally  
38 on the person filing the consent. A person who has filed such a consent in connection  
39 with a previous registration or notice filing need not file another. Service may be made  
40 by leaving a copy of the process in the office of the Administrator, but it is not effective  
41 unless (i) the plaintiff, who may be the Administrator in a suit, action, or proceeding  
42 instituted by him, forthwith sends notice of the service and a copy of the process by  
43 registered or certified mail to the defendant or respondent at his last address on file with

1 the Administrator, and (ii) the plaintiff's affidavit of compliance with the subsection is  
2 filed in the case on or before the return day of the process, if any, or within such further  
3 time as the court allows."

4           Section 21. Sections 4 and 15 of this act become effective October 10, 1999.  
5 The remainder of this act becomes effective October 1, 1997. Sections 1 through 13 of  
6 this act apply to securities offered or sold and to persons who offer or sell securities on or  
7 after the applicable effective date of each of these sections. Sections 14 through 20 of  
8 this act apply to advisory business conducted on or after the applicable effective date of  
9 each of these sections.