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NASAA

March 22, 2017

Representative Sam Kito
Chairman
Committee on Labor & Commerce
Alaska House of Representatives
State Capitol, 120 4th St.
Juneau, AK 99801

Representative Adam Woll
Vice-Chairman
Committee on Labor & Commerce
Alaska House of Representatives
State Capitol, 120 4th St.
Juneau, AK 99801

Re: H.B. 170 (The Alaska Securities Act)

Dear Mr. Chairman and Mr. Vice-Chairman:

On behalf of the North American Securities Administrators Association ("NASAA"),[1] I write to express support for H.B. 170, which would enact a number of changes to the Alaska Securities Act. If enacted, H.B. 170 would modernize Alaska's securities laws in important ways, benefitting Alaskan investors and businesses.

H.B. 170 would amend the Alaska Securities Act ("ASA")[2] to enact elements of the Uniform Securities Act of 2002 ("Uniform Act"), updating Alaska's securities laws to incorporate provisions that have proven successful in many other states. It would also make operational and technical improvements to Alaska's securities laws – updating it to reflect technological advances such as the internet; and revising the law to eliminate redundant and outdated language, such as references to communications by telegraph and to stock exchanges that no longer exist. Streamlining Alaska's securities laws will make it more consistent with those of other states, and help Alaska's securities marketplace become more efficient and accessible to issuers, investors, and other participants.

In addition to updating the ASA, Alaskans stand to benefit from a variety of specific and innovative provisions in the legislation that strengthen protections for Alaskan investors. In short, the legislation will improve the state's securities laws and strengthen protection for investors.

While H.B. 170 contains provisions that will aid Alaska businesses and innovators, these measures would also take significant steps to strengthen protections for Alaska's retail investors. The legislation would permit the Alaska Securities Division ("Division") to impose a bar upon registration, which is currently not allowed under the ASA, even for the most egregious conduct.

[1] The oldest international organization devoted to investor protection, the North American Securities Administrators, Inc. was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico and the U.S. Virgin Islands. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

[2] The Alaska Securities Act provides the legal framework for the offering or selling of securities within Alaska.

President: Mike Rothman (Minnesota)
President-Elect: Joseph Borg (Alabama)
Past-President: Judith Shaw (Maine)
Executive Director: Joseph Brady
Secretary: Shonita Bossier (Kentucky)
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Directors: Kevin Anselm (Alaska)
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Pamela Epting (Florida)
Melanie Senter Lubin (Maryland)

In addition, H.B. 170 would increase the maximum civil penalty for registrants from its current $2,500-$10,000 per violation to up to $100,000 per violation, the maximum administrative penalty from $25,000 to $100,000 per violation, and allow for even greater sanctions in cases where the victim is an "older Alaskan" (a person over 60 years old). Further, the legislation would allow the Division to impose restitution costs, assessments to recover the actual costs of an investigation, and would authorize the Division to deny the use of securities exemptions under Article 2 and registration (licensing) exemptions under Article 4 if a person violates the Act. Finally, the legislation would establish a fund for investor education and training, which would be financed using a portion of civil penalties received by the state.

Importantly, the legislation also includes provisions based directly on the NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation ("Model Act" or "Act").[3] The NASAA Model Act gives industry participants and state regulators new tools to help detect and prevent financial exploitation of vulnerable adults. The Act mandates reporting to a state securities regulator and state adult protective services agency when a qualified individual has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred. The Act also authorizes disclosure to third parties only in instances where an eligible adult has previously designated the third party to whom disclosure may be made. Finally, the Act directs that disclosures may not be made to the third party if the qualified individual suspects the third party of the financial exploitation.

The Model Act is the culmination of well over a year of work by NASAA, including extensive public and internal comment. The Model Act originated as an initiative of NASAA's Committee on Senior Issues and Diminished Capacity ("Seniors Committee" or "Committee"), formed in 2014. On September 29, 2015, a draft of the proposed Model Act was released for a 30-day public comment period.[4] The Committee received and considered comments from various interested parties and considered a similar proposal contained in Regulatory Notice 15-37 issued by the Financial Industry Regulatory Authority ("FINRA"). Furthermore, in light of federal legislation proposed in October 2015, the Committee conducted further internal review in late 2015 and revised several elements of the Model Act. On December 22, 2015, NASAA's Board of Directors approved the Committee's request to submit the proposed Model Act to the NASAA membership for consideration. In January, 2016, NASAA members voted to approve the Model Act.

The NASAA Model Act was finalized on January 22, 2016 and four U.S. states enacted the Model Act or similar legislation later that year.[5] In 2017, as of March 20, the legislation has been introduced and is being actively considered by at least 14 U.S. states, including Alaska.[6] In

[3] Additional information about the NASAA Model Act to Protect Seniors and Vulnerable Adults is available at serveourseniors.org/about/policy-makers/nasaa-model-act/commentary/.

[4] *See* Notice of Request for Comments Regarding NASAA's Proposed Model Legislation or Regulation to Protect Vulnerable Adults from Financial Exploitation (Sept. 29, 2015), available at nasaa.org/37301/notice-of-request-forcomments-regarding-nasaas-proposed-model-legislation-of-regulation-to-protect-vulnerable-adults-fromfinancial-exploitation/.

[5] The four states are Vermont, Indiana, Alabama, and Louisiana.

[6] The fourteen states are Alaska, Arkansas, Colorado, Indiana, Kentucky, Maryland, Minnesota, Mississippi, Montana, New Mexico, New York, Oregon, North Dakota, and Texas.

a large majority of states, the legislation has already been approved by legislative committees, and several states have recently passed the bill through one or another body of their legislatures.[7]

In conclusion, NASAA supports H.B. 170. We appreciate the opportunity to comment on the bill, and would be pleased to assist the Committee in any way possible.

Sincerely,



Mike Rothman
NASAA President and Minnesota Commissioner of Commerce

[7] Passage by single body: Indiana, North Dakota; Passage by both bodies: Arkansas, Maryland, Mississippi, Montana, and New Mexico.