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Referred: Judiciary and
Finance

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1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 143 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Securities Act; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 45.55.140(a)(5) is amended to read:

10 (5) a security [AN INVESTMENT CONTRACT] issued in connec-
11 tion with an employee's stock purchase, savings, pension, profit-
12 sharing, or similar employee's benefit plan [IF THE ADMINISTRATOR IS
13 NOTIFIED IN WRITING 30 DAYS BEFORE THE INCEPTION OF THE PLAN OR, WITH
14 RESPECT TO PLANS WHICH ARE IN EFFECT ON MAY 9, 1959, WITHIN 60 DAYS
15 THEREAFTER, OR WITHIN 30 DAYS BEFORE THEY ARE REOPENED IF THEY ARE
16 CLOSED ON MAY 9, 1959];

17 * Sec. 2. AS 45.55.200 is repealed and reenacted to read:

18 Sec. 45.55.200. ORDERS, INJUNCTIONS, AND CIVIL PENALTIES. (a)
19 If it appears to the administrator that a person has engaged or is
20 about to engage in an act or practice in violation of a provision of
21 this chapter or regulation or order under this chapter, the adminis-
22 trator may

23 (1) in the public interest or for the protection of inves-
24 tors, issue an order

25 (A) directing the person to cease and desist from
26 continuing the act or practice;

27 (B) directing the person, for a period not to exceed
28 three years, to file the annual reports, proxies, consents or
29 authorizations, proxy statements, or other materials relating to

1 proxy solicitations required under AS 45.55.139 with the adminis-
2 trator for examination and review 10 working days before a dis-
3 tribution to shareholders; and

4 (C) voiding the proxies obtained by a person required
5 to file under AS 45.55.139, including their future exercise or
6 actions resulting from their past exercise, if the proxies were
7 solicited by means of an untrue or misleading statement pro-
8 hibited under AS 45.55.160; or

9 (2) bring an action in the superior court to enjoin the
10 acts or practices and to enforce compliance with this chapter or
11 regulation or order under this chapter, and upon a proper showing, the
12 appropriate remedy must be granted and a receiver or conservator may
13 be appointed for the defendant or the defendant's assets; the court
14 may not require the administrator to post a bond.

15 (b) The administrator may issue an order against an applicant,
16 registered person, or other person who knowingly or intentionally vio-
17 lates this chapter or a regulation or order of the administrator under
18 this chapter, imposing a civil penalty of not more than \$2,500 for a
19 single violation, or not more than \$25,000 for multiple violations, in
20 a single proceeding or a series of related proceedings.

21 (c) For violations not covered by (b) of this section, the
22 administrator may issue an order against an applicant, registered per-
23 son, or other person who violates this chapter or a regulation or
24 order of the administrator under this chapter, imposing a civil
25 penalty of not more than \$500 for a single violation, or not more than
26 \$5,000 for multiple violations, in a single proceeding or a series of
27 related proceedings.

28 (d) Before issuing an order under (a)(1), (b), or (c) of this
29 section, the administrator shall give reasonable notice of and an

1 opportunity for a hearing. However, the administrator may issue a
2 temporary order under (a)(1) of this section pending the hearing,
3 which remains in effect until 10 days after the hearing is held and
4 which becomes final if the person to whom notice is addressed does not
5 request a hearing within 15 days after the receipt of notice.

6 * Sec. 3. AS 45.55.210(a) is amended to read:

7 (a) In addition to the civil penalties assessed under AS 45.55.-
8 200, a [A] person who wilfully violates a provision of this chapter
9 except AS 45.55.160, or who wilfully violates a regulation or order
10 under this chapter, or who wilfully violates AS 45.55.160 knowing the
11 statement made to be false or misleading in a material respect or the
12 omission to be misleading by any material respect, upon conviction, is
13 punishable by a fine of not more than \$5,000, or by imprisonment for
14 not less than one year nor more than five years, or both. Upon con-
15 viction of an individual for a felony under this chapter, imprisonment
16 for not less than one year is mandatory. However, an individual may
17 not be imprisoned for the violation of a regulation or order if the
18 individual proves that the individual had no knowledge of the regu-
19 lation or order. An indictment or information may not be returned
20 under this chapter more than five years after the alleged violation.

21 * Sec. 4. AS 45.55.260(c) is amended to read:

22 (c) For the purpose of this section, an offer to sell or to buy
23 is made in this state, whether or not either party is then present in
24 this state, when the offer

25 (1) originates from this state; [OR]

26 (2) is directed by the offeror to this state and received at
27 the place to which it is directed, or at a post office in this state
28 in the case of a mailed offer;

29 (3) is for an interest or participation in an oil, gas, or

1 mining right, title, or lease on land in the state, including sub-
2 merged land, regardless of where the offer is made;

3 (4) is for an interest or participation in payments out of
4 production under an oil, gas, or mining right, title or lease on land
5 in the state, including submerged land, regardless of where the offer
6 is made; or

7 (5) is for an interest or participation in real property
8 located in the state, or in a domestic corporation or a domestic
9 limited partnership; jurisdiction under this paragraph may be ex-
10 ercised only when the exercise is not inconsistent with the consti-
11 tution of this state or of the United States.

12 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).