

conveyance so seized was being used for the transportation of any illegally possessed narcotic drug, it shall render judgment accordingly and declare the conveyance forfeited to the state. Thereupon, the conveyance shall be delivered to the Department of Public Safety under the order of said court, to be sold at public auction.

Sec. 3. No conveyance used as a common carrier, in the transaction of business as such common carrier, shall be forfeited under the provisions of this Act unless the owner or other person legally in charge of the conveyance was at the time of the alleged illegal act a consenting party or privy thereto. No conveyance shall be forfeited by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or this state. No conveyance shall be forfeited under the provisions of this Act, unless the owner of the conveyance was, at the time of the alleged illegal act, a consenting party to

said illegal act or privy thereto. A person holding any lien, mortgage or conditional sales contract on a conveyance seized under the provisions of this Act may appear before the court in the proceeding for forfeiture to petition for remittance or mitigation of the forfeiture. The court shall remit or mitigate the forfeiture if it determines that the petitioner has an interest in the conveyance which he acquired in good faith and without knowledge or reason to believe that the conveyance was being or would be used in the transportation of any illegally possessed narcotic drug.

Sec. 4. When used in this Act:

(1) the term "conveyance" includes any vessel, vehicle, trailer or aircraft.

(2) the term "narcotic drug" means any narcotic drug as now or hereafter defined by the federal internal revenue laws, or the regulations issued thereunder, the federal Marihuana Tax Act of 1937, or the regulations issued thereunder.

Sec. 5. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 17, 1961

CHAPTER 105

AN ACT

Relating to securities; requiring registration of securities; amending Ch. 198, SLA 1959; repealing and re-enacting subparagraph (9), subsec. (b), Sec. 302, Ch. 198, SLA 1959; repealing subsec. (d), Sec. 312, Ch. 198, SLA 1959; and providing for an effective date.

(H.B. 35)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Subsec. (b), Sec. 301, Ch. 198, SLA 1959 is amended to read as follows:

(b) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchase or sale of securities. "Agent" does not include an individual who represents an issuer in (1) effecting transactions in a security exempted by clause (1), (2), (3), (4), or (5) of section 302 (a), (2) effecting transactions exempted by section 302 (b), or (3) effecting transactions with existing employees, partners, or

directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition.

Sec. 2. Sec. 301, Ch. 198, SLA 1959 is amended by adding a new subsection (m) to read as follows:

(m) "Non-issuer" means not directly or indirectly for the benefit of the issuer.

Sec. 3. Subsec. (a), Sec. 302, Ch. 198, SLA 1959 is amended to read as follows:

(a) The following securities are exempted from sections 401 and 303:

Sec. 4. Subparagraph (5), subsec. (a), Sec. 302, Ch. 198, SLA 1959 is amended to read as follows:

(5) any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the Administrator is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on the effective date of this Act, within sixty days thereafter (or within thirty days before they are reopened if they are closed on the effective date of this Act);

Sec. 5. Subsec. (a), Sec. 302, Ch. 198, SLA 1959 is amended by adding the following new subparagraphs:

(6) any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(7) any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state; but this exemption does not apply to an annuity contract, investment contract, or similar security under which the promised payments are not fixed in dollars but are substantially dependent upon the investment results of a segregated fund or account invested in securities; provided, however, that policies or annuity contracts of insurance companies admitted to do business in the state of Alaska shall not be subject to the provisions of this Act;

(8) any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state;

(9) any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the Interstate Commerce Commission; (b) a registered holding company under the Public Utility Holding

Company Act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(10) any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange, or 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;

(11) any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association.

Sec. 6. Subsec. (b), Sec. 302, Ch. 198, SLA 1959 is amended to read as follows:

(b) The following transactions are exempted from sections 401 and 303:

Sec. 7. Subparagraph (3), subsec. (b), Sec. 302, Ch. 198, SLA 1959, is amended to read as follows:

(3) any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

Sec. 8. Subparagraph (9), subsec. (b), Sec. 302, Ch. 198, SLA 1959, is repealed and re-enacted to read as follows:

(9) any isolated non-issuer transaction, whether effected through a broker-dealer or not;

Sec. 9. Subsec. (b), Sec. 302, Ch. 198, SLA 1959 is amended by adding the following new subparagraphs:

(10) any non-issuer distribution of an outstanding security if (a) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months,

and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (b) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(11) any non-issuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the Administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(12) any transaction executed by a bona fide pledgee without any purpose of evading this Act;

Sec. 10. Subsec. (c), Sec. 302, Ch. 198, SLA 1959 is amended to read as follows:

(c) In any proceeding under this Act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

Sec. 11. Sec. 302, Ch. 198, SLA 1959 is amended by adding a new subsection (d) to read as follows:

(d) The Administrator may by order deny or revoke any exemption specified in clause (5) or (7) of subsec. (a) or in subsec. (b) with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the Administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this subsection. Upon the entry of a summary order, the Administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Administrator, the order

will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

No order under this subsection may operate retroactively. No person may be considered to have violated section 401 or 303 by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order.

Sec. 12. Sec. 303, Ch. 198, SLA 1959 is amended to read as follows:

Sec. 303. **Filing of Sales and Advertising Literature.** The Administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser, unless the security or transaction is exempted by section 302.

Sec. 13. Subsec. (a), Sec. 305, Ch. 198, SLA 1959 is amended to read as follows:

(a) Neither (1) the fact that an application for registration under Part II or a registration statement under Part IV has been filed nor (2) the fact that a person or security is effectively registered constitutes a finding by the Administrator that any document filed under this Act is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the Administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction.

Sec. 14. Subparagraph (1), subsec. (a), Sec. 310, Ch. 198, SLA 1959 is amended to read as follows:

(1) offers or sells a security in violation of section 201 (a), 401, or 305 (b), or of any rule or order under section 303 which requires the filing of sales literature before it is used, or of any

condition imposed under section 404 (d), 405 (g), or 405 (h), or

Sec. 15. Subsec. (d), Sec. 312, Ch. 198, SLA 1959 is repealed.

Sec. 16. Subsec. (b), Sec. 313, Ch. 198, SLA 1959, is amended to read as follows:

(b) The Administrator shall keep a register of all applications for registration and registration statements which are or have ever been effective under this Act and all denial, suspension, or revocation orders which have been entered under this Act. The register shall be open for public inspection.

Sec. 17. Subsec. (c), Sec. 313, Ch. 198, SLA 1959 is amended to read as follows:

(c) The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the Administrator prescribes.

Sec. 18. Subsec. (a), Sec. 314, Ch. 198, SLA 1959, is amended to read as follows:

(a) Sections 101, 201 (a), 401, 305, and 310 apply to persons who sell or offer to sell when (1) an offer to sell is made in this state, or (2) an offer to buy is made and accepted in this state.

Sec. 19. Ch. 198, SLA 1959 is amended by adding a new Part IV to read as follows:

Part IV

Registration of Securities

Section 401. Registration Requirement. It is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this Act or (2) the security or transaction is exempted under section 302.

Section 402. Registration by Notification.

(a) The following securities may be registered by notification, whether or not they are also eligible for registration by coordination under section 403:

(1) any security whose issuer and any predecessors have been in continuous operation for at least five years if (A) there has been no default during the current fiscal year or within the three preceding fiscal years in the pay-

ment of principal, interest, or dividends on any security of the issuer (or any predecessor) with a fixed maturity or a fixed interest or dividend provision, and (B) the issuer and any predecessor during the past three fiscal years have had average net earnings, determined in accordance with generally accepted accounting practices, (i) which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision outstanding at the date the registration statement is filed and equal at least five per cent of the amount of such outstanding securities (as measured by the maximum offering price or the market price on a day, selected by the registrant, within thirty days before the date of filing the registration statement, whichever is higher, or book value on a day, selected by the registrant, within ninety days of the date of filing the registration statement to the extent that there is neither a readily determinable market price nor a cash offering price), or (ii) which, if the issuer and any predecessors have not had any security of the type specified in clause (i) outstanding for three full fiscal years, equal at least five percent of the amount (as measured in clause (i)) of all securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this state) are issued;

(2) any security (other than a certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease) registered for non-issuer distribution if (A) any security of the same class has ever been registered under this Act or predecessor act, or (B) the security being registered was originally issued pursuant to an exemption under this Act or a predecessor act.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in section 405 (c) and the consent to service of process required by section 314 (g):

(1) a statement demonstrating eligibility for registration by notification;

(2) with respect to the issuer and any significant subsidiary; its name, ad-

dress, and form of organization; the state (or foreign jurisdiction) and the date of its organization; and the general character and location of its business;

(3) with respect to any person on whose behalf any part of the offering is to be made in a non-issuer distribution; his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; and a statement of his reasons for making the offering;

(4) a description of the security being registered;

(5) the information and documents specified in clauses (8), (10), and (12) of section 404(b); and

(6) in the case of any registration under section 402 (a) (2) which does not also satisfy the conditions of section 402 (a) (1), a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement, and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the insurer's and any predecessor's existence if less than two years.

(c) If no stop order is in effect and no proceeding is pending under section 406, a registration statement under this section automatically becomes effective at three o'clock Pacific Standard Time in the afternoon of the second full business day after the filing of the registration statement or the last amendment, or at such earlier time as the Administrator determines.

Section 403. Registration by Coordination.

(a) Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in section 405 (c)

and the consent to service of process required by section 314 (g):

(1) three copies of the latest form of prospectus filed under the Securities Act of 1933;

(2) if the Administrator by rule or otherwise requires, a copy of the articles of incorporation and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(3) if the Administrator requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and

(4) an undertaking to forward all future amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(c) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:

(1) no stop order is in effect and no proceeding is pending under section 406;

(2) the registration statement has been on file with the Administrator for at least ten days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the Administrator permits by rule or otherwise and the offering is made within those limitations.

The registrant shall promptly notify the Administrator by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price,

underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the Administrator may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order is void as of the time of its entry. The Administrator may by rule or otherwise waive either or both of the conditions specified in clauses (2) and (3). If the federal registration statement becomes effective before all the conditions in this subsection are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the Administrator of the date when the federal registration statement is expected to become effective, the Administrator shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under section 406; but this advice by the Administrator does not preclude the institution of such a proceeding at any time.

Section 404. Registration by Qualification.

(a) Any security may be registered by qualification.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in section 405 (c) and the consent to service of process required by section 314 (g):

(1) with respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character

and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(2) with respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within thirty days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past three years or proposed to be effected;

(3) with respect to persons covered by clause (2): the remuneration paid during the past twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer (together with all predecessors, parents, subsidiaries, and affiliates) to all those persons in the aggregate;

(4) with respect to any person owning of record, or beneficiary if known, ten per cent or more of the outstanding shares of any class of equity security of the issuer: the information specified in clause (2) other than his occupation;

(5) with respect to every promoter if the issuer was organized within the past three years: the information specified in clause (2), any amount paid to him within that period or intended to be paid to him, and the consideration for any such payment;

(6) with respect to any person on whose behalf any part of the offering is to be made in a non-issuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering;

(7) the capitalization and long-term debt (on both a current and a pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities;

(8) the kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering) or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

(9) the estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including

goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition, and the amounts of any such commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition);

(10) a description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in clause (2), (4), (5), (6), or (8) and by any person who holds or will hold ten per cent or more in the aggregate of any such options;

(11) the dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities);

(12) a copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering;

(13) a specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, or their substantial equivalents, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

(14) a signed or conformed copy of an opinion of counsel as to the legality of the security being registered (with an English translation if it is in a foreign language), which shall state whether the security when sold will be legally issued, fully paid, and non-assessible, and, if a

debt security, a binding obligation of the issuer;

(15) the written consent of any accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if any such person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement;

(16) a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement; a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant; and

(17) such additional information as the Administrator requires by rule or order.

(c) A registration statement under this section becomes effective when the Administrator so orders.

(d) The Administrator may by rule or order require as a condition of registration under this section that a prospectus containing any designated part of the information specified in subsection (b) be sent or given to each person to whom an offer is made before or concurrently with (1) the first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution, (2) the confirmation of any sale made by or for the account of any such person, (3) payment pursuant to any such sale, or (4) delivery of the security pursuant to any such sale, whichever first occurs.

Section 405. Provisions Applicable to Registration Generally.

(a) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer.

(b) Every person filing a registration statement shall pay a filing fee of 1/10 per cent of the maximum aggregate offering price at which the registered securities are to be offered in this state, but the fee shall in no case be less than \$500 or more than \$1,000. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under section 406, the Administrator shall retain \$100 of the fee.

(c) Every registration statement shall specify (1) the amount of securities to be offered in this state; (2) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and (3) any adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.

(d) Any document filed under this Act or a predecessor act within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(e) The Administrator may by rule or otherwise permit the omission of any item of information or document from any registration statement.

(f) In the case of a non-issuer distribution, information may not be required under section 404 or 405 (j) unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

(g) The Administrator may by rule or order require as a condition of registration by qualification or coordination (1) that any security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; and (2) that the proceeds from

the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The Administrator may by rule or order determine the conditions of any escrow or impounding required hereunder, but he may not reject a depository solely because of location in another state.

(h) The Administrator may by rule or order require as a condition of registration that any security registered by qualification or coordination be sold only on a specified form of subscription or sale contract, and that a signed or conformed copy of each contract be filed with the Administrator or preserved for any period up to three years specified in the rule or order.

(i) Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a non-exempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under section 406. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any non-issuer transaction (1) so long as the registration statement is effective and (2) between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under section 406 (if the registration statement did not relate in whole or in part to a non-issuer distribution) and one year from the effective date of the registration statement. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the Administrator.

(j) So long as a registration statement is effective, the Administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the informa-

tion contained in the registration statement and to disclose the progress of the offering.

(k) A registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. Such an amendment becomes effective when the Administrator so orders. Every person filing such an amendment shall pay a filing fee, calculated in the manner specified in subsection (b), with respect to the additional securities proposed to be offered.

Section 406. Denial, Suspension, and Revocation of Registration.

(a) The Administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds (1) that the order is in the public interest and (2) that

(A) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 405 (k) as of its effective date, or any report under section 405 (j) is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(B) any provision of this Act or any rule, order, or condition lawfully imposed under this Act has been willfully violated, in connection with the offering, by (i) the person filing the registration statement, (ii) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (iii) any underwriter;

(C) the security registered or sought to be registered is the subject of

an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state acts applicable to the offering; but (i) the Administrator may not institute a proceeding against an effective registration statement under clause (C) more than one year from the date of the order or injunction relied on, and (ii) he may not enter an order under clause (C) on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(D) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(E) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(F) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of operations;

(G) when a security is sought to be registered by notification, it is not eligible for such registration;

(H) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by section 403 (b) (4); or

(I) the applicant or registrant has failed to pay the proper filing fee; but the Administrator may enter only a denial order under this clause and he shall vacate any such order when the deficiency has been corrected.

The Administrator may not institute a stop-order proceeding against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next thirty days.

(b) The Administrator may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify each person specified in subsection (c) that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing to each person specified in subsection (c), may modify or vacate the order or extend it until final determination.

(c) No stop order may be entered under any part of this section except the first sentence of subsection (b) without (1) appropriate prior notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

(d) The Administrator may vacate or modify a stop order if he finds that the conditions which prompted entry have changed or that it is otherwise in the public interest to do so.

Sec. 20. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 17, 1961

CHAPTER 106

AN ACT

Providing for the appointment of special officers to assist the Division of State Police; and providing for an effective date.

(C.S.H.B. 48)