

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 466*

Short Title: Securities/Investment Advisers/AB.

(Public)

Sponsors: Representative Goodwin.

Referred to: Rules.

March 10, 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 covered
3 security under Section 18(b) of the Securities Act of 1933 [15 U.S.C. §
4 77r(b)] or rules or regulations adopted under that section. 'Security
5 covered under federal law' does not include a security for which a fee
6 required by this Article has not been paid and promptly remedied
7 following written notification from the Administrator to the issuer of the
8 nonpayment or underpayment of the fee.'"

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

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

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

19 "ARTICLE 4.

20 "Registration and Notice Filing Procedures of Securities."

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

22 "**§ 78A-24. Registration requirement.**

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

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

29 "**§ 78A-31. Securities covered under federal law.**

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

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

42 (2) After the initial offer of the security in this State, all documents that are
43 part of an amendment to a federal registration statement filed with the

1 Securities and Exchange Commission under the Securities Act of 1933,
2 which shall be filed concurrently with the Administrator.

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

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

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

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

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

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

24 **"§ 78A-38. Post-registration provisions.**

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

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

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

37 (d) All the records referred to in subsection (a) of this section are subject at any
38 time or from time to time to such reasonable periodic, special, or other examinations by
39 representatives of the Administrator, within or without this State, as the Administrator
40 deems necessary or appropriate in the public interest or for the protection of investors.
41 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,
42 insofar as he deems it practicable in administering this subsection, may cooperate with
43 the securities administrators of other states, the Securities and Exchange Commission,

1 and any national securities exchange or national securities association registered under
2 the Securities Exchange Act of 1934."

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

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

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

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

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

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

31 **II. Investment Advisers**

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

33 **"§ 78C-2. Definitions.**

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

- 36 (1) 'Investment adviser' means any person who, for compensation, engages
37 in the business of advising others, either directly or through publications
38 or writings, as to the value of securities or as to the advisability of
39 investing in, purchasing, or selling securities, or who, for compensation
40 and as part of a regular business, issues or promulgates analyses or
41 reports concerning securities. 'Investment adviser' also includes
42 financial planners and other persons who, as an integral component of
43

1 other financially related services, provide the foregoing investment
2 advisory services to others for compensation and as a part of a business
3 or who hold themselves out as providing the foregoing investment
4 advisory services to others for compensation. 'Investment adviser' does
5 not include:

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

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

1 person would not be an investment adviser representative except
2 for the performance of the activities described in G.S. 78C-
3 2(3)d., or

- 4 e. Directly supervises investment adviser representatives as defined
5 in G.S. 78C-2(3)a., b., c. (unless such investment adviser
6 representatives are already required to register due to their role as
7 supervisors by operation of G.S. 78C-2(3)c.), or d. in the
8 performance of the foregoing activities.

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

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

19 "(4) 'Investment adviser covered under federal law' means any adviser who
20 is (i) registered under Section 203 of the Investment Advisers Act of
21 1940 [15 U.S.C. § 80b-3]; or (ii) excluded from the definition of
22 'investment adviser' under Section 202(a)(11) of the Investment
23 Advisers Act of 1940 [15 U.S.C. § 80b-2(a)(11)]. ~~'Investment adviser~~
24 ~~covered under federal law' does not include advisers who have received~~
25 ~~written notification of nonpayment or underpayment of a fee and have failed~~
26 ~~and refused to pay the fee."~~

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

28 "ARTICLE 3.

29 "Registration and Notice Filing Procedures of Investment Advisers and Investment
30 Adviser Representatives."

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

32 "**§ 78C-16. Registration and notice filing requirement.**

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

- 35 (1) ~~He~~ The person is ~~so~~ registered under this Chapter;
36 (2) ~~His~~ The person's only clients in this State are investment companies as
37 defined in the Investment Company Act of 1940, other investment
38 advisers, investment advisers covered under federal law, dealers, banks,
39 trust companies, savings institutions, savings and loan associations,
40 insurance companies, employee benefit plans with assets of not less than
41 one million dollars (\$1,000,000), and governmental agencies or
42 instrumentalities, whether acting for themselves or as trustees with

1 investment control, or other institutional investors as are designated by
2 rule or order of the Administrator;

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

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

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

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

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

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

43 "**§ 78C-17. Registration procedures.**

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

- 6 (1) The applicant's form and place of organization;
7 (2) The applicant's proposed method of doing business;
8 (3) The qualifications and business history of the applicant; in the case of
9 an investment adviser, the qualifications and business history of any
10 partner, officer, or director, any person occupying a similar status or
11 performing similar functions, or any person directly or indirectly
12 controlling the investment adviser;
13 (4) Any injunction or administrative order or conviction of a misdemeanor
14 involving a security or any aspect of the securities business and any
15 conviction of a felony;
16 (5) The applicant's financial condition and history; and
17 (6) Any information to be furnished or disseminated to any client or
18 prospective client.

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

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

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

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

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

41 (d) The Administrator may by rule establish minimum net capital requirements not
42 to exceed one hundred thousand dollars (\$100,000) for registered investment advisers,
43 subject to the limitations of Section 222 of the Investment Advisers Act of 1940 [15

1 U.S.C. § 80(b)-18a], which may include different requirements for those investment
2 advisers who maintain custody of clients' funds or securities or who have discretionary
3 authority over same and those investment advisers who do not.

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

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

17 "**§ 78C-18. Post-Registration provisions.**

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

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

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

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

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

39 (e) 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 17. G.S. 78C-46(b) reads as rewritten:

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

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