

HOUSE BILL No. 2152

By Committee on General Government Budget

Balloon Amendments for HB 2152 #3
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Office of Revisor of Statutes
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the securities commissioner of
Kansas; pertaining to the Kansas
uniform securities act; pertaining to

1 AN ACT concerning the uniform land sales practices act; amending
2 K.S.A. 2012 Supp. 17-12a601 and repealing the existing section; also
3 repealing K.S.A. 58-3301, 58-3302, 58-3303, 58-3304, 58-3305, 58-
4 3306, 58-3307, 58-3308, 58-3309, 58-3310, 58-3311, 58-3312, 58-
5 3313, 58-3315, 58-3316, 58-3317, 58-3318, 58-3319, 58-3320, 58-
6 3321, 58-3322 and 58-3323 and K.S.A. 2012 Supp. 58-3314.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2012 Supp. 17-12a601 is hereby amended to read
10 as follows: 17-12a601. (a) *Administration.* (1) This act shall be
11 administered by the securities commissioner of Kansas.

12 (2) All fees herein provided for shall be collected by the
13 administrator. All salaries and expenses necessarily incurred in the
14 administration of this act shall be paid from the securities act fee fund.

15 (3) The administrator shall remit all moneys received from all fees,
16 charges, deposits or penalties which have been collected under this act or
17 other laws of this state regulating the issuance, sale or disposal of
18 securities or regulating dealers in this state ~~or under the uniform land sales~~
19 ~~practices act~~, to the state treasurer at least monthly. Upon receipt of any
20 such remittance, the state treasurer shall deposit the entire amount thereof
21 in the state treasury. In accordance with K.S.A. 75-3170a, and
22 amendments thereto, 10% of each such deposit shall be credited to the
23 state general fund and, except as provided in subsection (d), the balance
24 shall be credited to the securities act fee fund.

25 (4) On the last day of each fiscal year, the director of accounts and
26 reports shall transfer from the securities act fee fund to the state general
27 fund any remaining unencumbered amount in the securities act fee fund
28 exceeding \$50,000 so that the beginning unencumbered balance in the
29 securities act fee fund on the first day of each fiscal year is \$50,000. All
30 expenditures from the securities act fee fund shall be made in accordance
31 with appropriation acts upon warrants of the director of accounts and
32 reports issued pursuant to vouchers approved by the administrator or by a
33 person or persons designated by the administrator.

34 (5) All amounts transferred from the securities act fee fund to the
35 state general fund under paragraph (4) are to reimburse the state general
36 fund for accounting, auditing, budgeting, legal, payroll, personnel and

1 purchasing services and any other governmental services which are
2 performed on behalf of the state agency involved by other state agencies
3 which receive appropriations from the state general fund to provide such
4 services.

5 (b) *Prohibited conduct.* (1) It is unlawful for the administrator or an
6 officer, employee, or designee of the administrator to use for personal
7 benefit or the benefit of others records or other information obtained by or
8 filed with the administrator that are not public under K.S.A. 17-12a607(b),
9 and amendments thereto. This act does not authorize the administrator or
10 an officer, employee, or designee of the administrator to disclose the
11 record or information, except in accordance with K.S.A. 17-12a602, 17-
12 12a607(c), or 17-12a608, and amendments thereto.

13 (2) Neither the administrator nor any employee of the administrator
14 shall be interested as an officer, director, or stockholder in securing any
15 authorization to sell securities under the provisions of this act.

16 (c) *No privilege or exemption created or diminished.* This act does
17 not create or diminish a privilege or exemption that exists at common law,
18 by statute or rule, or otherwise.

19 (d) *Investor education.* (1) The administrator may develop and
20 implement investor education initiatives to inform the public about
21 investing in securities ~~with particular emphasis on the prevention and~~
22 ~~detection of securities fraud~~. In developing and implementing these
23 initiatives, the administrator may collaborate with public and nonprofit
24 organizations with an interest in investor education. The administrator may
25 accept a grant or donation from a person that is not affiliated with the
26 securities industry or from a nonprofit organization, regardless of whether
27 the organization is affiliated with the securities industry, to develop and
28 implement investor education initiatives. This subsection does not
29 authorize the administrator to require participation or monetary
30 contributions of a registrant in an investor education program.

31 (2) There is hereby established in the state treasury the investor
32 education fund. ~~Such fund shall be administered by the administrator for~~
33 ~~the purposes described in subsection (d)(1) and for the education of~~
34 ~~registrants, including official hospitality.~~ Moneys collected as civil
35 penalties under this act shall be credited to the investor education fund.
36 The administrator may also receive payments designated to be credited to
37 the investor education fund as a condition in settlements of cases arising
38 out of investigations or examinations. All expenditures from the investor
39 education fund shall be made in accordance with appropriation acts upon
40 warrants of the director of accounts and reports issued pursuant to
41 vouchers approved by the administrator or by a person or persons
42 designated by the administrator. ~~Two years after the effective date of this~~
43 ~~act, the administrator shall conduct a review and submit a report to the~~

1 ~~governor and the legislature concerning the expenditures from the investor~~
 2 ~~education fund and the results achieved from the investor education~~
 3 ~~program.~~

4 Sec. 2. K.S.A. 58-3301, 58-3302, 58-3303, 58-3304, 58-3305, 58-
 5 3306, 58-3307, 58-3308, 58-3309, 58-3310, 58-3311, 58-3312, 58-3313,
 6 58-3315, 58-3316, 58-3317, 58-3318, 58-3319, 58-3320, 58-3321, 58-
 7 3322 and 58-3323 and K.S.A. 2012 Supp. 17-12a601 and 58-3314 are
 8 hereby repealed.

9 Sec. 3. This act shall take effect and be in force from and after its
 10 publication in the statute book.

The investor education fund shall be administered by the administrator for the purposes described in subsection (d)(1) or for the following purposes at the discretion of the administrator:

- (A) Education of applicants for registration under this act and registrants or their representatives, including official hospitality;
 - (B) training of the administrator's staff;
 - (C) grants to public or private schools or universities in Kansas for education in personal or business finance and related subjects; or
 - (D) transfers to the securities litigation fund as described in subsection (e).
- (3) On the last day of each financial year, the director of accounts and reports shall transfer from the investor education fund to the state general fund any remaining unencumbered amount in the investor education fund exceeding \$500,000 so that the beginning unencumbered balance in the investor education fund on the first day of each fiscal year is \$500,000.
- (4) All amounts transferred from the investor education fund to the state general fund under paragraph (3) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.
- (e) *Litigation.* There is hereby established in the state treasury the securities litigation fund. Such fund shall be administered by the administrator for the purpose of enforcing provisions of this act through administrative hearings and legal actions in state and federal courts to resolve alleged violations of this act or a rule adopted or order issued under this act. All expenditures from the securities litigation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator. The administrator may make or authorize transfers from the investor education fund to the securities litigation fund when necessary, to establish or replenish the fund for operations as deemed appropriate by the administrator up to an aggregate maximum amount of \$200,000 in any fiscal year, provided that, immediately after any such transfer, the investor education fund has an unencumbered balance of at least \$250,000. The maximum aggregate amount of such transfers specified in this subsection may be exceeded by the administrator with the approval of the state finance counsel acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except that such approval also may be given while the legislature is in session.