
SUBSTITUTE HOUSE BILL 2316

State of Washington

64th Legislature

2016 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Kirby and Stanford; by request of Department of Financial Institutions)

READ FIRST TIME 01/18/16.

1 AN ACT Relating to clarifying, and making department of financial
2 institutions technical regulatory changes to, the securities act of
3 Washington; amending RCW 21.20.040, 21.20.110, 21.20.120, 21.20.140,
4 21.20.270, 21.20.275, 21.20.280, 21.20.300, 21.20.325, 21.20.340,
5 21.20.360, 21.20.390, 21.20.710, 21.20.727, and 21.20.883; and
6 reenacting RCW 21.20.400.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 21.20.040 and 2002 c 65 s 3 are each amended to read
9 as follows:

10 (1) It is unlawful for any person to transact business in this
11 state as a broker-dealer or salesperson, unless: (a) The person is
12 registered under this chapter; (b) the person is exempted from
13 registration as a broker-dealer or salesperson to sell or resell
14 condominium units sold in conjunction with an investment contract as
15 may be provided by rule or order of the director as to persons who
16 are licensed pursuant to the provisions of chapter 18.85 RCW; (c) the
17 person is a salesperson who satisfies the requirements of section
18 15(~~(h)(2)~~) (i)(3) of the Securities Exchange Act of 1934 and
19 effects in this state no transactions other than those described by
20 section 15(~~(h)(3)~~) (i)(4) of the Securities Exchange Act of 1934;
21 (d) the person is a salesperson effecting transactions in open-end

1 investment company securities sold at net asset value without any
2 sales charges; or (e) the person participates only in the sale or
3 offering for sale of variable contracts which fund corporate plans
4 meeting the requirements for qualification under section 401 or 403
5 of the United States Internal Revenue Code as set forth in RCW
6 48.18A.060.

7 (2) It is unlawful for any broker-dealer or issuer to employ a
8 salesperson unless the salesperson is registered or exempted from
9 registration.

10 (3) It is unlawful for any person to transact business in this
11 state as an investment adviser or investment adviser representative
12 unless: (a) The person is so registered or exempt from registration
13 under this chapter; (b) the person has no place of business in this
14 state and (i) the person's only clients in this state are investment
15 advisers registered under this chapter, federal covered advisers,
16 broker-dealers, banks, savings institutions, trust companies,
17 insurance companies, investment companies as defined in the
18 Investment Company Act of 1940, employee benefit plans with assets of
19 not less than one million dollars, or governmental agencies or
20 instrumentalities, whether acting for themselves or as trustees with
21 investment control, or (ii) during the preceding twelve-month period
22 the person has had fewer than six clients who are residents of this
23 state other than those specified in (b)(i) of this subsection; (c)
24 the person is an investment adviser to an investment company
25 registered under the Investment Company Act of 1940; (d) the person
26 is a federal covered adviser and the person has complied with
27 requirements of RCW 21.20.050; or (e) the person is excepted from the
28 definition of investment adviser under section 202(a)(11) of the
29 Investment Advisers Act of 1940.

30 (4) It is unlawful for any person, other than a federal covered
31 adviser, to hold himself or herself out as, or otherwise represent
32 that he or she is a "financial planner", "investment counselor", or
33 other similar term, as may be specified in rules adopted by the
34 director, unless the person is registered as an investment adviser or
35 investment adviser representative, is exempt from registration as an
36 investment adviser or investment adviser representative under RCW
37 21.20.040(~~(+1)~~), or is excluded from the definition of investment
38 adviser under RCW 21.20.005(~~(+6)~~).

39 (5)(a) It is unlawful for any person registered or required to be
40 registered as an investment adviser under this chapter to employ,

1 supervise, or associate with an investment adviser representative
2 unless such investment adviser representative is registered as an
3 investment adviser representative under this chapter.

4 (b) It is unlawful for any federal covered adviser or any person
5 required to be registered as an investment adviser under section 203
6 of the Investment Advisers Act of 1940 to employ, supervise, or
7 associate with an investment adviser representative having a place of
8 business located in this state, unless such investment adviser
9 representative is registered or is exempted from registration under
10 this chapter.

11 **Sec. 2.** RCW 21.20.110 and 2003 c 288 s 4 are each amended to
12 read as follows:

13 (1) The director may by order deny, suspend, revoke, restrict,
14 condition, or limit any application or registration of any broker-
15 dealer, salesperson, investment adviser representative, or investment
16 adviser; or censure or fine the registrant or an officer, director,
17 partner, or person performing similar functions for a registrant; if
18 the director finds that the order is in the public interest and that
19 the applicant or registrant or, in the case of a broker-dealer or
20 investment adviser, any partner, officer, director, or person
21 performing similar functions:

22 (a) Has filed an application for registration under this section
23 which, as of its effective date, or as of any date after filing in
24 the case of an order denying effectiveness, was incomplete in any
25 material respect or contained any statement which was, in the light
26 of the circumstances under which it was made, false, or misleading
27 with respect to any material fact;

28 (b) Has willfully violated or willfully failed to comply with any
29 provision of this chapter or a predecessor act or any rule or order
30 under this chapter or a predecessor act, or any provision of chapter
31 21.30 RCW or any rule or order thereunder;

32 (c) Has been convicted, within the past ten years, of any
33 misdemeanor involving a security, or a commodity contract or
34 commodity option as defined in RCW 21.30.010, or any aspect of the
35 securities, commodities, business investments, franchises, business
36 opportunities, insurance, banking, or finance business, or any felony
37 involving moral turpitude;

38 (d) Is permanently or temporarily enjoined or restrained by any
39 court of competent jurisdiction in an action brought by the director,

1 a state, or a federal government agency from engaging in or
2 continuing any conduct or practice involving any aspect of the
3 securities, commodities, business investments, franchises, business
4 opportunities, insurance, banking, or finance business;

5 (e) Is the subject of an order entered after notice and
6 opportunity for hearing:

7 (i) By the securities administrator of a state or by the
8 Securities and Exchange Commission denying, revoking, barring, or
9 suspending registration as a broker-dealer, salesperson, investment
10 adviser, or investment adviser representative;

11 (ii) By the securities administrator of a state or by the
12 Securities and Exchange Commission against a broker-dealer,
13 salesperson, investment adviser, or an investment adviser
14 representative;

15 (iii) By the Securities and Exchange Commission or self-
16 regulatory organization suspending or expelling the registrant from
17 membership in a self-regulatory organization; or

18 (iv) By a court adjudicating a United States Postal Service
19 fraud;

20 The director may not commence a revocation or suspension
21 proceeding more than one year after the date of the order relied on.
22 The director may not enter an order on the basis of an order under
23 another state securities act unless that order was based on facts
24 that would constitute a ground for an order under this section;

25 (f) Is the subject of an order, adjudication, or determination,
26 after notice and opportunity for hearing, by the Securities and
27 Exchange Commission, the Commodities Futures Trading Commission, the
28 Federal Trade Commission, or a securities or insurance regulator of
29 any state that the person has violated the Securities Act of 1933,
30 the Securities Exchange Act of 1934, the Investment Advisers Act of
31 1940, the Investment Company Act of 1940, the Commodities Exchange
32 Act, the securities, insurance, or commodities law of any state, or a
33 federal or state law under which a business involving investments,
34 franchises, business opportunities, insurance, banking, or finance is
35 regulated;

36 (g) Has engaged in dishonest or unethical practices in the
37 securities or commodities business;

38 (h) Is insolvent, either in the sense that his or her liabilities
39 exceed his or her assets or in the sense that he or she cannot meet
40 his or her obligations as they mature; but the director may not enter

1 an order against an applicant or registrant under this subsection
2 (1)(h) without a finding of insolvency as to the applicant or
3 registrant;

4 (i) Has not complied with a condition imposed by the director
5 under RCW 21.20.100, or is not qualified on the basis of such factors
6 as training, experience, or knowledge of the securities business,
7 except as otherwise provided in subsection (2) of this section;

8 (j) Has failed to supervise reasonably a salesperson or an
9 investment adviser representative, or employee, if the salesperson,
10 investment adviser representative, or employee was subject to the
11 person's supervision and committed a violation of this chapter or a
12 rule adopted or order issued under this chapter. For the purposes of
13 this subsection, no person fails to supervise reasonably another
14 person, if:

15 (i) There are established procedures, and a system for applying
16 those procedures, that would reasonably be expected to prevent and
17 detect, insofar as practicable, any violation by another person of
18 this chapter, or a rule or order under this chapter; and

19 (ii) The supervising person has reasonably discharged the duties
20 and obligations required by these procedures and system without
21 reasonable cause to believe that another person was violating this
22 chapter or rules or orders under this chapter;

23 (k) Has failed to pay the proper filing fee within thirty days
24 after being notified by the director of a deficiency, but the
25 director shall vacate an order under this subsection (1)(k) when the
26 deficiency is corrected;

27 (l) Within the past ten years has been found, after notice and
28 opportunity for a hearing to have:

29 (i) Violated the law of a foreign jurisdiction governing or
30 regulating the business of securities, commodities, insurance, or
31 banking;

32 (ii) Been the subject of an order of a securities regulator of a
33 foreign jurisdiction denying, revoking, or suspending the right to
34 engage in the business of securities as a broker-dealer, agent,
35 investment adviser, or investment adviser representative; or

36 (iii) Been suspended or expelled from membership by a securities
37 exchange or securities association operating under the authority of
38 the securities regulator of a foreign jurisdiction;

1 (m) Is the subject of a cease and desist order issued by the
2 Securities and Exchange Commission or issued under the securities or
3 commodities laws of a state; or

4 (n) Refuses to allow or otherwise impedes the director from
5 conducting an audit, examination, or inspection, or refuses access to
6 any branch office or business location to conduct an audit,
7 examination, or inspection.

8 (2) The director, by rule or order, may require that an
9 examination, including an examination developed or approved by an
10 organization of securities administrators, be taken by any class of
11 or all applicants. The director, by rule or order, may waive the
12 examination as to a person or class of persons if the administrator
13 determines that the examination is not necessary or appropriate in
14 the public interest or for the protection of investors.

15 (3) The director may issue a summary order pending final
16 determination of a proceeding under this section upon a finding that
17 it is in the public interest and necessary or appropriate for the
18 protection of investors.

19 (4) The director may not impose a fine under this section except
20 after notice and opportunity for hearing. The fine imposed under this
21 section may not exceed ten thousand dollars for each act or omission
22 that constitutes the basis for issuing the order. If a petition for
23 judicial review has not been timely filed under RCW 34.05.542(2), a
24 certified copy of the director's order requiring payment of the fine
25 may be filed in the office of the clerk of the superior court in any
26 county of this state. The clerk shall treat the order of the director
27 in the same manner as a judgment of the superior court. The
28 director's order so filed has the same effect as a judgment of the
29 superior court and may be recorded, enforced, or satisfied in like
30 manner.

31 (5) Withdrawal from registration as a broker-dealer, salesperson,
32 investment adviser, or investment adviser representative becomes
33 effective thirty days after receipt of an application to withdraw or
34 within such shorter period as the administrator determines, unless a
35 revocation or suspension proceeding is pending when the application
36 is filed. If a proceeding is pending, withdrawal becomes effective
37 upon such conditions as the director, by order, determines. If no
38 proceeding is pending or commenced and withdrawal automatically
39 becomes effective, the administrator may nevertheless commence a
40 revocation or suspension proceeding under subsection (1)(b) of this

1 section within one year after withdrawal became effective and enter a
2 revocation or suspension order as of the last date on which
3 registration was effective.

4 (6) A person who, directly or indirectly, controls a person not
5 in compliance with any part of this section may also be sanctioned to
6 the same extent as the noncomplying person, unless the controlling
7 person acted in good faith and did not directly or indirectly induce
8 the conduct constituting the violation or cause of action.

9 (7) In any action under subsection (1) of this section, the
10 director may charge the costs, fees, and other expenses incurred by
11 the director in the conduct of any administrative investigation,
12 hearing, or court proceeding against any person found to be in
13 violation of any provision of this section or any rule or order
14 adopted under this section.

15 (8) In any action under subsection (1) of this section, the
16 director may enter an order requiring an accounting, restitution, and
17 disgorgement, including interest at the legal rate under RCW
18 4.56.110(~~((3))~~). The director may by rule or order provide for
19 payments to investors, rates of interest, periods of accrual, and
20 other matters the director deems appropriate to implement this
21 subsection.

22 (9) The director shall immediately suspend the license or
23 certificate of a person who has been certified pursuant to RCW
24 74.20A.320 by the department of social and health services as a
25 person who is not in compliance with a support order. If the person
26 has continued to meet all other requirements for reinstatement during
27 the suspension, reissuance of the license or certificate shall be
28 automatic upon the director's receipt of a release issued by the
29 department of social and health services stating that the licensee is
30 in compliance with the order.

31 **Sec. 3.** RCW 21.20.120 and 1994 c 256 s 11 are each amended to
32 read as follows:

33 Upon the entry of an order under RCW 21.20.110, the director
34 shall promptly notify the applicant or registrant, as well as the
35 employer or prospective employer if the applicant or registrant is a
36 salesperson or investment adviser representative, that it has been
37 entered and of the reasons therefor and that if requested by the
38 applicant or registrant within (~~(fifteen))~~ twenty days after the
39 receipt of the director's notification the matter will be promptly

1 set down for hearing. If no hearing is requested and none is ordered
2 by the director, the order will remain in effect until it is modified
3 or vacated by the director. If a hearing is requested or ordered, the
4 director, after notice of and opportunity for hearing, may modify or
5 vacate the order or extend it until final determination. No order may
6 be entered under RCW 21.20.110 denying or revoking registration
7 without appropriate prior notice to the applicant or registrant (as
8 well as the employer or prospective employer if the applicant or
9 registrant is a salesperson or an investment adviser representative),
10 opportunity for hearing, and written findings of fact and conclusions
11 of law.

12 **Sec. 4.** RCW 21.20.140 and 1998 c 15 s 11 are each amended to
13 read as follows:

14 It is unlawful for any person to offer or sell any security in
15 this state unless: (1) The security is registered by coordination or
16 qualification under this chapter; (2) the security or transaction is
17 exempted under RCW 21.20.310 (~~(or)~~), 21.20.320, or 21.20.880; or (3)
18 the security is a federal covered security, and, if required, the
19 filing is made and a fee is paid in accordance with RCW 21.20.327.

20 **Sec. 5.** RCW 21.20.270 and 1995 c 46 s 3 are each amended to read
21 as follows:

22 (1) The director may require the person who filed the
23 registration statement to file reports, not more often than quarterly
24 to keep reasonably current the information contained in the
25 registration statement and to disclose the progress of the offering
26 with respect to registered securities which (a) are issued by a face-
27 amount certificate company or a redeemable security issued by an
28 open-end management company or unit investment trust as those terms
29 are defined in the investment company act of 1940, or (b) are being
30 offered and sold directly by or for the account of the issuer.

31 (2) During the period of public offering of securities registered
32 under the provisions of this chapter by qualification financial data
33 or statements corresponding to those required under the provisions of
34 RCW 21.20.210 and to the issuer's fiscal year shall be filed with the
35 director annually, not more than one hundred twenty days after the
36 end of each such year. Such statements at the discretion of the
37 director or administrator shall be (~~certified~~) audited by a
38 certified public accountant who is not an employee of the issuer, and

1 the director may verify them by examining the issuer's books and
2 records. The (~~certificate~~) report of such independent certified
3 public accountant shall be based upon an audit of not less in scope
4 or procedures followed than that which independent public accountants
5 would ordinarily make for the purpose of presenting comprehensive and
6 dependable financial statements, and shall contain such information
7 as the director may prescribe, by rules in the public interest or for
8 the protection of investors, as to the nature and scope of the audit
9 and the findings and opinions of the accountants. Each such report
10 shall state that such independent certified public accountant has
11 verified securities owned, either by actual examination, or by
12 receipt of a certificate from the custodian, as the director may
13 prescribe by rules.

14 **Sec. 6.** RCW 21.20.275 and 1994 c 256 s 17 are each amended to
15 read as follows:

16 The director may in his or her discretion send notice to the
17 (~~registrant~~) applicant in any pending registration in which no
18 action has been taken for nine months immediately prior to the
19 sending of such notice, advising such (~~registrant~~) applicant that
20 the pending registration will be terminated thirty days from the date
21 of sending unless on or before the termination date the
22 (~~registrant~~) applicant makes application in writing to the director
23 showing good cause why it should be continued as a pending
24 registration. If such application is not made or good cause shown,
25 the director shall terminate the pending registration.

26 **Sec. 7.** RCW 21.20.280 and 1979 ex.s. c 68 s 17 are each amended
27 to read as follows:

28 The director may issue a stop order denying effectiveness to, or
29 suspending or revoking the effectiveness of, any registration
30 statement if the director finds that the order is in the public
31 interest and that:

32 (1) The registration statement as of its effective date or as of
33 any earlier date in the case of an order denying effectiveness, is
34 incomplete in any material respect or contains any statement which
35 was, in the light of the circumstances under which it was made, false
36 or misleading with respect to any material fact;

37 (2) Any provision of this chapter or any rule, order, or
38 condition lawfully imposed under this chapter has been (~~wilfully~~)

1 willfully violated, in connection with the offering by (a) the person
2 filing the registration statement, (b) the issuer, any partner,
3 officer, or director of the issuer, any person occupying a similar
4 status or performing similar functions, or any person directly or
5 indirectly controlling or controlled by the issuer, but only if the
6 person filing the registration statement is directly or indirectly
7 controlled by or acting for the issuer, or (c) any underwriter;

8 (3) The security registered or sought to be registered is the
9 subject of a permanent or temporary injunction of any court of
10 competent jurisdiction entered under any other federal or state act
11 applicable to the offering; but (a) the director may not institute a
12 proceeding against an effective registration statement under this
13 clause more than one year from the date of the injunction relied on,
14 and (b) the director may not enter an order under this clause on the
15 basis of an injunction entered under any other state act unless that
16 order or injunction was based on facts which would currently
17 constitute a ground for a stop order under this section;

18 (4) The issuer's enterprise or method of business includes or
19 would include activities which are illegal where performed;

20 (5) The offering has worked or tended to work a fraud upon
21 purchasers or would so operate;

22 (6) When a security is sought to be registered by coordination,
23 there has been a failure to comply with the undertaking required by
24 RCW 21.20.180(7)((~~7-04~~));

25 (7) The applicant or registrant has failed to pay the proper
26 registration fee; but the director may enter only a denial order
27 under this subsection and shall vacate any such order when the
28 deficiency has been corrected; or

29 (8) The offering has been or would be made with unreasonable
30 amounts of underwriters' and sellers' discounts, commissions, or
31 compensation or promoters' profits or participation, or unreasonable
32 amounts or kinds of options.

33 **Sec. 8.** RCW 21.20.300 and 1979 ex.s. c 68 s 19 are each amended
34 to read as follows:

35 Upon the entry of a stop order under any part of RCW 21.20.280,
36 the director shall promptly notify the issuer of the securities and
37 the applicant or registrant that the order has been entered and of
38 the reasons therefor and that within ((~~fifteen~~)) twenty days after
39 the receipt of a written request the matter will be set down for

1 hearing. If no hearing is requested within (~~fifteen~~) twenty days
2 and none is ordered by the director, the director shall enter written
3 findings of fact and conclusions of law and the order will remain in
4 effect until it is modified or vacated by the director. If a hearing
5 is requested or ordered, the director, after notice of and
6 opportunity for hearings to the issuer and to the applicant or
7 registrant, shall enter written findings of fact and conclusions of
8 law and may modify or vacate the order. The director may modify or
9 vacate a stop order if the director finds that the conditions which
10 prompted its entry have changed or that it is otherwise in the public
11 interest to do so.

12 **Sec. 9.** RCW 21.20.325 and 1979 ex.s. c 68 s 22 are each amended
13 to read as follows:

14 The director or administrator may by order deny, revoke, or
15 condition any exemption specified in (~~subsections (10), (11), (12)~~
16 ~~or (13) of RCW 21.20.310 or in~~) RCW 21.20.310 (10), (11), (12), or
17 (13), 21.20.320, (~~as now or hereafter amended~~) or 21.20.880, with
18 respect to a specific security or transaction. No such order may be
19 entered without appropriate prior notice to all interested parties,
20 opportunity for hearing, and written findings of fact and conclusions
21 of law, except that the director or administrator may by order
22 summarily deny, revoke, or condition any of the specified exemptions
23 pending final determination of any proceeding under this section.
24 Upon the entry of a summary order, the director or administrator
25 shall promptly notify all interested parties that it has been entered
26 and of the reasons therefor and that within (~~fifteen~~) twenty days
27 of the receipt of a written request the matter will be set down for
28 hearing. If no hearing is requested and none is ordered by the
29 director or administrator, the order will remain in effect until it
30 is modified or vacated by the director or administrator. If a hearing
31 is requested or ordered, the director or administrator, after notice
32 of and opportunity for hearing to all interested persons, may modify
33 or vacate the order or extend it until final determination. No order
34 under this section may operate retroactively. No person may be
35 considered to have violated RCW 21.20.140 as now or hereafter amended
36 by reason of any offer or sale effected after the entry of an order
37 under this section if he or she sustains the burden of proof that he
38 or she did not know, and in the exercise of reasonable care could not
39 have known, of the order.

1 **Sec. 10.** RCW 21.20.340 and 1998 c 15 s 16 are each amended to
2 read as follows:

3 The following fees shall be paid in advance under the provisions
4 of this chapter:

5 (1)(a) For registration of securities by qualification, the fee
6 shall be one hundred dollars for the first one hundred thousand
7 dollars of initial issue, or portion thereof in this state, based on
8 offering price, plus one-twentieth of one percent for any excess over
9 one hundred thousand dollars which are to be offered during that
10 year: PROVIDED, HOWEVER, That an issuer may upon the payment of a
11 fifty dollar fee renew for one additional twelve-month period only
12 the unsold portion for which the registration fee has been paid.

13 (b) For the offer of a federal covered security that (i) is an
14 exempt security pursuant to section 3(2) of the Securities Act of
15 1933, and (ii) would not qualify for the exemption or a discretionary
16 order of exemption pursuant to RCW 21.20.310(1), the fee shall be one
17 hundred dollars for the first one hundred thousand dollars of initial
18 issue, or portion thereof in this state, based on offering price,
19 plus one-twentieth of one percent for any excess over one hundred
20 thousand dollars which are to be offered during that year: PROVIDED,
21 HOWEVER, That an issuer may upon the payment of a fifty dollar fee
22 renew for one additional twelve-month period only the unsold portion
23 for which the filing fee has been paid.

24 (2)(a) For registration by coordination of securities issued by
25 an investment company, other than a closed-end company, as those
26 terms are defined in the Investment Company Act of 1940, the fee
27 shall be one hundred dollars for the first one hundred thousand
28 dollars of initial issue, or portion thereof in this state, based on
29 offering price, plus one-twentieth of one percent for any excess over
30 one hundred thousand dollars which are to be offered in this state
31 during that year: PROVIDED, HOWEVER, That an issuer may upon the
32 payment of a fifty dollar fee renew for one additional twelve-month
33 period the unsold portion for which the registration fee has been
34 paid.

35 (b) For each offering by an investment company, other than a
36 closed-end company, as those terms are defined in the Investment
37 Company Act of 1940, making a notice filing pursuant to RCW
38 21.20.327(1), the initial filing fee shall be one hundred dollars for
39 the first one hundred thousand dollars of initial issue, or portion
40 thereof in this state, based on offering price, plus one-twentieth of

1 one percent for any excess over one hundred thousand dollars which
2 are to be offered in this state during that year. The amount offered
3 in this state during the year may be increased by paying one-
4 twentieth of one percent of the desired increase, based on offering
5 price, prior to the sale of securities to be covered by the fee:
6 PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty
7 dollar fee renew for one additional twelve-month period the unsold
8 portion for which the filing fee has been paid.

9 (3)(a) For registration by coordination of securities not covered
10 by subsection (2) of this section, the initial filing fee shall be
11 one hundred dollars for the first one hundred thousand dollars of
12 initial issue, or portion thereof in this state, based on offering
13 price, plus one-fortieth of one percent for any excess over one
14 hundred thousand dollars for the first twelve-month period plus one
15 hundred dollars for each additional twelve months in which the same
16 offering is continued. The amount offered in this state during the
17 year may be increased by paying one-fortieth of one percent of the
18 desired increase, based on offering price, prior to the sale of
19 securities to be covered by the fee.

20 (b) For each offering by a closed-end investment company, making
21 a notice filing pursuant to RCW 21.20.327(1), the initial filing fee
22 shall be one hundred dollars for the first one hundred thousand
23 dollars of initial issue, or portion thereof in this state, based on
24 offering price, plus one-fortieth of one percent for any excess over
25 one hundred thousand dollars for the first twelve-month period plus
26 one hundred dollars for each additional twelve months in which the
27 same offering is continued. The amount offered in this state during
28 the year may be increased by paying one-fortieth of one percent of
29 the desired increase, based on offering price, prior to the sale of
30 securities to be covered by the fee.

31 (4) For filing annual financial statements, the fee shall be
32 twenty-five dollars.

33 (5)(a) For filing an amended offering circular after the initial
34 registration permit has been granted or pursuant to RCW
35 21.20.327(1)(b), the fee shall be ten dollars.

36 (b) For filing a report under RCW 21.20.270(1) or
37 21.20.327(1)(c), the fee shall be ten dollars.

38 (6)(a) For registration of a broker-dealer or investment adviser,
39 the fee shall be one hundred fifty dollars for original registration

1 and seventy-five dollars for each annual renewal. When an application
2 is denied or withdrawn the director shall retain one-half of the fee.

3 (b) For a federal covered adviser filing pursuant to RCW
4 21.20.050, the fee shall be one hundred fifty dollars for original
5 notification and seventy-five dollars for each annual renewal. A fee
6 shall not be assessed in connection with converting an investment
7 adviser registration to a notice filing when the investment adviser
8 becomes a federal covered adviser.

9 (7) For registration of a salesperson or investment adviser
10 representative, the fee shall be forty dollars for original
11 registration with each employer and twenty dollars for each annual
12 renewal. When an application is denied or withdrawn the director
13 shall retain one-half of the fee.

14 (8) If a registration, or filing pursuant to RCW 21.20.050, of a
15 broker-dealer, salesperson, investment adviser, federal covered
16 adviser, or investment adviser representative is not renewed on or
17 before (~~December 31st of each year~~) the renewal deadline specified
18 in the central registration depository (CRD) or the investment
19 adviser registration depository (IARD), as applicable, the renewal is
20 delinquent. The director by rule or order may set and assess a fee
21 for delinquency not to exceed two hundred dollars. Acceptance by the
22 director of an application for renewal after (~~December 31st~~) the
23 renewal deadline specified in the CRD or the IARD, as applicable, is
24 not a waiver of delinquency. A delinquent application for renewal
25 will not be accepted for filing after March 1st.

26 (9)(a) For the transfer of a broker-dealer license to a
27 successor, the fee shall be fifty dollars.

28 (b) For the transfer of a salesperson license from a broker-
29 dealer or issuer to another broker-dealer or issuer, the transfer fee
30 shall be twenty-five dollars.

31 (c) For the transfer of an investment adviser representative
32 license from an investment adviser to another investment adviser, the
33 transfer fee shall be twenty-five dollars.

34 (d) For the transfer of an investment adviser license to a
35 successor, the fee shall be fifty dollars.

36 (10)(a) The director may provide by rule for the filing of notice
37 of claim of exemption under RCW 21.20.320 (1), (9), and (17) and set
38 fees accordingly not to exceed three hundred dollars.

39 (b) For the filing required by RCW 21.20.327(2), the fee shall be
40 three hundred dollars.

1 (11) For filing of notification of claim of exemption from
2 registration pursuant to RCW 21.20.310(11), as now or hereafter
3 amended, the fee shall be fifty dollars for each filing.

4 (12) For rendering interpretative opinions, the fee shall be
5 thirty-five dollars.

6 (13) For certified copies of any documents filed with the
7 director, the fee shall be the cost to the department.

8 (14) For a duplicate license the fee shall be five dollars.

9 All fees collected under this chapter shall be turned in to the
10 state treasury and are not refundable, except as herein provided.

11 **Sec. 11.** RCW 21.20.360 and 1975 1st ex.s. c 84 s 21 are each
12 amended to read as follows:

13 Neither the fact that an application for registration under RCW
14 21.20.050, a registration statement under RCW 21.20.180 or 21.20.210
15 has been filed, nor the fact that a person or security (~~(if [is])~~) is
16 effectively registered, constitutes a finding by the director that
17 any document filed under this chapter is true, complete, and not
18 misleading. Neither any such fact nor the fact that an exemption or
19 exception is available for a security or a transaction means that the
20 director has passed in any way upon the merits (~~(of [or])~~) or
21 qualifications of, or recommended or given approval to, any person,
22 security, or transaction. It is unlawful to make, or cause to be
23 made, to any prospective purchaser, customer, or client any
24 representation inconsistent with this section.

25 **Sec. 12.** RCW 21.20.390 and 2003 c 288 s 5 are each amended to
26 read as follows:

27 Whenever it appears to the director that any person has engaged
28 or is about to engage in any act or practice constituting a violation
29 of any provision of this chapter or any rule or order hereunder, the
30 director may in his or her discretion:

31 (1) Issue an order directing the person to cease and desist from
32 continuing the act or practice and to take appropriate affirmative
33 action within a reasonable period of time, as prescribed by the
34 director, to correct conditions resulting from the act or practice
35 including, without limitation, a requirement to provide restitution.
36 Reasonable notice of and opportunity for a hearing shall be given.
37 The director may issue a summary order pending the hearing which
38 shall remain in effect until ten days after the hearing is held and

1 which shall become final if the person to whom notice is addressed
2 does not request a hearing within twenty days after the receipt of
3 notice; or

4 (2) The director may without issuing a cease and desist order,
5 bring an action in any court of competent jurisdiction to enjoin any
6 such acts or practices and to enforce compliance with this chapter or
7 any rule or order adopted under this chapter. The court may grant
8 such ancillary relief, including a civil penalty, restitution, and
9 disgorgement, as it deems appropriate. Upon a proper showing a
10 permanent or temporary injunction, restraining order, or writ of
11 mandamus shall be granted and a receiver or conservator may be
12 appointed for the defendant or the defendant's assets. The director
13 may not be required to post a bond. If the director prevails, the
14 director shall be entitled to a reasonable attorney's fee to be fixed
15 by the court.

16 (3) Whenever it appears to the director that any person who has
17 received a permit to issue, sell, or otherwise dispose of securities
18 under this chapter, whether current or otherwise, has become
19 insolvent, the director may petition a court of competent
20 jurisdiction to appoint a receiver or conservator for the defendant
21 or the defendant's assets. The director may not be required to post a
22 bond.

23 (4) The director may bring an action for restitution or damages
24 on behalf of the persons injured by a violation of this chapter, if
25 the court finds that private civil action would be so burdensome or
26 expensive as to be impractical.

27 (5) In any action under this section, the director may charge the
28 costs, fees, and other expenses incurred by the director in the
29 conduct of any administrative investigation, hearing, or court
30 proceeding against any person found to be in violation of any
31 provision of this section or any rule or order adopted under this
32 section.

33 (6) In any action under subsection (1) of this section, the
34 director may enter an order requiring an accounting, restitution, and
35 disgorgement, including interest at the legal rate under RCW
36 4.56.110(~~(+3)~~). The director may by rule or order provide for
37 payments to investors, interest rates, periods of accrual, and other
38 matters the director deems appropriate to implement this subsection.

1 **Sec. 13.** RCW 21.20.400 and 2003 c 288 s 3 and 2003 c 53 s 163
2 are each reenacted to read as follows:

3 (1) Any person who willfully violates any provision of this
4 chapter except RCW 21.20.350, or who willfully violates any rule or
5 order under this chapter, or who willfully violates RCW 21.20.350
6 knowing the statement made to be false or misleading in any material
7 respect, is guilty of a class B felony punishable under RCW
8 9A.20.021(1)(b). However, a person may not be imprisoned for the
9 violation of any rule or order if that person proves that he or she
10 had no knowledge of the rule or order.

11 (2) Any person who knowingly alters, destroys, shreds, mutilates,
12 or conceals a record, document, or other object, or attempts to do
13 so, with the intent to impair the object's integrity or availability
14 for use in an official proceeding under this chapter, is guilty of a
15 class B felony punishable under RCW 9A.20.021(1)(b) or punishable by
16 a fine of not more than five hundred thousand dollars, or both. The
17 fines paid under this subsection shall be deposited into the
18 securities prosecution fund.

19 (3) No indictment or information may be returned under this
20 chapter more than (a) five years after the violation, or (b) three
21 years after the actual discovery of the violation, whichever date of
22 limitation is later.

23 **Sec. 14.** RCW 21.20.710 and 1988 c 244 s 3 are each amended to
24 read as follows:

25 (1) Except as provided in subsection (2) of this section, a
26 debenture company shall not offer for sale any security other than
27 capital stock if such sale would result in the violation of the
28 following capital requirements:

29 (a) For outstanding securities other than capital stock totaling
30 from \$1 to \$1,000,000, a debenture company shall have a net worth of
31 at least \$200,000.

32 (b) In addition to the requirement set forth in (a) of this
33 subsection:

34 (i) A debenture company with outstanding securities other than
35 capital stock totaling in excess of \$1,000,000 but not over
36 \$100,000,000 shall have additional net worth equal to at least ten
37 percent of the outstanding securities in excess of \$1,000,000 but not
38 over \$100,000,000; and

1 (ii) A debenture company with outstanding securities other than
2 capital stock totaling in excess of \$100,000,000 shall have
3 additional net worth equal to at least five percent of the
4 outstanding securities in excess of \$100,000,000.

5 (c) Every debenture company shall hold at least one-half the
6 amount of its required net worth in cash or comparable liquid assets
7 as defined by rule, or shall demonstrate comparable liquidity to the
8 satisfaction of the director.

9 (2) The director may for good cause in the interest of the
10 existing investors, waive the requirements of subsection (1) of this
11 section. If the director waives the minimum requirements set forth in
12 subsection (1) of this section, the debenture company shall increase
13 its (~~new—[net]~~) net worth or liquidity in accordance with
14 conditions imposed by the director until such time as the debenture
15 company can meet the requirements of this section without waiver from
16 the director.

17 **Sec. 15.** RCW 21.20.727 and 1987 c 421 s 5 are each amended to
18 read as follows:

19 (1) It is unlawful for any person to acquire control of a
20 debenture company until thirty days after filing with the director a
21 copy of the notice of change of control on the form specified by the
22 director. The notice or application shall be under oath and contain
23 substantially all of the following information plus any additional
24 information that the director may prescribe as necessary or
25 appropriate in the particular instance for the protection of
26 investors, borrowers, or shareholders and the public interest:

27 (a) The identity and business experience of each person by whom
28 or on whose behalf acquisition is to be made;

29 (b) The financial and managerial resources and future prospects
30 of each person involved in the acquisition;

31 (c) The terms and conditions of any proposed acquisition and the
32 manner in which the acquisition is to be made;

33 (d) The source and amount of the funds or other consideration
34 used or to be used in making the acquisition, and a description of
35 the transaction and the names of the parties if any part of these
36 funds or other consideration has been or is to be borrowed or
37 otherwise obtained for the purpose of making the acquisition;

38 (e) Any plan or proposal which any person making the acquisition
39 may have to liquidate the debenture company, to sell its assets, to

1 merge it with any other company, or to make any other major change in
2 its business or corporate structure or management;

3 (f) The identification of any person employed, retained, or to be
4 compensated by the acquiring party, or by any person on its behalf,
5 who makes solicitations or recommendations to shareholders for the
6 purpose of assisting in the acquisition and a brief description of
7 the terms of the employment, retainer, or arrangement for
8 compensation; and

9 (g) Copies of all invitations for tenders or advertisements
10 making a tender offer to shareholders for the purchase of their stock
11 to be used in connection with the proposed acquisition.

12 (2) When a person, other than an individual or corporation, is
13 required to file an application under this section, the director may
14 require that the information required by subsection (1)(a), (b), and
15 (f) of this section be given with respect to each person who has an
16 interest in or controls a person filing an application under this
17 subsection.

18 (3) When a corporation is required to file an application under
19 this section, the director may require that the information required
20 by subsection (1)(a), (b), and (f) of this section be given for the
21 company, each officer and director of the company, and each person
22 who is directly or indirectly the beneficial owner of twenty-five
23 percent or more of the outstanding voting securities of the company.

24 (4) If any tender offer, request, or invitation for tenders or
25 other agreements to acquire control is proposed to be made by means
26 of a registration statement under the Securities Act of 1933 (~~((48~~
27 ~~Stat. 74; 15 U.S.C. Sec. 77(a)))~~), as amended, or in circumstances
28 requiring the disclosure of similar information under the Securities
29 Exchange Act of 1934 (~~((48 Stat. 881; 15 U.S.C. Sec. 78(a)))~~), as
30 amended, the registration statement or application may be filed with
31 the director in lieu of the requirements of this section.

32 (5) Any acquiring party shall also deliver a copy of any notice
33 or application required by this section to the debenture company
34 proposed to be acquired within two days after the notice or
35 application is filed with the director.

36 (6) Any acquisition of control in violation of this section shall
37 be ineffective and void.

38 (7) Any person who (~~wilfully~~) willfully or intentionally
39 violates this section or any rule adopted pursuant thereto is guilty
40 of a gross misdemeanor and shall be punished pursuant to chapter

1 9A.20 RCW. Each day's violation shall be considered a separate
2 violation.

3 **Sec. 16.** RCW 21.20.883 and 2014 c 144 s 4 are each amended to
4 read as follows:

5 (1) Only a local associate development organization, as defined
6 in RCW 43.330.010, a port district, or an organization that qualifies
7 as a portal pursuant to regulations promulgated by the director, may
8 work in collaboration with the director to act as a portal under this
9 chapter.

10 (2) A portal shall require, at a minimum, the following
11 information from an applicant for exemption prior to offering
12 services to the applicant or forwarding the applicant's materials to
13 the director:

14 (a) A description of the issuer, including type of entity,
15 location, and business plan, if any;

16 (b) The applicant's intended use of proceeds from ~~((a))~~ the
17 offering ~~((under chapter 144, Laws of 2014))~~;

18 (c) Identities of officers, directors, managing members, and ten
19 percent beneficial owners, as applicable;

20 (d) A description of any outstanding securities; and

21 (e) A description of any litigation or legal proceedings
22 involving the applicant, its officers, directors, managing members,
23 or ten percent beneficial owners, as applicable.

24 (3) Upon receipt of the information described in subsection (2)
25 of this section, the portal may offer services to the applicant that
26 the portal deems appropriate or necessary to meet the criteria for
27 exemption under RCW 21.20.880 and 21.20.886. Such services may
28 include assistance with development of a business plan, referral to
29 legal services, and other technical assistance in preparation for a
30 public securities offering.

31 (4) The portal shall forward the materials necessary for the
32 applicant to qualify for exemption to the director for filing when
33 the portal is satisfied that the applicant has assembled the
34 necessary information and materials to meet the criteria for
35 exemption under RCW 21.20.880 and 21.20.886.

36 (5) The portal shall work in collaboration with the director for
37 the purposes of executing the offering upon filing with the director.

--- END ---