

Chapter 21.20 RCW
SECURITIES ACT OF WASHINGTON

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- 21.20.940 Short title.

Reviser's note: Powers, duties, and functions of the department of licensing relating to securities were transferred to the department of financial institutions by 1993 c 472, effective October 1, 1993. See RCW 43.320.011.

"Bucket shop": RCW 9.47.080, 9.47.090.

Business corporations: Title 23B RCW.

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Corporate seals, effect of nonuse: RCW 64.04.105.

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False stock subscriptions: RCW 9.24.010.

Fraudulent issue of stock: RCW 9.24.020.

Life settlements: Chapter 48.102 RCW.

Negotiable instruments: Title 62A RCW.

Permit to sell stock of domestic insurance company: Chapter 48.06 RCW.

Public service company securities: Chapter 81.08 RCW.

Sale of capital notes and debentures by banks and trust companies: Chapter 30A.36 RCW.

Securities of public utilities: Chapter 80.08 RCW.

Trust receipts: Title 62A RCW.

Uniform Commercial Code—Investment securities: Article 62A.8 RCW.

*Written statement of purchase or sale to be furnished market trader:
RCW 9.47.100.*

DEFINITIONS

RCW 21.20.005 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. "Broker-dealer" does not include (a) a salesperson, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months that person does not direct more than fifteen offers to sell or to buy into or make more than five sales in this state in any manner to persons other than those specified in (b) of this subsection.

(2) "Customer" means a person other than a broker-dealer or investment adviser.

(3) "Director" means the director of financial institutions of this state.

(4) "Federal covered adviser" means any person registered as an investment adviser under section 203 of the investment advisers act of 1940.

(5) "Federal covered security" means any security defined as a covered security in the securities act of 1933.

(6) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(7) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(8) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, (a) provide the foregoing investment advisory services to others for compensation as part of a business or (b) hold themselves out as providing the

foregoing investment advisory services to others for compensation. Investment adviser shall also include any person who holds himself or herself out as a financial planner.

"Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, certified public accountant licensed under chapter 18.04 RCW, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (c) a broker-dealer or its salesperson whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them, (d) a publisher of any bona fide newspaper, news magazine, news column, newsletter, or business or financial publication or service, whether communicated in hard copy form, by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client, (e) a radio or television station, (f) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), (g) an investment adviser representative, or (h) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(9) "Investment adviser representative" means any partner, officer, director, or a person occupying similar status or performing similar functions, or other individual, who is employed by or associated with an investment adviser, and who does any of the following:

(a) Makes any recommendations or otherwise renders advice regarding securities;

(b) Manages accounts or portfolios of clients;

(c) Determines which recommendation or advice regarding securities should be given;

(d) Solicits, offers, or negotiates for the sale of or sells investment advisory services; or

(e) Supervises employees who perform any of the functions under (a) through (d) of this subsection.

(10) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(11) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(12) "Person" means an individual, a corporation, a partnership, a limited liability company, a limited liability partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(13) "Relatives," as used in RCW 21.20.310(11) includes:

(a) A member's spouse;

(b) Parents of the member or the member's spouse;

(c) Grandparents of the member or the member's spouse;

(d) Natural or adopted children of the member or the member's spouse;

(e) Aunts and uncles of the member or the member's spouse; and

(f) First cousins of the member or the member's spouse.

(14) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(15) "Salesperson" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. "Salesperson" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310 (1), (2), (3), (4), (9), (10), (11), (12), or (13), (b) effecting transactions exempted by RCW 21.20.320 unless otherwise expressly required by the terms of the exemption, or (c) 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.

(16) "Securities act of 1933," "securities exchange act of 1934," "public utility holding company act of 1935," "investment company act of 1940," and "investment advisers act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(17) (a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; investment of money or other consideration in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture; voting-trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or mineral lease or in payments out of production under a lease, right, or royalty; charitable gift annuity; any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any security under this subsection. This subsection applies whether or not the security is evidenced by a written document.

(b) "Security" does not include: (i) Any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period; or (ii) an interest in a contributory or noncontributory pension or welfare plan subject to the employee retirement income security act of 1974.

(18) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico. [2011 c 336 § 594; 2002 c 65 § 1; 1998 c 15 § 1; 1994 c 256 § 3. Prior: 1993 c 472 § 14; 1993 c 470 § 4; 1989 c 391 § 1; 1979 ex.s. c 68 § 1; 1979 c 130 § 3; 1977 ex.s. c 188 § 1; 1975 1st ex.s. c 84 § 1; 1967 c 199 § 1; 1961 c 37 § 1; 1959 c 282 § 60.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1993 c 472: See RCW 43.320.900.

Severability—1979 c 130: See note following RCW 28B.10.485.

FRAUDULENT AND OTHER PROHIBITED PRACTICES

RCW 21.20.010 Unlawful offers, sales, purchases. It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:

- (1) To employ any device, scheme, or artifice to defraud;
- (2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
- (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. [1959 c 282 § 1.]

RCW 21.20.020 Unlawful acts of person advising another. (1) It is unlawful for any person who receives any consideration from another party primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

(a) To employ any device, scheme, or artifice to defraud the other person;

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person; or

(c) To engage in any dishonest or unethical practice as the director may define by rule.

This subsection (1) applies whether or not the person is an investment adviser, federal covered adviser, or investment adviser under this chapter or the Investment Advisers Act of 1940.

(2) It is unlawful for an investment adviser, acting as principal for his or her own account, knowingly to sell any security to or purchase any security from a client, or act as a broker for a person

other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the execution of such transaction the capacity in which he or she is acting and obtaining the consent of the client to such transaction.

This subsection (2) does not apply to a transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction. [2002 c 65 § 2; 1998 c 15 § 2; 1959 c 282 § 2.]

RCW 21.20.030 Unlawful acts of investment adviser. It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(1) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client; however, this subsection does not prohibit: (a) An investment advisory contract which provides for compensation based upon the total of a fund averaged over a definite period, or as of definite dates or taken as of a definite date; or (b) performance compensation arrangements permitted under any rule the director may adopt in order to allow performance compensation arrangements permitted under the Investment Advisers Act of 1940 and regulations promulgated by the securities and exchange commission thereunder;

(2) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

"Assignment", as used in subsection (2) of this section, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business. [1993 c 114 § 1; 1959 c 282 § 3.]

RCW 21.20.035 Unlawful purchases or sales for customer's account. It is unlawful for a broker-dealer, salesperson, investment adviser, or investment adviser representative knowingly to effect or cause to be effected, with or for a customer's account, transactions of purchase or sale (1) that are excessive in size or frequency in view of the financial resources and character of the account and (2) that are effected because the broker-dealer, salesperson, investment adviser, or investment adviser representative is vested with discretionary power or is able by reason of the customer's trust and confidence to influence the volume and frequency of the trades. [1994 c 256 § 4; 1993 c 470 § 1.]

VARIABLE CONTRACTS

RCW 21.20.037 Variable contracts—Registration required—Rules.

As required by chapter 48.18A RCW, a person selling variable contracts shall be registered as a broker-dealer or securities salesperson as required by this chapter. This chapter, and any rules or orders adopted under this chapter, applies to any person engaged in the offer, sale, or purchase of a variable contract. "Variable contract" means the same as set forth under chapter 48.18A RCW. [2002 c 65 § 8.]

REGISTRATION AND NOTICE FOR BROKER-DEALERS, SALESPERSONS,
INVESTMENT ADVISERS, AND INVESTMENT ADVISER SALESPERSONS

RCW 21.20.040 Registration and notification required—

Exemptions. (1) It is unlawful for any person to transact business in this state as a broker-dealer or salesperson, unless: (a) The person is registered under this chapter; (b) the person is exempted from registration as a broker-dealer or salesperson to sell or resell condominium units sold in conjunction with an investment contract as may be provided by rule or order of the director as to persons who are licensed pursuant to the provisions of chapter 18.85 RCW; (c) the person is a salesperson who satisfies the requirements of section 15(i)(3) of the Securities Exchange Act of 1934 and effects in this state no transactions other than those described by section 15(i)(4) of the Securities Exchange Act of 1934; (d) the person is a salesperson effecting transactions in open-end investment company securities sold at net asset value without any sales charges; or (e) the person participates only in the sale or offering for sale of variable contracts which fund corporate plans meeting the requirements for qualification under section 401 or 403 of the United States Internal Revenue Code as set forth in RCW 48.18A.060.

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

(3) It is unlawful for any person to transact business in this state as an investment adviser or investment adviser representative unless: (a) The person is so registered or exempt from registration under this chapter; (b) the person has no place of business in this state and (i) the person's only clients in this state are investment advisers registered under this chapter, federal covered advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, employee benefit plans with assets of not less than one million dollars, or governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or (ii) during the preceding twelve-month period the person has had fewer than six clients who are residents of this state other than those specified in (b)(i) of this subsection; (c) the person is an investment adviser to an investment company registered

under the Investment Company Act of 1940; (d) the person is a federal covered adviser and the person has complied with requirements of RCW 21.20.050; or (e) the person is excepted from the definition of investment adviser under section 202(a)(11) of the Investment Advisers Act of 1940.

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

(5) (a) It is unlawful for any person registered or required to be registered as an investment adviser under this chapter to employ, supervise, or associate with an investment adviser representative unless such investment adviser representative is registered as an investment adviser representative under this chapter.

(b) It is unlawful for any federal covered adviser or any person required to be registered as an investment adviser under section 203 of the Investment Advisers Act of 1940 to employ, supervise, or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is registered or is exempted from registration under this chapter. [2016 c 61 § 1; 2002 c 65 § 3; 1998 c 15 § 3; 1994 c 256 § 5; 1989 c 391 § 2; 1979 ex.s. c 68 § 2; 1975 1st ex.s. c 84 § 2; 1974 ex.s. c 77 § 1; 1959 c 282 § 4.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1974 ex.s. c 77: "This 1974 amendatory act shall take effect on July 1, 1974." [1974 ex.s. c 77 § 14.]

Insurance, solicitation permits for sale of securities: RCW 48.06.090.

RCW 21.20.050 Application for registration—Filing of documents—Consent to service of process—Fee. (1) A broker-dealer, salesperson, investment adviser, or investment adviser representative may apply for registration by filing with the director or his or her authorized agent an application together with a consent to service of process in such form as the director shall prescribe and payment of the fee prescribed in RCW 21.20.340.

(2) A federal covered adviser shall file such documents as the director may, by rule or otherwise, require together with a consent to service of process and the payment of the fee prescribed in RCW 21.20.340. [2011 c 336 § 595; 1998 c 15 § 4; 1994 c 256 § 6; 1981 c 272 § 1; 1979 ex.s. c 68 § 3; 1975 1st ex.s. c 84 § 3; 1961 c 37 § 2; 1959 c 282 § 5.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.060 Contents of application for registration—Capital requirements. The application shall contain whatever information the director requires concerning such matters as:

- (1) The applicant's form and place of organization;
- (2) The applicant's proposed method of doing business;
- (3) The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser; any partner, officer, or director, or any person occupying a similar status or performing similar functions; or any person directly or indirectly controlling the broker-dealer or investment adviser;
- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (5) The applicant's financial condition and history;
- (6) The address of the principal place of business of the applicant and the addresses of all branch offices of the applicant in this state; and
- (7) Any information to be furnished or disseminated to any client or prospective client, if the applicant is an investment adviser.

The director may by rule or otherwise require a minimum capital for registered broker-dealers, not to exceed the limitations provided in section 15 of the Securities Exchange Act of 1934, and establish minimum financial requirements for investment advisers, not to exceed the limitations provided in section 222 of the Investment Advisers Act of 1940, which may include different requirements for investment advisers who maintain custody of clients' funds or securities or who have discretionary authority over those funds or securities, and may allow registrants to maintain a surety bond of appropriate amount as an alternative method of compliance with minimum capital or financial requirements. [1998 c 15 § 5; 1995 c 46 § 1; 1994 c 256 § 7; 1965 c 17 § 1; 1959 c 282 § 6.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.070 When registration effective—Requirements determined by rule. If the application meets the requirements for registration, as the director may by rule or otherwise determine, and no denial order is in effect and no proceeding is pending under RCW 21.20.110, the director shall make the registration effective. [1998 c 15 § 6; 1981 c 272 § 2; 1979 ex.s. c 68 § 4; 1975 1st ex.s. c 84 § 4; 1974 ex.s. c 77 § 2; 1959 c 282 § 7.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

RCW 21.20.080 Duration of registration—Association with issuer, broker-dealer, federal covered adviser, or investment adviser—Notice to director—Extension of licensing period. Registration of a broker-dealer, salesperson, investment adviser representative, or investment adviser shall be effective for a one-year period unless the director by rule or order provides otherwise. The director by rule or order may schedule registration or renewal so that all registrations and renewals expire December 31st. The director may adjust the fee for registration or renewal proportionately. The registration of a

salesperson or investment adviser representative is not effective during any period when the salesperson is not employed by or associated with an issuer or a registered broker-dealer or when the investment adviser representative is not employed by or associated with an investment adviser registered under this chapter or a federal covered adviser who has made a notice filing pursuant to RCW 21.20.050. To be employed by or associated with an issuer, broker-dealer, federal covered adviser, or investment adviser within the meaning of this section notice, either in writing or in some other format as the director may by rule or otherwise specify, must be given to the director. When a salesperson begins or terminates employment or association with an issuer or registered broker-dealer, the salesperson and the issuer or broker-dealer shall promptly notify the director. When an investment adviser representative registered under this chapter begins or terminates employment or association with an investment adviser registered under this chapter or a federal covered adviser required to make a notice filing pursuant to RCW 21.20.050, the investment adviser representative and investment adviser or federal covered adviser shall promptly notify the director.

Notwithstanding any provision of law to the contrary, the director may, from time to time, extend the duration of a licensing period for the purpose of staggering renewal periods. Such extension of a licensing period shall be by rule adopted in accordance with the provisions of chapter 34.05 RCW. Such rules may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period. [1998 c 15 § 7; 1994 c 256 § 8; 1981 c 272 § 3; 1979 ex.s. c 68 § 5; 1975 1st ex.s. c 84 § 5; 1959 c 282 § 8.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.090 Renewal of registration—Financial reports—Application for a successor. Registration of a broker-dealer, salesperson, investment adviser representative, or investment adviser may be renewed by filing with the director or his or her authorized agent prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, salesperson, investment adviser representative, or investment adviser filed with the director or his or her authorized agent by the applicant, payment of the prescribed fee, and, in the case of a broker-dealer or investment adviser such financial reports as the director may prescribe by rule or otherwise. The reporting requirements so prescribed for a broker-dealer may not exceed the limitations provided in section 15 of the Securities Exchange Act of 1934. A registered broker-dealer or investment adviser may file an application for registration of a successor, and the director may at his or her discretion grant or deny the application. [1998 c 15 § 8; 1995 c 46 § 2; 1994 c 256 § 9; 1981 c 272 § 4; 1979 ex.s. c 68 § 6; 1975 1st ex.s. c 84 § 6; 1961 c 37 § 3; 1959 c 282 § 9.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.100 Accounts, correspondence, memoranda, papers, books, and other records—Release of information—Correction of filed document—Examination.

(1) Every registered broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records, except with respect to securities exempt under RCW 21.20.310(1), which books and other records shall be prescribed by the director by rule or otherwise. The recordmaking and recordkeeping requirements prescribed for a broker-dealer shall not exceed the limitations provided in section 15 of the Securities Exchange Act of 1934. The recordmaking and recordkeeping requirements prescribed for a registered investment adviser shall not exceed the limitations provided in section 222 of the Investment Advisers Act of 1940. All records required to be made and kept by a registered investment adviser shall be preserved for such a period as the director prescribes by rule or otherwise.

(2) With respect to investment advisers, the director may require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of investors and advisory clients.

(3) If the information contained in any document filed with the director is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment unless notification of the correction has been given under RCW 21.20.090.

(4) All the records of a registered broker-dealer or investment adviser are subject at any time or from time to time to such reasonable periodic, special or other examinations by representatives of the director, within or without this state, as the director deems necessary or appropriate in the public interest or for the protection of investors. [1998 c 15 § 9; 1959 c 282 § 10.]

RCW 21.20.110 Director may deny, suspend, revoke, restrict, condition, or limit any application or registration—Director may censure or fine registrant—Grounds—Procedures—Costs—Accounting.

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

(a) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained 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) Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act, or any provision of chapter 21.30 RCW or any rule or order thereunder;

(c) Has been convicted, within the past ten years, of any misdemeanor involving a security, or a commodity contract or commodity

option as defined in RCW 21.30.010, or any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business, or any felony involving moral turpitude;

(d) Is permanently or temporarily enjoined or restrained by any court of competent jurisdiction in an action brought by the director, a state, or a federal government agency from engaging in or continuing any conduct or practice involving any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business;

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

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

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

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

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

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

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

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

(h) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against an applicant or registrant under this subsection

(1) (h) without a finding of insolvency as to the applicant or registrant;

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

(j) Has failed to supervise reasonably a salesperson or an investment adviser representative, or employee, if the salesperson, investment adviser representative, or employee was subject to the person's supervision and committed a violation of this chapter or a

rule adopted or order issued under this chapter. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

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

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

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

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

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

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

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

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

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

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

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

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

(5) Withdrawal from registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period as the administrator determines, unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective upon such conditions as the director, by order, determines. If no proceeding is pending or commenced and withdrawal automatically becomes effective, the administrator may nevertheless commence a revocation or suspension proceeding under subsection (1)(b) of this section within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

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

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

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

(9) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2016 c 61 § 2; 2003 c 288 § 4; 2002 c 65 § 4; 1998 c 15 § 10; 1997 c 58 § 856; 1994 c 256 § 10; 1993 c 470 § 3; 1986 c 14 § 45; 1979 ex.s. c 68 § 7; 1975 1st ex.s. c 84 § 7; 1965 c 17 § 2; 1959 c 282 § 11.]

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1986 c 14: See RCW 21.30.901.

RCW 21.20.120 Denial, suspension, revocation of registration—Order—Request for, notice of hearing—Findings and conclusions. Upon the entry of an order under RCW 21.20.110, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesperson or investment adviser representative, that it has been entered and of the reasons therefor and that if requested by the applicant or registrant within twenty days after the receipt of the director's notification the matter will be promptly set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination. No order may be entered under RCW 21.20.110 denying or revoking registration without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is a salesperson or an investment adviser representative), opportunity for hearing, and written findings of fact and conclusions of law. [2016 c 61 § 3; 1994 c 256 § 11; 1979 ex.s. c 68 § 8; 1975 1st ex.s. c 84 § 8; 1959 c 282 § 12.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.130 Cancellation of registration or application—Grounds. If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser, investment adviser representative, or salesperson, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application. [1994 c 256 § 12; 1979 ex.s. c 68 § 9; 1975 1st ex.s. c 84 § 9; 1959 c 282 § 13.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.135 License as salesperson or broker-dealer prerequisite to suit for commission. No suit or action shall be brought for the collection of a commission for the sale of a security, as defined within this chapter without alleging and proving that the plaintiff was a duly licensed salesperson for an issuer or a broker-dealer, or exempt under the provisions of RCW 21.20.040, or a duly licensed broker-dealer in this state or another state at the time the alleged cause of action arose. [1979 ex.s. c 68 § 10; 1974 ex.s. c 77 § 3; 1961 c 37 § 10.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

REGISTRATION OF SECURITIES

RCW 21.20.140 Unlawful to offer or sell unregistered securities

—Exceptions. It is unlawful for any person to offer or sell any security in this state unless: (1) The security is registered by coordination or qualification under this chapter; (2) the security or transaction is exempted under RCW 21.20.310, 21.20.320, or 21.20.880; or (3) the security is a federal covered security, and, if required, the filing is made and a fee is paid in accordance with RCW 21.20.327. [2016 c 61 § 4; 1998 c 15 § 11; 1975 1st ex.s. c 84 § 10; 1959 c 282 § 14.]

REGISTRATION BY COORDINATION

RCW 21.20.180 Registration by coordination—Requirements—

Statement, contents. Any security for which a registration statement has been filed under the securities act of 1933 or any securities for which filings have been made pursuant to regulation A pursuant to subsection (b) of Sec. 3 of the securities act in connection with the same offering may be registered by coordination. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in RCW 21.20.340 and, if required under RCW 21.20.330, a consent to service of process meeting the requirements of that section:

- (1) One copy of the prospectus, offering circular and/or letters of notification, filed under the securities act of 1933 together with all amendments thereto;
- (2) The amount of securities to be offered in this state;
- (3) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;
- (4) Any adverse order, judgment or decree previously entered in connection with the offering by any court or the securities and exchange commission;
- (5) If the director, by rule or otherwise, requires a copy of the articles of incorporation and bylaws (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;
- (6) If the director requests, any other information, or copies of any other documents, filed under the securities act of 1933;
- (7) An undertaking to forward promptly all amendments to the federal registration statement, offering circular and/or letters of notification, other than an amendment which merely delays the effective date; and
- (8) If the aggregate sales price of the offering exceeds one million dollars, audited financial statements and other financial information prepared as to form and content under rules adopted by the director. [1994 c 256 § 13; 1979 ex.s. c 68 § 11; 1961 c 37 § 4; 1959 c 282 § 18.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.190 Time of taking effect of registration statement by coordination—Conditions—"Price amendment", notification. A registration statement by coordination under RCW 21.20.180 automatically becomes effective at the moment the federal registration statement or other filing becomes effective if all the following conditions are satisfied:

(1) No stop order is in effect and no proceeding is pending under RCW 21.20.280 and 21.20.300;

(2) The registration statement has been on file with the director for at least ten full business 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 director permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the director or such person as the director may by rule or order designate by facsimile, electronic transmission, or telegram of the date and time when the federal registration statement or other filing 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. [1994 c 256 § 14; 1961 c 37 § 5; 1959 c 282 § 19.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.200 Failure to notify of price amendment, proof of compliance—Stop order—Waiver of certain conditions. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment referred to in RCW 21.20.190, the director may enter a stop order, without notice of hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with RCW 21.20.190, if the director promptly notified the registrant by telephone, facsimile, or electronic transmission (and promptly confirms by letter or facsimile when the director notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements as to notice and post-effective amendment, the stop order is void as of the time of its entry. The director may by rule or otherwise waive either or both of the conditions specified in RCW 21.20.190 (2) and (3). If the federal registration statement or other filing becomes effective before all these conditions 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 director of the date when the federal registration statement or other filing is expected to become effective the director shall promptly advise the registrant by telephone, electronic transmission, or facsimile, at the registrant's expense, whether all the conditions are satisfied and whether the director then contemplates the institution of a proceeding under RCW 21.20.280 and 21.20.300; but this advice by the director does not preclude the institution of such

a proceeding at any time. [1994 c 256 § 15; 1979 ex.s. c 68 § 12; 1959 c 282 § 20.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

REGISTRATION BY QUALIFICATION

- RCW 21.20.210 Registration by qualification—Statements—Requirements—Audits.** Any security may be registered by qualification. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in RCW 21.20.340, and, if required under RCW 21.20.330, a consent to service of process meeting the requirements of that section:
- (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; and a description of its physical properties and equipment.
 - (2) With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: His or her name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him or her as of a specified date within ninety days of the filing of the registration statement; the remuneration paid to all such persons in the aggregate 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 and subsidiaries).
 - (3) With respect to any person not named in RCW 21.20.210(2), owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of the issuer: The information specified in RCW 21.20.210(2) other than his or her occupation.
 - (4) With respect to every promoter, not named in RCW 21.20.210(2), if the issuer was organized within the past three years: The information specified in RCW 21.20.210(2), any amount paid to that person by the issuer within that period or intended to be paid to that person, and the consideration for any such payment.
 - (5) 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.
 - (6) The kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price and any variation therefrom at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, or anything else of value to accrue to the underwriters in connection with the offering); the estimated amounts of other selling

expenses, and legal, engineering, and accounting expenses to be incurred by the issuer in connection with the offering; the name and address of every underwriter and every recipient of a finders' 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.

(7) 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, and 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 and the purchase price.

(8) 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 RCW 21.20.210 (2), (3), (4), (5) or (7) and by any person who holds or will hold ten percent or more in the aggregate of any such options.

(9) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed.

(10) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission; 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).

(11) A copy of any prospectus or circular intended as of the effective date to be used in connection with the offering.

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

(13) A signed or conformed copy of an opinion of counsel, if available, as to the legality of the security being registered.

(14)(a) The following financial statements:

(i)(A) Balance sheets as of the end of each of the three most recent fiscal years; and, if the date of the most recent fiscal year end is more than four months prior to the date of filing, (B) a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement.

(ii)(A) Statements of income, shareholders' equity, and cash flows for each of the three fiscal years preceding the date of the latest balance sheet or for the period of the issuer's and any predecessor's existence if less than three years and (B) statements of income, shareholders' equity, and cash flows for any period between the close of the last fiscal year and the date of the latest balance sheet.

(iii) If any part of the proceeds of the offering is to be applied to the purchase of any business whose annual sales or revenues are in excess of fifteen percent of the registrant's sales or revenues or involves acquisition of assets in excess of fifteen percent of the

registrant's assets, except as specifically exempted by the director, financial statements shall be filed which would be required if that business were the registrant.

(b) (i) If the estimated proceeds to be received from the offering, together with the proceeds from securities registered under this section during the year preceding the date of the filing of this registration statement, exceed one million dollars, the balance sheet specified in (a) (i) (A) of this subsection as of the end of the last fiscal year and the related financial statements specified in (a) (ii) (A) of this subsection for the last fiscal year shall be audited.

(ii) If such proceeds exceed one million dollars but are not more than five million dollars, the balance sheet specified in (a) (i) (A) of this subsection as of the end of the most recent fiscal year and the financial statements specified in (a) (ii) (A) of this subsection for the last fiscal year shall be audited.

(iii) If such proceeds exceed five million dollars but are not more than twenty-five million dollars, the balance sheets specified in (a) (i) (A) of this subsection as of the end of the last two fiscal years and the related financial statements specified in (a) (ii) (A) of this subsection for the last two fiscal years shall be audited.

(iv) If such proceeds exceed twenty-five million dollars, the balance sheets specified in (a) (i) (A) of this subsection and the related financial statements specified in (a) (ii) (A) of this subsection for the last three fiscal years shall be audited.

(c) The financial statements of this subsection and such other financial information as may be prescribed by the director shall be prepared as to form and content in accordance with generally accepted accounting principles and with the rules prescribed by the director, and when applicable, shall be audited by an independent certified public accountant who is registered and in good standing as a certified public accountant under the laws of the place of his or her residence or principal office and who is not an employee, officer, or member of the board of directors of the issuer or a holder of the securities of the issuer. An audit report of such independent certified public accountant shall be based upon an audit made in accordance with generally accepted auditing standards. The audit report shall have no limitations on its scope unless expressly authorized in writing by the director. The director may also verify such statements by examining the issuer's books and records.

(15) The written consent of any accountant, engineer, appraiser, attorney, or any person whose profession gives authority to a statement made by him or her, who is named as having prepared or audited any part of the registration statement or is named as having prepared or audited a report or valuation for use in connection with the registration statement. [1994 c 256 § 16; 1979 ex.s. c 68 § 13; 1973 1st ex.s. c 171 § 1; 1959 c 282 § 21.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.220 Information not required when nonissuer distribution. In the case of a nonissuer distribution, information may not be required under RCW 21.20.210 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. [1959 c 282 § 22.]

RCW 21.20.230 Time of taking effect of registration statement by qualification—Conditions. A registration statement by qualification under RCW 21.20.210 becomes effective if no stop order is in effect and no proceeding is pending under RCW 21.20.280 and 21.20.300, at three o'clock Pacific standard time in the afternoon of the fifteenth full business day after the filing of the registration statement or the last amendment, or at such earlier time as the director determines. The director may require as a condition of registration under this section that a prospectus containing any information necessary for complete disclosure of any material fact relating to the security offering 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 or her (other 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 or her 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; but the director may accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations thereunder. [1979 ex.s. c 68 § 14; 1975 1st ex.s. c 84 § 11; 1974 ex.s. c 77 § 4; 1961 c 37 § 6; 1959 c 282 § 23.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

GENERAL PROVISIONS REGARDING REGISTRATION OF SECURITIES

RCW 21.20.240 Registration statements—Generally. 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. The director may by rule or otherwise permit the omission of any item of information or document from any registration statement. [1975 1st ex.s. c 84 § 12; 1959 c 282 § 24.]

RCW 21.20.250 Registration by qualification or coordination—Escrow—Impounding proceeds. The director 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 director may by rule or order determine the conditions of any escrow or impounding required hereunder but the director may not reject a depository solely

because of location in another state. [1979 ex.s. c 68 § 15; 1959 c 282 § 25.]

RCW 21.20.260 Registration by coordination or qualification—Offer and sale—Duration of effectiveness. When securities are registered by coordination or qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer or any person acting within the exemption provided in RCW 21.20.040. Every registration shall remain effective until its expiration date or until revoked by the director or until terminated upon request of the registrant with the consent of the director. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction. [1975 1st ex.s. c 84 § 13; 1974 ex.s. c 77 § 5; 1959 c 282 § 26.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

RCW 21.20.270 Reports by filer of statement—Annual financial statements. (1) The director may require the person who filed the registration statement to file reports, not more often than quarterly to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to registered securities which (a) are 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, or (b) are being offered and sold directly by or for the account of the issuer.

(2) During the period of public offering of securities registered under the provisions of this chapter by qualification financial data or statements corresponding to those required under the provisions of RCW 21.20.210 and to the issuer's fiscal year shall be filed with the director annually, not more than one hundred twenty days after the end of each such year. Such statements at the discretion of the director or administrator shall be audited by a certified public accountant who is not an employee of the issuer, and the director may verify them by examining the issuer's books and records. The report of such independent certified public accountant shall be based upon an audit of not less in scope or procedures followed than that which independent public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements, and shall contain such information as the director may prescribe, by rules in the public interest or for the protection of investors, as to the nature and scope of the audit and the findings and opinions of the accountants. Each such report shall state that such independent certified public accountant has verified securities owned, either by actual examination, or by receipt of a certificate from the custodian, as the director may prescribe by rules. [2016 c 61 § 5; 1995 c 46 § 3; 1975 1st ex.s. c 84 § 14; 1965 c 17 § 3; 1961 c 37 § 7; 1959 c 282 § 27.]

RCW 21.20.275 Pending registration—Notice of termination—Application for continuation. The director may in his or her discretion send notice to the applicant in any pending registration in which no action has been taken for nine months immediately prior to the sending of such notice, advising such applicant that the pending registration will be terminated thirty days from the date of sending unless on or before the termination date the applicant makes application in writing to the director showing good cause why it should be continued as a pending registration. If such application is not made or good cause shown, the director shall terminate the pending registration. [2016 c 61 § 6; 1994 c 256 § 17; 1979 ex.s. c 68 § 16; 1974 ex.s. c 77 § 12.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

DENIAL, SUSPENSION AND REVOCATION OF REGISTRATION OF SECURITIES

RCW 21.20.280 Stop orders—Grounds. The director may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if the director finds that the order is in the public interest and that:

(1) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, 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;

(2) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been willfully violated, in connection with the offering by (a) the person filing the registration statement, (b) 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 (c) any underwriter;

(3) The security registered or sought to be registered is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (a) the director may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the injunction relied on, and (b) the director may not enter an order under this clause on the basis of an 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;

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

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

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

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

(8) The offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or compensation or promoters' profits or participation, or unreasonable amounts or kinds of options. [2016 c 61 § 7; 1979 ex.s. c 68 § 17; 1975 1st ex.s. c 84 § 15; 1959 c 282 § 28.]

RCW 21.20.290 Stop order prohibited if facts known on effective date of statement. The director may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to the director when the registration statement became effective. [1979 ex.s. c 68 § 18; 1959 c 282 § 29.]

RCW 21.20.300 Notification of entry of stop order—Hearing—Findings, conclusions, modification, etc. Upon the entry of a stop order under any part of RCW 21.20.280, the director shall promptly notify the issuer of the securities and the applicant or registrant that the order has been entered and of the reasons therefor and that within twenty days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within twenty days and none is ordered by the director, the director shall enter written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearings to the issuer and to the applicant or registrant, shall enter written findings of fact and conclusions of law and may modify or vacate the order. The director may modify or vacate a stop order if the director finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so. [2016 c 61 § 8; 1979 ex.s. c 68 § 19; 1959 c 282 § 30.]

EXEMPT SECURITIES

RCW 21.20.310 Securities exempt from registration. RCW 21.20.140 through 21.20.300, inclusive, and 21.20.327 do not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments are made or unconditionally guaranteed by a person whose securities are exempt from registration by subsection (7) or (8) of this section: PROVIDED,

That the director, by rule or order, may exempt any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise if the director finds that registration with respect to such securities is not necessary in the public interest and for the protection of investors.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsection (7) or (8) of this section.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) 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.

(5) Any security issued by and representing an interest in or a debt of, or insured or guaranteed by, any insurance company authorized to do business in this state.

(6) 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.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) 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; (b) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (c) 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; and equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security which meets the criteria for investment grade securities that the director may adopt by rule.

(9) Any prime quality negotiable commercial paper not intended to be marketed to the general public and not advertised for sale to the general public that is of a type eligible for discounting by federal reserve banks, that arises out of a current transaction or the proceeds of which have been or are to be used for a current transaction, and that evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal.

(10) Any security issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if: (a) The plan meets the requirements for qualification as a pension, profit sharing, or stock bonus plan under section 401 of the

internal revenue code, as an incentive stock option plan under section 422 of the internal revenue code, as a nonqualified incentive stock option plan adopted with or as a supplement to an incentive stock option plan under section 422 of the internal revenue code, or as an employee stock purchase plan under section 423 of the internal revenue code; or (b) the director is notified in writing with a copy of the plan thirty days before offering the plan to employees in this state. In the event of late filing of notification the director may upon application, for good cause excuse such late filing if he or she finds it in the public interest to grant such relief.

(11) Any security issued by any person organized and operated as a nonprofit organization as defined in RCW 84.36.800(4) exclusively for religious, educational, fraternal, or charitable purposes and which nonprofit organization also possesses a current tax exempt status under the laws of the United States, which security is offered or sold only to persons who, prior to their solicitation for the purchase of said securities, were members of, contributors to, or listed as participants in, the organization, or their relatives, if such nonprofit organization first files a notice specifying the terms of the offering and the director does not by order disallow the exemption within the next ten full business days: PROVIDED, That no offerings may be made until expiration of the ten full business days. Every such nonprofit organization which files a notice of exemption of such securities shall pay a filing fee as set forth in RCW 21.20.340(11) as now or hereafter amended.

The notice shall consist of the following:

- (a) The name and address of the issuer;
- (b) The names, addresses, and telephone numbers of the current officers and directors of the issuer;
- (c) A short description of the security, price per security, and the number of securities to be offered;
- (d) A statement of the nature and purposes of the organization as a basis for the exemption under this section;
- (e) A statement of the proposed use of the proceeds of the sale of the security; and
- (f) A statement that the issuer shall provide to a prospective purchaser written information regarding the securities offered prior to consummation of any sale, which information shall include the following statements: (i) "ANY PROSPECTIVE PURCHASER IS ENTITLED TO REVIEW FINANCIAL STATEMENTS OF THE ISSUER WHICH SHALL BE FURNISHED UPON REQUEST."; (ii) "RECEIPT OF NOTICE OF EXEMPTION BY THE WASHINGTON ADMINISTRATOR OF SECURITIES DOES NOT SIGNIFY THAT THE ADMINISTRATOR HAS APPROVED OR RECOMMENDED THESE SECURITIES, NOR HAS THE ADMINISTRATOR PASSED UPON THE OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."; and (iii) "THE RETURN OF THE FUNDS OF THE PURCHASER IS DEPENDENT UPON THE FINANCIAL CONDITION OF THE ORGANIZATION."

(12) Any charitable gift annuities issued by a board of a state university, regional university, or of the state college.

(13) Any charitable gift annuity issued by an insurer or institution holding a certificate of exemption under RCW 48.38.010. [2002 c 65 § 5; 1998 c 15 § 13; 1995 c 46 § 4; 1994 c 256 § 18; 1981 c 272 § 5; 1979 ex.s. c 68 § 20; 1979 c 130 § 4; 1979 c 8 § 1. Prior: 1977 ex.s. c 188 § 2; 1977 ex.s. c 172 § 1; 1975 1st ex.s. c 84 § 16; 1959 c 282 § 31.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Severability—1979 c 130: See note following RCW 28B.10.485.

EXEMPT TRANSACTIONS

RCW 21.20.320 Exempt transactions. The following transactions are exempt from RCW 21.20.040 through 21.20.300 and 21.20.327 except as expressly provided:

(1) Any isolated transaction, or sales not involving a public offering, whether effected through a broker-dealer or not; or any transaction effected in accordance with any rule by the director establishing a nonpublic offering exemption pursuant to this subsection where registration is not necessary or appropriate in the public interest or for the protection of investors.

(2) Any nonissuer transaction by a registered salesperson of a registered broker-dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940 pursuant to any rule adopted by the director.

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the director 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.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit. A bond or other evidence of indebtedness is not offered and sold as a unit if the transaction involves:

(a) A partial interest in one or more bonds or other evidences of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels; or

(b) One of multiple bonds or other evidences of indebtedness secured by one or more real or chattel mortgages or deeds of trust, or agreements for the sale of real estate or chattels, sold to more than one purchaser as part of a single plan of financing; or

(c) A security including an investment contract other than the bond or other evidence of indebtedness.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(9) Any transaction effected in accordance with the terms and conditions of any rule adopted by the director if:

(a) The aggregate offering amount does not exceed five million dollars; and

(b) The director finds that registration is not necessary in the public interest and for the protection of investors.

(10) Any offer or sale of a preorganization certificate or subscription if (a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (b) the number of subscribers does not exceed ten, and (c) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (a) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (b) the issuer first files a notice specifying the terms of the offer and the director does not by order disallow the exemption within the next five full business days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act.

(13) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock.

(14) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets.

(15) The offer or sale by a registered broker-dealer, or a person exempted from the registration requirements pursuant to RCW 21.20.040, acting either as principal or agent, of securities previously sold and distributed to the public: PROVIDED, That:

(a) Such securities are sold at prices reasonably related to the current market price thereof at the time of sale, and, if such broker-dealer is acting as agent, the commission collected by such broker-dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics;

(b) Such securities do not constitute the whole or a part of an unsold allotment to or subscription or participation by such broker-dealer as an underwriter of such securities or as a participant in the distribution of such securities by the issuer, by an underwriter or by a person or group of persons in substantial control of the issuer or of the outstanding securities of the class being distributed; and

(c) The security has been lawfully sold and distributed in this state or any other state of the United States under this or any act regulating the sale of such securities.

(16) Any transaction by a mutual or cooperative association meeting the requirements of (a) and (b) of this subsection:

(a) The transaction:

(i) Does not involve advertising or public solicitation; or

(ii) Involves advertising or public solicitation, and:

(A) The association first files a notice of claim of exemption on a form prescribed by the director specifying the terms of the offer and the director does not by order deny the exemption within the next ten full business days; or

(B) The association is an employee cooperative and identifies itself as an employee cooperative in advertising or public solicitation.

(b) The transaction involves an instrument or interest, that:

(i) (A) Qualifies its holder to be a member or patron of the association;

(B) Represents a contribution of capital to the association by a person who is or intends to become a member or patron of the association;

(C) Represents a patronage dividend or other patronage allocation; or

(D) Represents the terms or conditions by which a member or patron purchases, sells, or markets products, commodities, or services from, to, or through the association; and

(ii) Is nontransferable except in the case of death, operation of law, bona fide transfer for security purposes only to the association, a bank, or other financial institution, intrafamily transfer, transfer to an existing member or person who will become a member, or transfer by gift to any person organized and operated as a nonprofit organization as defined in RCW 84.36.800(4) that also possesses a current tax exempt status under the laws of the United States, and, in the case of an instrument, so states conspicuously on its face.

(17) Any transaction effected in accordance with any rule adopted by the director establishing a limited offering exemption which furthers objectives of compatibility with federal exemptions and uniformity among the states, provided that in adopting any such rule the director may require that no commission or other remuneration be paid or given to any person, directly or indirectly, for effecting sales unless the person is registered under this chapter as a broker-dealer or salesperson. [2006 c 220 § 1; 1998 c 15 § 14; 1989 c 307 § 34. Prior: 1987 c 457 § 13; 1987 c 421 § 9; 1986 c 90 § 1; 1981 c 272 § 6; 1979 ex.s. c 68 § 21; 1977 ex.s. c 172 § 2; 1975 1st ex.s. c 84 § 17; 1974 ex.s. c 77 § 6; 1972 ex.s. c 79 § 1; 1961 c 37 § 8; 1959 c 282 § 32.]

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

Effective date—Application—1987 c 421: "Sections 1 through 8 of this act shall take effect January 1, 1988. The director of licensing may take whatever action is necessary to implement this act on its effective date. This act applies to any person, individual, corporation, partnership, or association whether or not in existence on or prior to January 1, 1988." [1987 c 421 § 12.]

Effective date—1986 c 90: "This act is necessary for the immediate preservation of the public peace, health, and safety, the

support of the state government and its existing public institutions, and shall take effect July 1, 1986." [1986 c 90 § 3.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

EXEMPT SECURITIES AND TRANSACTIONS

RCW 21.20.325 Denial, revocation, condition, of exemptions—Authority—Procedure. The director or administrator may by order deny, revoke, or condition any exemption specified in RCW 21.20.310 (10), (11), (12) [,] or (13), 21.20.320, or 21.20.880, 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 director or administrator may by order summarily deny, revoke, or condition any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the director or administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within twenty 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 director or administrator, the order will remain in effect until it is modified or vacated by the director or administrator. If a hearing is requested or ordered, the director or 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 section may operate retroactively. No person may be considered to have violated RCW 21.20.140 as now or hereafter amended by reason of any offer or sale effected after the entry of an order under this section if he or she sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the order. [2016 c 61 § 9; 1979 ex.s. c 68 § 22; 1979 c 130 § 14; 1977 ex.s. c 188 § 3; 1975 1st ex.s. c 84 § 18; 1974 ex.s. c 77 § 7; 1967 c 199 § 3.]

Severability—1979 c 130: See note following RCW 28B.10.485.

FEDERAL COVERED SECURITY

RCW 21.20.327 Required filings—Consent to service—Failure to comply—Rules—Fees. (1) The director, by rule or otherwise, may require the filing of any or all of the following documents and the payment of the following fees with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933:

(a) Prior to the initial offer of such a federal covered security in this state, all documents that are part of the current federal registration statement filed with the U.S. securities and exchange commission under the Securities Act of 1933, together with a consent to service of process signed by the issuer and the fee prescribed by RCW 21.20.340;

(b) After the initial offer of such a federal covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the U.S. securities and exchange commission under the Securities Act of 1933 and all fees prescribed by RCW 21.20.340; and

(c) An annual or periodic report of the value of such federal covered securities offered in this state, together with the fee prescribed by RCW 21.20.340.

(2) With respect to any security that is a federal covered security under section 18(b)(4)(D) of the Securities Act of 1933, the director, by rule or otherwise, may require the issuer to file a notice on SEC Form D, together with a consent to service of process signed by the issuer and the fee prescribed pursuant to RCW 21.20.340, no later than fifteen days after the first sale of such a federal covered security in this state.

(3) The director, by rule or otherwise, may require the filing of any document filed with the U.S. securities and exchange commission under the Securities Act of 1933, with respect to a federal covered security under section 18(b)(3) or (4) of the Securities Act of 1933 and/or the payment of the fee prescribed pursuant to RCW 21.20.340.

(4) The director may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security under section 18(b)(1) of the Securities Act of 1933, if the director finds that there is a failure to comply with any requirement established under this section.

(5) The director, by rule or otherwise, may waive any or all of the provisions of this section. [1998 c 15 § 12.]

CONSENT TO SERVICE OF PROCESS

RCW 21.20.330 Consent to service of process—Service, how made.

Every applicant for registration as a broker-dealer, investment adviser, investment adviser representative, or salesperson under this chapter, every issuer that files an application to register or files a claim of exemption from registration to offer a security in this state through any person acting on an agency basis in the common law sense, and every person filing pursuant to RCW 21.20.050 or 21.20.327 shall file with the director or with such person as the director may by rule or order designate, in such form as the director by rule prescribes, an irrevocable consent appointing the director or the director's successor in office to be the attorney of the applicant to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration, or notice filing pursuant to RCW 21.20.050 or 21.20.327, need not file another. Service may be made by leaving a copy of the process in the office of the director, but it is not effective unless (1) the plaintiff, who may be the director in a suit, action, or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address of the respondent or

defendant on file with the director, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows. [1998 c 15 § 15; 1994 c 256 § 19; 1979 ex.s. c 68 § 23; 1975 1st ex.s. c 84 § 19; 1959 c 282 § 33.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

FEES

RCW 21.20.340 Fees—Disposition. Except as provided in subsection (15) of this section, the following fees shall be paid in advance under the provisions of this chapter:

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

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

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

(b) For each offering by an investment company, other than a closed-end company, as those terms are defined in the Investment Company Act of 1940, making a notice filing pursuant to RCW 21.20.327(1), the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year. The amount offered in this state during the year may be increased by paying one-twentieth of one percent of the desired increase, based on offering price, prior to the sale of securities to be covered by the fee: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for

one additional twelve-month period the unsold portion for which the filing fee has been paid.

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

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

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

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

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

(6) (a) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and seventy-five dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

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

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

(8) If a registration, or filing pursuant to RCW 21.20.050, of a broker-dealer, salesperson, investment adviser, federal covered adviser, or investment adviser representative is not renewed on or before the renewal deadline specified in the central registration depository (CRD) or the investment adviser registration depository (IARD), as applicable, the renewal is delinquent. The director by rule or order may set and assess a fee for delinquency not to exceed two hundred dollars. Acceptance by the director of an application for renewal after the renewal deadline specified in the CRD or the IARD, as applicable, is not a waiver of delinquency. A delinquent

application for renewal will not be accepted for filing after March 1st.

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

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

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

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

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

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

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

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

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

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

(15) Upon a finding by the department of financial institutions that a fee increase is necessary to defray the costs of administering this chapter, the director may by rule adjust the fees specified in this section upward by no more than fifteen dollars.

All fees collected under this chapter shall be turned in to the state treasury and are not refundable, except as herein provided. [2018 c 185 § 1; 2016 c 61 § 10; 1998 c 15 § 16; 1995 c 46 § 5; 1994 c 256 § 20; 1988 c 244 § 17; 1986 c 90 § 2; 1981 c 272 § 7; 1979 ex.s. c 68 § 24. Prior: 1977 ex.s. c 188 § 4; 1977 ex.s. c 172 § 3; 1975 1st ex.s. c 84 § 20; 1974 ex.s. c 77 § 8; 1965 c 17 § 4; 1961 c 37 § 9; 1959 c 282 § 34.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Severability—Effective date—Implementation—Application—1988 c 244: See notes following RCW 21.20.700.

Effective date—1986 c 90: See note following RCW 21.20.320.

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

Effective date—1965 c 17 § 4: "Section 4 of this amendatory act shall take effect July 1, 1965." [1965 c 17 § 6.]

MISLEADING FILINGS

RCW 21.20.350 False or misleading statements in filed documents.

It is unlawful for any person to make or cause to be made, in any document filed with the director or in any proceeding under this chapter, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. [1959 c 282 § 35.]

UNLAWFUL REPRESENTATIONS CONCERNING REGISTRATION OR EXEMPTION

RCW 21.20.360 Filing, registration, statement, exemption not conclusive as to truth or completeness—Unlawful representations.

Neither the fact that an application for registration under RCW 21.20.050, a registration statement under RCW 21.20.180 or 21.20.210 has been filed, nor the fact that a person or security is effectively registered, constitutes a finding by the director that any document filed under this chapter 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 director has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with this section. [2016 c 61 § 11; 1975 1st ex.s. c 84 § 21; 1959 c 282 § 36.]

INVESTIGATIONS AND SUBPOENAS

RCW 21.20.370 Investigations—Statement of facts relating to investigation may be permitted—Publication of information—Use of criminal history record information.

(1) The director in his or her discretion (a) may annually, or more frequently, make such public or private investigations within or without this state as the director deems necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated, is violating, or is about to violate any provision of this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the adoption of rules and forms under this chapter, (b) may engage in the detection and identification of criminal activities subject to this chapter, (c) may require or permit any person to testify or to file a statement in writing, under oath or otherwise as the director may determine, as to all the facts and circumstances concerning the matter to be investigated, and (d) may publish information concerning a proceeding, an investigation, or any violation of this chapter or any rule or order under this chapter, if the director determines it is necessary or appropriate in the public interest or for the protection of investors.

(2) The enforcement unit of the securities division of the department of financial institutions may be authorized to receive criminal history record information in connection with the investigation of criminal activities subject to this chapter. [2002 c 65 § 6; 1998 c 15 § 17; 1994 c 256 § 21; 1979 ex.s. c 68 § 25; 1973 1st ex.s. c 171 § 2; 1959 c 282 § 37.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Investigations, additional authority, scope: RCW 21.20.700.

RCW 21.20.377 Subpoena authority—Application—Contents—Notice—Fees. (1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2011 c 93 § 7.]

Finding—Intent—2011 c 93: See note following RCW 18.44.425.

RCW 21.20.380 Oaths—Subpoenas—Assisting another state—Compelling obedience—Punishment. (1) For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(2) If the activities constituting an alleged violation for which the information is sought would be a violation of this chapter had the activities occurred in this state, the director may issue and apply to enforce subpoenas in this state at the request of a securities agency or administrator of another state.

(3) A subpoena issued to a financial institution under this section may, if the director finds it necessary or appropriate in the public interest or for the protection of investors, include a directive that the financial institution subpoenaed shall not disclose to third parties that are not affiliated with the financial institution, other than to the institution's legal counsel, the existence or content of the subpoena.

(4) In case of disobedience on the part of any person to comply with any subpoena lawfully issued by the director, the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, or the failure to comply with a nondisclosure directive under subsection (3) of this section, a court of competent jurisdiction of any county or the judge thereof, on application of the director, and after satisfactory evidence of willful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such a court on a refusal to testify therein. [2002 c 65 § 7; 1995 c 46 § 6; 1994 c 256 § 22; 1979 ex.s. c 68 § 26; 1975 1st ex.s. c 84 § 22; 1974 ex.s. c 77 § 9; 1959 c 282 § 38.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

INJUNCTIONS AND OTHER REMEDIES

RCW 21.20.390 Injunction, cease and desist order, restraining order, mandamus—Appointment of receiver or conservator for insolvent—Restitution or damages—Costs—Accounting. Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may in his or her discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice and to take appropriate affirmative action within a reasonable period of time, as prescribed by the director, to correct conditions resulting from the act or practice including, without limitation, a requirement to provide restitution. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a summary order pending the hearing which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within twenty days after the receipt of notice; or

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

(3) Whenever it appears to the director that any person who has received a permit to issue, sell, or otherwise dispose of securities under this chapter, whether current or otherwise, has become insolvent, the director may petition a court of competent jurisdiction

to appoint a receiver or conservator for the defendant or the defendant's assets. The director may not be required to post a bond.

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

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

(6) In any action under subsection (1) of this section, the director may enter an order requiring an accounting, restitution, and disgorgement, including interest at the legal rate under RCW 4.56.110. The director may by rule or order provide for payments to investors, interest rates, periods of accrual, and other matters the director deems appropriate to implement this subsection. [2016 c 61 § 12; 2003 c 288 § 5; 1995 c 46 § 7; 1994 c 256 § 23; 1981 c 272 § 8; 1979 ex.s. c 68 § 27; 1975 1st ex.s. c 84 § 23; 1974 ex.s. c 77 § 10; 1959 c 282 § 39.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

RCW 21.20.395 Administrative action—Hearing—Judicial review—Judgment. (1) A person who, in an administrative action by the director, is found to have knowingly or recklessly violated any provision of this chapter, or any rule or order under this chapter, may be fined, after notice and opportunity for hearing, in an amount not to exceed ten thousand dollars for each violation.

(2) A person who, in an administrative action by the director, is found to have knowingly or recklessly violated an administrative order issued under RCW 21.20.110 or 21.20.390 shall pay an administrative fine in an amount not to exceed twenty-five thousand dollars for each violation.

(3) The fines paid under subsections (1) and (2) of this section shall be deposited into the securities prosecution fund.

(4) If a petition for judicial review has not been timely filed under RCW 34.05.542(2), a certified copy of the director's order requiring payment of the fine may be filed in the office of the clerk of the superior court in any county of this state. The clerk shall treat the order of the director in the same manner as a judgment of the superior court. The director's order so filed has the same effect as a judgment of the superior court and may be recorded, enforced, or satisfied in like manner. [2003 c 288 § 6; 1998 c 15 § 18.]

CRIMINAL LIABILITIES

RCW 21.20.400 Penalty for violation of chapter—Limitation of actions. (1) Any person who willfully violates any provision of this

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

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

(3) No indictment or information may be returned under this chapter more than (a) five years after the violation, or (b) three years after the actual discovery of the violation, whichever date of limitation is later. [2016 c 61 § 13. Prior: 2003 c 288 § 3; 2003 c 53 § 163; 1979 ex.s. c 68 § 28; 1965 c 17 § 5; 1959 c 282 § 40.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 21.20.410 Attorney general, prosecuting attorney may institute criminal proceeding—Referral of evidence by director. (1) The director may refer such evidence as may be available concerning violations of this chapter or of any rule or order hereunder to the attorney general or the proper prosecuting attorney, who may in his or her discretion, with or without such a reference, institute the appropriate criminal proceedings under this chapter.

(2) The director may render such assistance as the prosecuting attorney requests regarding a reference. [1998 c 15 § 19; 1979 ex.s. c 68 § 29; 1959 c 282 § 41.]

RCW 21.20.420 Criminal punishment, chapter not exclusive. Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law. [1959 c 282 § 42.]

CIVIL LIABILITIES

RCW 21.20.430 Civil liabilities—Survival, limitation of actions—Waiver of chapter void—Scienter. (1) Any person, who offers or sells a security in violation of any provisions of RCW 21.20.010, 21.20.140 (1) or (2), or 21.20.180 through 21.20.230, is liable to the person buying the security from him or her, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages are the

amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.

(2) Any person who buys a security in violation of the provisions of RCW 21.20.010 is liable to the person selling the security to him or her, who may sue either at law or in equity to recover the security, together with any income received on the security, upon tender of the consideration received, costs, and reasonable attorneys' fees, or if the security cannot be recovered, for damages. Damages are the value of the security when the buyer disposed of it, and any income received on the security, less the consideration received for the security, plus interest at eight percent per annum from the date of disposition, costs, and reasonable attorneys' fees.

(3) Every person who directly or indirectly controls a seller or buyer liable under subsection (1) or (2) above, every partner, officer, director or person who occupies a similar status or performs a similar function of such seller or buyer, every employee of such a seller or buyer who materially aids in the transaction, and every broker-dealer, salesperson, or person exempt under the provisions of RCW 21.20.040 who materially aids in the transaction is also liable jointly and severally with and to the same extent as the seller or buyer, unless such person sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(4) (a) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(b) No person may sue under this section more than three years after the contract of sale for any violation of the provisions of RCW 21.20.140 (1) or (2) or 21.20.180 through 21.20.230, or more than three years after a violation of the provisions of RCW 21.20.010, either was discovered by such person or would have been discovered by him or her in the exercise of reasonable care. No person may sue under this section if the buyer or seller receives a written rescission offer, which has been passed upon by the director before suit and at a time when he or she owned the security, to refund the consideration paid together with interest at eight percent per annum from the date of payment, less the amount of any income received on the security in the case of a buyer, or plus the amount of income received on the security in the case of a seller.

(5) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(6) Any tender specified in this section may be made at any time before entry of judgment.

(7) Notwithstanding subsections (1) through (6) of this section, if an initial offer or sale of securities that are exempt from registration under RCW 21.20.310 is made by this state or its agencies, political subdivisions, municipal or quasi-municipal corporations, or other instrumentality of one or more of the foregoing and is in violation of RCW 21.20.010(2), and any such issuer, member

of the governing body, committee member, public officer, director, employee, or agent of such issuer acting on its behalf, or person in control of such issuer, member of the governing body, committee member, public officer, director, employee, or agent of such person acting on its behalf, materially aids in the offer or sale, such person is liable to the purchaser of the security only if the purchaser establishes scienter on the part of the defendant. The word "employee" or the word "agent," as such words are used in this subsection, do not include a bond counsel or an underwriter. Under no circumstances whatsoever shall this subsection be applied to require purchasers to establish scienter on the part of bond counsels or underwriters. The provisions of this subsection are retroactive and apply to any action commenced but not final before July 27, 1985. In addition, the provisions of this subsection apply to any action commenced on or after July 27, 1985. [1998 c 15 § 20; 1986 c 304 § 1; 1985 c 171 § 1; 1981 c 272 § 9; 1979 ex.s. c 68 § 30; 1977 ex.s. c 172 § 4; 1975 1st ex.s. c 84 § 24; 1974 ex.s. c 77 § 11; 1967 c 199 § 2; 1959 c 282 § 43.]

Severability—1986 c 304: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 304 § 2.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

DISCONTINUANCE OF VIOLATIONS

RCW 21.20.435 Assurance of discontinuance of violations—Acceptance—Filing. In the enforcement of this chapter, the director may accept an assurance of discontinuance of violations of the provisions of this chapter from any person deemed by the director to be in violation hereof. Any such assurance shall be in writing, may state that the person giving such assurance does not admit to any violation of this chapter, and shall be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his or her principal place of business, or in Thurston county. Proof of failure to comply with the assurance of discontinuance shall be prima facie evidence of a violation of this chapter. [1979 ex.s. c 68 § 31; 1974 ex.s. c 77 § 13.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

JUDICIAL REVIEW OF ORDERS

RCW 21.20.440 Judicial review of order—Modification of order by director on additional evidence. Any person aggrieved by a final order of the director may obtain a review of the order in the county in which that person resides or in any other court of competent jurisdiction by filing in court, within sixty days after the entry of

the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the director, and thereupon the director shall certify and file in court a copy of the filing, testimony, and other evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the director or there were reasonable grounds for failure to do so. The findings of the director as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the director, the court may order the additional evidence to be taken before the director and to be adduced upon the hearing in such manner and upon such conditions as the court may consider proper. The director may modify his or her findings by reason of the additional evidence so taken; and the director shall file any modified or new findings, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the director's order. [1979 ex.s. c 68 § 32; 1959 c 282 § 44.]

ADMINISTRATION OF CHAPTER

RCW 21.20.450 Administration of chapter—Rules and forms, publication—Cooperation with other state and federal authorities.

(1) The administration of the provisions of this chapter shall be under the department of financial institutions. The director may from time to time make, amend, and repeal such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules defining any term, whether or not such term is used in the Washington securities law. The director may classify securities, persons, and matters within the director's jurisdiction, and prescribe different requirements for different classes. No rule, form, or order may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms the director may cooperate with the securities administrators of the other states and the securities and exchange commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable. All rules and forms of the director shall be published.

(2) To encourage uniform interpretation and administration of this chapter and effective securities regulation and enforcement, the director may cooperate with the securities agencies or administrators of one or more states, Canadian provinces or territories, or another country, the securities and exchange commission, the commodity futures trading commission, the securities investor protection corporation,

any self-regulatory organization, any national or international organization of securities officials or agencies, and any governmental law enforcement or regulatory agency.

(3) The cooperation authorized by subsection (2) of this section includes:

(a) Establishing a central depository for licensing or registration under this chapter and for documents or records required or allowed to be maintained under this chapter;

(b) Making a joint license or registration examination or investigation;

(c) Holding a joint administrative hearing;

(d) Filing and prosecuting a joint civil or administrative hearing;

(e) Sharing and exchanging personnel;

(f) Sharing and exchanging information and documents; and

(g) Formulating under chapter 34.05 RCW, rules or proposed rules on matters such as statements of policy, guidelines, and interpretative opinions and releases. [1994 c 256 § 24; 1993 c 472 § 15; 1979 ex.s. c 68 § 33; 1979 c 158 § 86; 1975 1st ex.s. c 84 § 25; 1959 c 282 § 45.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1993 c 472: See RCW 43.320.900.

RCW 21.20.460 Administrator of securities—Appointment, qualifications, term, etc. The director shall appoint a competent person to administer this chapter who shall be designated administrator of securities. The director shall delegate to the administrator such powers, subject to the authority of the director, as may be necessary to carry out the provisions of this chapter. The administrator shall hold office at the pleasure of the director. [1959 c 282 § 46.]

RCW 21.20.470 Compensation, travel expenses of administrator and employees. The administrator, and any person employed by the administrator, shall be paid, in addition to regular compensation, travel expenses incurred by each of them in the performance of their duties under this chapter in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1979 ex.s. c 68 § 34; 1975-'76 2nd ex.s. c 34 § 64; 1959 c 282 § 47.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 21.20.480 Unlawful use or disclosure of filed information. It is unlawful for the director or any of the director's officers or employees to use for personal benefit any information which is filed with or obtained by the director and which is not made public. The director or any of the director's officers or employees shall not disclose any such information or the fact that any investigation is being made except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of this

chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the director or any of the director's officers or employees. [1979 ex.s. c 68 § 35; 1959 c 282 § 48.]

RCW 21.20.490 No liability under chapter for act in good faith.

No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the director, notwithstanding that the rule or form may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason. [1959 c 282 § 49.]

RCW 21.20.500 Administrative hearings public—Exception.

Every hearing in an administrative proceeding shall be public unless the director in his or her discretion grants a request joined in by all the respondents that the hearing be conducted privately. [1979 ex.s. c 68 § 36; 1959 c 282 § 50.]

RCW 21.20.510 Document filed when received—Register—Inspection of register, information, etc.

A document is filed with the director when it is received by the director or by a person as the director designates by rule or order. The director or the director's designee shall keep a register of all applications for registration and registration statements which are or have ever been effective under this chapter and all denial, suspension, or revocation orders which have ever been entered under this chapter. The register shall be open for public inspection. 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 director prescribes. [1994 c 256 § 25; 1959 c 282 § 51.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.520 Copies of entries, documents to be furnished—

Copies as prima facie evidence. Upon request and at such reasonable charges as the director prescribes, the director shall furnish to any person photostatic or other copies (certified under his or her seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified. [2011 c 336 § 596; 1979 ex.s. c 68 § 37; 1959 c 282 § 52.]

RCW 21.20.530 Interpretative opinions by director.

The director in his or her discretion may honor requests from interested persons for interpretative opinions. [1979 ex.s. c 68 § 38; 1959 c 282 § 53.]

PROOF OF EXEMPTION

RCW 21.20.540 Exemptions, exceptions, and preemptions—Burden of proof. In any proceeding under this chapter, the burden of proving an exemption, an exception from a definition, or a preemption of a provision of this chapter is upon the person claiming it. [1998 c 15 § 21; 1959 c 282 § 54.]

ADDITIONAL PROVISIONS

RCW 21.20.700 Investigations and examinations—Additional authority—Scope. (1) In addition to the authority conferred in RCW 21.20.370 the director at any time during a public offering whether registered or not, or one year thereafter or at any time that any debt or equity securities which have been sold to the public pursuant to registration under this chapter are still an outstanding obligation of the issuer: (a) May investigate the issuer for the purpose of ascertaining whether there have been violations of this chapter, rules adopted under this chapter, or any conditions imposed by the director expressed in any permit for a public offering or otherwise; (b) may visit and examine the issuer for the purpose of assuring compliance with this chapter, rules adopted under this chapter, or any conditions imposed by the director whether expressed in the permit for the public offering or otherwise; (c) may require or permit any person to file a statement in writing, under oath or otherwise as the director may determine, as to all the facts and circumstances concerning the matter to be investigated; and (d) may publish information concerning any violation of this chapter, or any rule, order, or condition adopted or imposed under this chapter.

(2) The examination or investigation, whether conducted within or without this state, shall include the right to reasonably examine the issuer's books, accounts, records, files, papers, feasibility reports, other pertinent information and obtain written permission from the issuer to consult with the independent accountant who audited the financial statements of the issuer. The reasonable costs of the examination shall be paid by the issuer to the director. The issuer shall not be liable for the costs of second or subsequent examinations during a calendar year. [1988 c 244 § 1; 1973 1st ex.s. c 171 § 5.]

Severability—1988 c 244: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 244 § 18.]

Effective date—1988 c 244: "Sections 1 through 16 of this act shall take effect July 1, 1988." [1988 c 244 § 20.]

Implementation—Application—1988 c 244: "The director of licensing may take whatever action is necessary to implement this act on its effective date. This act applies to any person, individual, corporation, partnership, or association whether or not in existence on or prior to July 1, 1988. The director of licensing may adopt transition rules in order to allow debenture companies in existence prior to July 1, 1988, a reasonable amount of time to comply with the requirements of this act. Transition rules shall require compliance with this act not later than January 1, 1990." [1988 c 244 § 21.]

Investigations: RCW 21.20.370.

RCW 21.20.702 Suitability of recommendation—Reasonable grounds required. (1) In recommending to a customer the purchase, sale, or exchange of a security, a broker-dealer, salesperson, investment adviser, or investment adviser representative must have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs.

(2) Before the execution of a transaction recommended to a noninstitutional customer, other than transactions with customers where investments are limited to money market mutual funds, a broker-dealer, salesperson, investment adviser, or investment adviser representative shall make reasonable efforts to obtain information concerning:

- (a) The customer's financial status;
- (b) The customer's tax status;
- (c) The customer's investment objectives; and

(d) Such other information used or considered to be reasonable by the broker-dealer, salesperson, investment adviser, or investment adviser representative in making recommendations to the customer. [1994 c 256 § 26; 1993 c 470 § 2.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

RCW 21.20.810 Application of chapter not limited. Nothing in RCW 21.20.700, 21.20.702, or 21.20.855 limits the application of other provisions of this chapter. [2020 c 151 § 1; 1988 c 244 § 7.]

Severability—Effective date—Implementation—Application—1988 c 244: See notes following RCW 21.20.700.

RCW 21.20.855 Examination reports and information—Exempt from public disclosure—Use in civil actions. (1) Examination reports and information obtained by the director or the director's representatives in conducting examinations pursuant to RCW 21.20.700 shall not be subject to public disclosure under chapter 42.56 RCW.

(2) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the director. [2005 c 274 § 238; 1988 c 244 § 16.]

Severability—Effective date—Implementation—Application—1988 c 244: See notes following RCW 21.20.700.

RCW 21.20.860 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife,

widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 61.]

SMALL SECURITIES OFFERINGS

RCW 21.20.880 Small securities offerings—Exemptions—Annual reports—Disqualification provisions—Rules. (1) Any offer or sale of a security is exempt from RCW 21.20.040 through 21.20.300 and 21.20.327, except as expressly provided, if:

(a) The issuer first files the offering with the director and the director declares the offering exempt;

(b) The offering is conducted in accordance with an applicable exemption from registration under the securities act of 1933;

(c) The issuer is an entity doing business in the state of Washington;

(d) The issuer files with the director an escrow agreement providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors equals or exceeds the minimum target offering, as determined by the director;

(e) The aggregate purchase price of all securities sold by an issuer pursuant to the exemption provided by this section does not exceed one million dollars during any twelve-month period;

(f) The aggregate amount sold to any investor, other than an "accredited investor" as that term is defined under the securities act of 1933, by one or more issuers during the twelve-month period preceding the date of the sale does not exceed:

(i) The greater of two thousand dollars or five percent of the annual income or net worth of the investor, as applicable, if either the annual income or the net worth of the investor is less than one hundred thousand dollars; or

(ii) Ten percent of the annual income or net worth of the investor, as applicable, up to one hundred thousand dollars, if either the annual income or net worth of the investor is one hundred thousand dollars or more;

(g) The investor acknowledges by manual or electronic signature the following statement conspicuously presented at the time of sale on a page separate from other information relating to the offering: "I acknowledge that I am investing in a high-risk, speculative business venture, that I may lose all of my investment, and that I can afford the loss of my investment";

(h) The issuer reasonably believes that all purchasers are purchasing for investment and not for sale in connection with a distribution of the security; and

(i) The issuer and investor provide any other information reasonably requested by the director.

(2) Attempted compliance with the exemption provided by this section does not act as an exclusive election. The issuer may claim any other applicable exemption.

(3) For as long as securities issued under the exemption provided by this section are outstanding, the issuer shall provide an annual report to the issuer's shareholders and the director no later than one hundred twenty days after the end of the fiscal year covered by the report. An issuer may provide the report to its shareholders by posting a copy of the report on the issuer's website. The report must contain the following information:

(a) Executive officer and director compensation, including specifically the cash compensation earned by the executive officers and directors since the previous report and on an annual basis, and any bonuses or other compensation, including stock options or other rights to receive equity securities of the issuer or any affiliate of the issuer, received by them; and

(b) A brief analysis by management of the issuer of the business operations and financial condition of the issuer.

(4) Securities issued under the exemption provided by this section may not be transferred by the purchaser during a one-year period beginning on the date of purchase, unless the securities are transferred:

(a) To the issuer of the securities;

(b) To an accredited investor;

(c) As part of a registered offering; or

(d) To a member of the family of the purchaser or the equivalent, or in connection with the death or divorce or other similar circumstances, in the discretion of the director.

(5) The director shall adopt disqualification provisions under which this exemption shall not be available to any person or its predecessors, affiliates, officers, directors, underwriters, or other related persons. The provisions shall be substantially similar to the disqualification provisions adopted by the securities and exchange commission pursuant to the requirements of section 401(b)(2) of the Jobs act of 2012 or, if none, as adopted in Rule 506 of Regulation D. Notwithstanding the foregoing, this exemption shall become available on June 12, 2014.

(6) Any type of equity or convertible debt security may be offered under the exemption provided under this section.

(7) Subject to RCW 21.20.450, the director may adopt, amend, or repeal rules to implement this section, including the establishment of filing and transaction fees sufficient to cover the costs of administering this section. [2017 c 113 § 1; 2014 c 144 § 3.]

Short title—2014 c 144: "This act may be known and cited as the Washington jobs act of 2014." [2014 c 144 § 1.]

Findings—Intent—2014 c 144: "The legislature finds that start-up companies play a critical role in creating new jobs and revenues. Crowdfunding, or raising money through small contributions from a large number of investors, allows smaller enterprises to access the capital they need to get new businesses off the ground. The legislature further finds that the costs of state securities registration often outweigh the benefits to Washington start-ups

seeking to make small securities offerings and that the use of crowdfunding for business financing in Washington is significantly restricted by state securities laws. Helping new businesses access equity crowdfunding within certain boundaries will democratize venture capital and facilitate investment by Washington residents in Washington start-ups while protecting consumers and investors. For these reasons, the legislature intends to provide Washington businesses and investors the opportunity to benefit from equity crowdfunding." [2014 c 144 § 2.]

STATUTORY POLICY

RCW 21.20.900 Construction to secure uniformity. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and to coordinate the interpretation and administration of this chapter with the related federal regulation. [1959 c 282 § 61.]

REPEAL AND SAVING PROVISIONS

RCW 21.20.910 Saving—Civil, criminal proceedings. Prior law exclusively governs all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of this chapter, except that no civil suit or action may be maintained to enforce any liability under prior law unless brought within any period of limitation which applied when the cause of action accrued and in any event within two years after the *effective date of this chapter. [1959 c 282 § 63.]

***Reviser's note:** The "effective date of this chapter" is midnight June 10, 1959, see preface 1959 session laws.

RCW 21.20.915 Saving—Prior effective registrations. All effective registrations under prior law and all conditions imposed upon such registrations remain in effect so long as they would have remained in effect if they had become effective under this chapter. They are considered to have been filed, entered, or imposed under this chapter. All dealers who are duly registered as brokers and all salespersons and issuers' agents who are duly registered as agents under said securities act, mining act or oil and mining leases act, on the *effective date of this chapter shall be deemed to be duly registered under and subject to the provisions of this chapter, such registration to expire on the 30th day of June of the year in which this chapter becomes effective and to be subject to renewal as provided in this chapter. [1979 ex.s. c 68 § 44; 1959 c 282 § 64.]

***Reviser's note:** The "effective date of this chapter" is midnight June 10, 1959, see preface 1959 session laws.

RCW 21.20.920 Application of prior law. Prior law applies in respect to any offer or sale made within one year after the *effective date of this chapter pursuant to an offering begun in good faith before its effective date on the basis of an exemption available under prior law. [1959 c 282 § 65.]

***Reviser's note:** The "effective date of this chapter" is midnight June 10, 1959, see preface 1959 session laws.

RCW 21.20.925 Judicial review of prior administrative orders. Judicial review of all administrative orders as to which review proceedings have not been instituted by the *effective date of this chapter are governed by RCW 21.20.440 except that no review proceeding may be instituted unless the petition is filed within any period of limitation which applied to a review proceeding when the order was entered and in any event within sixty days after the *effective date of this chapter. [1959 c 282 § 66.]

***Reviser's note:** The "effective date of this chapter" is midnight June 10, 1959, see preface 1959 session laws.

RCW 21.20.930 Solicitation permits under insurance laws not limited. Nothing in this chapter shall in any way limit the provisions of RCW 48.06.030. [1959 c 282 § 67.]

RCW 21.20.935 Repealer. The following acts and parts of acts are hereby repealed:

(1) Chapter 69, Laws of 1923; chapter 97, Laws of 1935; chapter 182, Laws of 1937; chapter 124, Laws of 1939; chapter 169, Laws of 1943; chapter 231, Laws of 1943; chapter 189, Laws of 1947; chapter 150, Laws of 1949; chapter 230, Laws of 1951; and RCW 21.04.010 through 21.04.220; and

(2) Chapter 178, Laws of 1937; chapter 64, Laws of 1951; and RCW 21.08.010 through 21.08.120; and

(3) Chapter 110, Laws of 1939 and RCW 21.12.010 through 21.12.080. [1959 c 282 § 68.]

SHORT TITLE

RCW 21.20.940 Short title. This chapter shall be known as "The Securities Act of Washington." [1959 c 282 § 69.]