

No. 2004-126

AN ACT

HB 552

Amending the act of December 5, 1972 (P.L.1280, No.284), entitled "An act relating to securities; prohibiting fraudulent practices in relation thereto; requiring the registration of broker-dealers, agents, investment advisers, and securities; and making uniform the law with reference thereto," further providing for exempt transactions; providing for fees; and making a related repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 203(d) and (e) of the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972, amended November 24, 1998 (P.L.829, No.109), are amended to read:

Section 203. Exempt Transactions.—The following transactions are exempted from sections 201 and 211:

* * *

(d) Any sales by an issuer to not more than twenty-five persons in this State during a period of twelve consecutive months if (i) the issuer shall obtain the written agreement of each such person not to sell the security within twelve months after the date of purchase; (ii) no *general solicitation through* public media [**advertisement is used or mass mailing made**] *advertising, mass mailing, Internet or other means is used* in connection with soliciting such sales; (iii) no cash or securities is given or paid, directly or indirectly, to any promoter as compensation in connection therewith unless such compensation is given or paid in connection with a sale made by a broker-dealer registered pursuant to section 301 and any person receiving such compensation is either such broker-dealer or an agent registered pursuant to section 301 of such broker-dealer; (iv) the filing fee specified in section 602(b.1) is paid; and (v) the issuer has provided written notice to each such person of the right to withdraw an acceptance as provided by section 207(m)(2). Purchasers of securities registered under this act or sold in reliance upon an exemption under this act other than this subsection (d), (f) or (s) shall not be included in computing the twenty-five persons for purposes of this exemption. A notice in the form prescribed by the commission, signed by [**the officers or directors**] *an officer* of the issuer [**under oath**] and stating the name, principal business address of the issuer, proposed use of the proceeds from the sale and such facts as are necessary to establish this exemption shall be filed, together with a copy of any offering literature used in connection with such offer or sale, with the commission not later than the day on which the issuer receives from any person an executed subscription agreement or other contract to purchase the securities being offered or the issuer receives consideration from any person therefor, whichever is earlier.

(e) Any offer to not more than fifty persons in this State during a period of twelve consecutive months (i) if no sales result from such offer or if sales resulting from such offer are exempt by reason of subsection (d) hereof[,] and (ii) no general solicitation through public media advertising, mass mailing, Internet or other means is used in connection with making the offer. This subsection shall not be applicable to offers made pursuant to any other subsection of this section, except subsections (d) and (f).

Section 2. The act is amended by adding a section to read:

Section 602. Fees.—(a) The commission shall charge and collect the fees fixed in this section and remit them to the General Fund.

(b) (Reserved).

(b.1) Filing fees for sales of securities:

(i) (Reserved).

(ii) Registration statement filings under section 205, except as provided in subclause (iv), based upon the maximum aggregate offering price at which such securities are to be offered in this State during the effective period of the registration statement:

(A) less than \$10,000,000	\$750
(B) \$10,000,000 or more	1,000

(iii) Registration statement filings under section 206, except as provided in subclause (iv) 500

Plus 1/20 of 1% of the maximum aggregate offering price at which such securities are to be offered in this State during the effective period of the registration up to a maximum filing fee of \$3,000.

(iv) In the case of registration statement filings under section 205 or 206 or notice filings under section 211 by an open-end or closed-end investment company, face amount certificate company or unit investment trust, as such persons are classified in the Investment Company Act of 1940.

Based upon the maximum aggregate offering price at which such securities are to be offered in this State during the effective period of the registration or notice filing, the fee for (A) \$4,000,000 or less, 1/20 of 1% with a minimum fee of \$350; (B) more than \$4,000,000 but less than \$100,000,000, \$3,000; (C) \$100,000,000 or more, \$3,500;

or (D) for an indefinite amount of securities to be offered in this State during the effective period of registration or notice filing. The amount specified in clause (C) plus a \$500 assessment specified in section 602.1(a)(5).

(v) *Exemption filings under section 203(o) shall be:* 350

(vi) *When a registration statement or notice of filing made under section 211(a) is withdrawn before the effective date or a pre-effective stop order is entered under section 208, the amount that the commission shall retain from the filing fee and, if applicable, an assessment imposed under section 602.1(a)(5) shall be:*

 (A) *Under section 205 or a notice filing under section 211(a)* \$ 400

 (B) *Under section 206* 250

(vii) *Filing a notice on SEC Form D under section 211(b)* 525

(viii) *Filing an application for exemption from registration under section 203(d) or (s):*

 (A) *Where the maximum aggregate offering price at which such securities are offered in this State is less than \$1,000,000* 150

 (B) *Where the maximum aggregate offering price at which such securities are offered in this State is \$1,000,000 or more* 400

(ix) *Filing an application for exemption from registration under section 203(t)* 500

(x) *Filing an application for exemption from registration under section 203(p)* 100

(b.2) *There shall be no refund of any filing fee specified in subsection (b.1)(vii) through (x).*

(c) *(Reserved).*

(d) *(Reserved).*

(d.1) Every applicant for an initial or renewal license under section 301 shall pay a filing fee of three hundred fifty dollars (\$350) in the case of a broker-dealer, eighty dollars (\$80) in the case of an agent, two hundred seventy-five dollars (\$275) in the case of an investment adviser and eighty dollars (\$80) in the case of an investment adviser representative. The term of an agent's or associated person's registration hereunder shall be concurrent with that of his employer, if a broker-dealer or an investment adviser. When an agent changes employers, an eighty dollar (\$80) fee shall be paid. When an investment adviser representative changes employers, an eighty dollar (\$80) fee shall be paid. When an application is denied or withdrawn or a registration revoked, the filing fee shall be retained. A federally covered adviser shall pay an annual notice filing fee of three hundred fifty dollars (\$350).

(e) The fee for the commission's acting as an escrow holder for securities under section 207 is one hundred dollars (\$100).

(f) The commission may fix by regulation a reasonable charge for any publication issued under its authority.

(g) The commission may fix by regulation reasonable charges for the cost of administering examinations required for registration under this act by section 301.

Section 3. Section 615-A(12) through (17) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, are repealed.

Section 4. This act shall take effect immediately.

APPROVED—The 23rd day of November, A.D. 2004.

EDWARD G. RENDELL