



SENATE BILL No. 952

March 28, 1996, Introduced by Senator CARL and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend section 201 of Act No. 265 of the Public Acts of 1964, entitled as amended
"Uniform securities act,"
as amended by Act No. 408 of the Public Acts of 1988, being section 451.601 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 201 of Act No. 265 of the Public Acts of
2 1964, as amended by Act No. 408 of the Public Acts of 1988, being
3 section 451.601 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 201. (a) A person shall not transact business in this
6 state as a broker-dealer, commodity issuer, or agent unless reg-
7 istered under this act.

8 (b) A broker-dealer or issuer shall not employ an agent
9 unless the agent is registered. The registration of an agent is

1 not effective during any period when the agent is not associated
2 with a particular broker-dealer registered under this act or a
3 particular issuer. If an agent begins or terminates a connection
4 with a broker-dealer or issuer, or begins or terminates those
5 activities ~~which~~ THAT make him or her an agent, the agent as
6 well as the broker-dealer or issuer shall ~~promptly~~ IMMEDIATELY
7 notify the administrator in writing on a form prescribed by the
8 administrator.

9 (c) Unless a broker-dealer is a member of a national securi-
10 ties exchange as defined in title I of the securities exchange
11 act of 1934, chapter 404, 48 Stat. 881, the administrator may by
12 rule or order require that a broker-dealer designate a person who
13 shall be registered as a principal of the broker-dealer in charge
14 of management, financial matters, or compliance ~~. If so~~
15 ~~required, a~~ AND THE broker-dealer shall at all times designate
16 and maintain a principal. The registration of a principal is not
17 effective during any period when the principal is not associated
18 with a particular broker-dealer registered under this act. If a
19 principal begins or terminates a connection with a broker-dealer,
20 or begins or terminates activities and designation as a princi-
21 pal, the principal as well as the broker-dealer shall ~~promptly~~
22 IMMEDIATELY notify the administrator in writing on a form pre-
23 scribed by the administrator.

24 (d) A person shall not transact business in this state as an
25 investment adviser unless the person complies with 1 OR MORE of
26 the following:

1 (1) The person is registered under this act.

2 (2) The person is registered as a broker-dealer without the
3 imposition of a condition under section 204(b)(5).

4 (3) ~~His or her~~ THE PERSON'S only clients in this state are
5 investment companies as defined in section 3 of the investment
6 company act of 1940, TITLE I OF CHAPTER 686, 54 STAT. 789, 15
7 U.S.C. ~~section~~ 80a-3, or insurance companies, banks, or trust
8 companies.

9 (4) THE PERSON'S ONLY CLIENTS IN THIS STATE ARE INDIVIDUALS
10 WHO ACCESS THE PERSON'S SERVICES THROUGH A 1-900 OR 1-800 TELE-
11 PHONE NUMBER.

12 (e) ~~Every~~ A registration under this section shall be
13 effective until it is withdrawn, terminated, revoked, or
14 canceled. ~~Every~~ A registrant shall be required to file or have
15 filed an annual report with such information as the administrator
16 may require. The administrator may by rule or order reduce the
17 filing fee for registration applications received more than 6
18 months after the beginning of the fiscal year.

19 (f) Unless the administrator by rule provides for ~~such~~
20 regulation, the broker-dealer, commodity issuer, and agent regis-
21 tration provisions of this act ~~shall~~ DO not apply to a person
22 engaged in the commodities business in this state ~~—~~ AND whose
23 transactions with the public involve ~~any~~ 1 OR MORE of the
24 following:

25 (1) A sale with delivery into the possession of the buyer of
26 the commodity sold, within 10 days after the cash payment, if,

1 with respect to the sales the seller DOES NOT DO ANY OF THE
2 FOLLOWING:

3 (i) ~~Does not guarantee~~ GUARANTEE or promise the repurchase
4 of the commodity from the buyer in the future.

5 (ii) ~~Does not promise~~ PROMISE or agree to act as a broker
6 or dealer on behalf of the buyer in connection with a future
7 resale of the commodity by the buyer.

8 (iii) ~~Does not advertise~~ ADVERTISE the commodity except
9 under a plan accepted by the administrator.

10 (iv) ~~Does not pay~~ PAY a commission directly or indirectly
11 for soliciting any prospective buyer.

12 (2) ~~The~~ EXCEPT FOR INVESTMENT PURPOSES, THE sale OR
13 PURCHASE of the commodity ~~to, or the purchase of the commodity~~
14 from ~~—~~ a person using or processing the commodity in a trade or
15 business, including the resale of the commodity, ~~other than for~~
16 ~~investment,~~ whether or not for immediate delivery.

17 (g) The registration provisions of this act do not apply to
18 all commodities accounts, agreements, and transactions excluded
19 from state jurisdiction ~~pursuant to~~ UNDER the commodity
20 exchange act, chapter 369, 42 Stat. 998, 7 U.S.C. 1 TO 9b, 10a TO
21 13, 13a TO 13c, 15, 16, 17, AND 18 TO 25.

22 (h) The registration provisions of this act do not apply to
23 a county treasurer acting ~~pursuant to~~ UNDER his or her author-
24 ity under the local government investment pool act, ACT NO. 121
25 OF THE PUBLIC ACTS OF 1985, BEING SECTIONS 129.141 TO 129.150 OF
26 THE MICHIGAN COMPILED LAWS.

1 (i) A person licensed or registered as a mortgage broker,
2 mortgage lender, or mortgage servicer under the mortgage brokers,
3 lenders, and servicers licensing act, Act No. 173 of the Public
4 Acts of 1987, being sections 445.1651 to 445.1683 of the Michigan
5 Compiled Laws, shall be exempted from registering as a
6 broker-dealer under this act for the offer or sale of mortgage
7 loans as defined under ~~the mortgage brokers, lenders, and serv-~~
8 ~~icers licensing act~~ ACT NO. 173 OF THE PUBLIC ACTS OF 1987.
9 Employees of persons licensed or registered under Act No. 173 of
10 the Public Acts of 1987 are exempted from the agent registration
11 provision of this act for offer or sale of mortgage loans as
12 defined under that act, when acting as employees of the licensed
13 persons.