

AN ACT

ENTITLED, An Act to revise certain provisions regarding federal covered securities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 47-31B-302 be amended to read:

47-31B-302. (a) Required filing of records. With respect to a federal covered security, as defined in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)), that is not otherwise exempt under §§ 47-31B-201 through 47-31B-203, a rule adopted or order issued under this chapter may require the filing of any or all of the following records:

- (1) Before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933 and a consent to service of process complying with § 47-31B-611 signed by the issuer and the payment of a filing fee of one thousand dollars for open-end management companies with total net assets of less than two hundred fifty million dollars, or a filing fee of two thousand dollars for open-end management companies with total net assets equal to or greater than two hundred fifty million dollars; two hundred fifty dollars for any closed end management company; or a filing fee of one hundred fifty dollars for any unit investment trust. A renewal filing is required annually, including those documents that the director by rule or order may require and a fee as provided in this subparagraph a(1). An initial or renewal filing includes a separate fee for each portfolio, series, class, or other designation. An initial or renewal filing shall include the most recent financial statement showing the nets assets of each portfolio, series, class, or other designation, unless the maximum fee of two thousand dollars is paid.
- (2) After the initial offer of the federal covered security in this state, all records that are part of an amendment to a federal registration statement filed with the Securities and

Exchange Commission under the Securities Act of 1933. Any amendment that includes a name change to any filing, including any portfolio, series, class, or other designation, must include a fifty dollar filing fee for each name change of each portfolio, series, class, or other designation.

(b) Notice filing effectiveness and renewal. A notice filing under subsection (a) is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the Securities and Exchange Commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed and by paying a renewal fee as set forth in subsection a(1). A previously filed consent to service of process complying with § 47-31B-611 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(c) Notice filings for federal covered securities under Section 18(b)(4)(E). With respect to a security that is a federal covered security under Section 18(b)(4)(E) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(4)(E)), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with § 47-31B-611 signed by the issuer not later than fifteen days after the first sale of the federal covered security in this state and the payment of a fee of two hundred fifty dollars; and the payment of a fee of two hundred seventy-five dollars for any late filing.

(d) Stop orders. Except with respect to a federal security under Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(1)), if the director finds that there is a failure to comply with a notice or fee requirement of this section, the director may issue a stop order suspending the offer and sale of a federal covered security in this state. If the deficiency is corrected, the stop order is void as

of the time of its issuance and no penalty may be imposed by the director.

(e) Notice filings for other federal covered securities. Unless the director provides otherwise by rule, any other federal covered security may be offered and sold in this state in reliance on it being a federal covered security without the filing of a notice or the payment of a fee. A rule adopted under this chapter may require a notice filing with respect to other federal covered securities by or on behalf of an issuer and the payment of a fee of two hundred fifty dollars and the payment of a fee of two hundred seventy-five dollars for any late filing.

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I certify that the attached Act
originated in the

SENATE as Bill No. 52

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 52

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State