

MASTER'S THESIS

M-2299

BÖTTCHER, Walter Reinhold
AN ANALYTICAL AND COMPARATIVE STUDY OF ALASKA'S
"BLUE SKY" ACT AND RELATED LAWS.

University of Alaska, M.B.A., 1969
Law

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AN ANALYTICAL AND COMPARATIVE
STUDY OF ALASKA'S "BLUE SKY"
ACT AND RELATED LAWS

A
THESIS

Presented to the Faculty of the
University of Alaska in Partial Fulfillment
of the Requirements
for the Degree of
MASTER OF BUSINESS ADMINISTRATION

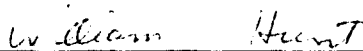
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College, Alaska

May 1969

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STUDY OF ALASKA'S "BLUE SKY"
ACT AND RELATED LAWS


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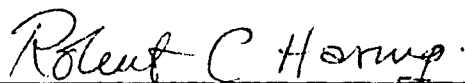
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ABSTRACT

Objectives of this study are: (1) to summarize historic aspects and scope of Alaska securities regulations and laws; (2) to review background of the problem including ethical deviance; (3) to show the interrelation of State and Federal laws; (4) to outline federal security laws and regulations related to Alaska; (5) to explain the Uniform Securities Act and organization; (6) to analyze the Alaska Securities Act of 1959, as amended; (7) to depict Alaska administration of "Blue Sky" laws and (8) to summarize and state conclusions.

ACKNOWLEDGEMENTS

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I

INTRODUCTION

Progress in 35 Years

A profound regulatory renaissance has marked the sweep of three and one half decades in the securities market places of the United States. Still the court dockets and news media reflect widespread deviance from acceptable ethical standards in the fields of investments.

In 35 years the legal precept, "Caveat Venditor," has taken its place beside the warning, "Caveat Emptor." In a single generation the U.S. Government's laissez-faire attitude has vanished; the predatory bucket shop operator has been driven out. Moral suasion and fear of criminal prosecution by state and federal governments have exerted a salutary impact upon the vendors, exchanges and securities traders. Still avarice and greed flourish at the public expense in defiance of ethics and law.

Stock exchanges around the world are as close to Alaskan investors as their telephones; securities agents -- varying in degree of capability -- and prospective buyers -- ranging from amateurish to sophisticated -- abound. Millions of securities in the form of stocks, bonds, rights, warrants, debentures and options are bought and sold daily by millions of traders in the United States and abroad.

"Blue Sky" law, emphasizing preventive rather than punitive concepts, is defined by Black's Law Dictionary as "a popular name for Acts providing for the regulation and supervision of investment companies, for the protection of the community from investing in fraudulent companies."

In his 1968 Annual Report,¹ Chairman Manuel F. Cohen wrote:

The Securities and Exchange Commission . . . occupies a central role in a vital, delicate and rapidly changing aspect of the national economy -- the financing of American industry and the provision of necessary safeguards to the millions of investors who, directly or indirectly, entrust their savings to the securities markets.

Our markets are growing and changing at an unprecedented rate. There are now more than 24 million direct stockholders. . . indirect investors [mutual fund, pension fund and life insurance policy holders] are estimated to number in excess of 100 million.

Objectives of Thesis

Objectives of this thesis include a brief review of the history of "Blue Sky" legislation that governs buying and selling of securities, the problems involved in regulation, the integration of Federal and State laws and a comparison of the Alaska and other states' securities statutes and administration.

Analysis will include:

1. Qualifications, registration, licensing and

1. Securities and Exchange Commission, 34th Annual Report, 1968, p. XVII.

supervision of securities agents, broker-dealers and financial advisers.

2. Registration of securities.
3. Administrative and policing functions.
4. Coordination with other law enforcement agencies.
5. Importance of the laws and regulations to Alaska investors.

Out of this study will come the answers to these questions: Is the Alaska Securities Act of 1959, as amended, adequate to meet current requirements? Does the law need implementation?

Research Methodology

Information used in this thesis was obtained from statutes, law texts, reported cases, annual reports, pamphlets, news media, law encyclopedia, reporters, digests and correspondence.

II

BACKGROUND OF THE PROBLEM

Historic Aspects

The problems of securities regulation are "as old as the cupidity of sellers and the gullibility of buyers" in the words of the late Professor Louis Loss, former associate counsel of the U.S. Securities and Exchange Commission.²

Predatory inclinations seem to characterize some of the securities dealers of every generation.

Professor Loss observed that enactment between 1933 and 1945 of the U.S. Securities Act and kindred federal laws "followed a generation of state regulations, and several centuries of legislation in England."

Under Edward I, in 1285, a statute was enacted which authorized the Court of Aldermen to license brokers in London. Prosecutions were instituted frequently under this act over the years.

Loss noted that 400 years later Parliament approved "an act to restrain the number and ill practices of brokers and stock jobbers."

In 1720 the English Parliament passed the "Bubble Act," which prohibited issuance of "false or irregular charters"

2. Louis Loss, Securities Regulation, p. 1283.

to companies. The act referred to "persons who contrive or attempt such dangerous and mischievous undertakings or projects, under false pretences of publick good, do presume . . . to open books for publick subscriptions, and draw in many unwary persons to subscribe therein towards raising great sums of money, whereupon the subscribers or claimants under them do pay small proportions thereof."³

The 1720 act was repealed in 1825.⁴ In 1844 Parliament enacted the Companies Act. It, when amended in 1867, required compulsory disclosure of financial conditions, a review of the purposes of the corporation, state registration and other essential facts.

In 1890 Parliament enacted the Directory Liability law⁵ which made corporation directors and promoters liable criminally for false statements in prospectuses.

It was strengthened by amendments in 1907, 1928 and 1947.

In 1939 the Prevention of Fraud Act⁶ required registration of all securities dealers in Great Britain.

In 1900 the U.S. Congress⁷ passed its first legislation covering fraudulent securities transactions. It was punitive only.

During 1933 and 1945 the U.S. Congress enacted the

3. Ibid., p. 4.

4. Ibid., p. 5.

5. Ibid., p. 5.

6. Ibid., p. 6.

7. Ibid., p. 7.

securities laws now in force which embody many of the English concepts.

In 1956 the Uniform Securities Act was approved by the National Conference of Commissioners on Uniform State Laws. This law was enacted by the Alaska legislature in 1959 and 1961.

Ethical Deviance in Investments

Citations which follow reflect the current level and scope of deviance.

The Securities and Exchange Commission 1968 Annual Report⁸ included the following cumulative data for its 35 years: 4,219 persons referred to the Justice Department for prosecution; 4,145 persons indicted; 2,167, convicted; 412, acquitted; 1,048, dismissed; 518, pending prosecution. Other actions by the SEC totaled 1,988,⁹ these included actions to enjoin violations, to enforce subpoenas, mandamus and miscellaneous cases. Many involved fraudulent practices, suppression of essential information in accounting statements and failure fully to disclose pertinent facts to which securities buyers are entitled.

Notable recent cases included:

Securities and Exchange Commission v. Fifth Avenue

8. Securities and Exchange Commission, 34th Annual Report, 1968, Table 13, p. 191.

9. Ibid., Table 10, p. 188.

Coach Lines, Inc., Roy M. Cohn and others.¹⁰

. . . after . . . a 6-week trial, . . . the court found . . . the defendants . . . had 'conspired to use Fifth for their own purposes,' that they had evidenced a 'marked propensity' to engage in 'the sort of self-dealing and dealing with affiliated companies which the . . . [Investment Company Act] was designed to prevent' and that, while most of the transactions charged did not involve fraud in the purchase or sales of securities, they involved 'overreaching' and 'flagrant violations of fiduciary duty.'

Securities and Exchange Commission v. Wolfson and Gerbert wherein Louis Wolfson, a noted eastern financier, and his associate, Elkin B. Gerbert, were convicted of "conspiracy to violate" and "substantive violations" of registration requirements of the 1934 Securities and Exchange Act.¹¹ Stock of a corporation defendants controlled was sold publicly without registration. The company had a large deficit that was not revealed.

Conviction of Lowell M. Birrell, fugitive from justice, who returned from Brazil to stand trial, was another significant case in the Securities and Exchange Commission 1968 records.¹²

Birrell was convicted of (1) conspiracy in the sale of unregistered stock of American Leduc Petroleum, Ltd., a defunct oil company, and (2) defrauding purchasers of Leduc

10. Ibid., pp. 117-118; 289 F. Supp. 3 (S.D.N.Y. 1968).

11. 66 Cr. 720 (S.D.N.Y.); Securities and Exchange Commission, op. cit., p. 55.

12. 62 Cr. 692 (S.D.N.Y.); Securities and Exchange Commission, op. cit., p. 55.

securities.

Investment news media chronicle similar cases.

The Wall Street Journal hailed the elevation of Hamer H. Budge to the Chairmanship of the SEC by observing his identification ". . . with the little guy -- the guy at the mercy of the Eastern Establishment."¹³

The Wall Street Journal in another article announced:

The Securities and Exchange Commission suspended Joseph Davis, former manager of First Hanover Corp.'s Hollywood, Fla., office, from association with a broker-dealer for five months. . .

The SEC found that Mr. Davis sold Intelectron stock to customers without regard for their investment needs and objectives and 'in disregard of information as to Intelectron's financial condition and business operation.' It also found that Mr. Davis made false and misleading statements to customers concerning Intelectron's assets, and prospects for perfection of a hearing aid 'for insertion in the user's tooth.'¹⁴

The Wall Street Journal carried this piece:

The New York Stock Exchange's governing board is expected to vote . . . on a package of measures that would significantly broaden its disciplinary powers [under the 1934 Securities and Exchange Act] and strengthen existing ones.

. . . The punishments range in severity from censure to fines, suspension and expulsion. One proposed step would establish a maximum \$100,000 fine against a member firm for each violation of exchange regulations. Another proposal would raise to \$25,000 from \$10,000 the maximum fine against an individual member or allied member.¹⁵

-
13. The Wall Street Journal, Feb. 24, 1969, p. 2.
 14. Ibid., March 4, 1969, p. 18.
 15. Ibid., January 13, 1969, p. 7.

The New York Times observed that:

The Securities and Exchange Commission has moved quietly but forcefully into the operational difficulties on Wall Street brought about by massive stock market volume. . .

The Securities Exchange Act of 1934 requires brokerage firms to keep their books and records up to date. The records of a number of firms are known to have fallen into a chaotic state . . .

The article continued:

. . . some firms might even be liable under the fraud provisions of the securities laws, since . . . these firms have continued to do business while their operational problems remained unsolved implied that they were able to function properly when, in fact, they were not. . .¹⁶

The Wall Street Journal in another article reported an increase in securities thefts and quoted New York Stock Exchange officials as saying it is "imperative to develop methods for closely checking the backgrounds of persons employed in the securities industry."¹⁷

The Wall Street Journal carried the following also:

The former vice president of a defunct drug wholesaler told a New York State inquiry into gangster operations in business of substantial clandestine payments of officials of a holding-company complex that controlled the drug concern for 21 months. The executive . . . told the . . . Commission that the holding company, identified as Twentieth Century Industries Inc. of Brooklyn, employed a former convict with links to the Mafia.¹⁸

-
16. The New York Times, January 15, 1969, p. 5.
 17. The Wall Street Journal, March 5, 1969, p. 3.
 18. Ibid., March 7, 1969, p. 5.

Twentieth Century Industries is a publicly held company. Its stock is traded over the counter.

The tendency towards ethical deviance is obvious; the level, nature and scope of variance from professional standards is significant to this thesis.

The departures from integrity emphasize not so much the requirement for more laws but for more stringent enforcement, implementation of administrative controls and educational facilities.

III

INTERRELATION OF STATE AND FEDERAL LAWS

Interdependence of Government Entities

Administration of Securities laws involves the State and Federal Governments, the New York Stock Exchange and its lesser counterparts, the National Association of Securities Dealers and other official agencies.

It should be noted that the Federal Constitution provides that it "and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."¹⁹

Comment by State Director

John K. Robertson, the Alaska Director of the Division of Banking, Securities and Small Loans, has expressed these collateral concepts:

One purpose of the Alaska Securities Act is to regulate intra-state transactions: however, there are at least two other important purposes. The regulation of the business of dealing in securities (licensing of broker-dealers and agents) and the registration of an interstate offering, a portion of which is to be offered in this State.

. . . state supervision is complementary to SEC

19. Art. VI, Para. 2, United States Constitution.

[Securities and Exchange Commission] supervision and vice versa. It has been my experience that there is very close cooperation between the State Administrators and the various Regional Offices of the SEC.²⁰

Purpose and Validity of State Laws

All of the states, except Delaware, have enacted statutes generally known as "Blue Sky" laws. Their purpose is to prevent "speculative schemes . . ." ²¹ Their regulatory impact extends to all intrastate dealers and buyers and their interstate operations.

"All [such] legislation has as its basis the recognition of the fact that for the great majority of the people, uneducated to the complexity of corporate organization and to the intricacies of investing, there is a need for protection from dishonest and unscrupulous promoters and their doubtful and often worthless stocks." ²²

The securities laws generally have replaced punitive type statutes which prescribed penalties for fraud and injunctive remedies. ²³ The emphasis now is on prevention.

Validity of state laws governing securities controls has been upheld by the United States Supreme Court. ²⁴

20. John K. Robertson letter dated June 27, 1968. (Appendix A.)

21. Hall v. Geiger-Jones Co., 242 U.S. 539.

22. Blue Sky Law Reporter, Para. 501, Vol. 3, p. 181.

23. Ibid., Para. 503, Vol. 3, p. 181.

24. Caldwell v. Sioux Falls Stock Yards Co., 242, U.S. 559; Merrick v. N. W. Halsey & Co., 242, U. S. 568.

IV
FEDERAL SECURITIES LAWS

Federal Securities Acts

Five major Federal laws encompass regulation of securities. These statutes also control the Exchanges and the supervision of the thousands of personnel who engage daily in the marketing process. These laws are essential to investors of Alaska and the 49 other states. The laws are administered by the five-man Federal Exchange and Securities Commission. General purposes are:

1. The Securities Act of May 27, 1933.²⁵ Its main purposes: (a) "To provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails; (b) to prevent fraud in the sale thereof; (c) provide for administration of the act by the Federal Trade Commission."

In Oklahoma-Texas Trust v. The Security and Exchange Commission (see 2.c. seq.) the Circuit Court of Appeals decided in 1939 that securities are the subject of "interstate commerce and that it is within the constitutional power of Congress to regulate that commerce."²⁶ There has been no further appeal to the U.S. Supreme Court.

25. 48 Stat. 74, 15 U.S.C. 77a-140.
26. C.C.A. 1939, 100 F 2nd 888.

2. The Securities Exchange Act of June 6, 1934.²⁷ Its main purposes: "(a) To provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce through the mails; (b) to prevent inequitable and unfair practices on such exchanges and markets; (c) to create the Securities and Exchange Commission and transfer to it from the Federal Trade Commission the duty and power of enforcing the provisions of the 1933 Securities and Exchange Act, which was substantially rewritten and incorporated into the 1934 Securities and Exchange Act;²⁸ (d) establish the criteria for operation of national securities exchanges, registration of exchanges, securities, those engaged in that business and marginal financing."

The constitutionality of the 1934 Act was upheld by appellate court in 1940.²⁹ Securities regulatory law does not violate the 14th Amendment "due process" provision of the U.S. Constitution.³⁰ Securities regulatory law does not violate the constitutional right to contract.³¹ Other lesser provisions of State and Federal Securities laws have

27. 48 Stat. 881; 48 Stat. 905, 15 U.S.C. 77a-140.

28. Sec. 27 and 28, 48 Stat. 905, 15 U.S.C. 77a-140.

29. Wright v. Securities and Exchange Commission, C.C.A. 1940, 112 F 2nd 89.

30. Hall v. Geiger-Jones Co., 242 U.S. 540, 61 L. Ed. 480; Sanders v. State of Georgia, 172 Ga. 70, 158 S.E. 791, Appeal Dismissed, 284 U.S. 591, 52 S.Ct. 140.

31. Brandegee v. Chase Securities Corp., 10 N.E. 2nd 472, Appeal Dismissed, 302 U.S. 660, 58 S.Ct. 476.

withstood court tests. o

3. The Public Utility Holding Company Act of August 26, 1935.³² Its purpose: "(a) To provide for control and regulation of public utility holding companies; (b) their registration; (c) regulation of their acquisitions of securities, inter-company loans, dividends, sales of assets; (d) reporting of activities to the Securities and Exchange Commission, which administers the act; (e) penalties for violations."

An appellate court in 1951 decided that the Act "was designed to protect the public, investors and consumers, from economic effects of complex, unwieldy and dishonest organization of public utilities and particularly from the effect of false, misleading and irresponsible securities advertising."³³ No appeal was carried up from that decision.

4. The Trust Indentures Act of 1939, as amended to September 13, 1960.³⁴ Its purpose: "(a) The regulation of the sale of certain securities (e.g., bond issues) in interstate and foreign commerce and through the mails; (b) the administration of the Act by the Securities and Exchange Commission."

5. The Investment Company and Advisers Acts of 1940,

32. 48 Stat. 838, 15 U.S.C. 77h-140.

33. Commonwealth v. Southern Coop., C.A. Del. 1951, 186 F 2nd 708.

34. 53 Stat. 1149, 15 U.S.C. 70h-140.

as amended to March 31, 1961.³⁵ These provide: "(a) For the registration and regulation of investment companies and investment advisers," including management companies of mutual funds and kindred entities; (b) administration by the Securities and Exchange Commission.

Other Regulatory Agencies

The vast body of Federal laws clothed the following quasi-public agencies with regulatory and disciplinary powers:³⁶

1. The New York Stock Exchange Board of Governors. That body is responsible to the U.S. Securities and Exchange Commission. Its 500-page Constitution and Rules deal principally with procedures and ethics in the following areas:

a. Protection of the interests of customers and shareowners by rigid standards for listing of securities, periodic filing of financial reports and penalties for violation.

b. The auction market on the Exchange floor.

c. Exchange contracts, their clearance, delivery and settlement.

d. Personal qualifications of members of the Exchange, of partners or officers of member firms, and of member firm employees representing firms with the public.

35. 54 Stat. 847, 15 U.S.C. 70h-140.

36. Loll and Buckley, The Over-the-Counter Securities Markets, p. 128.

e. Organization of a member firm, its capital, associations with non-member firms, and business conduct.

2. The Board of Governors of the American Stock Exchange, the National Stock Exchange, the Pacific Coast Exchange and other lesser Exchanges, also are answerable to the U.S. Securities and Exchange Commission. They exercise broad regulatory powers over their Exchange members and the listing and delisting of securities offered to the public.

3. In addition to the exchanges, federal departments constantly are on the alert for violations. They include the Justice Department, the U.S. Post Office Department, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Internal Revenue Service, the Federal Communications Commission, the Federal Reserve System and others.

4. The National Association of Securities Dealers, Inc., is a nationwide influence through its comprehensive training course for dealers, brokers, advisers and salesmen, rigid examinations and licensing.³⁷ The NASD was registered with SEC as a national securities association in August 1939 under provisions of the Maloney Act, an amendment (Sec. 15 A) of the 1934 Securities and Exchange Act. The NASD is the only association registered under the Maloney Act. SEC

37. National Association of Securities Dealers, Inc. Manual, Reprint, January, 1969, p. 109.

supervises the NASD which serves as a "mechanism of regulation among over-the-counter brokers and dealers operating in interstate and foreign commerce or through the mails."³⁸

The Federal laws and regulatory agencies provide legal security for Alaska investors who trade by airmail and telephone with the market places of the nation.

38. Loll and Buckley, op. cit., p. 139.

THE UNIFORM SECURITIES ACT AND STATE LAWS

National Conference Action

The Uniform Securities Act was drafted in 1956 and amended in 1958 by the National Conference of Commissioners³⁹ on Uniform State Laws. The Commission recommended it for enactment by all the states. It has been adopted by 24 states, including Alaska, and the District of Columbia and Puerto Rico (see Table 1). It is sufficiently flexible to permit additions and amendments to fit the needs and wants of every state. It has the approval of the American Bar Association. It consists of these main divisions:

- Part I - Fraudulent and Other Prohibited Practices
- Part II - Registration of Broker-Dealers, Agents and Investment Advisers
- Part III - Registration of Securities
- Part IV - General Provisions

The Uniform Securities Act was drafted at the request of the Conference by Professor Louis Loss of the Harvard Law School and Mr. Edward M. Cowett, Research Associate. The Act was compiled after a two-year study of state securities regulations made in consultation with an advisory committee

39. Uniform Securities Act pamphlet, Amended August 18-23, 1958, pp. 3-7.

containing representatives of the Conference, the American Bar Association, the National Association of Securities Administrators, the Securities and Exchange Commission, the Investment Bankers Association of America, the National Association of Securities Dealers, Inc., as well as several practicing lawyers with experience in "Blue Sky" law.⁴⁰

This background is essential to this analysis which relates to the Uniform Securities Act and the Alaska laws.

Types

Examination of the 49 current state "Blue Sky" laws indicates great similarity.⁴¹

This is due to extensive adoption by the states of the Uniform Securities Act. It can be adopted in whole or in part by State legislatures, allowing for local situations.

State laws differ in detail, but can be classified into four categories.

1. The fraud type, such as the laws of Mississippi, is least regulatory; penalties are prescribed for fraudulent sales of securities; injunction is a legal remedy; dealers, brokers, and agents are not licensed. In some instances securities are not registered. The Attorney General of the state is usually clothed with broad authority to investigate and prosecute violators.

40. Blue Sky Law Reporter, Vol. I, pp. 181-183.

41. Ibid., Vol. I, II, and III.

2. The second type of statute -- exemplified by the Maine law -- regulates securities sales and actions of dealers, brokers and agents.

3. The third type of law provides for regulation of securities, but not vendors. This is true of Wyoming.

4. The three types of regulatory laws described are in the minority. Many states -- like Alaska -- have enacted uniform legislation providing for licensing of dealers, brokers, agents, salesmen, investment advisers and registration and regulation of securities by notification, coordination, announcement or qualification.

Some important provisions of the "Blue Sky" laws of the 49 states and District of Columbia are set forth in Table 1, et. seq.

Provisions of laws, not shown in the table but common to most states include these:⁴²

1. Registration of non-exempt securities offered to the public.

2. Enumeration of securities exempted from registration.

3. Registration of investment advisers, brokers, dealers and agents, after their written applications for licenses have been approved following detailed investigation of applicants.

4. Cooperation by the states with the Federal Securities

42. Ibid., Vol. I, pp. 184-187.

and Exchange Commission and legally authorized agencies such as the stock exchanges and National Association of Securities Dealers, Inc., whose licensees, following rigid examinations, are recognized by most states.

5. Accountability of violators of securities laws under civil and criminal codes.

Examination for vendors licenses vary; some refer only to salesmen, some to their dealer or broker employers and some to investment advisers.

Bonding requirements vary.

Educational accomplishments required for appointment as Securities administrator are prescribed in the laws of some states.

That "security regulation is a full time job for experts"⁴³ is well documented.

Comments on Table 1

The statutes cited in Table 1 indicate that Alabama, Arizona, Colorado, Maryland, New York and West Virginia specify that the Directors of their State Securities Division shall meet certain educational qualifications on law, business administration and accounting.

A review of the Securities Laws make it amply clear that law and accounting are subjects with which a Director of Securities must be conversant.

43. Ibid., p. 183.

TABLE 1
RESUME OF STATE LAWS

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
ALABAMA (Code of Alabama, Title 53, Sec. 5201-5226)	Yes	Yes	\$10,000 if less than \$25,000 assets.	Attorney General is Securities Commissioner and designator of Assistant Attorney General as Administrator ^(x)
ALASKA (A.C.L., Chap. 55, Sec. 45.55.010 thru 45.55.270 & reg. Sec. 607-608)	Yes	No	\$10,000 if less than \$25,000 assets.	Department of Commerce. No special qualifications for Director of Securities
ARIZONA (Arizona Statute Title 44, Chap. 12)	No	No	Discretionary	State Corporation Commission (See note) ^(xx)

(x) Securities Administrator must be law trained.

(xx) Director of Securities must have (1) broad experience in Banking and Corporation Finance, (2) have a college or graduate degree with emphasis on investment banking and corporate finance. He must devote all of his time to his position.

NOTE: Unless indicated no special professional qualifications are required by law of Securities Administrators.

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
ARKANSAS (Arkansas Sec. Act, Title 67 Sec. 67-1235-67-1262)	Yes	Yes	Broker-Dealers \$10,000 Mandatory; Salesmen, \$5,000 Mandatory.	State Securities Commission under Banking Commissioner
CALIFORNIA (Calif. Corp. Code Title 4, Div. 1, as amended. Corporate Securities Law of 1968, Chap. 88, eff. 2 Jan. 69)	No	No	\$10,000 is mandatory.	Division of Corporations
COLORADO (Colo. Revised Statutes 1963, Chap. 125 as amended, Chap. 3, Art. 9 as amended, Chap. 72 as amended)	Yes	No	Up to \$10,000 required if Sec. Com. requires bonds in any case.	Securities Commissioner appointed by Attorney General ^(x)
CONNECTICUT (Gen'l Statutes of Conn., Revision of 1958 as revised by Laws 1967, P.A. No. 391, as amended)	No	No	None required.	Bank Commissioner

(x) Securities Administrator must be law trained.

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
DISTRICT OF COLUMBIA (D.C. Code 1965, Title 2, Chap. 24)	Yes	Yes	Commissioner fixes amounts up to \$25,000.	Public Service Commissioner
DELAWARE (No "Blue Sky" statute)				
FLORIDA (Fla. statutes 1968 as amended Sections 517.01 thru 517.33 and 775.06 and 817.34 and regulations)	No	Yes	Bonds up to \$5,000 required.	Florida Securities Commission
GEORGIA (Ga. Sec. Act Laws, 1957)	No	No	\$10,000 Broker-Dealers; \$1,000 Salesmen.	Secretary of State
HAWAII (Revised Laws of Hawaii, 1953, as amended by Laws 1957 and amended by Law 1967, Art. 57)	Yes	Discretionary	Up to \$5,000 may be required	Commissioner of Securities
IDAHO (Idaho Code 1967 Spec. Sup., Title 30, Chap. 14 as amended)	Yes	Yes	Mandatory \$25,000 Broker-Dealers; \$10,000 Salesmen.	Department of Finance under Commissioner of Finance

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
ILLINOIS (Laws 1953; Revised Statutes Chap. 121-1/2, as amended)	No	No	None	Securities Commissioner under Secretary of State
INDIANA* (Uniform Sec. Act, Laws 1961, Chap. 333, eff. July 1, 1961)	Yes	No	Broker-Dealers \$25,000 if assets are under \$25,000.	Securities Commissioner under Secretary of State
IOWA (Code of Iowa 1966, Sections 502.1 thru 523.2 and Regulations Sec. 1.1 thru 1.10)	No	Yes	\$5,000 mandatory.	Commissioner of Insurance appoints Superintendent of Securities Department
KANSAS (Kansas Statutes annotated 17-1252-17-1275)	Yes	Yes	\$5,000 mandatory.	State Corporation Commissioner appoints Securities Commissioner
KENTUCKY (Kentucky Revised Statutes, 1966, Cumulative Supplement as amended, Sec. 292.310 thru 292.991, Reg. 20,601)	Yes	Yes	\$10,000 if assets are not \$25,000.	Administration under Department of Banking and Securities

*With modifications

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
LOUISIANA (La. Revised Statutes of 1950, Sec. 51:701-51:719 and regulations)	No	No	None	State Banking Commissioner is ex officio Commissioner of Securities
MAINE (Maine Rev. Statutes, annotated 1964, Title 32, Chap. 13, 1966 Supplement)	No	No	\$10,000 or proof of financial responsibility.	Banking Commissioner appoints Director of Securities Commissioner
MARYLAND (Annotated Code of Md. 1957, 1967 Replacement, Art. 32A, as amended, Sec. 13-44)	Yes	Yes	Up to \$10,000 may be required.	Under Department of Law; Commissioner appointed by Attorney General (x)
MASSACHUSETTS (Gen'l laws of Mass. Chap. 110A, re-enacted in 1932, Chap. 290, Sec. 1, as amended)	No	Yes	No	Department of Public Utilities Division of Investigations and Securities
MICHIGAN (Uniform Securities Act, Laws 1964, P.A. No. 265)	Yes	No	File \$10,000 if assets are not \$50,000.	Department of Commerce their Securities Commissioner

(x) Securities Administrator must be law trained.

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
MINNESOTA (Minn. Statute, 1951, as amended, Sec. 80.01 - 80.37 and Reg. I - IX)	No	No	\$15,000 if assets are less than that.	Commissioner of Securities
MISSISSIPPI (Miss. Code, 1942, Recompiled 1956, as amended)	No	No	\$500 to \$50,000 required at discretion of Administrator.	Secretary of State
MISSOURI (Rev. Statutes of Mo., 1959, Chap. 409, as amended, Sec. 409.101-409.419 and Regulations)	Yes	No	Up to \$25,000 if assets do not equal \$100,000.	Secretary of State
MONTANA (Rev. codes of Mont., 1947, 1955 Replacement as amended Title 15, Chap. 20 as amended)	Yes	No	\$5,000 by Salesmen required.	Investment Commissioner under State Auditor
NEBRASKA (Rev. Statutes of Neb. 1943, 1965 Cumulative Sup. and Sec. Act of Neb., Laws 1965, Chap. 549. Sec. 8-1101 - 8-1124 and Laws 1967, Chap. 29, Sec. 3-5)	Yes	No	Bonding by Director is discretionary based on application.	Director of Banking

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
NEVADA* (Nevada Code annotated, Sec. 90.010 to 90.210)	Yes	No	\$10,000 if assets are less than \$25,000.	Secretary of State
NEW HAMPSHIRE (N.H. Rev. Statutes, annotated, Chap. 421, as amended, Sec. 421.1 - 421.41)	No	No	None	Insurance Commissioner
NEW JERSEY (Rev. Statutes of N.J. 1937, Cumulative Sup., as amended Sec. 49:3-47 - 49:3-76)	Yes	No	Up to \$25,000 if assets are less than \$25,000.	Chief, Bureau of Securities and Security Advisory Committee
NEW MEXICO (N.M. Statutes annotated 1953, Replacement 1966 Sec. 48-18-16 to 48-18-21; Reg. I thru X)	Yes	No	\$10,000 Bond	Commissioner of Securities

*With modifications

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
NEW YORK (Consolidated Laws, Chap. 20, Gen'l. Bus. Law, Art. 23-A, Sec. 352-359h; Chap. 18, Sec. 160, Chap. 40, Art. 40, 64 and 86, Chap. 8, Art. 63 and 83, Title 13, Chap. 11)	No	No	None	Attorney General ^(x)
NORTH CAROLINA (Gen'l. Statutes of N.C., 1943; Replacement 1965, as amended, Sec. 78-1-78-24)	No	No	Security Commissioner can require bond.	Secretary of State
NORTH DAKOTA (N. Dak. Century Code, Sec. 10-04-01 - 10-04-20; 43-22-01 - 43-22-09; Regulations)	No	No	Yes. Amount is set by Commissioner.	Security Commissioner appointed by Governor
OHIO (Ohio Rev. Code, Chap. 1707, as amended, Sec. 1707.01 - 1707.99 and Regulations)	No	No	None	Division of Securities

(x) Securities Administrator must be law trained.

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
OKLAHOMA (Okla. Statutes 1961, 1964 Sup., Title 71, as amended, Sec. 1-15, 101-102, 201-204, 301-306, 401-413, 501-503, Rules)	Yes	Yes	\$10,000 if assets are under \$25,000.	Administrator appointed by Oklahoma Securities Commission
OREGON (Ore. Rev. Statutes, Chap. 59, 1967, Replacement Pact, Sec. 59.005 - 59.991 and Regulations)	Yes	No	\$10,000	Corporation Commission
PENNSYLVANIA (Purdon's Pa. Statutes annotated, Title 70, Code Sec. 31-58)	No	No	None	Securities Commission
RHODE ISLAND Gen'l. Laws of R.I., 1956, Title 7, Chap. 11, as amended, Sec. 7-11-1 - 7-11-30 and 27-12-1 - 27-1-36 and Regulations)	No	Yes	None	Director of Business Regulation
SOUTH CAROLINA (Code of Laws of S.C., 1962, as amended, Sec. 62-1 - 62-319 and Regulations)	Yes	No	\$1,000 to \$10,000	Secretary of State appoints Securities Commissioner

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
SOUTH DAKOTA (S. Dak. Code of 1939, 1960 Sup., as amended, Sec. 55.1901 - 55.9913 and Regulations)	No	No	\$5,000 to \$15,000	Governor appoints Commissioner of Securities
TENNESSEE (Tenn. Code annotated, Title 48, Chap. 16, as amended, Sec. 48-1601 - 48-1651 and Regulations)	No	Yes	None	Director under Commissioner of Insurance and Banking
TEXAS (Laws, 1957, Chap. 269, as amended and Vernon's Annotated Rev. Civil Statutes, Sec. 1-39)	No	No	None	Texas Securities Board appoints Securities Commissioner
UTAH (Utah Code annotated, 1953, as amended, Sec. 61-1-1 - 61-1-28 and Regulations)	Yes	No	\$10,000 for Broker-Dealers and Advisers.	Utah Securities Commission
VERMONT (Vt. Statutes, Annotated Rev. of 1959, Title 9, Chap. 131, as amended, Sec. 9-4201 - 9-4241 and Regulations)	No	No	Dealers - \$1,000 to \$25,000.	Commissioner of Banking and Insurance

(1)	(2)	(3)	(4)	(5)
State	Uniform Securities Act Adopted	Written Examination Required	Bonding of Vendors Required	Administration By:
VIRGINIA (Code of Va., 1950; 1966 Cumulative Sup., Sec. 131.1 - 13.541)	Yes	Yes	Up to \$25,000 if assets are less than \$25,000.	State Corporation Commission
WASHINGTON (Rev. Code of Wash., as amended, Sec. 21.20.005 - 21.20.940)	Yes	Yes	Up to \$25,000 if assets are less than \$25,000.	Administrator appointed by Department of Licenses
WEST VIRGINIA (Code of W.Va., Re-enacted Laws, 1935, Chap. 104, Sec. 32-1-1 to 33-5-31)	No	Yes	None	State Auditor(x)
WISCONSIN (Wisc. Statutes, 1963, as amended, Sec. 189.02 - 201.106 and Regulations)	No	Yes	None	Commissioner of Securities
WYOMING (Wyo. Statutes, 1957, Compiled 1965, Title 17, Chap. 17.1, Sec. 17-117-1 - 17-117-29)	Yes	Yes	Up to \$25,000 if assets are less than \$25,000.	Secretary of State

(x) Accounting Training required.

44. Columns (1) and (2): See National Conference of Commissioners on Uniform State Laws letter April 7, 1969 (Appendix A).

VI

THE ALASKA SECURITIES ACT OF 1959

Alaska Statute Embodies Uniform Law

Federal and State Securities laws, outlined in the preceding chapters, along with enforcement agencies, directly provide vast protection to the Alaska investor. A verity of law is this:

A state securities law can have no extra-territorial effect; the validity of a contract for the sale of securities is determined by the law of the state where the contract is executed and consummated. Consequently, where a person is solicited to subscribe for stock in one state, and executes a subscription agreement in another state, the law of the latter state governs the transaction.⁴⁵

The Alaska Securities Act of 1959, as amended, is in general conformity with the Uniform Securities Act, as amended. There is some minor variance. The Uniform Securities Act, discussed in Chapter V, is offered as an acceptable criteria, because of its formulation and approval by nationally recognized organizations and specialists in the field of investment law, and adoption by many state legislatures.

The following provision of the 1934 Securities and Exchange Act should be noted:

Nothing in this title (I) shall affect the

45. Blue Sky Law Reporter, Vol. 1, p. 204.

jurisdiction of the securities commission (or any agency or officer performing like function) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations⁴⁶ thereunder.⁴⁶

Alaska securities law relates to (1) foreign securities, if not exempted from registration, that are offered for sale in Alaska, (2) securities originating in Alaska, if not exempt from registration, and (3) securities vendors and advisers doing business in the State of Alaska.

Analysis and Comments on Article 1

Article 1. Fraudulent and Other Prohibited Practices, Sec. 45.55.010. Sales and Purchases, (see Appendix B) reads:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to

(1) employ a device, scheme, or artifice to defraud;

(2) make an untrue statement of a material fact or omit to state a material fact the omission of which makes a statement misleading; or

(3) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon a person. . . .

Section 45.55.020. Advisory activities: This defines legal scope of an investment advisor's fee basis and other responsibility.

This article incorporates the provisions of the Uniform

46. 48 Stat. 881, 15 U.S.C. 772-140, Title I, Sec. 28.(a).

Securities Act, Part I.⁴⁷

Analysis and Comments on Article 2

Article 2. Registration of Broker-Dealers, Agents and Investment Advisers (see Appendix C).

Sec. 45.55.030 sets forth registration requirements.

Sec. 45.55.040 sets out registration procedure.

Sec. 45.55.050. Post-registration provisions are cited.

Sec. 45.55.060 covers denial, revocation, suspension, cancellation, and withdrawal of registration.

The provisions of this article are identical to those of the Uniform Securities Act, Part II.⁴⁸

It is noteworthy that Alaska does not require any examination of broker-dealer agents and investment advisers. They are only required to obtain licenses by application and satisfactory investigation reports (see Appendix D).

Mr. Robertson, Alaska Director of Securities, on June 27, 1968, stated: "As soon as possible we plan to require broker-dealer and agent examinations as a part of the registration procedure. It is our feeling that only the competent and experienced persons should be allowed to offer securities to the public." (See Appendix A.)

Mr. Robertson on July 9, 1968 wrote: "NASD or state examination is not required at the present time in order to

47. Uniform Securities Act Pamphlet, Amended August 18-23, 1958.

48. Ibid.

license a broker-dealer or agent; however, most agents representing national firms have passed either the NASD examination or another state examination. We are planning to accept the NASD examination in lieu of our own" (see Appendix A).

Joseph P. Burleigh, Membership Department Manager, NASD, Inc., Washington, D.C., wrote on July 8, 1968:

"There is no mandatory requirement for registration with this association. Federal law requires that one who engages in any phase of the investment banking and securities business must register with either the Securities Exchange Commission or with a national securities association" (see Appendix A).

The Uniform Securities Act makes mandatory the posting of an approved surety company of \$25,000 by a broker-dealer and a \$10,000 bond by each salesman. The Alaska law requires this if assets are not \$25,000. The Alaska law leaves the posting of a bond up to \$10,000 up to the judgment of the administrator of the Securities Act (see Appendix E).

Analysis and Comments on Article 3

Article 3. Registration of Securities (see Appendix F).

There are three methods of registering securities:

1. Registration by notification.
2. Registration by coordination.

3. Registration by qualification.

Sec. 45.55.070. Registration requirement: "It is unlawful for a person to offer or sell a security in this state (1) unless it is registered under this chapter or (2) the security or transaction is exempted. . . ."

Sec. 45.55.080. Registration by notification. "(a) The following securities may be registered by notification:" A list follows.

Then follows a recitation of types of securities, company's history, registration statement details including a balance sheet, a description of the security, data on the issuer and kindred information.

Sec. 45.55.090. Registration by coordination. "(a) A security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination. . . ."

A recital follows on information to be included in the statements, e.g., three copies of the Prospectus filed with the Securities Exchange Commission.

Sec. 45.55.100. Registration by qualification. "(a) A security may be registered by qualification. . . ."

Then follows a list of what statements and information is required under the Securities Exchange Commission Prospectus, fees schedule ranging from \$50 to \$1,000, denial, suspension and revocation of registration.

A list of grounds for action follows, including illegal pursuits, sale of securities for too high a commission, a discount and kindred grounds.

The courts and legal texts have defined "Blue Sky" laws as "a popular name for acts providing for the regulation and supervision of investment companies; a law intended to stop the sale of stock in fly-by-night concerns, visionary oil wells, distant gold mines and other like fraudulent exploitations."⁴⁹

The provisions of this section are virtually identical with those of the Uniform Securities Act, Part III.⁵⁰

Analysis and Comments on Article 4

Article 4. General Provisions incorporated in Part IV of the Uniform Securities Act⁵¹ (see Appendix G).

Sec. 45.55.130 covers many definitions.

Sec. 45.55.140 relates to exemptions of securities from registration.

Sec. 45.55.150 covers filing of sales and advertising literature (see Appendix H).

Sec. 45.55.170 defines unlawful representations concerning registration or exemption.

Sec. 45.55.180. Administration of chapter. "(a) The

49. Brock v. Hines. 223 Pac., pp. 654-656.

50. Uniform Securities Act Pamphlet, Amended August 18-23, 1958.

51. Ibid.

Department of Commerce shall administer this chapter. . . ."

Sec. 45.55.190 covers the administrative scope of powers in investigations and subpoenas. The requirements of witnesses are also set forth.

Sec. 45.55.200. Injunctions may be invoked.

Sec. 45.55.210. Criminal penalties are delineated.

Sec. 45.55.220. Civil liabilities.

Sec. 45.55.230. Judicial review of orders -- Appeal for administrative decision and orders can be taken to courts of appropriate jurisdiction in Alaska and many other states.

For the most part, the courts have construed the Blue Sky Laws liberally, and as a result have upheld the actions of the securities departments functioning under the law. . . . But whether the statutes be construed liberally or strictly, the inconvenience to the honest and conscientious engaged in the legitimate securities business in complying with the rules, regulations and licensing provisions of the Blue Sky Laws must be weighed with the immeasurable benefits and the savings of untold amounts of money of the general public, as a result of the suppression of fraudulent practices in the securities field.⁵²

Securities issued by the following institutions generally in Alaska are exempted from operations of the Blue Sky Law.⁵³ These include:

Banks
 Building and Loan Associations
 Cooperative Associations
 Corporations Organized under Acts of Congress

52. Blue Sky Law Reporter, Para. 518, p. 187.

53. Ibid., Para. 509, p. 184.

Foreign Governments and their Public Subdivisions
 Holding Companies holding Utility Securities
 Insurance Companies
 Mortgages
 Non-Profit Organizations
 Public Utilities and Railroads
 Securities Listed in Standard Manuals
 Securities Listed on Stock Exchanges
 Securities that are Legal Investments
 States and Political Subdivisions
 Trust Companies
 United States and Territories

The following transactions or sales are generally exempt from the operation of the law:

Isolated Sales by the Owner or for the Owner's Account
 Issues of Mergers and Reorganizations
 Judicial Sales
 Receiver's or Trustee's Sales
 Sales to Banks, Insurance Companies, Trust Companies
 and Similar Institutions
 Stock Dividends.

Alaska, like many other states, exempts from registration securities that have been listed on the New York Stock Exchange, American Stock Exchange, the National Stock Exchange, the Middle West Stock Exchange and the Pacific Coast Stock Exchange.⁵⁴

Sec. 45.55.240. Relates to the administrator's right to "make, amend, and rescind the rules, forms, and orders which are necessary to carry out this chapter, including rules and forms governing registration statements, applications and reports, and defining terms, whether or not used in this chapter insofar as the definitions are not

54. Ibid., Finding Lists, pp. 851-855.

inconsistent with this chapter. For the purpose of rules and forms, the administrator may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes. . . ."

Sec. 45.55.250 covers administrative files and opinions.

Sec. 45.55.260. Relates to the intrastate scope of the law and service of process.

In all respects Article 4 is identical with the Uniform Securities Act.⁵⁵

55. Uniform Securities Act pamphlet, Amended August 18-23, 1958.

VII

ALASKA ADMINISTRATION OF SECURITIES LAWS

Need for Implementation

Alaska, since statehood in 1959, had grown rapidly and law enforcement presents mounting problems. The Alaska Securities Act dates back to that year. Prior to that fraud laws were invoked.

W. W. Fritz, Director of the Alaska Division of Insurance, told the Alaska House Insurance Committee, February 18, 1969, that many activities of his agency are only "ritualistic" because his office lacks staff and funds properly to perform the functions⁵⁶ (see Table 3). The Director has eight employees. In the Department Organization Table his office is on the same level as that of the Banking, Securities, Small Loans and Corporation Divisions, administered by Mr. Robertson, an administrative assistant and one clerk. Each of these three performs functions outside the Securities Section.⁵⁷ Under the Alaska State Constitution, the executive power of the state rests in the governor.⁵⁸ The Executive Branch is limited to 20

56. Fairbanks Daily News Miner, February 19, 1969, p. 2.

57. John K. Robertson letter dated July 9, 1968 (Appendix A).

58. The Constitution of the State of Alaska, Art. III, Sec. 1.

departments.⁵⁹ Department heads are appointed by the governor and approved by a majority of the legislature jointly assembled.⁶⁰ The Department heads appoint their division directors subject to gubernatorial and legislative approval.

Appointment of the Director of the Division of Banking, Securities and Small Loans is subject to political party change and administrative policy.

The Division's workload has increased 270 per cent in three years (see Table 2).

Mr. Robertson implied his situation might parallel Mr. Fritz' when he stated: "I do think we have a need for further implementing the Act⁶¹ and plan to do so as the increase in our staff will permit."⁶²

The workload and Mr. Robertson's statement bespeak the need for additional staffing and additional funds. Examination of Table 2, covering Mr. Robertson's operations in the Security Section, supports such needs.

The 1969 Budget includes a request for one additional full time Securities Examiner and another clerk (see Appendix A).

59. Ibid., Sec. 25.

60. Ibid., Sec. 22.

61. Alaska Securities Act of 1959, Chapter 55, SAL.

62. John K. Robertson letter dated June 27, 1968 (see Appendix A).

Provision to Implement Law

The basic Securities Act and Alaska statutes give the Director of Securities broad authority to promulgate various administrative regulations to implement enforcement of any section of the Alaska Securities Act which confers rule making powers upon him. Only two such rules have been promulgated (see Appendices E and H).

Title 44, Chapter 62 of the Alaska statutes delineates the procedure for promulgation of detailed regulation. In the Alaska Securities Act, e.g. Section 45.55.150 -- entitled "Filing of Sales and Advertising Literature," this phrase is included: "The Administrator may by rule or order require . . ." (see Appendix H). There are many such phrases in the basic Alaska Securities law.

These are the steps for rule making:

1. Drafting of the rule.
2. Approval of the rule by the Attorney General.
3. Public hearing on the rule.
4. Filing the rule with the Secretary of State and publication of the rule as a supplement to the pertinent statutes.

The Director of the Securities Law and the Securities and Exchange Commission are now engaged in implementing the law by promulgation of additional regulations to include mandatory bonding of vendors and written examinations for

licensees.⁶³

Organization of the Alaska securities office has been slowly evolving since enactment of the 1959 law. Experience and historic data are limited. Interest in securities has been related, until lately, to a few investors. No known court cases have been instituted in Alaska by the securities director under the 1959 Act. However, currently, the director and SEC are proceeding in one case under fraud and investigations sections 45.55.010 and 45.55.190 of the Alaska law⁶⁴ (see Appendices B and G).

Growth Anticipated

Growth of Alaska is anticipated through the development of petroleum, natural gas fields, rare metal mines and transportation facilities. Organization of new publicly held intrastate companies in Alaska and applications of foreign corporations will add to the Securities Section's tasks and responsibilities. This trend is clearly indicated in Table 2.

As Alaska's vast mineral resources are discovered investors must look to their state government for controls and safeguards to minimize investment losses.

63. John K. Robertson letters July 9, 1968 and April 14, 1969 (see Appendix A).

64. Ibid., April 17, 1969 (see Appendix A).

TABLE 2
SECURITIES DIVISION COMPARATIVE DATA⁶⁵

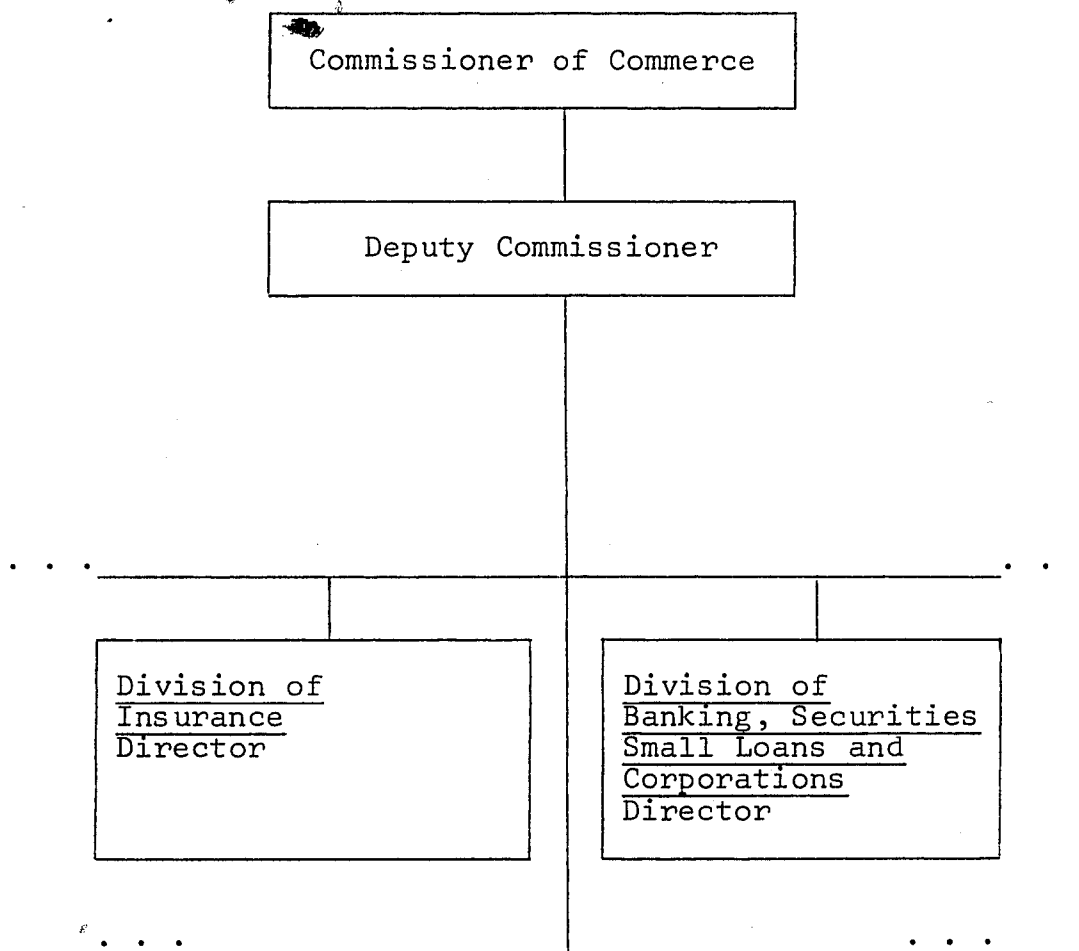
Data shown below is an indication of the growing securities market in Alaska.

	<u>1965-66</u>	<u>1966-67</u>	<u>1967-68</u>
Securities Registered (Issuers)			
Number Registered	30	80	111
Fees Received	\$ 7,922.00	\$12,433.33	\$16,245.03
Broker-Dealers			
Number Licensed	30	34	46
Fees Received	1,500.00	1,700.00	2,300.00
Agents			
Number Licensed	129	117	139
Fees Received	3,225.00	2,925.00	3,485.00
Investment Advisors			
Number Licensed	1	1	1
Fees Received	25.00	25.00	25.00
Total Fees Received	\$12,672.00	\$17,093.33	\$22,055.03
Total Fees Refunded	\$ 186.15	\$ 227.08	\$ 1,278.50

Securities registration increased by 270% over the three-year period. Value of the 111 securities registered during the 1967-68 period amounted to \$110,576,830 in proposed offering price. Of these 51 were mutual funds.

65. Annual Report, Alaska Department of Commerce, Fiscal Year 1967-1968.

TABLE 3
DEPARTMENT OF COMMERCE
UNIT ORGANIZATION CHART⁶⁶



66. Ibid.

VIII
SUMMARY AND CONCLUSIONS

The preceding chapters have briefly sketched the historic background of today's securities laws and regulations, the problems involved in regulation, the interrelation of state and federal laws, the basic federal statutes, the Uniform Securities Act and State laws, the Alaska law and its administration.

The questions set forth in the Introduction are:

1. Is the Alaska Securities Act of 1959, as amended, adequate to meet current requirements?
2. Does the law need implementation?

The answers are:

1. The Alaska Securities Act of 1959, as amended, is adequate. Its function is intra-state regulations. It is flexible. The law is amply supported by legislative precedent and legal authority, which has been cited. It can be readily implemented.
2. Implementation is required. This can be accomplished by procedures set forth in Section 45.55.240 of the Securities Act (see Appendix G) and under the Administrative Procedures Act⁶⁷ of the Alaska statutes, which has been

67. ACL, Title 44, Chap. 62, Secs. 44.62.010 through 44.62.640.

invoked only twice in the past to create two regulations (see Appendices E and H).

Proposed additional administrative rules will follow comments by Justice Robert H. Jackson of the United States Supreme Court in his dissent in *Federal Transportation Commission v. Ruberoid Company*⁶⁸ in which he termed administrative agencies "a veritable fourth branch of the government," and added:

. . . Certainly, administrative law has a more direct impact upon the lives of most of us than conventional statute law. . . .

Administrative law is based upon the common-sense recognition that business has to be transacted with reasonable expedition; that Congress must delegate some of its authority to the agencies and people who actually transact business; and that state legislatures must do the same. An important part of that delegation is for rule-making and the power to make preliminary decisions and orders in carrying out the purposes of the legislation under which the rules are made. Both rule-making powers and the preliminary power to enforce decisions under the rules are, within wide limits, given to the various agencies of the executive branch of the federal and state governments. . . .⁶⁹

3. Additional administrative rules should be promulgated to provide:

a. Rigid written examinations of vendor applicants for licenses, unless the applicants have satisfactorily passed the NASD examination, or have qualified as

68. 343 U.S. 470, 477; 72 Sup. Ct. 800, 805; 96 L.Ed. 1081, 1089.

69. Price and Bitner, Effective Legal Research, p. 161.

members of recognized securities exchanges (see Table 1 and Appendix A).

The authors of The Over-the-Counter Securities Market wrote:

Improperly trained and ill-informed sales people can cause the employing broker-dealers as well as his customers a great deal of trouble.

A greater amount of more effective training for securities . . . personnel is needed for the protection of the investing public.⁷⁰

The National Association of Securities Dealers, Inc., through its responsible officers, carries out inspections and invokes disciplinary action against errant members.

b. Mandatory bonding with a minimum of \$50,000 for dealers, brokers and advisers and \$25,000 for salesmen (see Table 1 and Appendix A).

The Alaska Director of Securities has concurred with a. and b. supra.⁷¹

c. Limitation of the duties of the Director of Securities to Securities Administrator only on a full-time basis (see Table 1).

This concept is confirmed by examination of various state laws (Table 1), some of which prescribe that requirement. The increasing workload shown suggests the

70. Loll and Buckley, *op. cit.*, p. 178.

71. John K. Robertson letter June 27, 1968 (See Appendix A).

desirability of an administrative rule to limit the task of the director to securities only on a full time basis.

The Blue Sky Law Reporter in Chapter Five has cited as an authority for the statement that the securities law administrator's position is "a full time job for experts."⁷² Corroboration also appears in the Statutes cited in Table 1.

d. Educational standards for all staff members in the Securities Division (see Table 1).

e. Adequate staffing and funding based upon requirements of the law and growth factors (see Appendix A).

The State Director has expressed a requirement for additional funding and manning to accomplish his task⁷³ (see Tables 2 and 3, Chapter VII). The Alaska governor's 1969 Budget recognizes these requirements (see Appendix A).

f. Specific periodic requirements for detailed financial full-disclosure reports to the Securities Division by companies issuing stock in Alaska and by vendors of securities. Dates and content of such reports are now elective on the part of the Director. They are mandatory in many states as shown in Table 1. They could provide distress signals vital to adequate supervision in the interest of the public. The SEC requires semi-annual

72. Blue Sky Law Reporter, Para. 507, p. 183.

73. John K. Robertson letter 27 June 1968 (see Appendix A).

reports.⁷⁴ The New York Stock Exchange and others do likewise.

-- The End --

74. Securities and Exchange Commission, op. cit., p. 38.

APPENDIX¹ A

LETTERS

STATE OF ALASKA

DEPARTMENT OF COMMERCE

DIVISION OF BANKING — SECURITIES
SMALL LOANS AND CORPORATIONS

WALTER J. HICKEL, GOVERNOR

55

POUCH D — JUNEAU 99801

June 27, 1968

Mr. Walter R. Bottcher
P. O. Box 2175
Fairbanks, Alaska 99701

Dear Mr. Bottcher:

We received your letter of June 23rd inquiring about the Alaska Securities Act of 1959 and will attempt to answer your questions in the same order as set out in your letter.

To the best of my knowledge there was not a Securities Act prior to 1959 and I have attempted to verify this by checking the Territorial Statutes. For your convenience we are enclosing a copy of the Alaska Securities Act of 1959 as amended.

One purpose of the Alaska Securities Act is to regulate intra-state transactions, however there are at least two other important purposes. The regulation of the business of dealing in securities (licensing of broker-dealers and agents) and the registration of an interstate offering, a portion of which is to be offered in this State.

As you probably know, the "Blue Sky Laws" of many states date back considerably further than the Securities Act of 1933 or the Securities Exchange Act of 1934. It was not intended that these and subsequent related acts (Public Utilities Holding Company Act of 1939, and Investment Company Act of 1940) supplant the regulatory activities of the various states, instead I believe you will find that state supervision is complementary to SEC supervision and vice versa. It has been my experience that there is very close cooperation between the State Administrators and the various Regional Offices of SEC.

It may be of interest to you that our office currently lists 267 issues of securities as authorized for sale in Alaska. Ninety



NORTH TO THE FUTURE IN 1967!

Mr. Walter Bottcher

2.

June 27, 1968

per cent of these were registered in coordination (see Section 45.55.090) with the SEC, that is that portion of the issue to be offered in this State was registered in coordination with the issuers filing with the SEC. It may also be of interest to you, there are 182 broker-dealers and agents licensed and regulated in the State. Article 2 of the Act covers this function.

I believe the Alaska Securities Act is adequate to protect the investor in this State and would not suggest any further amendments at this time. However, I do think we have a need for further implementing the Act and plan to do so as the increase on our staff will permit. As soon as possible we plan to require broker-dealer and agent examinations as a part of the registration procedure. It is our feeling that only the competent and experienced person should be allowed to offer securities to the public.

I trust that these remarks have provided some of the information you have requested. If we can help you further we would be glad to do so.

Sincerely,



John K. Robertson
Director

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Enclosure

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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

888 SEVENTEENTH STREET N. W. WASHINGTON, D. C. 20006

July 8, 1968

Mr. Walter R. Bottcher
Post Office Box 2175
Fairbanks, Alaska 99701

Dear Mr. Bottcher:

Your letter of July 6 has been referred to me for reply.

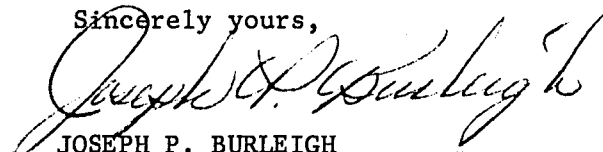
There is no mandatory requirement for registration with this Association. Federal law requires that one who engages in any phase of the investment banking and securities business must register with either the Securities Exchange Commission or with a national securities association. Registration with the Securities Exchange Commission imposes certain restrictions on your securities operations both in the regulatory area and in your ability to deal with other securities dealers on a preferential basis.

The rapidly changing requirements of the various states have made our summary of state law requirements obsolete. We are now in the process of securing the information required for publication of a new summary. It is expected that this summary should be available in approximately two months.

The Investment Bankers Association of America has just published its annual pamphlet of publications. This pamphlet lists a booklet entitled A Primer on State Securities Regulation which might contain the information you seek. If you are interested in this publication, you should address an inquiry to:

State Legislation Committee
Investment Bankers Association of America
425 Thirteenth Street, Northwest
Washington, D. C. 20004

Sincerely yours,



JOSEPH P. BURLEIGH
Membership Department

STATE OF ALASKA

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WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES AND SMALL LOANS

POUCH D - JUNEAU 99801

July 9, 1968

Mr. Walter R. Bottcher
P. O. Box 2175
Fairbanks, Alaska 99701

Dear Mr. Bottcher:

In response to your letter of June 30th we will attempt to answer the questions in the same order as you presented them.

1. The NASD or state examination is not required at the present time in order to license a broker-dealer or agent. However, most agents representing national firms have passed either the NASD examination or another state examination.
2. We are planning to accept the NASD examination in lieu of our own.
3. No examination of any kind is required at the present time and the licensee may sell securities on the strength of the license issued.
4. None that I am aware of.
5. The Alaska Securities Act is modeled after the "Uniform Securities Act". The Uniform Securities Act was also adopted in the states or territories of Idaho, Indiana, Michigan and Puerto Rico. If you are interested in taking the time to review and compare the acts of the various states, you could do so with the help of an information service known as the Blue Sky Reporter published by the Commerce Clearing House, Inc. This service could probably be found in the institute or college library.

Mr. Walter R. Bottcher

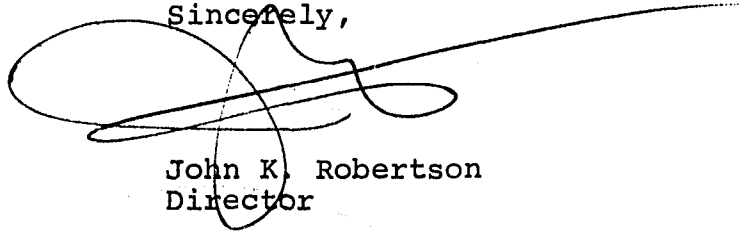
2.

July 9, 1968

6. The registration of securities, broker-dealers and agents is handled by the Director and Administrative Assistant and the Securities Clerk. The three of us have other duties and responsibilities as well. The Director's qualifications are based largely on experience and a law degree is not required.

We are enclosing our monthly list of registered securities, broker-dealers and agents which may be of interest to you. The list is forwarded monthly to the SEC, other state administrators and broker-dealers operating in this State.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

John K. Robertson
Director

ds
Enclosure

National Conference of Commissioners on Uniform State Laws

OFFICERS

PRESIDENT WILLIAM J. PIERCE
University of Michigan Law School
Ann Arbor, Michigan 48104

VICE-PRESIDENT ROBERT BRAUCHER
Harvard Law School
Cambridge, Massachusetts 02138

TREASURER BORIS AUERBACH
222 West 7th St.
Cincinnati, Ohio 45202

SECRETARY JOSEPH McKEOWN
P. O. Box 119
Coos Bay, Oregon 97420

EXECUTIVE COMMITTEE

ALBERT E. JENNER, JR., Chairman
Suite 3300, 135 So. LaSalle St.
Chicago, Illinois 60603

EUGENE A. BURDICK
P. O. Box 757
Williston, North Dakota 58801

TALBOT RAIN
Republic National Bank Bldg.
Dallas, Texas 75201

GLEE S. SMITH
111 West Seventh St.
Larned, Kansas 67550

WILLIAM B. SPANN, JR.
C & S National Bank Bldg.
Atlanta, Georgia 30303

April 7, 1969

EXECUTIVE DIRECTOR
ALLISON DUNHAM

EXECUTIVE SECRETARY
FRANCES D. JONES
1155 East 60th St.
Chicago, Illinois 60637
Hyde Park 3-0533

Walter R. Bottcher, Esq.
P. O. Box 2175
Fairbanks, Alaska 99701

EX-OFFICIO

PRESIDENT, VICE-PRESIDENT,
SECRETARY, TREASURER
WALTER D. MALCOLM
Last Retiring President
1 Federal St.
Boston, Massachusetts 02110

EARL SACHSE, Chairman
Legislative Committee
Room 240 North, State Capitol
Madison, Wisconsin 53702

Dear Mr. Bottcher:

We have received your letter of April 3, 1969 and are enclosing a copy of the Uniform Securities Act for which there is a charge of \$.30.

The Uniform Securities Act, as approved in 1958, has been adopted in the following jurisdictions: Alabama, Alaska, Arkansas, Colorado, District of Columbia, Hawaii, Idaho, Indiana (with modifications), Kansas, Kentucky, Maryland, Michigan, Missouri, Montana, Nebraska, Nevada (with modifications), New Jersey, New Mexico, Oklahoma, Oregon, Puerto Rico, South Carolina, Utah, Virginia, Washington, and Wyoming.

If we can be of any further assistance to you please let us know.

Sincerely,



Eleanor D. Stern (Mrs.)
Assistant to
Frances D. Jones

Enc.

STATE OF ALASKA

DEPARTMENT OF COMMERCE

DIVISION OF BANKING — SECURITIES
SMALL LOANS AND CORPORATIONS

POUCH D — JUNEAU 99801

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KEITH H. MILLER, Governor

April 14, 1969

Mr. Walter R. Bottcher
P.O. Box 2175
Fairbanks, Alaska

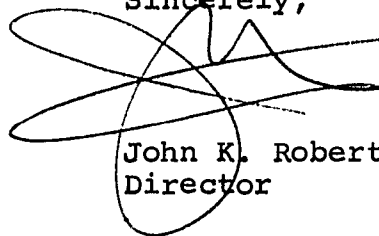
Dear Mr. Bottcher;

In response to your recent letter regarding changes that should be made in the regulation and administration of the Securities Division, the following items come to mind:

1. We require more administrative regulation to complement our basic Securities Act. At the present time, there are only two regulations that have been processed in accordance with the Administrative Procedure Act (44.62.130-44.62.650). This Act gives us extensive authority to promulgate rules. We are now writing proposed regulations with the help of the S.E.C.
2. I feel that bonding of security venders should be made mandatory and possibly the limit should be set at a \$50,000 minimum.
3. More funds and larger staff are required in this office and it is our hope that our budget will be approved to include a Securities Examiner and another clerk during the current session of the Legislature. Alaska growth indicates securities to be offered for registration in 1969 will double the average number approved in the past three years.

If you have any other questions regarding this matter, I would be glad to supply further information to you.

Sincerely,



John K. Robertson
Director



NORTH TO THE FUTURE IN 1967!

STATE OF ALASKA

DEPARTMENT OF COMMERCE

DIVISION OF BANKING — SECURITIES
SMALL LOANS AND CORPORATIONS

62
KEITH H. MILLER, Governor

POUCH D — JUNEAU 99801

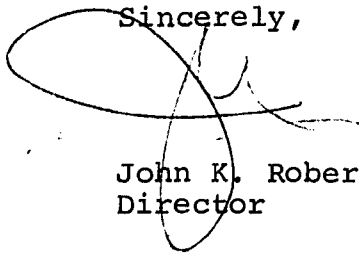
April 17, 1969

Mr. Walter Bottcher
P. O. Box 2175
Fairbanks, Alaska 99701

Dear Mr. Bottcher:

You have inquired as to whether there are court cases in which the Administrator of Securities has brought an action as a result of a violation of the Alaska Securities Act. To the best of my knowledge there have been no actions brought however at the present time the Administrator, in cooperation with the SEC does have a proceeding in progress under Section 45.55.010 and Section 45.55.190. These are the fraud and investigation sections of the Act.

Sincerely,



John K. Robertson
Director

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NORTH TO THE FUTURE IN 1967!

APPENDIX B

ALASKA SECURITIES ACT OF 1959

CHAPTER 55

ARTICLE 1

Chapter 55. Alaska Securities Act of 1959.

Article

1. Fraudulent and Other Prohibited Practices (§§ 45.55.010—45.55.020)
2. Registration of Broker-Dealers, Agents, and Investment Advisers (§§ 45.55.030—45.55.060)
3. Registration of Securities (§§ 45.55.070—45.55.120)
4. General Provisions (§§ 45.55.130—45.55.270)

Article 1. Fraudulent and Other Prohibited Practices.

Section	Section
10. Sales and purchases	20. Advisory activities

Sec. 45.55.010. Sales and purchases. It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to

- (1) employ a device, scheme, or artifice to defraud;
- (2) make an untrue statement of a material fact or omit to state a material fact the omission of which makes a statement made misleading; or
- (3) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon a person. (§ 101 ch 198 SLA 1959)

Am. Jur., ALR and C.J.S. references.—47 Am. Jur., Securities Acts, § 1 et seq.

Blue Sky Laws, 87 ALR 42.

Violation of Blue Sky Laws affecting liability of purchaser of stock as stockholder, 87 ALR 121.

Federal Security Act as superseding state acts, 145 ALR 1232.

What constitutes stocks, securities or investment contracts within contemplation of state and federal statutes regulating sale of securities, 163 ALR 1059.

Applicability of Blue Sky Laws to pre-incorporation subscriptions, 50 ALR2d 1103.

53 C.J.S. Licenses §§ 72 to 78.

Sec. 45.55.020. Advisory activities. (a) It is unlawful for a person who receives a consideration from another person 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, to

- (1) employ a device, scheme, or artifice to defraud the other person; or
- (2) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

§ 45.55.030

ALASKA STATUTES

§ 45.55.030

(b) It is unlawful for an investment adviser to enter into, extend, or renew an investment advisory contract unless it provides in writing that

(1) the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or a portion of the funds of the client;

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

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

(c) The provisions of (b) (1) of this section do not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date.

(d) "Assignment," as used in (b) (2) of this section, includes a 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.

(e) It is unlawful for an investment adviser to take or have custody of the securities or funds of a client if

(1) the administrator by rule prohibits custody, or

(2) in the absence of rule, the investment adviser fails to notify the administrator that he has or may have custody. (§ 102 ch 198

SLA 1959)

APPENDIX C

ALASKA SECURITIES ACT OF 1959

CHAPTER 55

ARTICLE 2

Article 2. Registration of Broker-Dealers, Agents, and Investment Advisers.

Section	Section
30. Registration requirements	60. Denial, revocation, suspension, cancellation, and withdrawal of registration
40. Registration procedure	
50. Post-registration provisions	

Sec. 45.55.030. Registration requirements. (a) It is unlawful for a person to transact business in this state as a broker-dealer or agent unless he is registered under this chapter.

(b) It is unlawful for a broker-dealer or issuer to employ an agent unless the agent is registered. The registration of an agent is

not effective during a period when he is not associated with a particular broker-dealer registered under this chapter or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the administrator.

(c) It is unlawful for any person to transact business in this state as an investment adviser unless (1) he is registered as an investment adviser under this chapter; (2) he is registered as a broker-dealer without the imposition of a condition under § 60(d)-(5) of this chapter; or (3) his only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies.

(d) Every registration expires one year from its effective date unless renewed. The administrator may by rule or order prepare an initial schedule for registration renewals so that subsequent renewals of registrations effective on May 9, 1959, may be staggered by calendar months. For this purpose the administrator may by rule reduce the registration fee proportionately. (§ 201 ch 198 SLA 1959)

Sec. 45.55.040. Registration procedure. (a) A broker-dealer, agent, or investment adviser may obtain an initial or renewal registration by filing with the administrator an application together with a consent to service of process pursuant to § 260(g) of this chapter. The application shall contain whatever information the administrator by rule 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; in the case of a broker-dealer or investment adviser, the qualifications and business history of a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser; and, in the case of an investment adviser, the qualifications and business history of an employee; (4) an 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; and (5) the applicant's financial condition and history.

(b) The administrator may by rule or order require an applicant for initial registration to publish an announcement of the application in one or more specified newspapers published in this state. If no denial order is in effect and no proceeding is pending under § 60 of this chapter, registration becomes effective at noon on the thirtieth day after an application is filed, except that registration becomes effective upon filing of the application by any of the persons subject to this chapter who were doing business in this state on

May 9, 1959. The administrator may by rule or order specify an earlier effective date, and he may by order defer the effective date until noon of the thirtieth day after the filing of an amendment. Registration of a broker-dealer automatically constitutes registration of an agent who is a partner, officer, or director, or a person occupying a similar status or performing similar functions.

(c) Every applicant for initial or renewal registration shall pay a filing fee of \$50 in the case of a broker-dealer, \$25 in the case of an agent, and \$25 in the case of an investment adviser. When application is denied or withdrawn, the administrator shall retain \$10 of the fee.

(d) A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

(e) The administrator may by rule require a minimum capital for registered broker-dealers and investment advisers, except that no requirement of minimum capital shall be made if a bond guaranteed by a corporate surety qualified to do business in this state is provided under (f) of this section.

(f) The administrator may by rule require registered broker-dealers, agents, and investment advisers to post surety bonds in amounts up to \$10,000, and may determine their conditions. An appropriate deposit of cash or securities shall be accepted in place of a bond so required. No bond may be required of a registrant whose net capital, which may be defined by rule, exceeds \$25,000. Every bond shall provide for suit on it by any person who has a cause of action under § 220 of this chapter and, if the administrator by rule or order requires, by any person who has a cause of action not arising under this chapter. Every bond shall provide that no suit may be maintained to enforce a liability on the bond unless brought within two years after the sale or other act upon which it is based. (§ 202 ch 198 SLA 1959)

Sec. 45.55.050. Post-registration provisions. (a) Every registered broker-dealer and investment adviser shall make and keep the accounts, correspondence, memoranda, papers, books and other records which the administrator by rule prescribes. All records so required shall be preserved for three years unless the administrator by rule prescribes otherwise for particular types of records.

(b) Every registered broker-dealer and investment adviser shall file the financial reports which the administrator by rule prescribes.

(c) If the information contained in a document filed with the administrator is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment unless notification of the correction is given under § 30(b) of this chapter.

(d) All the records referred to in (a) of this section are subject to reasonable periodic, special, or other examinations by representatives of the administrator, inside or outside this state, as the administrator considers necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplication of examinations, the administrator, insofar as he considers it practicable in administering (d) of this section, may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. (§ 203 ch 198 SLA 1959)

Sec. 45.55.060. Denial, revocation, suspension, cancellation, and withdrawal of registration. (a) The administrator may by order deny, suspend, or revoke a registration if he 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, a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser

(1) has filed an application for registration which as of its effective date, or as of a date after filing in the case of an order denying effectiveness, was incomplete in a material respect or contained a statement which was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(2) has wilfully violated or wilfully failed to comply with a provision of this chapter or a rule or order under this chapter;

(3) has been convicted, within the past 10 years, of a misdemeanor involving a security or an aspect of the securities business, or a felony;

(4) is permanently or temporarily enjoined by a court from engaging in or continuing a conduct or practice involving an aspect of the securities business;

(5) is the subject of an order of the administrator denying, suspending, or revoking registration as a broker-dealer, agent, or investment adviser;

(6) is the subject of an order entered within the past five years by the securities administrator of another state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer, agent or investment adviser, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order; but

(A) the administrator may not institute a revocation or suspen-

sion proceeding under (a) (6) of this section more than one year from the date of the order relied on, and

(B) he may not enter an order under (a) (6) of this section on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) has engaged in dishonest or unethical practices in the securities business;

(8) is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the administrator may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser; or

(9) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in (d) of this section.

(b) The administrator may by order deny, suspend, or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant

(1) has failed reasonably to supervise his agents if he is a broker-dealer or his employees if he is an investment adviser; or

(2) has failed to pay the proper filing fee; but the administrator may enter only a denial order under this clause, and he shall vacate the order when the deficiency is corrected.

(c) The administrator may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next 30 days.

(d) The following provisions govern the application of (a) (9) of this section:

(1) The administrator may not enter an order against a broker-dealer on the basis of the lack of qualification of a person other than (A) the broker-dealer himself if he is an individual or (B) an agent of the broker-dealer.

(2) The administrator may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than (A) the investment adviser himself if he is an individual or (B) another person who represents the investment adviser in doing any of the acts which make him an investment adviser.

(3) The administrator may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both.

(4) The administrator shall consider that an agent who will

work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer.

(5) The administrator shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser.

(6) The administrator may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser, provided that examinations required by (d) (6) of this section shall not be required of a registrant under this chapter who was doing business in this state and was a resident of this state on May 9, 1959.

(e) The administrator may by order summarily postpone or suspend registration pending final determination of a proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, and the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons for it and that within 15 days after the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(f) If the administrator finds that a registrant or applicant for registration no longer exists or has ceased to do business as a broker-dealer, agent or investment adviser, 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 administrator may by order cancel the registration or application.

(g) Withdrawal from registration as a broker-dealer, agent, or investment adviser becomes effective 30 days after receipt of an application to withdraw or within a shorter period of time as the administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at the time and upon the conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal au-

tomatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under (a)(2) of this section within one year after withdrawal is effective and enter a revocation or suspension order as of the last date on which registration was effective.

(h) No order may be entered under any part of this section except the first sentence of (e) of this section without (1) appropriate prior notice to the applicant or registrant as well as the employer or prospective employer if the applicant or registrant is an agent, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law. To the extent the Administrative Procedure Act (AS 44.62) is not in conflict herewith, it applies to all procedures. (§ 204 ch 198 SLA 1959)

APPENDIX D

APPLICATION FOR REGISTRATION AS A BROKER-DEALER,
AGENT OR INVESTMENT ADVISER

STATE OF ALASKA
DEPARTMENT OF COMMERCE
ADMINISTRATOR OF SECURITIES

APPLICATION FOR REGISTRATION AS A BROKER-DEALER, AGENT
OR INVESTMENT ADVISER UNDER SECURITIES ACT OF ALASKA

Application of _____	X	
(Name & Address)	X	
_____	X	
_____	X	REGISTRATION
_____	X	
_____	X	STATEMENT
to register as _____	X	
(Broker-dealer, Agent or	X	
Investment Adviser)	X	
for twelve-month period beginning _____	X	
_____ , 19 _____	X	

1. Read the Alaska Securities Act of 1959, as amended, before completing and filing this application.
2. Use typewriter in filling out form.
3. Filing Fee: \$50.00 for broker-dealer, \$25.00 for agent, \$25.00 for investment adviser. Fee must accompany application. If application is denied, \$10.00 of fee will be retained by Administrator.
4. Return original form to Administrator of Securities, Department of Commerce, Pouch D, Juneau, Alaska 99801.
5. Registration is effective at noon on thirtieth day after filing of application.

The undersigned, _____,

hereby makes application for a license as _____
(broker-dealer, agent, investment adviser) pursuant to Chapter 198
Session Laws of Alaska 1959, and in compliance with said Act the fol-
lowing information is hereby furnished:

1. Name of Applicant _____
2. The applicant is (a corporation, a partnership, an individual)

If a foreign corporation, attach as Exhibit 1, certified copy of charter and by-laws; if a foreign individual, partnership, association, joint stock company or trust (non-resident), attach a copy of the documents of organization, e.g. articles of partnership.

3. Applicant's principal office and branch offices, if any, in this State are: _____

4. The home and mailing address of applicant, or if applicant is a broker-dealer or investment adviser, the home and mailing addresses of all the members, principals, partners, officers, directors, trustees or managers of the applicant are:

(The Administrator must be advised of all changes of address)

5. Describe briefly the general character of the business conducted or proposed to be conducted by the applicant, if applicant is a broker-dealer or agent the type of securities to be handled, and if applicant is an agent, list the full name and address of employer:

6. If applicant is applying for license as a broker-dealer or investment adviser, set forth the employment and business history for the last ten (10) years of all the principals, partners, officers, directors and managers of applicant; or any person occupying a similar status or performing similar functions; or of any persons directly or indirectly controlling the applicant. Indicate the locations and duration of each employment or business venture and the name and address of each employer. (If more space is needed, use a continuation sheet and attach to application):

7. If applicant is applying for registration as an agent, list the employment and business history of applicant for the last ten (10) years. Indicate the locations and durations of each employment or business venture and the name and address of each employer and other information as follows:

Nature & Location of Business Ventures & Name & Address of Employers, if any	From		To		Position Held or Nature of Work	Reason for Leaving
	Month	Year	Month	Year		

8. If applicant is an agent, set forth a statement of the terms and conditions of the applicant's contemplated employment for the sale of securities, particularly as to the amount of commissions that will be received in the sale of the same. (If more space is needed, use a continuation sheet and attach to application.)

9. List any other states in which applicant is licensed or has been licensed under a state securities act and set forth the type of license the dealer has or had in that state or states and the licensing period. If applicant is a broker-dealer or investment adviser, list this information for any member, principal, partner, officer, director, trustee or manager of applicant and for any persons directly or indirectly controlling applicant.

10. Has applicant, or if applicant is a broker-dealer or investment adviser, has any member, principal, partner, officer, director, trustee or manager of applicant or any person directly or indirectly controlling applicant, been denied registration as a broker-dealer, agent, salesman or investment adviser in this or any other state or by the Securities Exchange Commission or has any such registration ever been suspended or withdrawn? _____ If so, attach a rider marked "Item 1" giving full details with respect thereto.

11. Has applicant, or if applicant is a broker-dealer or investment adviser, has any trustee or manager of applicant or any person directly or indirectly controlling applicant ever been formally charged by an authorized body with any misrepresentations in the sale of securities, or fraudulent acts in any transaction of any kind or character? _____ If so, explain fully, giving dates, places and circumstances by attaching a separate sheet to be marked "Item 2".

12. Has applicant, or if applicant is a broker-dealer or investment adviser, has any director, trustee or manager of applicant, or any person directly or indirectly controlling applicant ever been charged with or convicted of the commission of any crimes other than traffic violations? _____ If so, explain when, where, and the nature of the charges by attaching a separate sheet to be marked "Item 3".

13. Has applicant, or if applicant is a broker-dealer or investment adviser, has any member, principal, partner, officer, director, trustee or manager of applicant or any person directly or indirectly controlling applicant, ever been disqualified or disbarred from the practice of any profession? _____ If so, present full details by attaching separate sheet to be marked "Item 4".

14. Has applicant, or if applicant is a broker-dealer or investment adviser, has any member, principal, partner, officer, director, trustee or manager of applicant, or any person directly or indirectly controlling applicant ever been bankrupt or been a party to a proceeding in which he was declared insolvent? _____ If so, state when, with details of settlement made by attaching a separate sheet to be marked "Item 5".

15. Has applicant, or if applicant is a broker-dealer or investment adviser, has any member, principal, partner, officer, director, trustee or manager of applicant, or any person directly or indirectly controlling applicant ever been refused a bond? _____ If so, give particulars. If more space is needed use a separate sheet to be marked "Item 6".

16. References: Give at least five, including one bank. The references should know applicant's business reputation. Do not give names of relatives.

Name of Reference	Occupation	Mailing Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

17. ATTACH TO THIS APPLICATION AN IRREVOCABLE CONSENT TO SERVICE, in the form prescribed by the Administrator, APPOINTING SAID ADMINISTRATOR as applicant's attorney upon whom service of process may be made.

18. There shall be filed with this application a corporate surety bond in the sum of Five Thousand Dollars (\$5,000) payable to the State of Alaska to be approved by the Administrator of the Alaska Securities Act, or in lieu of a bond a deposit of \$5,000 in cash or securities suitable to the Administrator may be posted. No bond is required of an agent employed by a broker-dealer licensed under the Alaska Securities Act, or of an applicant who presents satisfactory evidence to the Administrator that the net capital of applicant exceeds \$25,000. Said bond shall provide for suit thereon by any person who has a cause of action under Section 310 of the Securities Act of the State of Alaska or any suit based upon fraud in connection with applicant's securities business. No suit may be maintained to enforce any liability on said bond unless brought within two years after the sale or other act upon which it is based.

WHEREFORE, in view of the showing herein made, applicant does respectfully ask that it (he) be registered as a _____ (Broker-dealer,

_____ for _____ Agent or Investment Adviser) in securities within the State of Alaska for the twelve-month period beginning _____ and ending _____

(Applicant)

By _____

[This application must be signed in the presence of a notary and must be notarized.]

APPENDIX E

REGULATION, SECTION 607

Regulation, Section 607 - Bond Required.

Every applicant for registration as a broker-dealer or investment adviser, unless he presents satisfactory evidence that his net capital exceeds \$25,000, shall file a corporate surety bond in the sum of \$5,000 payable to the State of Alaska and approved by the Administrator. Every such bond shall comply with Section 202(e) of the Alaska Securities Act of 1959, as amended. A deposit of \$5,000 in cash or securities suitable to the Administrator may be posted in lieu of a surety bond. . .

Authority. Alaska Securities Act of 1959, as amended, and ACL, Title 44, Chapter 62.



APPENDIX F

ALASKA SECURITIES ACT OF 1959

CHAPTER 55

ARTICLE 3

Article 3. Registration of Securities.

Section	Section
70. Registration requirement	110. Provisions applicable to registration generally
80. Registration by notification	120. Denial, suspension, and revocation of registration
90. Registration by coordination	
100. Registration by qualification	

Sec. 45.55.070. Registration requirement. It is unlawful for a person to offer or sell a security in this state unless (1) it is registered under this chapter or (2) the security or transaction is exempted under § 140 of this chapter. (§ 401 ch 198 SLA 1959; added by § 19 ch 105 SLA 1961)

Seven per cent debentures offered in exchange for stock must be registered.—Seven per cent debentures of a corporation which are offered to stockholders of the same corporation in exchange for their stock must be registered, unless the debentures are otherwise exempted from the registration requirements of the act. 1961 Op. Atty. Gen., No. 15.
Application of registration requirements to conversion plans.—See 1961 Op. Atty. Gen., No. 15.

Sec. 45.55.080. Registration by notification. (a) The following securities may be registered by notification, whether or not they are also eligible for registration by coordination under § 90 of this chapter:

(1) a security whose issuer and predecessors have been in continuous operation for at least five years if (A) there has been no default during the current fiscal year or within the three preceding fiscal years in the payment of principal, interest, or dividends on a security of the issuer (or any predecessor) with a fixed maturity or a fixed interest or dividend provision, and (B) the issuer and predecessor during the past three fiscal years have had average net earnings, determined in accordance with generally accepted accounting practices, (i) which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision outstanding at the date the registration statement is filed and equal at

least five per cent of the amount of these outstanding securities (as measured by the maximum offering price or the market price on a day, selected by the registrant, within 30 days before the date of filing the registration statement, whichever is higher, or book value on a day, selected by the registrant, within 90 days of the date of filing the registration statement to the extent that there is neither a readily determinable market price nor a cash offering price), (ii) which, if the issuer and predecessors have not had any security of the type specified in (a) (1) (B) (i) of this section outstanding for three full fiscal years, equal at least five per cent of the amount (as measured in (a) (1) (B) (i) of this section) of all securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this state) are issued;

(2) a security (other than a certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under the title or lease) registered for nonissuer distribution if (A) any security of the same class has ever been registered under this chapter, or (B) the security being registered was originally issued pursuant to an exemption under this chapter.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in § 110(c) of this chapter and the consent to service of process required by § 260(g) of this chapter

(1) a statement demonstrating eligibility for registration by notification;

(2) with respect to the issuer and any significant subsidiary, its name, address, and form of organization; the state or foreign jurisdiction; the date of its organization; and the general character and location of its business;

(3) with respect to a person on whose behalf a part of the offering is to be made in a nonissuer distribution, his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; and a statement of his reasons for making the offering;

(4) a description of the security being registered;

(5) the information and documents specified in § 100(b) (8), (10), and (12) of this chapter; and

(6) in the case of registration under (a) (2) of this section which does not also satisfy the conditions of (a) (1) of this section, a balance sheet of the issuer as of a date within four months before the filing of the registration statement, and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal

year and the date of the balance sheet, or for the period of the issuer's and predecessor's existence if less than two years.

(c) If no stop order is in effect and no proceeding is pending under § 120 of this chapter, a registration statement under this section automatically becomes effective at three o'clock Pacific Standard Time in the afternoon of the second full business day after the filing of the registration statement or the last amendment, or at an earlier time as the administrator determines. (§ 402 ch 198 SLA 1959; added by § 19 ch 105 SLA 1961)

Sec. 45.55.090. Registration by coordination. (a) A security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in § 140(c) of this chapter and the consent to service of process required by § 260(g) of this chapter:

(1) three copies of the latest form of prospectus filed under the Securities Act of 1933;

(2) if the administrator requires, copies of the articles of incorporation and bylaws (or their substantial equivalent) currently in effect, a copy of an agreement with or among underwriters, a copy of an indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(3) if the administrator requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and

(4) an undertaking to forward all future amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(c) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no stop order is in effect and no proceeding is pending under § 120 of this chapter; (2) the registration statement has been on file with the administrator for at least 10 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 a shorter period which the administrator permits and the offering is made within those limitations.

(d) The registrant shall promptly notify the administrator by telephone or telegram of the date and time when the federal regis-

tration statement 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. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the administrator may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with (c) and (d) of this section if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of (c) and (d) of this section as to notice and post-effective amendment, the stop order is void as of the time of its entry. The administrator may by rule or otherwise waive either or both of the conditions specified in (c) (2) and (3) of this section. If the federal registration statement becomes effective before all the conditions in (c) and (d) of this section 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 administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly advise the registrant by telephone or telegram at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under § 120 of this chapter; but this advice by the administrator does not preclude the institution of the proceeding at any time. (§ 403 ch 198 SLA 1959; added by § 19 ch 105 SLA 1961)

Sec. 45.55.100. Registration by qualification. (a) A security may be registered by qualification.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in § 110(c) of this chapter and the consent to service of process required by § 260(g) of this chapter:

(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; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(2) with respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within 30 days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of a material interest in a material transaction with the issuer or a significant subsidiary effected within the past three years or proposed to be effected;

(3) with respect to persons covered by (b) (2) of this section, the remuneration paid during the past 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer, together with all predecessors, parents, subsidiaries, and affiliates, to all those persons in the aggregate;

(4) with respect to a person owning of record, or beneficiary if known, 10 per cent or more of the outstanding shares of any class of equity security of the issuer: the information specified in (b) (2) of this section other than his occupation;

(5) with respect to every promoter if the issuer was organized within the past three years: the information specified in (b) (2) of this section, an amount paid to him within that period or intended to be paid to him, and the consideration for the payment;

(6) with respect to a person on whose behalf a part of the offering is to be made in a nonissuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; a description of a material interest in a material transaction with the issuer or a significant subsidiary effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering;

(7) the capitalization and long-term debt, on both a current and a pro forma basis, of the issuer and a 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 a subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities;

(8) the kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation from this at which a proportion of the offering is to be made to a person or class of persons other than the underwriters, with a specification of that person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, contracts, or

anything else of value to accrue to the underwriters or finders in connection with the offering) or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement under which the distribution is to be made, or the proposed form of the agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered other than through an underwriter;

(9) 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; the sources of the funds; and, if a part of the proceeds is to be used to acquire property (including goodwill) other than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of persons who have received commissions in connection with the acquisition, and the amounts of the commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition);

(10) a description of a stock option or other security options outstanding, or to be created in connection with the offering, together with the amount of the options held or to be held by every person required to be named in (b) (2), (4), (5), (6), or (8) of this section and by a person who holds or will hold 10 per cent or more in the aggregate of the options;

(11) the dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including the litigation or proceeding known to be contemplated by governmental authorities);

(12) a copy of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date, to be used in connection with the offering;

(13) a specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, or their sub-

stantial equivalents, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

(14) a signed or conformed copy of an opinion of counsel as to the legality of the security being registered (with an English translation if it is in a foreign language) which states whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer;

(15) the written consent of an accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if the person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement;

(16) a balance sheet of the issuer as of a date within four months before the filing of the registration statement; a profit and loss statement and analysis or surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and a predecessor's existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of a business, the same financial statements which would be required if that business were the registrant; and

(17) the additional information which the administrator requires by rule or order.

(c) A registration statement under this section becomes effective when the administrator so orders.

(d) The administrator may by rule or order require as a condition of registration under this section that a prospectus containing a designated part of the information specified in (b) of this section be sent or given to each person to whom an offer is made before or concurrently with whichever of the following occurs first:

(1) the first written offer made to him (otherwise 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 an underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution;

(2) the confirmation of a sale made by or for the account of any such person;

(3) payment under the sale; or

(4) delivery of the security under the sale. (§ 404 ch 198 SLA 1959; added by § 19 ch 105 SLA 1961)

Sec. 45.55.110. Provisions applicable to registration generally.

(a) A registration statement may be filed by the issuer, another

person on whose behalf the offering is to be made, or a registered broker-dealer.

(b) Every person filing a registration statement shall pay a filing fee of one-tenth of one per cent of the maximum aggregate offering price at which the registered securities are to be offered in this state, but the fee shall in no case be less than \$50 or more than \$1,000. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under § 120 of this chapter, the administrator shall retain \$25 of the fee.

(c) Every registration statement shall specify (1) the amount of securities to be offered in this state; (2) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and (3) an adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.

(d) A document filed under this chapter within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(e) The administrator may by rule or otherwise permit the omission of an item of information or document from a registration statement.

(f) In the case of a nonissuer distribution, information may not be required under § 100 of this chapter or (j) of this section 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.

(g) The administrator may by rule or order require as a condition of registration by qualification or coordination that a 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 a person for a consideration other than cash, be deposited in escrow, and 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 administrator may by rule or order determine the conditions of an escrow or impounding required in this subsection but he may not reject a depository solely because of location in another state.

(h) The administrator may by rule or order require as a condition of registration that a security registered by qualification or coordination be sold only on a specified form of subscription or sale contract, and that a signed or conformed copy of each contract be filed with the administrator or preserved for any period up to three years specified in the rule or order.

(i) Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by an underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under § 120 of this chapter. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction if the registration statement is effective and between the thirtieth day after the entry of a stop order suspending or revoking the effectiveness of the registration statement under § 120 of this chapter (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one year from the effective date of the registration statement. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the administrator.

(j) So long as a registration statement is effective, the administrator may by rule or order 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.

(k) A registration statement relating to a security 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, may be amended after its effective date so as to increase the securities specified as proposed to be offered. An amendment becomes effective when the administrator so orders. Every person filing such an amendment shall pay a filing fee, calculated in the manner specified in (b) of this section, with respect to the additional securities proposed to be offered. (§ 405 ch 198 SLA 1959; added by § 19 ch 105 SLA 1961; am § 1 ch 44 SLA 1962)

Sec. 45.55.120. Denial, suspension, and revocation of registration. (a) The administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement if he 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, or any amendment under § 110(k) of this chapter as of its effective date, or any report under § 110(j) of this chapter is incomplete

in a material respect or contains a statement which was, in the light of the circumstances under which it was made, false or misleading with respect to a material fact;

(2) a provision of this chapter or a rule, order, or condition lawfully imposed under this chapter has been wilfully violated, in connection with the offering, by (A) the person filing the registration statement, (B) the issuer, a partner, officer, or director of the issuer, a person occupying a similar status or performing similar functions, or a 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 an administrative stop order or similar order or a permanent or temporary injunction under another federal or state act applicable to the offering; but (A) the administrator may not institute a proceeding against an effective registration statement under (a) (3) of this section more than one year from the date of the order or injunction relied on, and (B) he may not enter an order under (a) (3) of this section on the basis of an order or injunction entered under another 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) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of operations;

(7) when a security is sought to be registered by notification, it is not eligible for that registration;

(8) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by § 100(b) (4) of this chapter; or

(9) the applicant or registrant has failed to pay the proper filing fee; but the administrator may enter only a denial order under this clause and he shall vacate the order when the deficiency is corrected.

(b) The administrator may not institute a stop-order proceeding against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next 30 days.

(c) The administrator may by order summarily postpone or

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suspend the effectiveness of the registration statement pending final determination of a proceeding under this section. Upon the entry of the order, the administrator shall promptly notify each person specified in (d) of this section that it has been entered and of the reasons for it and that within 15 days after the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice and opportunity for hearing to each person specified in (d) of this section, may modify or vacate the order or extend it until final determination.

(d) No stop order may be entered under any part of this section except the first sentence of (c) of this section without (1) appropriate prior notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

(e) The administrator may vacate or modify a stop order if he finds that the conditions which prompted entry have changed or that it is otherwise in the public interest to do so. (§ 406 ch 198 SLA 1959; added by § 19 ch 105 SLA 1961)

APPENDIX G

ALASKA SECURITIES ACT OF 1959

CHAPTER 55

ARTICLE 4

Article 4. General Provisions.

Section	Section
130. Definitions	210. Criminal penalties
140. Exemptions	220. Civil liabilities ✓
150. Filing of sales and advertising literature	230. Judicial review of orders
160. Misleading filings	240. Rules, forms, orders, and hearings
170. Unlawful representations concerning registration or exemption	250. Administrative files and opinions
180. Administration of chapter	260. Scope of the chapter and service of process
190. Investigations and subpoenas	270. Short title
200. Injunctions	

Sec. 45.55.130. Definitions. In this chapter unless the context otherwise requires:

(1) "administrator" means the commissioner of commerce or his designee;

(2) "agent" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchase or sale of securities; a partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition; "agent" does not include an individual who represents an issuer in (A) effecting transactions in a security exempted by § 140(a) (1), (2), (3), (4), or (5)

of this chapter, (B) effecting transactions exempted by § 140(b) of this chapter, or (C) effecting transactions with existing employees, partners, or directors or the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state;

(3) "broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for his own account; "broker-dealer" does not include (A) an agent, (B) an issuer, (C) a bank, savings institution, or trust company, or (D) a person who has no place of business in this state if (i) he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions through other broker-dealers, or through 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 (ii) during a period of 12 consecutive months he does not direct more than 15 offers to sell or buy into this state in any manner to persons other than those specified in (3)(D)(i) of this section whether or not the offeror or an offeree is then present in this state;

(4) "fraud," "deceit," and "defraud" are not limited to common-law deceit;

(5) "guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(6) "investment adviser" means a 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, analyzes or reports concerning securities; "investment adviser" does not include (A) a bank, savings institution, or trust company; (B) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (C) a broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them; (D) a publisher of a bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation; (E) a person whose advice, analyses, or reports relate only to securities exempted by § 140(a)(1) of this chapter; (F) a person who has no place of business in this state if (i) his only clients in this state are other investment advisers, broker-dealers, 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 (ii) during a period of 12 consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in (6) (F) (i) of this section, whether or not he or any of the persons to whom the communications are directed is then present in this state; or (G) other persons not within the intent of this paragraph whom the administrator designates by rule or order;

(7) "issuer" means a person who issues or proposes to issue any security, except that (A) 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 under the provisions of the trust or other agreement or instrument under which the security is issued; and (B) with respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payments out of production under these titles or leases, there is not considered to be any "issuer";

(8) "nonissuer" means not directly or indirectly for the benefit of the issuer;

(9) "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(10) "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; a security given or delivered with, or as a bonus on account of, a 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; the terms defined in this subsection do not include (A) a bona fide pledge or loan; (B) a 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 dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; (C) an act incident to a class vote by stockholders, under the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (D) an act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in the exchange and partly for cash;

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended after May 9, 1959;

(12) "security" means a 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; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under the title or lease; 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 of the foregoing; "security" does not include an 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 for some other specified period; "security" does not include a certificate of membership or share in a cooperative corporation;

(13) "state" means any state, territory, or possession of the United States, the District of Columbia, and Puerto Rico. (§ 301 ch 198 SLA 1959; am §§ 1 and 2 ch 105 SLA 1961)

Seven per cent debentures offered in exchange for stock must be registered.—See same catchline in note to AS 45.55.070. For analysis of securities law of Alaska and its effect on corporate transactions, see 1961 Op. Atty. Gen., No. 15.

Sec. 45.55.140. Exemptions. (a) The following securities are exempted from §§ 70 and 150 of this chapter:

(1) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing; or a certificate of deposit for any of the foregoing;

(2) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or a 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;

(3) a security issued by and representing an interest in or a debt of, or guaranteed by, a bank organized under the laws of the United States, or a bank, savings institution, savings and loan association, building and loan association, or trust company organized and supervised under the laws of a state or of the United States;

(4) a commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or a guarantee of the paper or of the renewal;

(5) an investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the administrator is notified in writing 30 days before the inception of the plan or, with respect to plans which are in effect on May 9, 1959, within 60 days thereafter, or within 30 days before they are reopened if they are closed on May 9, 1959;

(6) a security issued by and representing an interest in or a debt of, or guaranteed by, a federal savings and loan association, or a building and loan or similar association organized under the laws of a state and authorized to do business in this state;

(7) a security issued by and representing an interest in or a debt of, or guaranteed by, an insurance company organized under the laws of a state and authorized to do business in this state; but this exemption does not apply to an annuity contract, investment contract, or similar security under which the promised payments are not fixed in dollars but are substantially dependent upon the investment results of a segregated fund or account invested in securities; except that policies or annuity contracts of insurance companies admitted to do business in the state are not subject to this chapter;

(8) a security issued or guaranteed by a federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state;

(9) a security issued or guaranteed by a railroad, other common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of the company within the

meaning of that act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or a state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province;

(10) a security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange, or any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(11) a security issued by a person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association.

(b) The following transactions are exempted from §§ 70 and 150 of this chapter:

(1) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(2) a 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 evidence of indebtedness, secured thereby, is offered and sold as a unit;

(3) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(4) an 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;

(5) a transaction pursuant to an offer directed by the offeror to not more than 20 persons, other than those designated in (b) (4) of this section, in this state during a period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this state, if the seller reasonably believes that all the buyers in this state are purchasing for investment, and no commission or other remuneration is paid or given directly or indirectly for soliciting a prospective buyer in this state; however, the administrator may by rule or order, as to a security or transaction or a type of security or transaction, withdraw or further

condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in (b)(5) of this section with or without the substitution of a limitation or remuneration;

(6) an 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 a prospective subscriber, (B) the number of subscribers does not exceed 10, and (C) no payment is made by any subscriber;

(7) a transaction under 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 90 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 a security holder in this state, or (B) the issuer first files a notice specifying the terms of the offer and the administrator does not by order disallow the exemption within the next five full business days;

(8) an 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 an order is pending under either act;

(9) an isolated nonissuer transaction, whether effected through a broker-dealer or not;

(10) a nonissuer distribution of an outstanding security if (A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(11) a nonissuer transaction effected by or through a registered broker-dealer under an unsolicited order or offer to buy; however, the administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each form be preserved by the broker-dealer for a specified period;

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

(c) In any proceeding under this chapter, the burden of prov-

ing an exemption or an exception from a definition is upon the person claiming it.

(d) The administrator may by order deny or revoke an exemption specified in (a) (5) or (7) of this section or in (b) of this section with respect to a specific security or transaction. The order may not 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 administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of a proceeding under this subsection. Upon the entry of a summary order, the administrator shall promptly notify all interested parties that it has been entered and of the reasons for it and that within 15 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 administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(e) No order under (d) of this section may operate retroactively. No person may be considered to have violated § 70 or 150 of this chapter by reason of an offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order. (§ 302 ch 108 SLA 1959; am §§ 3-11 ch 105 SLA 1961)

Sec. 45.55.150. Filing of sales and advertising literature. The administrator may by rule or order require the filing of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser, unless the security or transaction is exempted by § 140 of this chapter. (§ 303 ch 193 SLA 1959; am § 12 ch 105 SLA 1961)

Sec. 45.55.160. Misleading filings. It is unlawful for a person to make or cause to be made, in a document filed with the administrator or in a proceeding under this chapter, a statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in a material respect. (§ 304 ch 198 SLA 1959)

C.J.S. references.—19 C.J.S. Corporations §§ 931, 1364; 53 C.J.S. Licenses § 78.

Sec. 45.55.170. Unlawful representations concerning registration or exemption. (a) Neither the fact that an application for registration under §§ 30—60 of this chapter or a registration statement under §§ 70—120 of this chapter is filed nor the fact that a person or security is effectively registered constitutes a finding by the administrator that a document filed under this chapter is true, complete, and not misleading. Neither the fact of filing nor the fact that an exemption or exception is available for a security or a transaction means that the administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to a prospective purchaser, customer, or client any representation inconsistent with (a) of this section. (§ 305 ch 198 SLA 1959; am § 13 ch 105 SLA 1961)

Sec. 45.55.180. Administration of chapter. (a) The Department of Commerce shall administer this chapter.

(b) It is unlawful for the administrator or an officer or employee of the administrator to use for personal benefit information which is filed with or obtained by the administrator and which is not made public. No provision of this chapter authorizes the administrator or an officer or employee of the administrator to disclose the information 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 administrator or an officer or employee of the administrator. (§ 306 ch 198 SLA 1959)

Sec. 45.55.190. Investigations and subpoenas. (a) The administrator in his discretion may (1) make public or private investigations inside or outside this state as he considers necessary to determine whether a person has violated or is about to violate any provision of this chapter or a rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, (2) require or permit a person to file a statement in writing, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning the matter to be investigated, and (3) publish information concerning any violation of this chapter or any rule or order under this chapter.

(b) For the purpose of an investigation or proceeding under this chapter, the administrator or an officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, pa-

pers, correspondence, memoranda, agreements, or other documents or records which the administrator considers relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to a person, the superior court, upon application by the administrator, may issue to the person an order requiring him to appear before the administrator, or the officer designated by him, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(d) No person is excused from attending and testifying or from producing a document or record before the administrator, or in obedience to the subpoena of the administrator or officer designated by him, or in a proceeding instituted by the administrator, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual may be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying. (§ 307 ch 198 SLA 1959)

Sec. 45.55.200. Injunctions. Whenever it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of any provision of this chapter or rule or order under this chapter, he may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or rule or order under this chapter. Upon a proper showing, the appropriate remedy shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the administrator to post a bond. (§ 308 ch 198 SLA 1959)

Sec. 45.55.210. Criminal penalties. (a) A person who wilfully violates a provision of this chapter except § 160 of this chapter, or who wilfully violates a rule or order under this chapter, or who wilfully violates § 160 of this chapter knowing the statement made to be false or misleading in a material respect, upon conviction, is punishable by a fine of not more than \$5,000, or by imprisonment for not more than three years, or by both. However, no person may be imprisoned for the violation of a rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

(b) The administrator may refer the evidence which is available concerning violations of this chapter or a rule or order under this chapter to the attorney general who may, with or without a reference, institute appropriate criminal proceedings under this chapter.

(c) Nothing in this chapter limits the power of the state to punish a person for conduct which constitutes a crime by statute or at common law. (§ 309 ch 198 SLA 1959)

Sec. 45.55.220. Civil liabilities. (a) A person is liable to the person buying the security from him for the consideration paid for the security, together with interest at six per cent a year from the date of payment, costs, and reasonable attorneys' fees, less the amount of income received on the security, upon the tender of the security, or for damages if he no longer owns the security, if he

(1) offers or sells a security in violation of § 30(a), 70, or 170(b) of this chapter or of a rule or order under § 150 of this chapter which requires the filing of sales literature before it is used, or of a condition imposed under § 100(d) or 110(g) or (h) of this chapter, or

(2) offers or sells a security by means of an untrue statement of a material fact, or omits to state a material fact, the omission of which makes a statement misleading.

(b) Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at six per cent a year from the date of disposition.

(c) Every person who directly or indirectly controls a seller liable under (a) of this section, every partner, officer, or director of such a seller, every person occupying a similar status or performing similar functions, every employee of the seller who materially aids in the sale, and every broker-dealer or agent who materially aids in the sale are also liable jointly and severally with and to the same extent as the seller, unless the nonseller who is liable sustains the burden of proof that he did not know, and in 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 liable.

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

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

(f) No person may sue under this section more than two years after the contract of sale. No person may sue under this section (1) if the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid to-

gether with interest at six per cent a year from the date of payment, less the amount of income received on the security, and he failed to accept the offer within 30 days of its receipt, or (2) if the buyer received the offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within 30 days of its receipt.

(g) No person who makes or engages in the performance of a contract in violation of a provision of this chapter or rule or order under this chapter, or who acquires a purported right under the contract with knowledge of the facts by reason of which its making or performance is in violation, may base a suit on the contract.

(h) A condition, stipulation, or provision binding a person acquiring a security to waive compliance with a provision of this chapter or a rule or order under this chapter is void.

(i) The rights and remedies provided by this chapter are in addition to any other rights or remedies that may exist, but this chapter does not create a cause of action not specified in this section or § 40(f) of this chapter. (§ 310 ch 198 SLA 1959; am § 14 ch 105 SLA 1961)

Sec. 45.55.230. Judicial review of orders. (a) A person aggrieved by a final order of the administrator may obtain a review of the order in the superior court by filing, within 60 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 served immediately upon the administrator, and thereupon the administrator shall certify and file in court a copy of the filing and evidence upon which the order was entered. When these are filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part.

(b) The commencement of proceedings under (a) of this section does not, unless specifically ordered by the court, operate as a stay of the administrator's order.

(c) The Administrative Procedure Act applies to all rules, regulations, orders and reviews issued or authorized under this chapter including judicial review and its scope. (§ 311 ch 198 SLA 1959)

Sec. 45.55.240. Rules, forms, orders, and hearings. (a) The administrator may make, amend, and rescind the rules, forms, and orders which are necessary to carry out this chapter, including rules and forms governing registration statements, applications, and reports, and defining terms, whether or not used in this chapter insofar as the definitions are not inconsistent with this chapter. For the purpose of rules and forms, the administrator may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.

(b) No rule, form, or order may be made, amended, or rescinded

unless the administrator 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 administrator 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, application, and reports wherever practicable.

(c) All financial statements shall be prepared in accordance with generally accepted accounting practices. The administrator may by rule or order prescribe (1) the form and content of financial statements required under this chapter, (2) the circumstances under which consolidated financial statements shall be filed, and (3) whether any required financial statements shall be certified by independent or certified public accountants.

(d) No provision of this chapter imposing liability applies to an act done or omitted in good faith in conformity with a rule, form, or order of the administrator, notwithstanding that the rule, form, or order may be later amended or rescinded or be determined by judicial or other authority to be invalid.

(e) Every hearing in an administrative proceeding shall be public unless the administrator in his discretion grants a request joined in by all the respondents that the hearing be conducted privately. (§ 312 ch 198 SLA 1959)

Sec. 45.55.250. Administrative files and opinions. (a) A document is filed when it is received by the administrator.

(b) The administrator 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 been entered under this chapter. The register shall be open for public inspection.

(c) The information contained in or filed with a registration statement, application, or report may be made available to the public under the rules which the administrator prescribes.

(d) Upon request and at the reasonable charges which he prescribes, the administrator shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In a proceeding or prosecution under this chapter, a copy so certified is prima facie evidence of the contents of the entry or documents certified.

(e) The administrator in his discretion may honor requests from interested persons for interpretative opinions. (§ 313 ch 198 SLA 1959; am §§ 16, 17 ch 105 SLA 1961)

Sec. 45.55.260. Scope of the chapter and service of process. (a) Sections 10, 30(a), 70, 170, and 220 of this chapter apply to persons who sell or offer to sell when (1) an offer to sell is made in this state, or (2) an offer to buy is made and accepted in this state.

(b) Sections 10, 30(a), and 170 of this chapter apply to persons who buy or offer to buy when (1) an offer to buy is made in this state, or (2) an offer to sell is made and accepted in this state.

(c) For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer (1) originates from this state or (2) is directed by the offeror to this state and received at the place to which it is directed, or at a post office in this state in the case of a mailed offer.

(d) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance is communicated to the offeror in this state and has not previously been communicated to the offeror, orally or in writing, outside this state. Acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed, or at a post office in this state in the case of a mailed acceptance.

(e) An offer to sell or to buy is not made in this state when (1) the publisher circulates or there is circulated on his behalf in this state a bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past 12 months, or (2) a radio or television program originating outside this state is received in this state.

(f) Sections 20, 30(c), and 170 of this chapter, so far as investment advisers are concerned, apply when any act instrumental in effecting prohibited conduct is done in this state, whether or not either party is then present in this state.

(g) Every applicant for registration under this chapter and every issuer which proposes to offer a security in this state through a person acting on an agency basis in the common-law sense shall file with the administrator, in the form which he prescribes by rule, an irrevocable consent appointing the administrator or his successor in office to be his attorney to receive service of lawful process in a civil suit, action, or proceeding against him or his successor executor or administrator which arises under this chapter or a rule or order under this chapter 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 files the consent in connection with a previous registration need not file another. Service may be

made by leaving a copy of the process in the office of the administrator, but it is not effective unless (1) the plaintiff, who may be the administrator in a suit, action, or proceeding instituted by him, immediately sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the administrator, and (2) the plaintiff's affidavit of mailing is filed in the case on or before the return day of the process, if any, or within the further time which the court allows.

(h) When a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or a rule or order under this chapter, and he has not filed a consent to service of process under (g) of this section and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct is considered equivalent to his appointment of the administrator or his successor in office to be his attorney to receive service of process in a civil suit, action, or proceeding against him or his successor executor or administrator which grows out of that conduct and which is brought under this chapter or a rule or order under this chapter, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the administrator, but service is not effective unless (1) the plaintiff, who may be the administrator in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and (2) the plaintiff's affidavit of compliance with this subsection 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.

(i) When process is served under this section, the court, or the administrator in a proceeding before him, shall order the continuance which is necessary to afford the defendant or respondent reasonable opportunity to defend. (§ 314 ch 198 SLA 1959; am § 18 ch 105 SLA 1961)

Sec. 15.55.270. Short title. This chapter may be cited as the Alaska Securities Act of 1959. (§ 315 ch 198 SLA 1959)

APPENDIX H

REGULATION, SECTION 608

Regulation, Section 608 - Sales and Advertising Literature

(a) A registered broker-dealer shall file with the Administrator of Securities all prospectuses, pamphlets, circulars, form letters, radio and television scripts or copy, advertisements, and other sales literature addressed to or intended for distribution to prospective investors. This shall not apply to securities and transactions exempted in Section 302, Ch. 198, SLA 1959, as amended, of the Alaska Securities Act, or to advertising matter of issuers which has been previously filed with the Administrator directly by the issuer.

(b) The responsibility of ascertaining whether any particular item of advertising matter has been previously filed by the issuer shall be that of the broker-dealer.

(c) Issuers offering for sale, selling or advertising their securities in Alaska shall be subject to the requirements of subsection (a) of this section, except for those securities and transactions which are exempted under Section 302, Ch. 198, SLA 1959.

Authority. Alaska Securities Act of 1959, as amended, and ACL, Title 44, Chapter 62.

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