

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2083
(Industry, Business and Labor Committee)
(At the request of the Securities Commissioner)

AN ACT to amend and reenact subsection 8 of section 10-04-06, subsection 1 of section 10-04-08.4, and subsection 8 of section 10-04-10 of the North Dakota Century Code, relating to the manual exemption from registration of securities, and refund of filing and registration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 10-04-06 of the North Dakota Century Code is amended and reenacted as follows:

8. A nonissuer transaction by or through a broker-dealer and agent, both of which are registered or exempt from registration under this chapter, or a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least ninety days, if, at the date of the transaction:
 - a. The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;
 - b. Such securities are sold at prices reasonably related to the current market price;
 - c. Such securities do not constitute the whole or part of an unsold allotment to, or subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;
 - d. Such securities are listed in ~~Standard and Poor's, Mergent's Industrial Manual, Mergent's Bank and Finance Manual, Mergent's Transportation Manual, Mergent's Public Utility Manual, or Fitch investor service, incorporated,~~ are on the OTCQX or OTCQB markets operated by OTC Markets Group Incorporated, or are filed under section 13 or 15(d) of the Securities Exchange Act of 1934 [ch. 404, title I, sec. 1; 48 Stat. 881; 15 U.S.C. 78 et seq.]; and
 - e. ~~Such securities are limited to issuers organized under the laws of any state, territory, or insular possession of the United States; and~~
 - f. Any one of the following requirements is met:
 - (1) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or designated for trading on the national association of securities dealers automated quotation system;
 - (2) The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;
 - (3) The issuer of the security, including its predecessors, has been engaged in continuous business for at least three years; or

- (4) The issuer of the security has total assets of at least two million dollars based on an audited balance sheet as of a date within eighteen months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had the audited balance sheet, a pro forma balance sheet for the combined organization.

SECTION 2. AMENDMENT. Subsection 1 of section 10-04-08.4 of the North Dakota Century Code is amended and reenacted as follows:

1. Any federal covered security that is subject to section 18(b)(2) of the Securities Act of 1933, as amended, may be offered and sold upon the filing of:
 - a. A copy of the issuer's registration statement or a notice of intent in writing or electronically for an indefinite or definite dollar amount for each security or class of security on a form prescribed by the commissioner.
 - b. A unit investment trust may file an initial notice filing for a definite dollar amount or an indefinite dollar amount. At the time of the initial notice filing for a definite dollar amount, the issuer shall pay a ~~nonrefundable~~ filing fee of one-tenth of one percent of the first seven hundred fifty thousand dollars and one-twentieth of one percent of any amount in excess of seven hundred fifty thousand dollars of the aggregate offering price of each security or class of security. In no event, however, may such filing fee be less than one hundred twenty-five dollars for each security or class of security.
 - c. An investment company or unit investment trust may file an initial notice filing for an indefinite dollar amount and pay a ~~nonrefundable~~ filing fee of four hundred dollars for each security or class of security.
 - d. A notice filing for a definite dollar amount may be increased before the expiration date on the certificate of effectiveness at the same reduced fee, which must be calculated as provided in subdivision b as a separate fee for each additional amount.
 - e. A notice filing for a definite dollar amount may be renewed for additional periods of one year by filing, at least fifteen days prior to its expiration, a renewal and sales report notice with a fee of one hundred dollars to renew the unsold balance.
 - f. A notice filing for an indefinite dollar amount may be renewed by filing, within sixty days following the issuer's fiscal year, a renewal and sales report notice with a fee of one hundred twenty-five dollars.
 - g. A notice filing may be terminated by the issuer upon providing the commissioner a notice of such termination.
 - h. The provision for each security or class of security in this subsection is effective when the federal registration statement becomes effective with the securities and exchange commission or the date the notice of intent is received by the commissioner, whichever is later. A filing notice for a definite dollar amount is effective for a period of eighteen months from the date of effectiveness.
 - i. A copy of any document filed with the securities and exchange commission as the commissioner may require.

SECTION 3. AMENDMENT. Subsection 8 of section 10-04-10 of the North Dakota Century Code is amended and reenacted as follows:

8. Fees. The fee, which must accompany the application, for registration, transfer, or notice filing, and for each annual renewal thereof is:
 - a. For each broker-dealer \$200.00

- b. For each agent \$60.00
- c. For each investment adviser or federal covered adviser \$100.00
- d. For each investment adviser representative \$50.00

An application to register as a broker-dealer, agent, investment adviser, or investment adviser representative may, with the consent of the commissioner, be withdrawn upon written application, ~~but in no event may any registration fees be returned.~~

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2083.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State