

SENATE BILL No. 120

By Committee on Judiciary

2-1

1 AN ACT concerning the Kansas uniform securities act; updating
2 references to the federal securities act of 1933; amending K.S.A. 2016
3 Supp. 17-12a302 and 17-12a402 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 17-12a302 is hereby amended to read
7 as follows: 17-12a302. (a) *Required filing of records.* With respect to a
8 federal covered security, as defined in section 18(b)(2) of the securities act
9 of 1933 (15 U.S.C. § 77r(b)(2)), that is not otherwise exempt under K.S.A.
10 17-12a201 through 17-12a203, and amendments thereto, a rule adopted or
11 order issued under this act may require the filing of any or all of the
12 following records:

13 (1) Before the initial offer of a federal covered security in this state,
14 all records that are part of a federal registration statement filed with the
15 securities and exchange commission under the securities act of 1933 and a
16 consent to service of process complying with K.S.A. 17-12a611, and
17 amendments thereto, signed by the issuer and the payment of a fee not to
18 exceed \$2,500;

19 (2) after the initial offer of the federal covered security in this state,
20 all records that are part of an amendment to a federal registration statement
21 filed with the securities and exchange commission under the securities act
22 of 1933; and

23 (3) to the extent necessary or appropriate to compute fees, a report of
24 the value of the federal covered securities sold or offered to persons
25 present in this state, if the sales data are not included in records filed with
26 the securities and exchange commission and payment of a fee not to
27 exceed \$2,500.

28 (b) *Notice filing effectiveness and renewal.* A notice filing under
29 subsection (a) is effective for one year commencing on the later of the
30 notice filing or the effectiveness of the offering filed with the securities
31 and exchange commission. On or before expiration, the issuer may renew
32 a notice filing by filing a copy of those records filed by the issuer with the
33 securities and exchange commission that are required by rule or order
34 under this act to be filed and by paying a renewal fee not to exceed \$2,500.
35 A previously filed consent to service of process complying with K.S.A.
36 17-12a611, and amendments thereto, may be incorporated by reference in

1 a renewal. A renewed notice filing becomes effective upon the expiration
2 of the filing being renewed.

3 (c) *Notice filings for federal covered securities under section 18(b)(4)*
4 ~~(F)~~. With respect to a security that is a federal covered security under
5 section 18(b)(4)~~(F)~~ of the securities act of 1933 (15 U.S.C. § 77r(b)(4)
6 ~~(F)~~), a rule under this act may require: (1) A notice filing by or on
7 behalf of an issuer to include a copy of form D, including the appendix, as
8 promulgated by the securities and exchange commission, and a consent to
9 service of process complying with K.S.A. 17-12a611, and amendments
10 thereto, signed by the issuer, not later than 15 days after the first sale of the
11 federal covered security in this state; and (2) the payment of a fee not to
12 exceed \$2,500 for a timely filing and the payment of a fee not to exceed
13 \$5,000 for any late filing.

14 (d) *Stop orders*. Except with respect to a federal security under
15 section 18(b)(1) of the securities act of 1933 (15 U.S.C. § 77r(b)(1)), if the
16 administrator finds that there is a failure to comply with a notice or fee
17 requirement of this section, the administrator may issue a stop order
18 suspending the offer and sale of a federal covered security in this state. If
19 the deficiency is corrected, the stop order is void as of the time of its
20 issuance and no penalty may be imposed by the administrator other than a
21 late filing fee.

22 Sec. 2. K.S.A. 2016 Supp. 17-12a402 is hereby amended to read as
23 follows: 17-12a402. (a) *Registration requirement*. It is unlawful for an
24 individual to transact business in this state as an agent unless the
25 individual is registered under this act as an agent or is exempt from
26 registration as an agent under subsection (b).

27 (b) *Exemptions from registration*. The following individuals are
28 exempt from the registration requirement of subsection (a):

29 (1) An individual who represents a broker-dealer in effecting
30 transactions in this state limited to those described in section 15(i)(3) of
31 the securities exchange act of 1934 (15 U.S.C. § 78o(i)(3));

32 (2) an individual who represents a broker-dealer that is exempt under
33 K.S.A. 17-12a401(b) or (d), and amendments thereto;

34 (3) an individual who represents an issuer with respect to an offer or
35 sale of the issuer's own securities or those of the issuer's parent or any of
36 the issuer's subsidiaries, and who is not compensated in connection with
37 the individual's participation by the payment of commissions or other
38 remuneration based, directly or indirectly, on transactions in those
39 securities;

40 (4) an individual who represents an issuer and who effects
41 transactions in the issuer's securities exempted by K.S.A. 17-12a202, and
42 amendments thereto, other than K.S.A. 17-12a202 (11) and (14), and
43 amendments thereto;

1 (5) an individual who represents an issuer that effects transactions
2 solely in federal covered securities of the issuer, but an individual who
3 effects transactions in a federal covered security under section 18(b)(3) or
4 18(b)(4)(~~E~~)(F) of the securities act of 1933 (15 U.S.C. § 77r(b)(3) or
5 77r(b)(4)(~~E~~)(F)) is not exempt if the individual is compensated in
6 connection with the agent's participation by the payment of commissions
7 or other remuneration based, directly or indirectly, on transactions in those
8 securities;

9 (6) an individual who represents a broker-dealer registered in this
10 state under K.S.A. 17-12a401(a), and amendments thereto, or exempt from
11 registration under K.S.A. 17-12a401(b), and amendments thereto, in the
12 offer and sale of securities for an account of a nonaffiliated federal covered
13 investment adviser with investments under management in excess of
14 \$100,000,000 acting for the account of others pursuant to discretionary
15 authority in a signed record;

16 (7) an individual who represents an issuer in connection with the
17 purchase of the issuer's own securities;

18 (8) an individual who represents an issuer and who restricts
19 participation to performing clerical or ministerial acts; or

20 (9) any other individual exempted by rule adopted or order issued
21 under this act.

22 (c) *Registration effective only while employed or associated.* The
23 registration of an agent is effective only while the agent is employed by or
24 associated with a broker-dealer registered under this act or an issuer that is
25 offering, selling, or purchasing its securities in this state.

26 (d) *Limit on employment or association.* It is unlawful for a broker-
27 dealer, or an issuer engaged in offering, selling, or purchasing securities in
28 this state, to employ or associate with an agent who transacts business in
29 this state on behalf of broker-dealers or issuers unless the agent is
30 registered under subsection (a) or exempt from registration under
31 subsection (b).

32 (e) *Limit on affiliations.* An individual may not act as an agent for
33 more than one broker-dealer or one issuer at a time, unless the broker-
34 dealer or the issuer for which the agent acts are affiliated by direct or
35 indirect common control or are authorized by rule or order under this act.

36 Sec. 3. K.S.A. 2016 Supp. 17-12a302 and 17-12a402 are hereby
37 repealed.

38 Sec. 4. This act shall take effect and be in force from and after its
39 publication in the statute book.