

CHAPTER 175  
FORMERLY  
HOUSE SUBSTITUTE NO. 1  
FOR  
HOUSE BILL NO. 88

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE REGULATION OF SECURITIES.  
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE BE IT ENACTED BY THE  
GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof  
concurring therein):

Section 1. Amend § 7302(a)(16), Title 6 of the Delaware Code by striking said paragraph in its entirety and inserting in lieu thereof the following:

“(16) ‘Securities Act of 1933’ means the federal statute of that name, 15 U.S.C. § 77r, et. seq.”.

Section 2. Amend § 7302(a)(2), Title 6 of the Delaware Code by striking the phrase “(4)(D) of the Securities Act” where it appears in said paragraph and inserting in lieu thereof the phrase “§ 18(b)(4)(D) of the Securities Act”.

Section 3. Amend § 7302(a)(17), Title 6 of the Delaware Code by inserting the following immediately after the phrase “options on commodities”, the phrase “;viatical settlement investment”.

Section 4. Amend § 7302(a), Title 6 of the Delaware Code by inserting the following new definitional paragraphs in the appropriate locations to preserve the alphabetical order of the paragraphs in said subsection and by renumbering the definitional paragraphs in said subsection accordingly:

“‘Investment Company Act of 1940’ means the federal statute of that name, 15 U.S.C. § 80a-1, et. seq.”.

“‘Securities Exchange Act of 1934’ means the federal statute of that name, 15 U.S.C. § 78a, et. seq.”.

“‘Public Utility Holding Company Act of 2005’ means the federal statute of that name, 15 U.S.C. § 16451, et. seq.”.

Section 5. Amend § 7302(a), Title 6 of the Delaware Code by inserting a new definitional paragraph to read as follows and by renumbering the definitional paragraphs in said subsection accordingly:

(19) ‘Viatical settlement investment’ means the contractual right to receive any portion of the death benefit or ownership of a life insurance policy or certificate for consideration that is less than the expected death benefit of the life insurance policy or certificate. ‘Viatical settlement investment’ does not include:

a. The assignment, transfer, sale, devise, or bequest of a death benefit, life insurance policy or certificate of insurance by the viator to the viatical settlement provider pursuant to the Delaware Viatical Settlements Act (18 Del. C. Chapter 75), the subsequent sale by such life settlement provider of such death benefit, life insurance policy or certificate of insurance, but not fractional interests therein, to any person who is a qualified purchaser (as such term is defined in the Investment Company Act of 1940), or any other lawful assignment, transfer, sale, devise or bequest of a death benefit, life insurance policy or certificate of insurance by an owner of a policy;

b. An assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union or other licensed lending institution as collateral for a loan, or the foreclosure upon, or relinquishment of, such life insurance policy in connection with such loan;

c. any transfer of ownership and/or beneficial interest in a life insurance policy from a viatical settlement provider to another viatical settlement provider as defined by the Delaware Viatical Settlements Act (18 Del. C. Ch. 75) or to any legal entity formed solely for the purpose of holding ownership and/or beneficial interest in a life insurance policy or policies; or

d. The exercise of accelerated benefits pursuant to the terms of the life insurance policy.

Section 6. Amend § 7304(2), Title 6 of the Delaware Code by striking the phrase “§ 7309” as it appears therein and substituting in lieu thereof the phrase “§ 73-207”.

Section 7. Amend § 7304(3), Title 6 of the Delaware Code by striking the phrase “§ 7309A” as it appears therein and substituting in lieu thereof the phrase “§ 73-208”.

Section 8. Amend § 7305(b), Title 6 of the Delaware Code by striking the phrase “§ 7307(b)” as it appears therein and substituting in lieu thereof the phrase “§ 73-205(b)”.

Section 9. Amend § 7305(b), Title 6 of the Delaware Code by striking the phrase “§ 7327” as it appears therein and substituting in lieu thereof the phrase “§ 73-702”.

Section 10. Amend § 7305(b), Title 6 of the Delaware Code by striking the phrase “§ 7306(e)” as it appears therein and substituting in lieu thereof the phrase “§ 73-204(e)”.

Section 11. Amend § 7305(c)(1), Title 6 of the Delaware Code by striking the phrase “§ 7308” as it appears therein and substituting in lieu thereof the phrase “§ 73-206”.

Section 12. Amend § 7305(c)(3), Title 6 of the Delaware Code by striking the phrase “this subsection” each time it appears in said paragraph and inserting in lieu thereof the phrase “this paragraph”.

Section 13. Amend § 7305, Title 6 of the Delaware Code by striking the phrase “subsections (c)(2) and (c)(3) of this section” where it appears in the undesignated paragraph immediately following paragraph (c)(3) and inserting in lieu thereof the phrase “paragraphs (c)(2) and (c)(3) of this section.”.

Section 14. Amend § 7306(b), Title 6 of the Delaware Code by striking the phrase “§ 7307(b)” as it appears therein and substituting in lieu thereof the phrase “§ 73-205(b)”.

Section 15. Amend § 7306(b), Title 6 of the Delaware Code by striking the phrase “§ 7327” as it appears therein and substituting in lieu thereof the phrase “§ 73-702”.

Section 16. Amend § 7306(b), Title 6 of the Delaware Code by striking the phrase “subsection (b)(2) of this section” each time it appears in paragraphs (3), (4) and (5) of said subsection and inserting in lieu thereof the phrase “paragraph (b)(2) of this section”.

Section 17. Amend § 7306(b), Title 6 of the Delaware Code by striking the word “subsection” where it appears in paragraph (10) and inserting in lieu thereof the word “paragraphs”.

Section 18. Amend § 7306(d)(4), Title 6 of the Delaware Code by striking the phrase “subsection (d)(1) of the section” and inserting in lieu thereof the phrase “paragraph (d)(1) of this section” and by striking the phrase “subsection (d)(2)” and inserting in lieu thereof the phrase “paragraphs (d)(2)”.

Section 19. Amend § 7306(e), Title 6 of the Delaware Code by striking the phrase “§ 7305” as it appears therein and substituting in lieu thereof the phrase “§ 73-203”.

Section 20. Amend § 7306(f), Title 6 of the Delaware Code by striking the phrase “§ 7325(b)” as it appears therein and substituting in lieu thereof the phrase “§ 73-102(b)”.

Section 21. Amend § 7307(f)(1), Title 6 of the Delaware Code by striking the phrase “§ 7306(e)” as it appears therein and substituting in lieu thereof the phrase “§ 73-204(e)”.

Section 22. Amend § 7307(g), Title 6 of the Delaware Code by striking the phrase “§ 7309” as it appears therein and substituting in lieu thereof the phrase “§ 73-207”.

Section 23. Amend § 7308(a), Title 6 of the Delaware Code by striking the phrase “§ 7309A(e)” as it appears therein and substituting in lieu thereof the phrase “§ 73-208(e)”.

Section 24. Amend § 7308(a)(1), Title 6 of the Delaware Code by inserting the phrase “or renewal” in between the phrases “any amendment” and “under § 7307(f)” as they appear therein.

Section 25. Amend § 7308(a)(1), Title 6 of the Delaware Code by striking the phrase “§ 7307(f)” as it appears therein and substituting in lieu thereof the phrase “§ 73-205(f)”.

Section 26. Amend § 7308(a)(1), Title 6 of the Delaware Code by striking the phrase “§ 7307(e)” as it appears therein and substituting in lieu thereof the phrase “§ 73-205(e)”.

Section 27. Amend § 7308(a)(8), Title 6 of the Delaware Code by striking the phrase “§ 7305(b)(4)” as it appears therein and substituting in lieu thereof the phrase “§ 73-203(b)(4)”.

Section 28. Amend § 7309(a)(7), Title 6 of the Delaware Code by striking the phrase “Public Utility Holding Company Act of 1935” [15 U.S.C. § 79 et seq.] and inserting in lieu thereof the phrase “Public Utility Holding Company Act of 2005”.

Section 29. Amend § 7309(a)(11), Title 6 of the Delaware Code by striking the following clause as it appears in said paragraph:

“if the Commissioner is notified in writing 30 days before the inception of the plan, or, with respect to plans which are in effect on July 1, 1973, within 60 days, thereafter (or within 30 days before they are reopened if they are closed on July 1, 1973)”.

Section 30. Amend § 7309(a), Title 6 of the Delaware Code by striking the phrase “§ 7304” as it appears therein and substituting in lieu thereof the phrase “§ 73-202”.

Section 31. Amend § 7309(a), Title 6 of the Delaware Code by striking the phrase “§ 7309A” as it appears therein and substituting in lieu thereof the phrase “§ 73-208”.

Section 32. Amend § 7309(a), Title 6 of the Delaware Code by striking the phrase “§ 7312” as it appears therein and substituting in lieu thereof the phrase “§ 73-211”.

Section 33. Amend § 7309(b), Title 6 of the Delaware Code by striking the phrase “§ 7304” as it appears therein and substituting in lieu thereof the phrase “§ 73-202”.

Section 34. Amend § 7309(b), Title 6 of the Delaware Code by striking the phrase “§ 7309A” as it appears therein and substituting in lieu thereof the phrase “§ 73-208”.

Section 35. Amend § 7309(b), Title 6 of the Delaware Code by striking the phrase “§ 7312” as it appears therein and substituting in lieu thereof the phrase “§ 73-211”.

Section 36. Amend § 7309(b)(12), Title 6 of the Delaware Code by striking the phrase “§ 7306(d)” as it appears therein and substituting in lieu thereof the phrase “§ 73-204(d)”.

Section 37. Amend § 7309(b), Title 6 of the Delaware Code by inserting a new paragraph (14) reading as follows:

“(14) Any offer or sale of a viatical settlement investment, if:

(A) Such disclosure documents as the Commissioner, by rule or order, requires are delivered to each offeree or purchaser; and

(B) The Commissioner is notified in writing of the offer at least thirty days before the offer is made.”.

Section 38. Amend § 7309(c), Title 6 of the Delaware Code by striking the phrase “§ 7304” as it appears therein and substituting in lieu thereof the phrase “§ 73-202”.

Section 39. Amend § 7309(c), Title 6 of the Delaware Code by striking the phrase “§ 7312” as it appears therein and substituting in lieu thereof the phrase “§ 73-211”.

Section 40. Amend § 7312, Title 6 of the Delaware Code by striking the phrase “§ 7309” as it appears therein and substituting in lieu thereof the phrase “§ 73-207”.

Section 41. Amend § 7313(g), Title 6 of the Delaware Code by striking the phrase “§ 7314(b)” as it appears therein and substituting in lieu thereof the phrase “§ 73-302(g) through (k)”.

Section 42. Amend § 7313(g), Title 6 of the Delaware Code by striking the phrase “§ 7314” as it appears therein and substituting in lieu thereof the phrase “§ 73-302”.

Section 43. Amend § 7313(b), Title 6 of the Delaware Code by striking the following sentences therefrom:

“When an agent begins or terminates a connection with a broker dealer or issuer, or begins or terminates those activities which make him or her an agent, the agent as well as the broker dealer or issuer shall promptly notify the Commissioner. Every registration of an agent expires when the agent terminates the agent’s connection with a broker dealer or issuer, though the person may still be subject to disciplinary action by the Commissioner under § 7316(e) of this title. When such an agent begins a connection with another broker dealer or another issuer, the agent shall file an application for initial registration as provided in § 7314(a) of this title and shall pay a filing fee prescribed by § 7314(c) of this title. Unless the Commissioner takes action under § 7316 or § 7315 of this title, the said agent registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by the Commissioner’s designee) and shall continue in effect until it expires under the provisions of subsection (f) of this section, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30 day period at the Commissioner’s discretion.”

Section 44. Amend § 7313(d), Title 6 of the Delaware Code by striking the following sentences therefrom:

“When an investment adviser representative begins or terminates employment with an investment adviser, the investment adviser representative as well as the investment adviser shall promptly notify the Commissioner. Every registration of an investment adviser representative expires when the investment adviser representative terminates his or her connection with an investment adviser, though the person may still be subject to disciplinary action by the Commissioner under § 7316(e) of this title. When such an investment adviser representative begins a connection with another investment adviser or federal covered adviser, the representative shall, unless exempt from registration, file an application for initial registration as provided in § 7314(a) of this title and shall pay a filing fee prescribed by § 7314(c) of this title. Unless the Commissioner takes action under § 7316 or § 7315 of this title, the said investment adviser representative registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by the Commissioner’s designee) and shall continue in effect until it expires under the provisions of subsection (f) of this section, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30 day period at the Commissioner’s discretion.”.

Section 45. Amend § 7313(e), Title 6 of the Delaware Code by striking the following sentences therefrom:

“When such an investment adviser representative begins or terminates employment with a federal covered adviser, the investment adviser representative shall promptly notify the Commissioner. Every registration of such an investment adviser

representative expires when the investment adviser representative terminates that investment adviser representative's connection with the federal covered adviser, though the person may still be subject to disciplinary action by the Commissioner under § 7316(e) of this title. When such an investment adviser representative begins a connection with another federal covered adviser or investment adviser, the representative shall, unless exempt from registration, file an application for initial registration as provided in § 7314(a) of this title and shall pay a filing fee prescribed by § 7314(c) of this title. Unless the Commissioner takes action under § 7316 or § 7315 of this title, the said investment adviser representative registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by the Commissioner's designee) and shall continue in effect until it expires under the provisions of subsection (f) of this section, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30 day period at the Commissioner's discretion."

Section 46. Amend § 7313(f), Title 6 of the Delaware Code by striking said subsection in its entirety.

Section 47. Amend § 7313, Title 6 of the Delaware Code by re-designating subsection (g) as subsection (f).

Section 48. Amend § 7313, Title 6 of the Delaware Code by striking the phrase "Registration and notice filing requirements for broker-dealers, agents, investment advisers, federal covered advisers and investment adviser representatives" where it appears in the title of said Section and substituting in lieu thereof the phrase "Unlawful conduct for broker-dealers, agents, investment advisers, federal covered advisers and investment adviser representatives".

Section 49. Amend § 7314(a)(1), Title 6 of the Delaware Code by striking the phrase "§ 7327" as it appears therein and substituting in lieu thereof the phrase "§ 73-702".

Section 50. Amend § 7314(a)(1), Title 6 of the Delaware Code by striking the phrase "§ 7316" as it appears therein and substituting in lieu thereof the phrase "§ 73-304".

Section 51. Amend § 7314(b)(1), Title 6 of the Delaware Code by striking the phrase "§ 7313(c)(2)" as it appears therein and substituting in lieu thereof the phrase "§ 73-301(c)(2)".

Section 52. Amend § 7314(f), Title 6 of the Delaware Code by striking the phrase "§ 7323" as it appears therein and substituting in lieu thereof the phrase "§ 73-605".

Section 53. Amend § 7314(f), Title 6 of the Delaware Code by striking the phrase "§ 7323(e)" as it appears therein and substituting in lieu thereof the phrase "§ 73-605(e)".

Section 54. Amend § 7314(c), Title 6 of the Delaware Code by striking the phrase "§ 7323" as it appears therein and substituting in lieu thereof the phrase "§ 73-605".

Section 55. Amend § 7314(a)(1), Title 6 of the Delaware Code by striking the following sentences therefrom:

"Registration of a broker dealer automatically constitutes registration of any agent who is a partner, officer or director, or a person occupying a similar status or performing similar functions. Registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, officer or director, or a person occupying a similar status or performing similar functions."

Section 56. Amend § 7314(c)(1), Title 6 of the Delaware Code by striking the phrase "\$250" as it appears therein and substituting in lieu thereof the phrase "\$300" and striking the phrase "\$50" as it appears therein and substituting in lieu thereof the phrase "\$65".

Section 57. Amend § 7314(c)(2), Title 6 of the Delaware Code by striking the phrase "\$250" as it appears therein and substituting in lieu thereof the phrase "\$300" and striking the phrase "\$50" as it appears therein and substituting in lieu thereof the phrase "\$65".

Section 58. Amend § 7314(c)(3), Title 6 of the Delaware Code by striking the phrase "\$250" as it appears therein and substituting in lieu thereof the phrase "\$300".

Section 59. Amend § 7314(a), Title 6 of the Delaware Code by re-designating paragraph (a)(1) thereof as subsection (a) and by re-designating paragraph (a)(2) thereof as subsection (f).

Section 60. Amend § 7314(b), Title 6 of the Delaware Code by re-designating paragraph (b)(1) thereof as subsection (g), paragraph (b)(2) thereof as subsection (h), paragraph (b)(3) thereof as subsection (i), paragraph (b)(4) thereof as subsection (j), and paragraph (b)(5) thereof as subsection (k).

Section 61. Amend § 7314, Title 6 of the Delaware Code by re-designating subsection (c) thereof as subsection (l).

Section 62. Amend § 7314, Title 6 of the Delaware Code by re-designating subsection (d) thereof as subsection (m).

Section 63. Amend § 7314, Title 6 of the Delaware Code by re-designating subsection (e) thereof as subsection (n).

Section 64. Amend § 7314, Title 6 of the Delaware Code by re-designating subsection (f) thereof as subsection (o).

Section 65. Amend § 7314, Title 6 of the Delaware Code by inserting a new subsection (b) thereof to read as follows:

“(b) When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make said person an agent, the agent as well as the broker-dealer or issuer shall promptly notify the Commissioner. Every registration of an agent expires when the agent terminates the agent’s connection with a broker-dealer or issuer, though the person may still be subject to disciplinary action by the Commissioner under § 73-304(e) of this title. When such an agent begins a connection with another broker-dealer or another issuer, the agent shall file an application for initial registration as provided in subsection (a) of this section and shall pay a filing fee prescribed by subsection (l) of this section. Unless the Commissioner takes action under § 73-303 or § 73-304 of this title, the agent’s registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by the Commissioner’s designee) and shall continue in effect until it expires under the provisions of subsection (e) of this section, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30- day period at the Commissioner’s discretion.”.

Section 66. Amend § 7314, Title 6 of the Delaware Code by inserting a new subsection (c) thereof to read as follows:

“(c) When an investment adviser representative begins or terminates employment with an investment adviser, the investment adviser representative as well as the investment adviser shall promptly notify the Commissioner. Every registration of an investment adviser representative expires when the investment adviser representative terminates the investment adviser’s connection with an investment adviser, though the person may still be subject to disciplinary action by the Commissioner under §73-304(e) of this title. When such an investment adviser representative begins a connection with another investment adviser or federal covered adviser, the representative shall, unless exempt from registration, file an application for initial registration as provided in subsection (a) of this section and shall pay a filing fee prescribed by subsection (l) of this section. Unless the Commissioner takes action under § 73-303 or § 73-304 of this title, the said investment adviser representative registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by the Commissioner’s designee) and shall continue in effect until it expires under the provisions of subsection (e) of this section, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30-day period at the Commissioner’s discretion.”.

Section 67. Amend § 7314, Title 6 of the Delaware Code by inserting a new subsection (d) thereof to read as follows:

“(d) When an investment adviser representative for a federal covered adviser begins or terminates employment with the federal covered adviser, the investment adviser representative shall promptly notify the Commissioner. Every registration of such an investment adviser representative expires when the investment adviser representative terminates his or her connection with the federal covered adviser, though the person may still be subject to disciplinary action by the Commissioner under § 73-304(e) of this title. When such an investment adviser representative begins a connection with another federal covered adviser or investment adviser, the representative shall, unless exempt from registration, file an application for initial registration as provided in subsection (a) of this section and shall pay a filing fee prescribed by subsection (l) of this section. Unless the Commissioner takes action under § 73-303 or § 73-304 of this title, the said investment adviser representative registration shall become effective 30 days after the receipt of a complete application by the Commissioner (or by the Commissioner’s designee) and shall continue in effect until it expires under the provisions of subsection (e) of this section, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30-day period at the Commissioner’s discretion.”.

Section 68. Amend § 7314, Title 6 of the Delaware Code by inserting a new subsection (e) thereof to read as follows:

“(e) Every registration or notice filing under this section expires December 31st unless renewed.”.

Section 69. Amend § 7315(d), Title 6 of the Delaware Code by striking the phrase “§ 7313(b), (d), or (e) of this title” as it appears therein and substituting in lieu thereof the phrase “§ 73-302(b), (c) or (d)”.

Section 70. Amend § 7316, Title 6 of the Delaware Code by striking subsection (g) in its entirety.

Section 71. Amend § 7317, Title 6 of the Delaware Code by re-designating paragraph (a)(1) as subsection (a), by re-designating paragraph (a)(2) as subsection (b), by re-designating subsection (b) as subsection (c), and re-designating subsection (c) as subsection (e).

Section 72. Amend § 7317(b)(3), Title 6 of the Delaware Code by striking the following clause from said paragraph:

“subsection (b)(1) of this section does 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. ‘Assignment,’ as used in subsection (b)(2) of this section, includes any 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 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.”.

Section 73. Amend § 7317, Title 6 of the Delaware Code by inserting a new subsection (d) to read as follows:

“(d) Subsection (c) of this section does 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. ‘Assignment,’ as used in subsection (c) of this section, includes any 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 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.”.

Section 74. Amend Title 6 of the Delaware Code by striking § 7319 in its entirety.

Section 75. Amend § 7323(a)(1), Title 6 of the Delaware Code by striking the phrase “§ 7313” as it appears therein and substituting in lieu thereof the phrase “§ 73-302”; striking the phrase “§ 7304” as it appears therein and substituting in lieu thereof the phrase “§ 73-301”; striking the phrase § 7311(b)” as it appears therein and substituting in lieu thereof the phrase § 73-210(b)”; striking the phrase § 7312” as it appears therein and substituting in lieu thereof the phrase § 73-211”; and striking the phrase § 7306(d)” as it appears therein and substituting in lieu thereof the phrase § 73-204(d)”.

Section 76. Amend § 7324, Title 6 of the Delaware Code by striking subsection (a) in its entirety and inserting in lieu thereof the following:

“(a) Any party aggrieved by an order of the Commissioner may appeal such order to the Court of Chancery as follows:

(1) The party must file a notice of appeal with the Court, and serve a copy thereof on the Commissioner, within 30 days of the date the notice of the order was sent to the party.

(2) Upon receiving service of a copy of the notice of appeal, the Commissioner shall cause a transcription of the record to be prepared. Upon the completion of the transcription of the record, the Commissioner shall present to the appellant or appellants a demand for the payment of the cost of transcribing the record. Where there are multiple appellants, the cost of transcribing the record shall be charged to the appellants on a pro rata basis.

(3) Within 10 days of receipt of the demand for payment of the cost of transcribing the record, each appellant shall present to the Commissioner the payment demanded. If any appellant fails within the 10 day period to present such payment, the Court shall dismiss that appellant’s appeal for lack of jurisdiction.

(4) Within 20 days of receipt of a payment required by paragraph (3) from any appellant, the Commissioner shall certify and file the record with the Court.”.

Section 77. Amend § 7325, Title 6 of the Delaware Code by striking the phrase “; remedial powers” where it appears in the title thereof.

Section 78. Amend § 7325(b), Title 6 of the Delaware Code by striking the following sentences therefrom:

“Such orders may provide for fines, assessment of costs, restitution to investors, conditional or probationary registration, censure or reprimand, special reporting requirements, or other provisions which the Commissioner determines to be in the public interest. Any person, whether registered or not, who willfully violates any provision of this chapter, or who aids and abets any person who willfully violates any provision of this chapter, may be fined in accordance with § 7316(g) of this title and ordered to pay restitution and costs (or to rescind the transaction or transactions and pay costs) if the Commissioner finds it in the public interest, and may be criminally prosecuted under § 7322 of this title.”.

Section 79. Amend § 7325, Title 6 of the Delaware Code by striking subsections (c) and (d) therefrom.

Section 80. Amend § 7325(b), Title 6 of the Delaware Code by adding the following sentence at the end of said subsection:

“The Commissioner shall publish such rules, regulations, forms and orders as such rules specify.”

Section 81. Amend § 7329(b), Title 6 of the Delaware Code by striking the phrase “consist of” as it appears therein and substituting in lieu thereof the following phrase: “be funded as follows”.

Section 82. Amend § 7329(b), Title 6 of the Delaware Code by re-designating paragraph (1) thereof as paragraph (2), striking the phrase “Monies transferred to the revolving fund” as it appears therein and substituting in lieu thereof the phrase “Any monies paid”; and inserting in between the word “chapter” and “,” the phrase “shall be credited to the Investor Protection Fund”.

Section 83. Amend § 7329(b), Title 6 of the Delaware Code by re-designating paragraph (2) thereof as paragraph (3), striking the word “Monies” as it appears therein and substituting in lieu thereof the phrase “Any monies”; and inserting in between the phrase “settlement agreement” and “.” the phrase “shall be credited to the Investor Protection Fund”.

Section 84. Amend § 7329(b), Title 6 of the Delaware Code by inserting the following new paragraph:

“(1) Beginning on July 1 of each year (after the funds for the operations of the Division of Securities have been deposited and credited to the Securities Administrative Payroll Appropriation pursuant to the budget act for that fiscal year) any monies collected by the Division shall be credited to the Investor Protection Fund and shall continue to be credited to the fund until such time as the amount so credited to the fund equals \$100,000.00. Such \$100,000.00 shall be in addition to any monies credited to the Investor Protection Fund under any other provision in this section.”.

Section 85. Amend § 7329(d), Title 6 of the Delaware Code by striking the phrase “\$100,000” as it appears therein and substituting in lieu thereof the phrase “\$300,000”.

Section 86. Amend § 7301, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-101”.

Section 87. Amend § 7302, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-103”.

Section 88. Amend § 7304, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-202”.

Section 89. Amend § 7305, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-203”.

Section 90. Amend § 7306, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-204”.

Section 91. Amend § 7307, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-205”.

Section 92. Amend § 7308, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-206”.

Section 93. Amend § 7309, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-207”.

Section 94. Amend § 7309A, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-208”.

Section 95. Amend § 7310, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-209”.

Section 96. Amend § 7311, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-210”.

Section 97. Amend § 7312, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-211”.

Section 98. Amend § 7313, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-301”.

Section 99. Amend § 7314, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-302”.

Section 100. Amend § 7315, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-303”.

Section 101. Amend § 7316, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-304”.

Section 102. Amend § 7317, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-305”.

Section 103. Amend § 7318, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-306”.

Section 104. Amend § 7320, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-602”.

Section 105. Amend § 7321, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-603”.

Section 106. Amend § 7322, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-604”.

Section 107. Amend § 7323, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-605”.

Section 108. Amend § 7324, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-502”.

Section 109. Amend § 7325, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-102”.

Section 110. Amend § 7326, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-701”.

Section 111. Amend § 7327, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-702”.

Section 112. Amend § 7328, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-704”.

Section 113. Amend § 7329, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-703”.

Section 114. Amend § 7330, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-503”.

Section 115. Amend Title 6 of the Delaware Code by inserting new §§ 73-401, 73-402, 73-403, and 73-404 to read as follows:

“§ 73-401. Authority to investigate.

The Commissioner, in the Commissioner’s own discretion, may make such public or private investigations within or outside of this State as the Commissioner deems necessary to determine whether any person has violated or is about to violate any

provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder, may require or permit any person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated, and may publish information concerning any violation of this chapter or any rule or order hereunder.

§ 73-402. Subpoena power.

For the purpose of any investigation or proceeding under this chapter, the Commissioner, or any officer designated by the Commissioner, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Commissioner deems relevant or material to the inquiry. The Commissioner's authority to subpoena witnesses and documents outside the State shall exist to the maximum extent permissible under federal constitutional law.

§ 73-403. Failure to comply with subpoena.

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Court of Chancery, upon application by the Commissioner, may issue to the person an order requiring that person to appear before the Court of Chancery or the designated officer, there 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.

§ 73-404. Immunity from prosecution.

No person is excused from attending and testifying or from producing any document or record before the Commissioner, or in obedience to the subpoena of the Commissioner or any designated officer or in any proceeding instituted by the Commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of that person may tend to incriminate or subject that person to penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after claiming 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.”

Section 116. Amend Title 6 of the Delaware Code by inserting a new § 73-501 to read as follows:

“§ 73-501. Authority to Prosecute Administrative Enforcement Proceedings.

The Division of Securities, under the direction of the Commissioner, shall have the authority to prosecute administrative proceedings to enforce the provisions of this chapter.”

Section 117. Amend Title 6 of the Delaware Code by inserting a new § 73-601, to read as follows:

“§ 73-601. Administrative remedies.

(a) In any administrative proceeding before the Commissioner, the Commissioner may issue orders providing for the following remedies: cease and desist, fine, assessment of costs, restitution to investors, conditional or probationary registration, censure or reprimand, special reporting requirements, or other remedies which the Commissioner determines to be in the public interest.

(b) In addition to the remedies set forth in subsection (a) of this section, the Commissioner may order the payment of fines and other monetary sanctions for any violation of any provision of this chapter in an amount not to exceed \$10,000 for each and every violation, plus the costs of investigation and prosecution.

(c) Whenever it appears that a person has violated or is about to violate this chapter by failing to register or engaging in fraud or other prohibited conduct, the Commissioner may summarily issue a cease and desist order against that person.

(1) Any person who is the subject of such an order shall be given notice of it as soon as practicable and may request a hearing before the Commissioner, which hearing shall be scheduled within 15 days from the date the request is received.

(2) If any person who is the subject of a cease and desist order, or any agent or employee of such person, subsequent to the issuance of the order engages in the prohibited conduct, the Commissioner may certify the facts and apply for a contempt order to any Judge of the Superior Court, who shall upon such application hear the evidence as to the acts complained of. If the evidence warrants, the Judge shall punish such person in the same manner and to the same extent as for a contempt committed before the Superior Court, or shall commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of, or in the presence of, the Superior Court.”

Section 118. Amend Chapter 73, Title 6 of the Delaware Code by striking the table of contents for said Chapter and substituting in lieu thereof the following table of contents and by inserting the newly-designated Subchapter headings set forth in the following table of contents into the appropriate locations in Chapter 73:



“Subchapter I. Introductory provisions.

Sec. 73-101 Short title; purpose.

73-102 Administration of chapter.

73-103 Definitions.

Subchapter II. Provisions relating to the offer, sale, and purchase of securities.

Sec. 73-201 Securities fraud.

73-202 Registration of and notice filing for securities.

73-203 Registration of securities by coordination.

73-204 Registration of securities by qualification.

73-205 Provisions applicable to registration of securities generally.

73-206 Stop orders.

73-207 Exemptions.

73-208 Federal covered securities.

73-209 Misleading filings.

73-210 Unlawful representations concerning registration, notice filing or exemption.

73-211 Filing of sales and advertising literature.

Subchapter III. Provisions relating to broker-dealers, broker-dealer agents, issuer agents, investment advisers, federal covered advisers, and investment adviser representatives.

Sec. 73-301 Unlawful conduct for broker-dealers, agents, investment advisers, federal covered advisers, and investment adviser representatives.

73-302 Registration and notice filing procedure for broker-dealers, agents, investment advisers, federal covered advisers, and investment adviser representatives.

73-303 Post-registration provisions for broker-dealers, investment advisers, and federal covered advisers.

73-304 Denial, revocation, suspension, cancellation and withdrawal of registration of broker-dealers, agents, investment advisers, and investment adviser representatives.

73-305 Advisory activities.

73-306 Trading markets.

Subchapter IV. Provisions relating to investigations.

Sec. 73-401 Authority to investigate.

73-402 Subpoena power .

73-403 Failure to comply with subpoena.

73-404 Immunity from prosecution.

Subchapter V. Administrative Enforcement Proceedings.

Sec. 73-501 Authority to prosecute administrative enforcement proceedings.

73-502 Judicial review.

73-503 Statute of limitations.

Subchapter VI. Remedies for Violations.

Sec. 73-601 Administrative remedies.

73-602 Injunctions.

73-603 Escrow of funds.

73-604 Criminal penalties.

73-605 Civil Liabilities.

Subchapter VII. Miscellaneous provisions.

Sec. 73-701 Administrative files.

73-702 Service of process.

73-703 Investor protection fund.

73-704 Liability of Attorney General.

Section 119. Any action, case prosecution, trial or any other legal proceeding in progress under or pursuant to the previous wording of the statutory sections amended by this Act, no matter what the stage of the proceeding, shall be preserved

and shall not become illegal or terminated upon the effective date of this Act. Further, prior law exclusively governs all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of this act, except that no civil suit or action may be maintained to enforce any liability under prior law unless brought within any period of limitation which applied when the cause of action accrued.

Section 120. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 121. Sections 81, 82, 83, 84 and 85 of this Act shall take effect on June 30, 2011. The remaining sections of this Act shall take effect ninety days after its enactment into law.

Section 122. Amend § 7303, Chapter 73, Title 6 of the Delaware Code by re-designating that section as § 73-201.

Section 123. This Act shall be known as the “Delaware Investor Protection Act.”.

Approved August 16, 2011