

BILL ANALYSIS

Senate Research Center

S.B. 1060
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Government Organization
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Enrolled

DIGEST AND PURPOSE

The recent investment securities scandals have highlighted what some say are shortcomings in the rules and regulations enforcement of investment securities. S.B.1060 provides for improved investment securities enforcement.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subsection A, Section 4, The Securities Act, (Article 581-4, V.T.C.S.), to clarify that the definition of security applies whether or not a security is evidenced by a written instrument.

SECTION 2. Amends Section 28, The Securities Act, (Article 581-28, V.T.C.S.), by adding Subsection C, as follows:

C. Assistance to Securities Regulator of Another Jurisdiction. Authorizes the Securities Commissioner to provide assistance to a securities regulator of another state or a foreign jurisdiction who requests assistance in conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to a securities matter the securities regulator is authorized to administer or enforce. Authorizes the commissioner to provide assistance by using the authority to investigate and any other power conferred by this section as the commissioner determines is necessary and appropriate. Authorizes the commissioner, in determining whether to provide the assistance, to consider certain factors.

SECTION 3. Amends Section 29, The Securities Act, (Article 581-29, V.T.C.S.), as follows:

I. Requires any person who renders services, as an investment adviser or an investment adviser representative without being registered as required by this Act to be considered guilty of a felony and on conviction of the felony to be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not less than two or more than 10 years, or by both the fine and imprisonment.

SECTION 4. Amends Section 32, The Securities Act, (Article 581-32, V.T.C.S.), by amending Subsection B and adding Subsection C, as follows:

B. Broadens the scope of the Securities Act to permit the state to obtain restitution for victims of fraudulent practices against any person or company that has engaged in prohibited conduct.

C. Authorizes the attorney general, in an action brought under this section for fraud or a fraudulent practice in connection with the sale of a security, to seek, for an aggrieved person, the disgorgement of any economic benefit gained by the defendant through the violation, including a bonus, fee, commission, option, proceeds, profit from or loss

avoided through the sale of the security, or any other tangible benefit. Authorizes the attorney general to recover from an order of disgorgement obtained under this subsection reasonable costs and expenses incurred by the attorney general in bringing the action.

SECTION 5. Effective date: upon passage or September 1, 2003.