

AN ACT

relating to a fee established and set by the State Securities Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 35, The Securities Act (Article 581-35, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 35. FEES. A. The Board shall establish the following fees in amounts so that the aggregate amount that exceeds the amount of the fees on September 1, 2002, produces sufficient revenue to cover the costs of administering and enforcing this Act:

(1) for the filing of any original, amended, or renewal application to sell or dispose of securities, an amount not to exceed \$100;

(2) for the filing of any original application of a dealer or investment adviser or for the submission of a notice filing for a federal covered investment adviser, an amount not to exceed \$100;

(3) for the filing of any renewal application of a dealer or investment adviser or for the submission of a renewal notice filing for a federal covered investment adviser, an amount not to exceed \$100;

(4) for the filing of any original application for each agent, officer, or investment adviser representative or for the submission of a notice filing for each representative of a federal covered investment adviser, an amount not to exceed \$100;

1 and

2 (5) for the filing of any renewal application for each
3 agent, officer, or investment adviser representative or for the
4 submission of a renewal notice filing for each representative of a
5 federal covered investment adviser, an amount not to exceed \$100.

6 B. The Commissioner or Board shall charge and collect the
7 following fees and shall daily pay all fees received into the State
8 Treasury:

9 (1) for [~~A. For the filing of any original application~~
10 ~~of a dealer or investment adviser or for the submission of a notice~~
11 ~~filing for a federal covered investment adviser, Seventy-five~~
12 ~~Dollars (\$75.00), and for the filing of any renewal application of a~~
13 ~~dealer or investment adviser or for the submission of a renewal~~
14 ~~notice filing for a federal covered investment adviser, Forty~~
15 ~~Dollars (\$40.00),~~

16 [~~B. For the filing of any original application for each~~
17 ~~agent, officer, or investment adviser representative or for the~~
18 ~~submission of a notice filing for each representative of a federal~~
19 ~~covered investment adviser, Thirty-five Dollars (\$35.00), and for~~
20 ~~the filing of any renewal application for each agent, officer, or~~
21 ~~investment adviser representative or for the submission of a~~
22 ~~renewal notice filing for each representative of a federal covered~~
23 ~~investment adviser, Twenty Dollars (\$20.00),~~

24 [~~C. For~~] any filing to amend the registration certificate of
25 a dealer or investment adviser or evidence of registration of an
26 agent or investment adviser representative, issue a duplicate
27 certificate or evidence of registration, or register a branch

1 office, \$25 [~~Twenty-five Dollars (\$25.00)~~];

2 (2) for [~~D. For the filing of any original, amended~~
3 ~~or renewal application to sell or dispose of securities, Ten~~
4 ~~Dollars (\$10.00)~~];

5 [~~E. For~~] the examination of any original or amended
6 application filed under Subsection A, B, or C of Section 7 of this
7 Act, regardless of whether the application is denied, abandoned,
8 withdrawn, or approved, a fee of one-tenth (1/10) of one percent
9 (1%) of the aggregate amount of securities described and proposed
10 to be sold to persons located within this state based upon the price
11 at which such securities are to be offered to the public;

12 (3) for [~~F. For~~] certified copies of any papers filed
13 in the office of the Commissioner, the Commissioner shall charge
14 such fees as are reasonably related to costs; however, in no event
15 shall such fees be more than those which the Secretary of State is
16 authorized to charge in similar cases;

17 (4) for [~~G. For~~] the filing of any application for
18 approval of a stock exchange so that securities fully listed
19 thereon will be exempt, a fee of \$10,000 [~~Ten Thousand Dollars~~
20 ~~(\$10,000.00)~~];

21 (5) for [~~H. For~~] the filing of a request to take the
22 Texas Securities Law Examination, \$35 [~~Thirty-five Dollars~~
23 ~~(\$35.00)~~];

24 (6) for [~~I. For~~] the filing of an initial notice
25 required by the Commissioner to claim a secondary trading
26 exemption, a fee of \$500 [~~Five Hundred Dollars (\$500.00)~~], and for
27 the filing of a secondary trading exemption renewal notice, a fee of

1 \$500 [~~Five Hundred Dollars (\$500.00)~~];

2 (7) for [~~J. For~~] the filing of an initial notice
3 required by the Commissioner to claim a limited offering exemption,
4 a fee of one-tenth (1/10) of one percent (1%) of the aggregate
5 amount of securities described as being offered for sale, but in no
6 case more than \$500 [~~Five Hundred Dollars (\$500.00)~~]; and

7 (8) for [~~K. For~~] an interpretation by the Board's
8 general counsel of this Act or a rule adopted under this Act, a fee
9 of \$100 [~~One Hundred Dollars (\$100.00)~~], except that an officer or
10 employee of a governmental entity and the entity that the officer or
11 employee represents are exempt from the fee under this subsection
12 when the officer or employee is conducting official business of the
13 entity.

14 C. Subject to Subsection A of this section, the Board shall
15 set a fee under this section in an amount that is reasonable and
16 necessary to defray costs.

17 D. A cost incurred by the Board in administering this Act
18 may be paid only from a fee collected under Subsection A of this
19 section.

20 SECTION 2. Section 35-1, The Securities Act (Article
21 581-35-1, Vernon's Texas Civil Statutes), is amended to read as
22 follows:

23 Sec. 35-1. FEES FOR SALES OF EXCESS SECURITIES. A. An
24 offeror who sells securities in this State in excess of the
25 aggregate amount of securities registered for the offering may
26 apply to register the excess securities by paying three times the
27 difference between the initial fee paid and the fee required under

1 Subsection B(2) [~~E~~] of Section 35, plus, if the registration is no
2 longer in effect, interest on that amount computed at the rate
3 provided by Section 302.002, Finance Code, from the date the
4 registration was no longer in effect until the date the subsequent
5 application is filed, for the securities sold to persons within
6 this State, plus the amendment fee prescribed by Subsection A(1)
7 [~~D~~] of Section 35. Registration of the excess securities, if
8 granted, shall be effective retroactively to the effective date of
9 the initial registration for the offering.

10 B. An offeror who has filed a notice to claim a limited
11 offering exemption, who paid less than the maximum fee prescribed
12 in Subsection B(7) [~~F~~] of Section 35, and who offered a greater
13 amount of securities in the offering than authorized pursuant to
14 the formula prescribed in Subsection B(7) [~~F~~] of Section 35, may
15 file an amended notice disclosing the amount of securities offered
16 and paying three times the difference between the fee initially
17 paid and the fee which should have been paid, plus interest on that
18 amount computed at the rate provided by Section 302.002, Finance
19 Code, from the date the original notice was received by the
20 Commissioner until the date the amended notice is received by the
21 Commissioner. The amended notice shall be retroactive to the date
22 of the initial filing.

23 SECTION 3. Section 35-2, The Securities Act (Article
24 581-35-2, Vernon's Texas Civil Statutes), is amended to read as
25 follows:

26 Sec. 35-2. FEES FOR SALES OF UNREGISTERED SECURITIES. If,
27 after notice and hearing, the commissioner or any court of

1 competent jurisdiction finds that an offeror has sold securities in
2 this State pursuant to an offering no part of which has been
3 registered under Section 7 or 10 of this Act and for which the
4 transactions or securities are not exempt under Section 5 or 6 of
5 this Act, the commissioner or said court may impose a fee equal to
6 six times the amount that would have been paid if the issuer had
7 filed an application to register the securities and paid the fee
8 prescribed by Subsection B(2) [~~E~~] of Section 35 based on the
9 aggregate amount of sales made in this State within the prior three
10 years, plus interest on that amount at the rate provided by Section
11 302.002, Finance Code, from the date of the first such sale made in
12 this State until the date the fee is paid. The payment of the fee
13 prescribed by this Section does not effect registration of the
14 securities or affect the application of any other Section of this
15 Act. The payment of the fee prescribed by this Section is not an
16 admission that the transactions or securities were not exempt and
17 is not admissible as evidence in a suit or proceeding for failure to
18 register the securities.

19 SECTION 4. This Act applies only to a fee that becomes due
20 on or after the effective date of this Act. The amount of a fee that
21 becomes due before the effective date of this Act is governed by the
22 law in effect when the fee becomes due, and that law is continued in
23 effect for that purpose.

24 SECTION 5. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 1840

1 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 1840 was passed by the House on April 30, 2003, by the following vote: Yeas 137, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1840 was passed by the Senate on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor