

By: Isett

H.B. No. 1389

A BILL TO BE ENTITLED

AN ACT

relating to filing requirements for a dealer in securities.

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

SECTION 1. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 11-1 to read as follows:

Sec. 11-1. FILING REQUIREMENTS FOR DEALERS. A. On filing with the Securities and Exchange Commission or a self-regulatory organization a record created and maintained in accordance with 17 C.F.R. Section 240.17a-3(a)(4)(v) or on filing a record that contains or includes that information, including a filing under 17 C.F.R. Section 240.17a-25, a dealer shall contemporaneously file a copy of the record in the same form with the Commissioner.

B. On filing with the Securities and Exchange Commission or a self-regulatory organization a short interest report, including a periodic short interest report, or a record that contains that information, a dealer shall contemporaneously file with the Commissioner a copy of the short interest report or the record. The Commissioner by rule shall prescribe the format and manner in which the information must be filed. In adopting rules under this subsection, the Commissioner shall ensure that the format and other filing procedures conform, to the extent possible, to the format and other filing procedures required by the Securities and Exchange Commission or self-regulatory organization and that the reports and

1 other information are, to the extent possible, submitted in a  
2 commonly used electronic format.

3 C. A dealer shall file quarterly with the Commissioner all  
4 ledgers or other records showing securities failed to receive and  
5 failed to deliver, as of the end of the reporting period, that are  
6 maintained in accordance with 17 C.F.R. Section  
7 240.17a-3(a)(4)(v).

8 D. The Commissioner shall maintain for a period of at least  
9 three years each record filed under Subsection A, B, or C of this  
10 section. The records must be maintained in an easily accessible  
11 location for the first two years.

12 E. The Commissioner shall make the records maintained under  
13 Subsection D of this section available for inspection and copying,  
14 at the requestor's expense, to a person or company who makes a  
15 written request to the Commissioner for inspection. The  
16 Commissioner shall adopt rules to establish the format for requests  
17 made under this subsection.

18 F. In addition to any other remedy available in equity or  
19 law, a dealer who does not timely file information as required by  
20 Subsection A, B, or C of this section is, after notice and hearing,  
21 subject to an administrative fine of \$10,000 for each business day  
22 of noncompliance. The fine may be assessed beginning with the first  
23 business day after the date the information was required to be  
24 filed. An administrative fine assessed under this section is in  
25 addition to any other penalty or fine assessed under or provided by  
26 this Act or other law.

27 G. A person who is not a governmental entity may bring an

1 action to enforce the filing of the information required under this  
2 section and the assessment of a fine under Subsection F of this  
3 section. In an action brought under this subsection, the court may  
4 waive all or part of the fine if the dealer shows reasonable cause  
5 for failing to file the information. A person who brings an action  
6 under this subsection and who prevails in the action is entitled to  
7 recover court costs and reasonable attorney's fees and to receive  
8 50 percent of the recovered amount.

9 SECTION 2. This Act takes effect September 1, 2007.