

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1502

Short Title: Increase Fees/Investment Advisor Revisions.

(Public)

Sponsors: Senator Harris.

Referred to: Finance.

May 30, 2000

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR DUAL REGISTRATION OF INVESTMENT ADVISERS
2 AND TO INCREASE THE REGISTRATION FEE FOR INVESTMENT ADVISER
3 REPRESENTATIVES.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 78C-16 reads as rewritten:

7 **"§ 78C-16. Registration and notice filing requirement.**

8 (a) It is unlawful for any person to transact business in this State as an investment
9 adviser unless:

10 (1) The person is registered under this Chapter;

11 (2) The person's only clients in this State are investment companies as
12 defined in the Investment Company Act of 1940, other investment
13 advisers, investment advisers covered under federal law, dealers, banks,
14 trust companies, savings institutions, savings and loan associations,
15 insurance companies, employee benefit plans with assets of not less than
16 one million dollars (\$1,000,000), and governmental agencies or
17 instrumentalities, whether acting for themselves or as trustees with
18 investment control, or other institutional investors as are designated by
19 rule or order of the Administrator; or

1 (3) The person has no place of business in this State, and during the
2 preceding 12-month period has had not more than five clients, other
3 than those specified in subdivision (2) of this subsection, who are
4 residents of the State.

5 (a1) It is unlawful for any person to transact business in this State as an investment
6 adviser representative unless:

7 (1) The person is registered under this Chapter; or

8 (2) The person is an investment adviser representative employed by or
9 associated with an investment adviser exempt from registration under
10 subdivision (2) or (3) of subsection (a) of this section; or

11 (3) The person is an investment adviser representative employed by or
12 associated with an investment adviser covered under federal law that is
13 exempt from the notice filing requirements of G.S. 78C-17(a1).

14 (b) It is unlawful for any person required to be registered as an investment adviser
15 under this Chapter to employ an investment adviser representative unless the investment
16 adviser representative is registered under this Chapter. The registration of an investment
17 adviser representative is not effective during any period when the investment adviser
18 representative is not employed by (i) an investment adviser registered under this Chapter;
19 or (ii) an investment adviser covered under federal law who has made a notice filing
20 pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser
21 representative begins or terminates employment or association with an investment adviser
22 who is registered under this Chapter, the investment adviser shall notify promptly the
23 Administrator. When an investment adviser representative begins or terminates
24 employment or association with an investment adviser covered under federal law, the
25 investment adviser representative shall, and the investment adviser may, notify promptly
26 the Administrator.

27 ~~(b1) No~~ An investment adviser representative may be registered with more than one
28 investment adviser registered under this Chapter or investment adviser covered under
29 federal law ~~unless only if:~~

30 ~~(1) each~~ Each of the investment advisers which employs or associates the
31 investment adviser representative is under common ownership or
32 ~~control.~~ control; or

33 ~~(2) The investment adviser representative is registered only for the purposes~~
34 of soliciting, offering, or negotiating for the sale of, or selling
35 investment advisory services for or on behalf of, investment advisers.

36 If the investment adviser representative is registered with more than one investment
37 adviser pursuant to subdivision (2) of this subsection, the representative shall be
38 registered separately with each investment adviser for whom the representative solicits
39 business and shall provide in writing to each person solicited any information disclosing
40 the terms of any compensation arrangement that is related to the representative's
41 solicitation or referral activities and that is required by the Administrator pursuant to rule
42 or order. The Administrator may, by rule or order, specify supervisory procedures
43 consistent with regulations adopted by the United States Securities and Exchange

1 Commission applicable to the payment of compensation for referrals of business. As
2 used in this subsection, 'investment adviser' means an investment adviser registered under
3 this Chapter and an investment adviser covered under federal law.

4 (c) Every registration or notice filing expires December 31 of each year unless
5 renewed.

6 (d) It is unlawful for any investment adviser covered under federal law to conduct
7 advisory business in this State unless the investment adviser covered under federal law
8 complies with the provisions of G.S. 78C-17(a1)."

9 Section 2. G.S. 78C-17(b) reads as rewritten:

10 "(b) Every applicant for initial or renewal registration shall pay a filing fee of two
11 hundred dollars (\$200.00) in the case of an investment adviser, and ~~forty-five dollars~~
12 ~~(\$45.00)~~ fifty-five dollars (\$55.00) in the case of an investment adviser representative.
13 When an application is denied or withdrawn, the Administrator shall retain the fee."

14 Section 3. This act becomes effective October 1, 2000.