

One Hundred Third Legislature - First Session - 2013

Introducer's Statement of Intent

LB214

Chairperson: Senator Mike Gloor

Committee: Banking, Commerce and Insurance

Date of Hearing: January 28, 2013

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB214 is a bill introduced at the request of the Nebraska Department of Banking and Finance (department) relating to the Securities Act of Nebraska and the Seller-Assisted Marketing Plan Act. The bill would do the following:

EXEMPTION FOR ACCREDITED INVESTORS

The bill would update the definition of "accredited investor" within an exemption from the registration provisions of the Securities Act of Nebraska. The update would reflect the change made in the Dodd-Frank Wall Street Reform and Consumer Protection Act which excludes the value of an investor's principal residence from the calculation of net worth. (§8-1111(8)); (Section 6 of the bill).

UPDATE REFERENCES TO FEDERAL LAW

The bill would amend the Securities Act of Nebraska to incorporate federal acts by reference as of January 1, 2013 rather than January 1, 2011. The federal acts are the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, and the Commodity Exchange Act. This change would take into account 2012 federal amendments, including the Jumpstart Our Business Startups Act, Pub. L. 102-106 (JOBS Act). (§8-1101(14)); (Section 1 of the bill). The bill would also incorporate the renumbering of subsections in Section 18 of the Securities Act of 1933 by the enactment of the JOBS Act. (§8-1108.02); (Section 4 of the bill).

INFORMATION SHARING WITH OTHER SECURITIES REGULATORS

The bill would authorize the Department of Banking and Finance to share examination reports and other confidential information with the Securities & Exchange Commission (SEC), other state securities regulators, and in connection with Nebraska's participation in the Central Registration Depository (CRD) and the Investment Adviser Registration Depository (IARD), which are electronic systems for the registration of broker-dealers, agents of broker-

dealers, investment advisers, and investment adviser representatives.(§8-1120); (Section 8 of the bill).

REPEAL OF THE REGISTRATION BY NOTIFICATION PROCESS

The bill would repeal the statute which authorizes the process of registration of securities by notification. The department has not received a request for registration of securities in this format in years, and the process was eliminated in the 2002 Uniform Securities Act. All references in the Securities Act of Nebraska to the registration by notification process would also be eliminated by the bill. (§8-1104, §8-1105, §8-1108, §8-1109, and §8-1114); (Sections 2, 3, 5, 7, and 13 of the bill).

REPEAL OBSOLETE REFERENCES TO A FUNDS TRANSFER

The bill would repeal references to transfers from the Securities Act Cash Fund which occurred in the years 2000 and 2001 to the Affordable Housing Trust Fund. (§8-1120, §58-703, and §58-711); (Sections 8, 9, and 10 of the bill).

UPDATE AND CORRECT REFERENCES IN THE SELLER-ASSISTED

MARKETING PLAN ACT

The bill would update references in the Seller-Assisted Marketing Plan Act (SAMP Act) to a federal rule for the offer and sale of franchise opportunities in Nebraska. The bill would also correct the name of the North American Securities Administrators Association, which is incorrectly stated in this section as the North American Securities Administration Association. The Securities Division of the Department of Banking and Finance administer the SAMP Act. (Section 59-1722); (Section 11 of the bill).

Principal Introducer: _____

Senator Mike Gloor