

HOUSE BILL NO. 81

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING DEPOSIT OF A PERCENTAGE OF CERTAIN SECURITIES REGISTRATION, FILING, OR RENEWAL FEES FOR USE IN THE SECURITIES RESTITUTION ASSISTANCE FUND; AMENDING SECTIONS 30-10-115, 30-10-209, AND 30-10-1004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 30-10-115, MCA, is amended to read:

"30-10-115. Deposits to general fund -- ~~exception~~ exceptions. (1) ~~All~~ Except as provided in subsection (2), all fees and miscellaneous charges received by the commissioner pursuant to parts 1 through 3 of this chapter, ~~except for notice filing fees described in 30-10-209(1)(d) and examination costs collected under 30-10-210;~~ must be deposited in the general fund.

(2) (a) All notice filing fees collected under 30-10-209(1)(d) and examination costs collected under 30-10-210 must be deposited in the state special revenue fund in an account to the credit of the state auditor's office. The funds allocated by this ~~section~~ subsection (2)(a) to the state special revenue account may be used only to defray the expenses of the state auditor's office in discharging its administrative and regulatory powers and duties in relation to notice filing under ~~33-10-209(1)(d)~~ 30-10-209(1)(d) and examinations.

(b) Any ~~excess~~ fees in excess of the amount required for the purposes listed in subsection (2)(a) must be deposited in the general fund.

(c) From [the effective date of this act] through June 30, 2017, 4.5% of the total fees collected annually under 30-10-209(1)(b) must be deposited in the securities restitution assistance fund provided for in 30-10-1004. The remainder must be deposited in the general fund. On or after July 1, 2017, all fees collected annually under 30-10-209(1)(b) must be deposited in the general fund."

Section 2. Section 30-10-209, MCA, is amended to read:

"30-10-209. Fees. The following fees must be paid in advance under the provisions of parts 1 through



1 3 of this chapter:

2 (1) (a) For the registration of securities by notification, coordination, or qualification or for notice filing of
3 a federal covered security, there must be paid to the commissioner for the initial year of registration or notice filing
4 a fee of \$200 for the first \$100,000 of initial issue or portion of the first \$100,000 in this state, based on offering
5 price, plus 1/10 of 1% for any excess over \$100,000, with a maximum fee of \$1,000.

6 (b) Each succeeding year, a registration of securities or a notice filing of a federal covered security may
7 be renewed, prior to its termination date, for an additional year upon consent of the commissioner and payment
8 of a renewal fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are to be
9 offered in this state during that year. The renewal fee may not be less than \$200 or more than \$1,000. The
10 registration or the notice filing may be amended to increase the amount of securities to be offered.

11 (c) If a registrant or issuer of federal covered securities sells securities in excess of the aggregate
12 amount registered for sale in this state or for which a notice filing has been submitted, the registrant or issuer may
13 file an amendment to the registration statement or notice filing to include the excess sales. If the registrant or
14 issuer of a federal covered security fails to file an amendment before the expiration date of the registration order
15 or notice, the registrant or issuer shall pay a filing fee for the excess sales of three times the amount calculated
16 in the manner specified in subsection (1)(b). Registration or notice of the excess securities is effective
17 retroactively to the date of the existing registration or notice.

18 (d) Each series, portfolio, or other subdivision of an investment company or similar issuer is treated as
19 a separate issuer of securities. The issuer shall pay a notice filing fee to be calculated as provided in subsections
20 (1)(a) through (1)(c). The notice filing fee collected by the commissioner must be deposited in the state special
21 revenue account provided for in 30-10-115. The issuer shall pay a fee of \$50 for each filing made for the purpose
22 of changing the name of a series, portfolio, or other subdivision of an investment company or similar issuer.

23 (2) (a) For registration of a broker-dealer or investment adviser, the fee is \$200 for original registration
24 and \$200 for each annual renewal.

25 (b) For registration of a salesperson or investment adviser representative, the fee is \$50 for original
26 registration with each employer, \$50 for each annual renewal, and \$50 for each transfer. A salesperson who is
27 registered as an investment adviser representative with a broker-dealer registered as an investment adviser is
28 not required to pay the \$50 fee to register as an investment adviser representative.

29 (c) For a federal covered adviser, the fee is \$200 for the initial notice filing and \$200 for each annual
30 renewal.

1 (3) For certified or uncertified copies of any documents filed with the commissioner, the fee is the cost
2 to the department.

3 (4) For a request for an exemption under 30-10-105(15), the fee must be established by the
4 commissioner by rule. For a request for any other exemption or an exception to the provisions of parts 1 through
5 3 of this chapter, the fee is \$50.

6 (5) All fees are considered fully earned when received. In the event of overpayment, only those amounts
7 in excess of \$10 may be refunded.

8 (6) (a) Except for notice filing fees established in subsection (1)(d) and examination costs collected under
9 30-10-210, as provided in subsection (6)(b), all fees, miscellaneous charges, fines, and penalties collected by
10 the commissioner pursuant to parts 1 through 3 of this chapter and the rules adopted under parts 1 through 3 of
11 this chapter must be deposited in the general fund.

12 (b) From [the effective date of this act] through June 30, 2017, the fees collected under subsection (1)(b),
13 the notice filing fees provided for in subsection (1)(d), and the amounts collected for examination costs under
14 30-10-210 are subject to deposit as provided in 30-10-115(2). On or after July 1, 2017, the notice filing fees
15 provided for in subsection (1)(d) and the amounts collected for examination costs under 30-10-210 are subject
16 to deposit as provided in 30-10-115(2)."

17
18 **Section 3.** Section 30-10-1004, MCA, is amended to read:

19 **"30-10-1004. (Temporary) Creation of securities restitution assistance fund.** (1) There is an account
20 in the state special revenue fund to the credit of the commissioner for use only for securities restitution
21 assistance. This account may be referred to as the "securities restitution assistance fund" or "fund". The money
22 in the fund is statutorily appropriated, as provided in 17-7-502, to the commissioner for the purposes provided
23 in subsection (4) of this section.

24 (2) (a) The fund consists of amounts received by the commissioner from:

25 (i) persons who have committed securities violations ~~and from~~;

26 (ii) persons who have voluntarily contributed to the fund; ~~and~~

27 (iii) a portion of fees collected under 30-10-209(1)(b) as provided in 30-10-209(6)(b).

28 (b) Amounts received by the commissioner for deposit in the fund do not include administrative penalties
29 or fines imposed under this chapter and as referenced under the Montana Administrative Procedure Act, Title
30 2, chapter 4, part 6.

1 (c) The amounts received for the fund may not be placed in the general fund.

2 (3) Amounts received by the commissioner for deposit in the fund must be promptly turned over to the
3 state treasurer for deposit in the fund created under subsection (1).

4 (4) The fund may be used by the commissioner only to pay awards of restitution assistance under this
5 part. (Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.)"

6
7 **NEW SECTION. Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable
8 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
9 remains in effect in all valid applications that are severable from the invalid applications.

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11 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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