

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 252

Introduced by Schumacher, 22.

Read first time January 14, 2015

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend
- 2 section 8-1106, Reissue Revised Statutes of Nebraska, and section
- 3 8-1108.02, Revised Statutes Cumulative Supplement, 2014; to change
- 4 provisions relating to registration by coordination and federal
- 5 covered securities; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-1106, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-1106 (1) Any security for which a registration statement has been
4 filed under the Securities Act of 1933 in connection with the same
5 offering may be registered by coordination.

6 (2) A registration statement under this section shall contain the
7 following information and be accompanied by the following documents, in
8 addition to payment of the registration fee prescribed in section 8-1108
9 and, if required under section 8-1112, a consent to service of process
10 meeting the requirements of that section:

11 (a) One copy ~~Three copies~~ of the prospectus filed under the
12 Securities Act of 1933 together with all amendments thereto;

13 (b) The amount of securities to be offered in this state;

14 (c) The states in which a registration statement or similar document
15 in connection with the offering has been or is expected to be filed;

16 (d) Any adverse order, judgment, or decree previously entered in
17 connection with the offering by any court or the Securities and Exchange
18 Commission;

19 (e) If the director by rule or otherwise requires, a copy of the
20 articles of incorporation and bylaws or their substantial equivalents
21 currently in effect, a copy of any agreements with or among underwriters,
22 a copy of any indenture or other instrument governing the issuance of the
23 security to be registered, and a specimen or copy of the security;

24 (f) If the director requests, any other information or copies of any
25 other documents filed under the Securities Act of 1933; and

26 (g) An undertaking to forward promptly all amendments to the federal
27 registration statement, other than an amendment which merely delays the
28 effective date.

29 (3) A registration statement under this section shall automatically
30 become effective at the moment the federal registration statement or
31 qualification becomes effective if all the following conditions are

1 satisfied:

2 (a) No stop order is in effect and no proceeding is pending under
3 the Securities Act of 1933, as amended, or under section 8-1109;

4 (b) The registration statement has been on file with the director
5 for at least ten days; and

6 (c) A statement of the maximum and minimum proposed offering prices
7 and the maximum underwriting discounts and commissions has been filed and
8 the offering is made within those limitations. The registrant shall
9 promptly notify the director by facsimile transmission or telegram of the
10 date and time when the federal registration statement became effective
11 and the content of the price amendment, if any, and shall promptly file a
12 posteffective amendment containing the information and documents in the
13 price amendment. Price amendment shall mean the final federal amendment
14 which includes a statement of the offering price, underwriting and
15 selling discounts or commissions, amount of proceeds, conversion rates,
16 call prices, and other matters dependent upon the offering price.

17 Upon failure to receive the required notification and posteffective
18 amendment with respect to the price amendment, the director may enter a
19 stop order, without notice or hearing, retroactively denying
20 effectiveness to the registration statement or suspending its
21 effectiveness until there has been compliance with this subsection, if he
22 or she promptly notifies the registrant by telephone or telegram and
23 promptly confirms by letter or telegram when he or she notifies by
24 telephone of the issuance of the order. If the registrant proves
25 compliance with the requirements of this subsection as to notice and
26 posteffective amendment, the stop order shall be void as of the time of
27 its entry. The director may by rule or otherwise waive either or both of
28 the conditions specified in subsections (2) and (3) of this section. If
29 the federal registration statement or qualification becomes effective
30 before all these conditions have been satisfied and they are not waived,
31 the registration statement shall automatically become effective as soon

1 as all the conditions have been satisfied.

2 Sec. 2. Section 8-1108.02, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 8-1108.02 (1) The director, by rule and regulation or order, may
5 require the filing of any or all of the following documents with respect
6 to a federal covered security under section 18(b)(2) of the Securities
7 Act of 1933:

8 (a) Prior to the initial offer of such federal covered security in
9 this state, all documents that are part of a federal registration
10 statement filed with the Securities and Exchange Commission under the
11 Securities Act of 1933, together with a consent to service of process
12 signed by the issuer and with a filing fee as prescribed by section
13 8-1108.03;

14 (b) After the initial offer of such federal covered security in this
15 state, all documents which are part of any amendment to the federal
16 registration statement filed with the Securities and Exchange Commission
17 under the Securities Act of 1933; and

18 (c) A sales report of the total amount of such federal covered
19 securities offered or sold in this state, together with the filing fee
20 prescribed by section 8-1108.03.

21 (2)(a) The director, by rule and regulation or order, may require
22 the filing of any document filed with the Securities and Exchange
23 Commission under the Securities Act of 1933 with respect to a federal
24 covered security under section 18(b)(3) of the Securities Act of 1933
25 together with a filing fee of two hundred dollars.

26 (b) The director, by rule and regulation or order, may require the
27 filing of any document filed with the Securities and Exchange Commission
28 under the Securities Act of 1933 with respect to a federal covered
29 security under section 18(b)(4) of the Securities Act of 1933 together
30 with a filing fee of two hundred dollars. In addition, for federal
31 covered securities under section 18(b)(4)(E) of the Securities Act of

1 1933, the director may also require the submission of a consent to
2 service of process signed by the issuer, and may require that such filing
3 be made no later than fifteen days after the first sale of such federal
4 covered security in this state.

5 (c) In connection with filings made pursuant to subdivisions (a) and
6 (b) of this subsection, the director, by rule and regulation or order,
7 may require the filing of all documents which are part of any amendment
8 which the issuer files with the Securities and Exchange Commission.

9 ~~(2) With respect to any security that is a federal covered security~~
10 ~~under section 18(b)(4)(E) of the Securities Act of 1933, the director, by~~
11 ~~rule and regulation or order, may require the issuer to file a notice on~~
12 ~~SEC Form D and a consent to service of process signed by the issuer no~~
13 ~~later than fifteen days after the first sale of such federal covered~~
14 ~~security in this state, together with a filing fee of two hundred~~
15 ~~dollars.~~

16 ~~(3) The director, by rule and regulation or order, may require the~~
17 ~~filing of any document filed with the Securities and Exchange Commission~~
18 ~~under the Securities Act of 1933 with respect to a federal covered~~
19 ~~security under section 18(b)(3) or (4), except section 18(b)(4)(E), of~~
20 ~~the Securities Act of 1933, together with a filing fee of two hundred~~
21 ~~dollars.~~

22 ~~(3 4) The director may issue a stop order suspending the offer and~~
23 ~~sale of a federal covered security, except a federal covered security~~
24 ~~under section 18(b)(1) of the Securities Act of 1933, if he or she finds~~
25 ~~that (a) the order is in the public interest and (b) there is a failure~~
26 ~~to comply with any condition established under this section or with any~~
27 ~~other applicable provision of the Securities Act of Nebraska.~~

28 ~~(4 5) The director, by rule and regulation or order, may waive any~~
29 ~~or all of the provisions of this section, except that the director does~~
30 ~~not have the authority to waive the payment of fees as required by this~~
31 ~~section.~~

1 (5 ~~6~~) No person may bring an action pursuant to section 8-1118 based
2 on the failure of an issuer to file any notice or pay any fee required by
3 this section.

4 (6 ~~7~~) All federal covered securities offered or sold in this state
5 must be sold through a registered agent of a broker-dealer registered
6 under the Securities Act of Nebraska or by persons duly exempted or
7 excluded from such registration, except that this subsection shall not
8 apply to the offer or sale of a federal covered security under section
9 18(b)(4)(E) of the Securities Act of 1933 if no commission or other
10 remuneration is paid directly or indirectly for soliciting any
11 prospective buyer.

12 Sec. 3. Original section 8-1106, Reissue Revised Statutes of
13 Nebraska, and section 8-1108.02, Revised Statutes Cumulative Supplement,
14 2014, are repealed.