

SECOND REGULAR SESSION

HOUSE BILL NO. 2908

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OEHLERKING.

6408H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 409.4-410 and 409.6-601, RSMo, and to enact in lieu thereof two new sections relating to the Missouri securities act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 409.4-410 and 409.6-601, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 409.4-410 and 409.6-601, to read as follows:

409.4-410. (a) A person shall pay a fee of two hundred dollars when initially filing an application for registration as a broker-dealer and a fee of one hundred dollars when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the commissioner shall retain the entire fee.

(b) The fee for an individual is [fifty] **forty-five** dollars when filing an application for registration as an agent, a fee of [fifty] **forty-five** dollars when filing a renewal of registration as an agent, and a fee of [fifty] **forty-five** dollars when filing for a change of registration as an agent. If the filing results in a denial or withdrawal, the commissioner shall retain the entire fee.

(c) A person shall pay a fee of two hundred dollars when filing an application for registration as an investment adviser and a fee of one hundred dollars when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the commissioner shall retain the entire fee.

(d) The fee for an individual is [fifty] **forty-five** dollars when filing an application for registration as an investment adviser representative, a fee of [fifty] **forty-five** dollars when filing a renewal of registration as an investment adviser representative, and a fee of [fifty]

EXPLANATION — Matter enclosed in bold-faced brackets [~~thus~~] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **forty-five** dollars when filing a change of registration as an investment adviser representative.
18 If the filing results in a denial or withdrawal, the commissioner shall retain the entire fee.

19 (e) A federal covered investment adviser required to file a notice under section 409.4-
20 405 shall pay an initial fee of two hundred dollars and an annual notice fee of one hundred
21 dollars.

22 (f) A person required to pay a filing or notice fee under this section may transmit the
23 fee through or to a designee as a rule or order provides under this act.

24 (g) An investment adviser representative who is registered as an agent under section
25 409.4-402 and who represents a person that is both registered as a broker-dealer under section
26 409.4-401 and registered as an investment adviser under section 409.4-403 or required as a
27 federal covered investment adviser to make a notice filing under section 409.4-405 is not
28 required to pay an initial or annual registration fee for registration as an investment adviser
29 representative.

30 (h) **The commissioner may, by rule, adjust the fees in this section to generate the
31 moneys necessary to cover the expenses or costs associated with administering this act.
32 A fee increase shall not be made more than one time in any four-year time period and in
33 no case shall the total of all fee increases exceed the amount of twenty-five dollars in an
34 eight-year time period. In determining whether a fee increase is necessary, the
35 commissioner shall consider the following factors:**

36 a. The cost of administering and enforcing the act, including personnel,
37 equipment, and operational expenses;

38 b. Inflation and changes in the cost of living, as measured by the Consumer Price
39 Index or other appropriate indices;

40 c. The adequacy of current fee levels to cover regulatory and oversight
41 functions;

42 d. The growth or decline in the number of registrations;

43 e. Any legislative, legal, or technological changes or emerging risks that increase
44 regulatory responsibilities or service levels;

45 f. The need to maintain appropriate staffing levels and technical capacity;

46 g. Revenue generated from other sources; and

47 h. Public interest considerations including, but not limited to, the potential
48 impact of a fee increase on individuals subject to the fees in this section.

49 (i) The commissioner shall conduct a comprehensive financial review of the
50 division's revenue and expenditures every four years, beginning in fiscal year 2030. The
51 review shall include an analysis of all sources of funding and expenditures over the
52 preceding four fiscal years, a summary of trends in revenues and expenditures of the
53 preceding four fiscal years, and an identification of any budget surplus or deficit for

54 **each year under review. The findings of the review shall be published in a report and**
55 **posted to the division's website within ninety days of completion. If the commissioner, in**
56 **conducting the review, determines a budget surplus exists that is not reasonably**
57 **necessary to meet the anticipated costs of operating the division, the commissioner shall,**
58 **by order, decrease the fees in an amount that ensures that fee revenue more closely**
59 **aligns with the operational needs of the division. In no event shall fees be decreased by**
60 **an amount that would result in the fee being less than the amount established by the**
61 **general assembly under subsections (a) to (f) of this section.**

409.6-601. (a) This act shall be administered by the commissioner of securities who
2 shall be appointed by and act under the direction of the secretary of state, and shall receive
3 compensation as provided by law.

4 (b) The attorney general shall appear on behalf of and represent the commissioner in
5 all proceedings before the administrative hearing commission, and in the circuit court of any
6 county of the state or any city not within a county, or any court of another state in all civil
7 enforcement actions brought under this act. The attorney general may appoint attorneys
8 employed by the secretary of state as special assistant attorneys general to appear on behalf of
9 and represent the commissioner.

10 (c) It is unlawful for the secretary of state, commissioner or an officer, employee, or
11 designee of the commissioner to use for personal benefit or the benefit of others records or
12 other information obtained by or filed with the commissioner that are not public under section
13 409.6-607(b). This act does not authorize the secretary of state, commissioner or an officer,
14 employee, or designee of the commissioner to disclose the record or information, except in
15 accordance with section 409.6-602, 409.6-607(c), or 409.6-608.

16 (d) This act does not create or diminish a privilege or exemption that exists at
17 common law, by statute or rule, or otherwise.

18 (e) The commissioner may develop and implement investor education initiatives to
19 inform the public about investing in securities, with particular emphasis on the prevention and
20 detection of securities fraud. In developing and implementing these initiatives, the
21 commissioner may collaborate with public and nonprofit organizations with an interest in
22 investor education. The commissioner may accept a grant or donation from a person that is
23 not affiliated with the securities industry or from a nonprofit organization, regardless of
24 whether the organization is affiliated with the securities industry, to develop and implement
25 investor education initiatives. This subsection does not authorize the commissioner to require
26 participation or monetary contributions of a registrant in an investor education program.

27 (f) The "Investor Education and Protection Fund" is created to provide funds for the
28 purposes identified in subsection (e). Notwithstanding the provisions of section 33.080, any

29 funds remaining in the secretary of state's investor education and protection fund at the end of
30 any biennium shall not be transferred to the general revenue fund.

31 (g) The "Securities Division Fund" is created to fund the operation of the
32 securities division of the secretary of state's office. All moneys collected to reimburse
33 the securities division for the reasonable costs of audits or inspections made under
34 section 409.4-411(d) and all moneys collected that are attributable to a fee increase
35 implemented by rule under subsection (h) of section 409.4-410 shall be deposited in the
36 state treasury to the credit of the securities division fund and shall be appropriated by
37 the general assembly only for use by the securities division of the secretary of state's
38 office. The fund shall be used for reasonable costs of operating the division. The
39 commissioner, in addition to using the fund for expenses related to operating the
40 division, may use the fund for the purposes identified in subsection (h) of section 409.4-
41 410. Notwithstanding the provisions of section 33.080, any funds remaining in the
42 securities division fund shall not be transferred to the general revenue refund.

43 (h) A "Restitution Recovery Fund" is created to offer restitution assistance to
44 aggrieved investors who were awarded restitution in a final order issued under this act
45 but who did not receive payment in full of the amount awarded. The commissioner may
46 adopt rules to administer the restitution recovery fund. Restitution assistance may be
47 awarded in an amount that is the lesser of twenty-five thousand dollars or twenty-five
48 percent of unpaid restitution awarded in the final order. If payment of restitution
49 assistance would result in a restitution recovery fund balance below fifty thousand
50 dollars, the commissioner may suspend restitution assistance until such time as the
51 commissioner determines a sufficient balance has been restored to the fund. If the
52 balance of the restitution recovery fund exceeds two hundred and fifty thousand dollars
53 at the end of the calendar year, the amount in excess of two hundred and fifty thousand
54 dollars shall be transferred to the investor education and protection fund.

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