

### **292.327 Filing of documents with respect to covered securities -- Fees.**

- (1) The commissioner may require the filing of any of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:
  - (a) Prior to the initial offer of such covered security in this state, all documents that are part of a current federal registration statement filed with the United States Securities and Exchange Commission under the Securities Act of 1933 or a notice form adopted by the commissioner in lieu thereof, together with a consent to service of process signed by the issuer and with payment of a filing fee as follows:
    1. Five hundred dollars (\$500) for an investment company, other than a unit investment trust, that is registered or that has filed a registration statement, under the Investment Company Act of 1940; or
    2. Three hundred dollars (\$300) for a unit investment trust that is registered or that has filed a registration statement under the Investment Company Act of 1940; and
  - (b) After the initial offer of such covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the United States Securities and Exchange Commission under the Securities Act of 1933, or a notice form adopted by the commissioner in lieu thereof, which shall be filed concurrently with the commissioner;
  - (c) Except for a notice filing by a unit investment trust, which shall be effective indefinitely, all notice filings for such covered securities are effective for a period of one (1) year upon receipt by the commissioner of a properly completed filing, including the correct fee, unless another date is requested by the issuer. An annual filing shall be required of an open-end investment company that continuously offers or sells its securities in this state, which filing shall consist of the documents specified in paragraph (a) of this subsection, exclusive of the consent to service of process, and a filing fee in the amount of five hundred dollars (\$500). The annual renewal filing shall be effective upon the expiration of the prior filing period if it is properly completed, including the correct fee, and is received by the commissioner on or before the expiration date;
  - (d) Amendments to a notice filing are effective upon receipt by the commissioner. Termination of a notice filing is effective upon receipt by the commissioner of notice of the termination; and
  - (e) Notwithstanding the provisions of paragraphs (a) to (d) of this subsection, for the period ended October 10, 1999, the commissioner may require the registration of a covered security issued by any issuer for which a fee has not been properly paid and the improper payment has not been remedied within ten (10) business days following receipt of written notification from the commissioner to the issuer of the nonpayment or underpayment of the fee, as required by this chapter.
- (2) The commissioner shall require the filing of, with respect to any security that is a

covered security under Section 18(b)(4)(D) of the Securities Act of 1933, a notice on SEC Form D, a two hundred fifty dollar (\$250) filing fee, and a consent to service of process signed by the issuer no later than fifteen (15) days after the first sale of such covered security in this state.

- (3) The commissioner may require the filing of any document filed with the United States Securities and Exchange Commission under the Securities Act of 1933 with respect to a covered security under Section 18(b)(3) or (4) of the Securities Act of 1933, together with a filing fee in the amount of two hundred fifty dollars (\$250).
- (4) The commissioner may issue a stop order suspending the offer and sale of a covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, upon finding that:
  - (a) The order is necessary or appropriate in the public interest or for the protection of investors; and
  - (b) There is a failure to comply with any condition established under this section.
- (5) The commissioner may waive any or all of the provisions of this section upon finding that they are not necessary or appropriate in the public interest or for the protection of investors.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 861, effective July 15, 2010. -- Created 1998 Ky. Acts ch. 20, sec. 11, effective July 15, 1998.