

1 AN ACT relating to securities.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 292.420 is amended to read as follows:

- 4 (1) In any proceeding under this chapter, the burden of proving an exemption or an  
5 exception from a definition is upon the person claiming it.
- 6 (2) **(a)** The commissioner may require any person, who is selling or offering for sale  
7 or who is about to sell or offer for sale or who has sold or offered for sale any  
8 security within this state, to file a statement of the claim of exemption, if any,  
9 upon which ~~the~~<sup>[such]</sup> person is relying, and if any time, in the opinion of the  
10 commissioner, the information contained in ~~the~~<sup>[such]</sup> statement filed is  
11 misleading, incorrect, inadequate, or fails to establish the right of exemption,  
12 the commissioner may require ~~the~~<sup>[such]</sup> person, agent, or investment adviser  
13 to file ~~the~~<sup>[such]</sup> information as may in his ***or her*** opinion be necessary to  
14 establish the claimed exemption.
- 15 **(b)** The refusal to furnish information as required by order of the commissioner  
16 pursuant to the provisions of this subsection, within a reasonable time to be  
17 fixed by the commissioner, shall be proper ground for the entry of an order by  
18 the commissioner suspending ~~or~~<sup>[and/or]</sup> canceling the registration of the  
19 broker-dealer, agent, or investment adviser.
- 20 (3) **(a)** The commissioner shall have authority at all times to consider and determine  
21 whether any proposed sale, transaction, issue, or security is entitled to an  
22 exemption or an exception from the definition accorded by this chapter,  
23 ~~except~~<sup>[provided, however,]</sup> that the commissioner in his or her discretion may  
24 decline to exercise ***his or her***<sup>[such]</sup> authority as to any proposed sale,  
25 transaction, issue, or security.
- 26 **(b)** Any interested party desiring the commissioner to exercise ***his or her***<sup>[such]</sup>  
27 authority shall submit to the commissioner a verified statement of all material

1 facts relating to the proposed sale, transaction, issue, or security, which  
2 verified statement shall be accompanied by a request for a ruling as to the  
3 particular exemption or exception from definition, together with a filing fee of  
4 two hundred fifty dollars (\$250).

5 (c) After ~~any~~<sup>such</sup> notice to interested parties as the commissioner shall deem  
6 proper and after a hearing, if any, the commissioner may enter an order  
7 finding the proposed sale, transaction, issue, or security entitled or not entitled  
8 to the exemption or the exception from definition as claimed.

9 (d) An order so entered, unless an appeal be taken therefrom in the manner  
10 prescribed in this chapter, shall be binding upon the commissioner, provided  
11 that the proposed sale, transaction, issue, or security when consummated or  
12 issued conforms in every relevant and material particular with the facts as set  
13 forth in the verified statement as submitted.