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SENATE BILL 295

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY
RAYMOND L. KYSAR

AN ACT

RELATING TO SECURITIES; CHANGING FILING FEES FOR REGISTRATION STATEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-13B-24 NMSA 1978 (being Laws 1986, Chapter 7, Section 24) is amended to read:

"58-13B-24. PROVISIONS APPLICABLE TO REGISTRATION GENERALLY. --

A. A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made or a registered broker-dealer.

B. If a registration statement is withdrawn before the effective date or a pre-effective stop order is entered pursuant to Section 58-13B-25 NMSA 1978, the director shall retain the fee set forth in this subsection. Except as provided

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1 in Subsection C of this section, a person filing a registration
2 statement shall pay a filing fee of:

3 (1) one-tenth of one percent of the maximum
4 aggregate offering price at which the registered securities are
5 to be offered in this state, but not less than three hundred
6 fifty dollars (\$350) or more than two thousand five hundred
7 dollars (\$2,500); or

8 (2) [~~If a registration statement is withdrawn~~
9 ~~before the effective date or a pre-effective stop order is~~
10 ~~entered under Section 25 of the New Mexico Securities Act of~~
11 ~~1986, the director shall retain the fee]~~ three hundred fifty
12 dollars (\$350) if the person is a corporate issuer or a person
13 acting on behalf of a corporate issuer and is claiming an
14 exemption from the registration requirements of federal law
15 regarding small corporate offerings pursuant to rule 504 of
16 regulation D (17 CFR 230.504).

17 C. An open-end management company or a face amount
18 certificate company as defined in the federal Investment Company
19 Act of 1940 may register an indefinite amount of securities
20 under a registration statement. The registrant shall pay:

21 (1) a fee of five hundred dollars (\$500) at the
22 time of filing; and

23 (2) within sixty days after the registrant's
24 fiscal year during which its registration statement is
25 effective, a fee of two thousand dollars (\$2,000) or file a

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[bracketed material] = delete

1 report on a form the director by rule adopts, specifying its
2 sale of securities to persons in this state during the fiscal
3 year and pay a fee of one-tenth of one percent of the aggregate
4 sale price of the securities sold to persons in the state, but
5 the latter fee shall not be less than three hundred fifty
6 dollars (\$350) or more than two thousand five hundred dollars
7 (\$2,500).

8 D. Except as permitted otherwise by Subsection C of
9 this section, a registration statement must specify the amount
10 of securities to be offered in this state and:

11 (1) the states in which a registration
12 statement or similar document in connection with the offering
13 has been or is to be filed; and

14 (2) any adverse order, judgment or decree
15 entered by the securities agency or administrator in any state
16 or by a court or the securities and exchange commission in
17 connection with the offering.

18 E. A document filed under the New Mexico Securities
19 Act of 1986 or a predecessor act, within five years before the
20 filing of a registration statement, may be incorporated by
21 reference in the registration statement if the document is
22 currently accurate.

23 F. The director by rule or order may permit the
24 omission of an item of information or document from a
25 registration statement.

Underscored material = new
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1 G. In the case of a non-issuer offering, the
2 director may not require information under Section [~~23 of the~~
3 ~~New Mexico Securities Act of 1986~~] 58-13B-23 NMSA 1978 or
4 Subsection M of this section unless it is known to the person
5 filing the registration statement or to the persons on whose
6 behalf the offering is to be made, or can be furnished by them
7 without unreasonable effort or expense.

8 H. In the case of a registration under Section
9 [~~22 or 23 of the New Mexico Securities Act of 1986~~] 58-13B-22
10 or 58-13B-23 NMSA 1978 by an issuer who has no public market
11 for its shares and no significant earnings from continuing
12 operations during the last five years or any shorter period of
13 its existence, the director by rule or order may require as a
14 condition of registration that the following securities be
15 deposited in escrow for not more than three years:

16 (1) a security issued to a promoter, control
17 person or affiliate within the three years immediately before
18 the offering or to be issued to such persons for a consideration
19 substantially less than the offering price; and

20 (2) a security issued to a promoter, control
21 person or affiliate for a consideration other than cash, unless
22 the registrant demonstrates that the value of the noncash
23 consideration received in exchange for the security is
24 substantially equal to the offering price for the security.

25 The director by rule or order may determine the conditions

Underscored material = new
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1 of an escrow required under this subsection, but the director
2 may not reject a depository solely because of location in
3 another state.

4 I. The director by rule or order may require as a
5 condition of registration under Section [~~22 or 23 of the New~~
6 ~~Mexico Securities Act of 1986~~] 58-13B-22 or 58-13B-23 NMSA 1978
7 that the proceeds from the sale of the registered security in
8 this state be impounded until the issuer receives a specified
9 amount from the sale of the security. The director by rule or
10 order may determine the conditions of an impoundment arrangement
11 required under this subsection, but the director may not reject
12 a depository solely because of its location in another state.

13 J. If a security is registered pursuant to Section
14 [~~21 or 22 of the New Mexico Securities Act of 1986~~] 58-13B-21 or
15 58-13B-22 NMSA 1978, the prospectus filed under the Securities
16 Act of 1933 shall be delivered to each purchaser in accordance
17 with the prospectus delivery requirements of the Securities Act
18 of 1933. With respect to a security registered under Section
19 [~~21 or 22 of the New Mexico Securities Act of 1986~~] 58-13B-21 or
20 58-13B-22 NMSA 1978, the director by rule or order may require
21 the delivery of other material documents or information to each
22 purchaser concurrent with or prior to the delivery of the
23 prospectus.

24 K. If a security is registered pursuant to Section
25 [~~23 of the New Mexico Securities Act of 1986~~] 58-13B-23 NMSA

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1 1978, an offering document containing information the director
2 by rule or order designates shall be delivered to each purchaser
3 with or before the earliest of:

4 (1) the first written offer made to the
5 purchaser by or for the account of the issuer or another person
6 on whose behalf the offering is being made or by an underwriter
7 or broker-dealer who is offering part of an unsold allotment or
8 subscription taken by it as a participant in the distribution;

9 (2) confirmation of a sale made by or for the
10 account of a person named in Paragraph (1) of this subsection;

11 (3) payment pursuant to a sale; or

12 (4) delivery pursuant to a sale.

13 L. A registration statement remains effective for
14 one year after its effective date unless the director by rule or
15 order extends the period of effectiveness. All outstanding
16 securities of the same class as a registered security are
17 considered to be registered for the purpose of a non-issuer
18 transaction while the registration statement is effective,
19 unless the director by rule or order provides otherwise. A
20 registration statement may not be withdrawn after its effective
21 date if any of the securities registered have been sold in this
22 state, unless the director by rule or order provides otherwise.
23 No registration statement is effective while a stop order is in
24 effect under Subsection A of Section ~~[25 of the New Mexico~~
25 ~~Securities Act of 1986]~~ 58-13B-25 NMSA 1978.

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1 M During the period that an offering is being made
2 pursuant to an effective registration statement, the director by
3 rule or order may require the person who filed the registration
4 statement to file reports, not more often than quarterly, to
5 keep reasonably current the information contained in the
6 registration statement and to disclose the progress of the
7 offering.

8 N. A registration statement filed under Section
9 ~~[21 or 22 of the New Mexico Securities Act of 1986]~~ 58-13B-21
10 or 58-13B-22 NMSA 1978 may be amended after its effective date
11 to increase the securities specified to be offered and sold.
12 The amendment becomes effective upon filing of the amendment and
13 payment of an additional filing fee which shall be three times
14 the fee otherwise payable, calculated in the manner specified in
15 Subsection B of this section, with respect to the additional
16 securities to be offered and sold. The effectiveness of the
17 amendment relates back to the date or dates of sale of the
18 additional securities being registered.

19 O. A registration statement filed under Section
20 ~~[23 of the New Mexico Securities Act of 1986]~~ 58-13B-23
21 NMSA 1978 may be amended after its effective date to increase
22 the securities specified to be offered and sold, provided that
23 the public offering price and underwriters' discounts and
24 commissions are not changed from the respective amounts of which
25 the director was informed. The amendment becomes effective when

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1 the director so orders and relates back to the date of sale of
2 the additional securities being registered. A person filing an
3 amendment shall pay an additional filing fee which shall be
4 three times the fee otherwise payable, calculated in the manner
5 specified in Subsection B of this section, with respect to the
6 additional securities to be offered and sold.

7 P. Pursuant to Section 106(c) of the Secondary
8 Mortgage Market Enhancement Act of 1984, any securities which
9 are offered and sold pursuant to Section 4 (5) of the Securities
10 Act of 1933 or that are mortgage-related securities, as that
11 term is defined in Section 3 (a) (41) of the Securities Exchange
12 Act of 1934, being 15 U.S.C. 78c (a) (41), are required to
13 comply with all applicable registration and qualification
14 requirements of the New Mexico Securities Act of 1986 and the
15 rules under that act and shall not be treated as obligations
16 issued by the United States for purposes of that act. "

17 Section 2. EFFECTIVE DATE. -- The effective date of the
18 provisions of this act is July 1, 1996.

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 JANUARY 26, 1996
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7 Mr. Presi dent:
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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
10

11 SENATE BILL 295
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13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO SENATE EXECUTIVE MESSAGE NUMBER NINE, and thence referred to the
15 CORPORATIONS AND TRANSPORTATION COMMI TTEE.
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17 Respectful ly submi tted,
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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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5 February 2, 1996
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7 Mr. President:
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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom has
10 been referred
11

12 SENATE BILL 295
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14 has had it under consideration and reports same with recommendation that
15 it DO PASS, and thence referred to the FINANCE COMMITTEE.
16

17 Respectfully submitted,
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22 Roman M. Maes, III, Chairman
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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Fidel, McKibben, Reagan, Robinson

Absent: 0

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1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 February 7, 1996
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7 Mr. Presi dent:
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9 Your FINANCE COMMI TTEE, to whom has been referred
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11 SENATE BILL 295
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS.
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16 Respectfully submi tted,
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18 _____
19 Ben D. Altami rano, Chair man
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25 Adopted _____ Not Adopted _____
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Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excuse: Aragon, Duran, Ingle, T. Jennings, Kidd, Macias

Absent: None

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**State of New Mexico
House of Representatives**

**FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996**

February 13, 1996

Mr. Speaker:

**Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to whom has
been referred**

SENATE BILL 295

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Gary K. King, Chairman

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FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

HCPAC/SB 295

Page 16

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Abeyta, Baca, Charley, Sandel, Vigil

Absent: None

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Underscored material = new
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