

CHAPTER 184

GOVERNMENT - STATE

HOUSE BILL 95-1115

BY REPRESENTATIVES Snyder, Acquafresca, Clarke, and Sullivan;
also SENATOR Schroeder.

AN ACT**CONCERNING RESTRICTIONS ON THE INVESTMENT OF PUBLIC FUNDS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The introductory portions to 24-75-601.1 (1) (j) and 24-75-601.1 (1) (k) (III) and 24-75-601.1 (1) (k) (III) (C) and (1) (k) (III) (D), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-75-601.1 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-75-601.1. Legal investments of public funds. (1) It is lawful to invest public funds in any of the following securities if the period from the date of purchase of such security to its maturity date is five years or less or if the governing body of the public entity authorizes investment for such period in excess of five years:

(j) Any ~~written~~ repurchase agreement ~~providing for the simultaneous sale by the investing public entity and repurchase by another person at a future date of~~ CONCERNING any securities referred to in paragraph (a) or (b) of this subsection (1) THAT CAN OTHERWISE BE PURCHASED UNDER THIS SECTION if all of the conditions of subparagraphs (I) to (IV) of this paragraph (j) are met:

(k) Any money market fund that is registered as an investment company under the federal "Investment Company Act of 1940", as amended, if, at the time the investing public entity invests in such fund:

(III) The investments of the fund consist only of securities with a maximum remaining maturity as specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

money market funds, so long as such rule 2a-7 is not amended to, or such successor regulation does not, increase the maximum remaining maturity of such securities to a period ~~which~~ THAT is greater than three years, ~~which consist~~ AND IF THE FUND HAS ASSETS OF ONE BILLION DOLLARS OR MORE, OR HAS THE HIGHEST CURRENT CREDIT RATING FROM ONE OR MORE NATIONALLY RECOGNIZED ORGANIZATIONS THAT REGULARLY RATE SUCH OBLIGATIONS, OR CONSISTS of the following:

(C) Any securities not listed in paragraphs (a) to (j) of this subsection (1) the interest on which is not includable in gross income for federal income tax purposes if such securities do not exceed fifteen percent of the investments of the fund, based on the purchase price of all securities held by the fund; ~~or~~ AND

~~(D) Any fund having assets of one billion dollars or more or the highest current credit rating from one or more nationally recognized organizations which regularly rate such obligations; and~~

(1.3) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1.3), PUBLIC FUNDS SHALL NOT BE INVESTED IN ANY SECURITY ON WHICH THE COUPON RATE IS NOT FIXED FROM THE TIME THE SECURITY IS SETTLED UNTIL ITS MATURITY DATE, OTHER THAN SHARES IN QUALIFIED MONEY MARKET MUTUAL FUNDS, UNLESS THE COUPON RATE IS:

(I) ESTABLISHED BY REFERENCE TO THE RATE ON A UNITED STATES TREASURY SECURITY WITH A MATURITY OF ONE YEAR OR LESS OR TO THE UNITED STATES DOLLAR LONDON INTERBANK OFFER RATE OF ONE YEAR OR LESS MATURITY, OR TO THE COST OF FUNDS INDEX OR THE PRIME RATE AS PUBLISHED BY THE FEDERAL RESERVE; AND

(II) EXPRESSED AS A POSITIVE VALUE OF THE REFERENCED INDEX PLUS OR MINUS A FIXED NUMBER OF BASIS POINTS.

(b) A MUNICIPAL INDEX MAY BE USED FOR THE INVESTMENT OF BOND OR NOTE ACCOUNTS FROM ISSUES WITH COUPONS LINKED TO THE SAME INDEX.

(c) FOR PURPOSES OF THIS SECTION, "MATURITY DATE" MEANS THE LAST POSSIBLE DATE, BARRING DEFAULT, THAT PRINCIPAL CAN BE REPAYED TO THE PURCHASER.

(1.5) ANY FIRM THAT SELLS ANY FINANCIAL INSTRUMENT THAT FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION, EXCEPT FOR INSTRUMENTS REPRESENTING INTERESTS IN A MONEY MARKET FUND COVERED BY THE FEDERAL "INVESTMENT COMPANY ACT OF 1940", AS AMENDED, TO ANY PUBLIC ENTITY IN THE STATE OF COLORADO SHALL, UPON DEMAND OF THE PUBLIC ENTITY THROUGH THE STATE TREASURER, REPURCHASE SUCH INSTRUMENTS FOR THE GREATER OF THE ORIGINAL PURCHASE PRINCIPAL AMOUNT OR THE ORIGINAL FACE VALUE, PLUS ANY AND ALL ACCRUED INTEREST, WITHIN ONE BUSINESS DAY OF THE DEMAND.

SECTION 2. 11-51-402, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

11-51-402. Exempt broker-dealers and sales representatives - sanctions.
(4) (a) THE SECURITIES COMMISSIONER MAY BY ORDER REVOKE, SUSPEND, OR IMPOSE

CONDITIONS UPON EXEMPTIONS AVAILABLE PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION IF THE SECURITIES COMMISSIONER FINDS THAT A BROKER-DEALER OR SALES REPRESENTATIVE WHO HAS AN EXEMPTION PURSUANT TO EITHER OF SAID SECTIONS OFFERED OR SOLD, OTHER THAN IN AN UNSOLICITED TRANSACTION, TO A PUBLIC ENTITY IN THE STATE OF COLORADO A FINANCIAL INSTRUMENT THAT SUCH BROKER-DEALER OR SALES REPRESENTATIVE KNEW OR SHOULD HAVE KNOWN DOES NOT QUALIFY FOR SALE TO THE PUBLIC ENTITY PURSUANT TO SECTION 24-75-601.1, C.R.S., AND THAT SUCH ACTION BY THE SECURITIES COMMISSIONER IS IN THE PUBLIC INTEREST.

(b) ANY PROCEEDING CONCERNING AN ORDER MADE PURSUANT TO THIS SUBSECTION (4) SHALL BE CONDUCTED AS A PROCEEDING UNDER SECTION 11-51-606 (1), (2), (4), AND (5).

SECTION 3. 11-51-410 (1) (i) and (1) (j), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended, and the said 11-51-410 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

11-51-410. Denial, suspension, or revocation. (1) The securities commissioner may by order deny an application for a license, suspend or revoke a license, censure a licensed person, limit or impose conditions on the securities activities that a licensed person may conduct in this state, and bar a person from association with any licensed broker-dealer in the conduct of its business in this state in such capacities and for such period as the order specifies. These sanctions may be imposed only if the securities commissioner makes a finding, in addition to the findings required by section 11-51-704 (2), that the applicant or licensed person or, in the case of a broker-dealer, a partner, officer, director, person occupying a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer:

(i) Has failed reasonably to supervise, with a view to preventing violations of this article, another person who is subject to the person's supervision and who commits such a violation, but for the purpose of this paragraph (i) no person shall be deemed to have failed to supervise another person if there existed established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person and such person reasonably discharged the duties and obligations incumbent upon such person by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with; ~~or~~

(j) Has ceased to do business as a broker-dealer or sales representative; OR

(k) HAS OFFERED OR SOLD TO A PUBLIC ENTITY IN THE STATE OF COLORADO A FINANCIAL INSTRUMENT THAT SUCH PERSON KNEW OR SHOULD HAVE KNOWN DOES NOT QUALIFY FOR SALE TO THE PUBLIC ENTITY UNDER SECTION 24-75-601.1, C.R.S.

SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to investments made on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 1995