

CHAPTER 7

GOVERNMENT - MUNICIPAL

HOUSE BILL 05-1002

BY REPRESENTATIVE(S) Stengel, Ragsdale, Rose, Crane, Green, Madden, and Marshall;
also SENATOR(S) Evans, Taylor, and Tochtrop.

AN ACT

CONCERNING THE CONFIDENTIALITY OF INFORMATION REGARDING INVESTMENTS MADE BY THE FIRE AND POLICE PENSION ASSOCIATION FOR PURPOSES OF PROTECTING THE FIDUCIARY RESPONSIBILITIES OF THE ASSOCIATION, AND, IN CONNECTION THEREWITH, REQUIRING THE BOARD OF THE ASSOCIATION TO PUBLISH A REPORT OF THE ASSOCIATION'S INVESTMENTS ON AN ANNUAL BASIS.

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

SECTION 1. 31-31-302, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-31-302. Fund - management - investment - definitions. (8) (a) AS USED IN THIS SUBSECTION (8):

(I) "ASSOCIATION" MEANS THE FIRE AND POLICE PENSION ASSOCIATION.

(II) "INVESTMENT" MEANS THE UTILIZATION OF MONEY OR OTHER ASSETS IN THE EXPECTATION OF FUTURE RETURNS IN THE FORM OF INCOME OR CAPITAL GAIN.

(III) "INVESTMENT FIDUCIARY" MEANS A PERSON WHO OR ENTITY THAT EXERCISES ANY DISCRETIONARY AUTHORITY OR CONTROL OVER AN INVESTMENT OF THE ASSOCIATION OR RENDERS INVESTMENT ADVICE FOR THE ASSOCIATION FOR A FEE OR OTHER DIRECT OR INDIRECT COMPENSATION.

(IV) "INVESTMENT INFORMATION" MEANS INFORMATION THAT HAS NOT BEEN PUBLICLY DISSEMINATED OR THAT IS UNAVAILABLE FROM OTHER SOURCES, THE RELEASE OF WHICH MIGHT CAUSE A PORTFOLIO COMPANY OR AN INVESTMENT FIDUCIARY SIGNIFICANT COMPETITIVE HARM. INVESTMENT INFORMATION INCLUDES, BUT IS NOT LIMITED TO, FINANCIAL PERFORMANCE DATA AND PROJECTIONS, FINANCIAL

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

STATEMENTS, LISTS OF CO-INVESTORS AND THEIR LEVEL OF INVESTMENT, PRODUCT AND MARKET DATA, RENT ROLLS, AND LEASES.

(V) "PORTFOLIO COMPANY" MEANS AN ENTITY IN WHICH AN INVESTMENT FIDUCIARY HAS MADE OR CONSIDERED AN INVESTMENT ON BEHALF OF THE ASSOCIATION.

(VI) "PUBLIC RECORD" MEANS ALL OR PART OF A WRITING, AS DEFINED IN SECTION 24-72-202 (6), C.R.S.

(b) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (8), A PUBLIC RECORD RECEIVED, PREPARED, USED, OR RETAINED BY AN INVESTMENT FIDUCIARY IN CONNECTION WITH AN INVESTMENT OR POTENTIAL INVESTMENT OF THE ASSOCIATION THAT RELATES TO INVESTMENT INFORMATION PERTAINING TO A PORTFOLIO COMPANY IN WHICH THE INVESTMENT FIDUCIARY HAS INVESTED OR HAS CONSIDERED AN INVESTMENT OR THAT RELATES TO INVESTMENT INFORMATION WHETHER PREPARED BY OR FOR THE INVESTMENT FIDUCIARY REGARDING LOANS AND ASSETS DIRECTLY OWNED BY THE INVESTMENT FIDUCIARY IS EXEMPT FROM THE DISCLOSURE REQUIREMENTS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(c) IF A PUBLIC RECORD DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (8) IS AN AGREEMENT OR INSTRUMENT TO WHICH AN INVESTMENT FIDUCIARY IS A PARTY, ONLY THOSE PARTS OF THE PUBLIC RECORD THAT CONTAIN INVESTMENT INFORMATION, AS DEFINED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (8), ARE EXEMPT FROM THE DISCLOSURE REQUIREMENTS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(d) AT LEAST ANNUALLY THE BOARD SHALL PUBLISH AND MAKE AVAILABLE TO THE PUBLIC A REPORT OF ITS INVESTMENTS THAT INCLUDES THE FOLLOWING:

(I) THE NAME OF EACH PORTFOLIO COMPANY IN WHICH THE ASSOCIATION INVESTED DURING THE REPORTING PERIOD;

(II) THE AGGREGATE AMOUNT OF MONEY INVESTED BY THE ASSOCIATION IN PORTFOLIO COMPANIES DURING THE REPORTING PERIOD; AND

(III) THE RATE OF RETURN REALIZED DURING THE REPORTING PERIOD ON THE INVESTMENTS OF THE ASSOCIATION IN PORTFOLIO COMPANIES.

SECTION 2. 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: March 11, 2005