

shall also collect the following miscellaneous fees: Application for a certificate of public convenience and necessity, or to amend certificate, \$50.00; application to sell, lease, mortgage or transfer certificate or any interest therein, \$10.00.

Passed the Senate February 20, 1939.

Passed the House March 7, 1939.

Approved by the Governor March 15, 1939.

CHAPTER 124.

[S. B. 226.]

SECURITIES ACT.

AN ACT providing for the regulation and supervision of the issuance and sale of certain securities, to prevent fraud in the sale thereof; amending chapter 69, Laws of 1923, as amended; providing for the issuance of pre-organization subscriptions, the payment of consideration therefor, and the licensing thereof; prescribing fees for pre-organization permits; declaring voidable sales made without a permit in violation of said chapter or in violation of a permit issued under said chapter; relating to actions for redress on accounts of sales made contrary to the provisions of said chapter and amendments thereof; prescribing the period of limitation applicable to such actions, existing or hereafter arising; and amending chapter 69, Laws of 1923 by adding thereto two new sections to be designated section 3a and section 18a.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 2 of chapter 69 of the Laws of 1923, as amended by chapter 97 of the Laws of 1935, and chapter 182 of the Laws of 1937 (the same being section 5853-2 of Remington's Revised Statutes), be amended to read as follows:

Amends
§ 5853-2 Rem.
Rev. Stat.

Section 2. DEFINITION OF TERMS. The following words have in this act the meaning attached to them in this section, unless otherwise apparent from the context:

Definitions:

(1) The word "company" includes all domestic and foreign private corporations, associations, syndi-

"Company."

cates, joint stock companies and co-partnerships, and also trustees (but not including executors, administrators, receivers, or other trustees acting under the authority of a court); also individuals selling, offering for sale, negotiating for the sale of or taking subscriptions for any security of their own issue;

Excepting
therefrom.

Excepting therefrom:

(a) All national banking associations and other corporations organized and existing under and by virtue of the acts of Congress of the United States;

(b) All insurance companies authorized to transact business within this state and all corporations transacting a banking or trust companies business within this state;

(c) All building and loan, and savings and loan corporations, associations and societies authorized as such to do business in this state;

(d) All public utilities subject to the jurisdiction, control and regulation of the Director of Public Service;

(e) All companies organized without capital stock and not for pecuniary gain and exclusively engaged in educational, benevolent, charitable or reformatory purposes, and companies based on membership basis for social, athletic and educational purposes;

(f) All corporations engaged in the metalliferous mining industry which are duly registered with the Director of Licenses as provided by law: *Provided*, That the provisions of this act shall in all respects apply to resales of metalliferous mining securities. A resale is hereby defined to be a sale in which the issuing company is not a party.

"Security."

(2) The word "security" includes:

(a) All shares or interests into which the capital, capital stock, or property of companies, or rights of stockholders or members thereof, are divided, including all treasury shares and shares of their own capital stock purchased or otherwise acquired

by companies upon delinquent assessment sales or in any other lawful manner, and all certificates and other instruments issued by them or their authority, evidencing or representing such shares, interests or rights;

(b) All promissory notes, mortgages, bonds, debentures, and other evidences of indebtedness issued by any company, excepting promissory notes and mortgages negotiated by the drawer or maker in the ordinary course of business by private negotiation;

(c) Any instrument issued, offered or sold to the public by any company, evidencing or representing any right to participate or share in the profits or earnings or the distribution of assets of any business carried on for profit;

(d) All bonds, debentures and other evidences of indebtedness issued by any foreign government or any political subdivision thereof; or by any state of the United States of America or any political subdivision thereof, except the State of Washington and its political subdivisions;

(e) Oil or gas leases or any assignment, partial assignment, agreement to assignment, or other instruments in connection therewith.

(3) The word "sale" includes every contract by which, for valuable consideration, a company transfers any security or interest therein; and any exchange, pledge or hypothecation, or any transfer in trust or otherwise, for the performance of an obligation. "Sale."

The word "sell" includes every act by which such sale is made. "Sell."

(4) The word "agent" includes every person or company employed or appointed by a broker or company who sells, negotiates for the sale of, solicits, or takes subscriptions for any security. "Agent."

(5) The word "broker" includes every person or company, other than an agent, engaging in the "Broker."

business of selling, offering for sale, negotiating for the sale of, soliciting subscriptions for, or otherwise dealing in securities issued by others; or underwriting any issue of securities, or of purchasing such securities with the purpose of reselling or offering them for sale to the public for a commission or at a profit, excepting therefrom the following:

(a) One who disposes of securities to a broker;

(b) Any pledge holder selling in good faith and not for the purpose of avoiding the provisions of this act, and in the ordinary course of business, a security pledged with him for the payment of a *bona fide* debt;

(c) Any owner of any security not the issuer or an underwriter thereof who sells or exchanges the same for his own accounts: *Provided*, That such sale or exchange is not made by such owner in the course of repeated and successive transactions of like or similar character.

SEC. 2. That chapter 69, Laws of 1923, be amended by adding thereto a new section to follow section 3, to be known as section 3-a and reading as follows:

Section 3-a. Subscriptions for the shares of a domestic or foreign corporation may be taken prior to the incorporation thereof without first procuring a permit therefor from the Director of Licenses; but, except as may be specifically required by any law of this state and also as to subscriptions made by persons who sign the articles of incorporation as incorporators, no portion of the consideration to be paid on account of such pre-organization subscriptions shall be either collected or collectible, unless such corporation shall be incorporated within ninety days after such subscription is made, and also such corporation with reasonable diligence after incorporation shall apply to the Director of Licenses and shall procure from him a permit authorizing

Adds § 3-a
to ch. 69,
Laws 1923.

Subscrip-
tions for
shares.

the issuance of the shares subscribed for in such pre-organization subscriptions and the collection thereof.

Except as may be specifically required by any law of this state, no subscription shall be taken for any security of any company other than a domestic or foreign corporation, nor shall any portion of the consideration to be paid thereon be either collected or collectible unless and until a permit shall have been issued by the Director of Licenses authorizing the taking of such subscriptions and the collection thereof.

SEC. 3. That section 22 of chapter 69 of the Laws of 1923, as amended by chapter 97 of the Laws of 1935, and chapter 182 of the Laws of 1937 (the same being section 5853-22 of Remington's Revised Statutes), be amended to read as follows:

Amends
§ 5853-22
Rem. Rev.
Stat.

Section 22. FEES—SCHEDULE. The Director of Licenses shall charge the following fees:

Fees.

(1) For filing an application for permit to issue security twenty-five dollars (\$25.00) for all companies whose capitalization is fifty thousand dollars (\$50,000.00) or less, fifty dollars (\$50.00) for all companies whose capitalization is over fifty thousand dollars (\$50,000.00), but not more than one hundred thousand dollars (\$100,000.00), and one hundred dollars (\$100.00) for all companies whose capitalization is over one hundred thousand dollars (\$100,000.00).

(2) For filing an application for a broker's certificate twenty-five dollars (\$25.00), and ten dollars (\$10.00) for each and every year after the first year.

(3) For filing an application for an agent's certificate five dollars (\$5.00), and two dollars (\$2.00) for each and every year thereafter.

(4) For filing an application for collection of pre-organization subscriptions ten dollars (\$10.00).

Fees for furnishing copies of papers and records shall be as now provided by law.

Adds § 18a
to ch. 69,
Laws 1923.

SEC. 4. That chapter 69, Laws of 1923, be amended by adding thereto a new section to follow section 18, to be designated section 18a, and reading as follows:

Sales made
in violation
of securities
act.

Section 18a. Every sale or contract for sale made in violation of any of the provisions of the securities act (chapter 69, Laws of 1923, as amended) shall be voidable at the election of the purchaser, and the person making such sale or contract for sale and every person who shall have participated in or aided the seller in any way in making such sale or contract of sale shall be jointly and severally liable to such purchaser in an action at law in any court of competent jurisdiction, upon tender to the seller in person or in open court of the securities sold or of the contract made, for the full amount paid by such purchaser together with all taxable court costs, unless the court shall determine that the violation did not materially affect the protection contemplated by the violated provision: *Provided*, That no action shall be brought for the recovery of the purchase price after two years from the date of such sale or contract for sale: *Provided, further*, That any existing cause of action for redress on account of any sale or contract of sale made in violation of any of the provisions of the securities act and not now barred by limitation may be commenced at any time prior to the expiration of one year after the passage of this act. No period of limitation applicable to any such action shall be deemed to be tolled during the time that any person or company is subject to personal or substituted service of process within the State of Washington.

Limitation
of actions.

Passed the Senate March 2, 1939.

Passed the House March 8, 1939.

Approved by the Governor March 15, 1939.