

fire department of a municipality or municipalities which have elected to make provisions for the retirement of its volunteer firemen: PROVIDED, HOWEVER, That nothing herein contained shall require any fireman having twenty-five years active service to continue as a fireman (but such fireman if he retires by reason of such service prior to reaching the age of fifty-five years shall be required to pay the total annual retirement fee required of firemen and the municipality up to and including the year in which his fifty-fifth birthday shall occur to be eligible for a pension: PROVIDED FURTHER, That the amount of monthly pension shall not be increased by any such payments after retirement from active service but the pension shall be computed as of the date of retirement from active service) and no fireman who has completed twenty-five years of active service for which annual pension fees have been paid and who continues as a fireman shall be required to pay any additional annual pension fees.

NEW SECTION. Sec. 5. This 1973 amendatory act shall take effect on July 1, 1973.

Passed the House April 12, 1973.

Passed the Senate April 10, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 171

[House Bill No. 638]

SECURITIES REGULATION--

DEBENTURE COMPANIES

AN ACT Relating to securities regulation; amending section 21, chapter 282, Laws of 1959 and RCW 21.20.210; amending section 37, chapter 282, Laws of 1959 and RCW 21.20.370; amending section 55, chapter 282, Laws of 1959 and RCW 21.20.550; amending section 56, chapter 282, Laws of 1959 and RCW 21.20.560; adding new sections to chapter 21.20 RCW; imposing penalties; and providing effective dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 21, chapter 282, Laws of 1959 and RCW 21.20.210 are each amended to read as follows:

Any security may be registered by qualification. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in RCW 21.20.340, and, if required under RCW 21.20.330, a consent to service

of process meeting the requirements of that section:

(1) With respect to the issuer and any significant subsidiary: Its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; and a description of its physical properties and equipment.

(2) With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: His name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within ninety days of the filing of the registration statement; the remuneration paid to all such persons in the aggregate during the past twelve months, and estimated to be paid during the next twelve months, directly or indirectly, by the issuer (together with all predecessors, parents and subsidiaries).

(3) With respect to any person not named in RCW 21.20.210 (2), owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of the issuer: The information specified in RCW 21.20.210 (2) other than his occupation.

(4) With respect to every promoter, not named in RCW 21.20.210 (2), if the issuer was organized within the past three years: The information specified in RCW 21.20.210 (2), any amount paid to him by the issuer within that period or intended to be paid to him, and the consideration for any such payment.

(5) The capitalization and long-term debt (on both a current and a pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities.

(6) The kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price and any variation therefrom at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, or anything else of value to accrue to the underwriters in connection with the offering); the estimated amounts of other selling expenses, and legal, engineering, and accounting expenses to be incurred by the issuer in connection with the offering; the name and address of every underwriter and every recipient of a finders' fee; a copy of any underwriting or selling

group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter.

(7) The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated, and the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price.

(8) A description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in RCW 21.20.210 (2), (3), (4), (5) or (7) and by any person who holds or will hold ten percent or more in the aggregate of any such options.

(9) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed.

(10) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission; a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities).

(11) A copy of any prospectus or circular intended as of the effective date to be used in connection with the offering.

(12) A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered.

(13) A signed or conformed copy of an opinion of counsel, if available, as to the legality of the security being registered.

(14) ((A balance sheet of the issuer as of a date within four months prior to the filing of the registration statement; a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of any

business, the same financial statements which would be required if that business were the registrant,)) (a) If the issuer is a commercial, industrial or extractive company in the promotional, exploratory or development stage, the following statements:

(i) Separate statements of (A) assets, (B) liabilities, and (C) capital shares, as of a date within one hundred twenty days prior to the filing of the registration statement.

(ii) A statement of cash receipts and disbursements for each of at least three full fiscal years prior to the date of the statements furnished pursuant to paragraph (i) above, and for the period, if any, between the close of the last full fiscal year and the date of such statements, or for the period of the issuer's existence if less than the period specified above.

(iii) In such statements, dollar amounts shall be extended only for cash transactions and transactions involving amounts receivable or payable in cash.

(b) If paragraph (a) does not apply to the issuer, there shall be furnished:

(i) Financial statements consisting of a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement, and as of the date of the end of the last fiscal year if more than four months prior to such filing.

(ii) Statements of income, shareholders' equity, and changes in financial position for each of the three fiscal years preceding the date of the latest balance sheet and for any period between the close of the last fiscal year and the date of the latest balance sheet, or for the period of the issuer's and any predecessor's existence if less than three years.

(iii) If any part of the proceeds of the offering is to be applied to the purchase of any business whose annual sales or revenues are in excess of fifteen percent of the registrant's sales or revenues or involves acquisition of assets in excess of fifteen percent of the registrant's assets, except as specifically exempted by the director, financial statements shall be filed which would be required if that business were the registrant.

(c) If the estimated proceeds to be received from the offering, together with the proceeds from securities registered under this section during the year preceding the date of the filing of this registration statement, exceed one hundred thousand dollars, the statements described in subsection (14)(a)(i) or (14)(b)(i) of this section as of the date of the close of the last fiscal year and the related financial statements specified in subsections (14)(a)(ii) and (14)(b)(iii) of this section for the last fiscal year shall be audited. For registration statements filed after December 31, 1975, and if such proceeds exceed five hundred thousand dollars, the

financial statements specified in subsections (14)(a)(ii) and (14)(b)(iii) of this section for the last two fiscal years shall be audited.

(d) Such financial statements and such other financial information as may be prescribed by the director shall be prepared as to form and content in accordance with the rules and regulations prescribed by the director and shall be audited, as provided in paragraph (c) above, by an independent certified public accountant who is authorized to practice under the laws of the state of Washington and who is not an employee, officer, or member of the board of directors of the issuer or a holder of the securities of the issuer. The report of such independent certified public accountant shall be based upon an audit made in accordance with generally accepted auditing standards with no limitations on its scope. The director may also verify such statements by examining the issuer's books and records.

(15) The written consent of any accountant, engineer, appraiser, attorney, or any person whose profession gives authority to a statement made by him, who is named as having prepared or audited any part of the registration statement or is named as having prepared or audited a report or valuation for use in connection with the registration statement,

Sec. 2. Section 37, chapter 282, Laws of 1959 and RCW 21.20.370 are each amended to read as follows:

The director in his discretion (1) may annually, or more frequently, make such public or private investigations within or without this state as he deems necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder, (2) may require or permit any person to file a statement in writing, under oath or otherwise as the director may determine, as to all the facts and circumstances concerning the matter to be investigated, and (3) ~~((may))~~ shall publish information concerning any violation of this chapter or any rule or order hereunder.

Sec. 3. Section 55, chapter 282, Laws of 1959 and RCW 21.20.550 are each amended to read as follows:

There is hereby created a state advisory committee which shall consist of seven members to be appointed by the ~~((director))~~ governor on the basis of their experience and qualifications. The membership shall be selected, insofar as possible, on the basis of giving both geographic representation and representation to all phases of the securities business including the legal and accounting professions.

Sec. 4. Section 56, chapter 282, Laws of 1959 and RCW

21.20.560 are each amended to read as follows:

(1) The committee shall select a chairman and a secretary from their group.

(2) Regular meetings may be held quarterly, or semiannually, and special meetings may be called by the ((administrator)) chairman upon at least seven days' written notice to each committee member sent by regular mail.

NEW SECTION. Sec. 5. In addition to the authority conferred in RCW 21.20.370 the director at any time during a public offering whether registered or not, or one year thereafter or at any time that any debt or equity securities which have been sold to the public pursuant to registration under chapter 21.20 RCW are still outstanding obligation of the issuer: (1) May investigate and examine the issuer for the purpose of ascertaining whether there have been violations of chapter 21.20 RCW, regulations thereunder, or conditions expressed in the permit for the public offering; (2) may require or permit any person to file a statement in writing, under oath or otherwise as the director may determine, as to all the facts and circumstances concerning the matter to be investigated; and (3) may publish information concerning any violation of this chapter or any rule or order hereunder. Said examination and investigation, whether conducted within or without this state, shall include the right to reasonably examine the issuer's books, accounts, records, files, papers, feasibility reports, other pertinent information and obtain written permission from the issuer to consult with the independent accountant who audited the financial statements of the issuer. The reasonable costs of such examination shall be paid by the issuer to the director: PROVIDED, HOWEVER, The issuer shall not be liable for the costs of second or subsequent examinations during a calendar year.

NEW SECTION. Sec. 6. When used in this chapter, unless the context otherwise requires, "debenture company" means an issuer of any securities which is required to be registered under the provisions of this chapter and which is not exempted from such registration requirements by RCW 21.20.310; which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, leasing, or trading in real or chattel mortgages, deeds of trust, or land or personal property contracts, or security agreements and financing statements under the uniform commercial code, or land contracts; and which has issued or proposes to issue notes, debentures and other obligations for money used or to be used as capital of the issuer.

NEW SECTION. Sec. 7. No debenture company shall offer for sale any security other than capital stock which would result in the violation of the following paid-in capital requirements:

(1) For outstanding securities other than capital stock totaling \$1 to \$500,000 there must be at least \$50,000 paid-in capital; said paid-in capital must be in the form of cash or comparable liquid assets as defined by rules and regulations; and

(2) For outstanding securities other than capital stock totaling \$500,001 to \$750,000 there must be at least \$75,000 paid-in capital; said paid-in capital must be in the form of cash or comparable liquid assets as defined by rules and regulations; and

(3) For outstanding securities other than capital stock totaling \$750,001 to \$1,000,000 there must be at least \$100,000 paid-in capital; said paid-in capital must be in the form of cash or comparable liquid assets as defined by rules and regulations.

In addition to the requirements set forth in subsections (1), (2), and (3) of this section, to the extent that a debenture company has outstanding securities other than capital stock totaling in excess of \$1,000,000, the debenture company's paid-in capital, equity reserves, and undivided profits shall be at least five percent of the outstanding securities in excess of \$1,000,000, but not over \$10,000,000, and two and one-half percent additional paid-in capital, equity reserves, and undivided profits for all securities in excess of \$10,000,000: PROVIDED, That the director may for good cause in the interest of the existing investors, waive this requirement: PROVIDED FURTHER, That if the director waives the minimum requirements set forth in this section, any debenture company taking advantage of this waiver shall set aside into its equity reserves and undivided profits, at least five percent of the net earnings of each year, until such time as they can meet the requirements without waiver from the director.

NEW SECTION. Sec. 8. Any debenture company offering debt securities to the public shall provide that at least fifty percent of the amount of those securities sold after July 1, 1973, shall have maturity dates of two years or more.

NEW SECTION. Sec. 9. (1) A director or officer of a debenture company shall not:

(a) Have any interest, direct or indirect, in the gains or profits of the debenture company, except to receive dividends upon the amounts contributed by him, the same as any other depositor or shareholder and under the same regulations and conditions: PROVIDED, That nothing in this subsection shall be construed to prohibit salaries as may be approved by the debenture company's board of directors;

(b) Become a member of the board of directors or a controlling shareholder of another debenture company or a bank, trust company, or national banking association, of which board enough other directors or officers of the debenture company are members so as to constitute

with him a majority of the board of directors.

(2) Neither a director nor an officer shall:

(a) For himself or as agent or partner of another, directly or indirectly use any of the funds held by the debenture company, except to make such current and necessary payments as are authorized by the board of directors;

(b) Receive directly or indirectly and retain for his own use any commission on or benefit from any loan made by the debenture company, or any pay or emolument for services rendered to any borrower from the debenture company in connection with such loan;

(c) Become an indorser, surety, or guarantor, or in any manner an obligor, for any loan made from the debenture company and except when approval has been given by the director of the department of motor vehicles or his administrator of securities upon recommendation by the company's board of directors.

(d) For himself or as agent or partner of another, directly or indirectly borrow any of the funds held by the debenture company, or become the owner of real property upon which the debenture company holds a mortgage. A loan to or a purchase by a corporation in which he is a stockholder to the amount of fifteen percent of the total outstanding stock, or in which he and other directors or officers of the debenture company hold stock to the amount of twenty-five percent of the total outstanding stock, shall be deemed a loan to or a purchase by such director or officer within the meaning of this section, except when the loan to or purchase by such corporation occurred without his knowledge or against his protest.

NEW SECTION. Sec. 10. (1) Debenture companies shall not issue certificates of debentures in passbook form, or in such other form which suggests to the holder thereof that such moneys may be withdrawn on demand.

(2) Each certificate of debenture or an application for a certificate shall specify on the face of the certificate or application therefor, in twelve point bold face type or larger, that such debenture is not insured by the United States government, the state of Washington, or any agency thereof.

NEW SECTION. Sec. 11. (1) Every issuer which has registered securities under Washington state securities law shall file with the director reports described in subsection (2) of this section. Such reports shall be filed with the director not more than one hundred twenty days (unless extension of time is granted by the director) after the end of the issuer's fiscal year.

(2) The reports required by subsection (1) of this section shall contain such information, statements and documents regarding the financial and business conditions of the issuer and the number and description of securities of the issuer held by its officers,

directors and controlling shareholders and shall be in such form and filed at such annual times as the director may require by rule or order. For the purposes of sections 9, 11 and 12 of this 1973 amendatory act, a "controlling shareholder" shall mean a person who is directly or indirectly the beneficial holder of more than ten percent of the outstanding voting securities of an issuer.

(3) (a) The reports described in subsection (2) of this section shall include financial statements corresponding to those required under the provisions of RCW 21.20.210 and to the issuer's fiscal year setting forth in comparative form the corresponding information for the preceding year and such financial statements shall be furnished to all shareholders within one hundred twenty days (unless extension of time is granted by the director) after the end of such year, but at least twenty days prior to the date of the annual meeting of shareholders.

(b) Such financial statements shall be prepared as to form and content in accordance with rules and regulations prescribed by the director and shall be audited (except that financial statements filed prior to July 1, 1976 need be audited only as to the most recent fiscal year) by an independent certified public accountant who is not an employee, officer or member of the board of directors of the issuer or a holder of securities of the issuer. The report of such independent certified public accountant shall be based upon an audit made in accordance with generally accepted auditing standards with no limitations on its scope.

(4) The director may by rule or order exempt any issuer or class of issuers from this section for a period of up to one year if he finds that the filing of any such report by a specific issuer or class of issuers is not necessary for the protection of investors and the public interest.

(5) For the purposes of sections 11 and 12 of this 1973 amendatory act, "issuer" does not include issuers of:

(a) Securities registered by the issuer pursuant to section 12 of the securities and exchange act of 1934 as now or hereafter amended or exempted from registration under that act on a basis other than the number of shareholders and total assets.

(b) Securities which are held of record by less than two hundred persons or whose total assets are less than \$500,000 at the close of the issuer's fiscal year.

(6) Any issuer who has been required to file under section 11 of this 1973 amendatory act and who subsequently becomes excluded from the definition of "issuer" by virtue of section 11(5) of this 1973 amendatory act must file a certification setting forth the basis on which they claim to no longer be an issuer within the meaning of this act.

(7) The reports filed under this section shall be filed and maintained by the director for public inspection. Any person is entitled to receive copies thereof from the director upon payment of the reasonable costs of duplication.

(8) Filing of reports pursuant to this section shall not constitute an approval thereof by the director or a finding by the director that the report is true, complete and not misleading. It shall be unlawful to make, or cause to be made, to any prospective purchaser, seller, customer or client, any representation inconsistent with this subsection.

NEW SECTION. Sec. 12. (1) It is unlawful for any person, including the officers and directors of any issuer, to fail to file a report required by section 11 of this 1973 amendatory act or to file any such report which contains an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading unless such person did not know, and in the exercise of reasonable care could not have known, of the failure, untruth or omission. In addition to any other penalties or remedies provided by chapter 21.20 RCW, each officer and director of an issuer which violates this subsection shall be personally liable for damages as provided in subsection (2) of this section if such officer or director:

(a) Had actual notice of the issuer's duty to file reports;

(b) Knew, or in the exercise of reasonable care could have known of the violation; and

(c) Could have prevented the violation.

(2) Any issuer and other person who violate subsection (1) of this section shall be liable jointly and severally for the damages occasioned by such violation, together with reasonable attorney fees and costs to any person who, during the continuation of the violation and without actual notice of the violation, purchases or sells any securities of the issuer within six months following the date the violation commenced.

(3) No suit or action may be commenced under subsection (2) of this section more than one year after the purchase or sale.

(4) Any person held liable under this section shall be entitled to contribution from those jointly and severally liable with him.

NEW SECTION. Sec. 13. In case of a violation of sections 11 and 12 of this 1973 amendatory act, the director may suspend sale or trading by or through a broker-dealer of the securities of the issuer until the failure to file a report or statement or the inaccuracy or omissions in any report or statement are remedied as determined by the director.

NEW SECTION. Sec. 14. This 1973 amendatory act shall take effect on January 1, 1975: PROVIDED HOWEVER, That debenture companies registered pursuant to chapter 21.20 RCW as of January 1, 1974, and for which there are no stop orders outstanding shall have until January 1, 1975, to comply with the requirements of section 7 of this 1973 amendatory act.

NEW SECTION. Sec. 15. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. Sections 5 through 14 of this 1973 amendatory act are hereby added to chapter 21.20 RCW.

Passed the House April 14, 1973.

Passed the Senate April 13, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 172

[House Bill No. 827]

COUNTY COMPREHENSIVE PLANS--
PORTIONS OF COUNTIES

AN ACT Relating to land planning; and amending section 36.70.320, chapter 4, Laws of 1963 and RCW 36.70.320 and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 36.70.320, chapter 4, Laws of 1963 and RCW 36.70.320 are each amended to read as follows:

Each planning agency shall prepare a comprehensive plan for the orderly physical development of the county, or any portion thereof, and may include any land outside its boundaries which, in the judgment of the planning agency, relates to planning for the county. The plan shall be referred to as the comprehensive plan, and, after hearings by the commission and approval by motion of the board, shall be certified as the comprehensive plan. Amendments or additions to the comprehensive plan shall be similarly processed and certified.

Any comprehensive plan adopted for a portion of a county shall not be deemed invalid on the ground that the remainder of the county is not yet covered by a comprehensive plan. This 1973 amendatory act shall also apply to comprehensive plans adopted for portions of a county prior to the effective date of this 1973 amendatory act.

NEW SECTION. Sec. 2. This act is necessary for the immediate