

Securities

CHAPTER 80

SECURITIES DIVISION

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80.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms defined in subdivisions 2 to 12, for the purposes of sections 80.05 to 80.27, shall be given the meanings subjoined to them.

Subd. 2. **Person.** "Person" means and includes a natural person, firm, co-partnership, association, syndicate, joint stock company, unincorporated company or organization or association, trust, trustee of a trust, or a corporation organized under the laws of any state or of the United States or of any territory or possession thereof or of the District of Columbia or of any foreign government. The term "trust," as herein used, shall not include a trust created or appointed under or by virtue of a last will and testament, or by a court of law or equity, or a public charitable trust.

Subd. 3. **Sale, sell or sold.** "Sale," "sell" or "sold" means and includes any disposition for value, an option of sale, a subscription, a preorganization subscription or certificate, a re-organization subscription or certificate, an agreement to issue or transfer, an exchange, pledge, hypothecation or any transfer in trust or otherwise by way of mortgage. Any security given or delivered as a bonus with any sale of securities, as such sale is herein defined, or with any other thing, shall be conclusively presumed to constitute a part of the subject of such sale and to have been sold for value.

"Offer to sell" or "offer for sale" shall mean every attempt or offer to dispose of, or solicitation of, an order or offer to buy, a security or interest in a security for value.

The sale of a security under conditions which entitle the purchaser or subsequent holder to exchange the same for, or to purchase, some other security shall not be deemed a sale or offer for sale of such other security; but no exchange for or purchase of such other security shall ever be made unless and until the sale thereof shall have been first authorized in Minnesota by registration under sections 80.05 to 80.27, or by exemption therefrom, or by other provisions of law.

Subd. 4. **Security.** "Security" means and includes any stock, share, bond, note, debenture, commercial paper, evidence of indebtedness, investment contract, interest in or under a profit-sharing or participating agreement or scheme, or beneficial interest in a trust or pretended trust. Any interest in any security shall be deemed a security.

Subd. 5. [Repealed, 1965 c 333 s 10]

Subd. 6. **Issuer.** "Issuer" means and includes every person who proposes to issue, has issued, or shall hereafter issue, any securities.

Subd. 7. **Agent.** "Agent" means and includes every person, other than a broker-dealer, employed, appointed, or authorized by an issuer, broker-dealer, or owner to sell securities. The term "agent" shall not include the partners of a partnership or officers of a corporation or an association licensed as a broker-dealer, or for whom securities are registered. The term "officers," as used in this subdivision, shall not include the directors of a corporation.

Subd. 8. **Commission.** "Commission" means the commission supervising and controlling the department of commerce of the State of Minnesota, under Laws 1925, Chapter 426, subject to all the provisions thereof relating to the powers and duties of the commissioner of securities as successor of the state securities commission. Whenever necessary to give effect to such provision, the term "commission" may be construed as meaning or including such commissioner of securities under Laws 1925, Chapter 426. The commission shall be known as the commerce commission.

Subd. 9. **Commissioner.** "Commissioner" means the commissioner of securities of the department of commerce.

Subd. 10. **Investor.** "Investor" means and includes any person to whom any security is sold or offered for sale or who purchases or acquires or attempts to purchase or acquire any such security.

Subd. 11. **Broker-dealer.** "Broker-dealer" means and includes every person who engages or professes to engage in selling, either for all or part of his time, directly or through an agent in the course of continued and successive sales any securities of which he is not the issuer for another, on an agency basis, or who purchases and acquires for himself or another any securities of which he is not the issuer for the purpose of reselling the same to others, and of buying, selling, or otherwise dealing or trading in such securities for himself or for another.

Subd. 12. **Investment adviser.** "Investment adviser" means and includes any person other than a licensed broker-dealer, who, for compensation, engages in the business of advising others, except persons to whom sales are exempted by section 80.06, subdivision 8, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities. This term shall not be construed to include a bank, trust company, or licensed practicing attorney whose performance of such services is solely incidental to the practice of his profession, or such other persons, not within the intent of this subdivision, as the commission may designate by rules and regulations or order.

Subd. 13. **Application of definitions.** As used in sections 80.30 to 80.36, the words "person," "sale," "sell," "sold," "offer to sell," "offer for sale," "broker-dealer," "agent," and any other word requiring a definition thereof, means the same as in sections 80.01 and 80.05 to 80.27, commonly known as the blue sky law.

[1925 c 192 s 1; 1927 c 66 s 2; 1927 c 68 s 8; 1933 c 408 s 1-3; 1941 c 547 s 1; 1955 c 19 s 1; 1965 c 333 s 1, 2, 3, 9] (3996-1, 4000-8)

80.02 POWERS AND DUTIES. The commissioner of securities shall have and possess all the rights and powers and perform all the duties heretofore vested by law in the state securities commission, except that applications for registration of securities and broker-dealers' licenses under Laws 1925, Chapter 192, and all matters pertaining to such registrations and licenses, application for the organization and establishment of new financial institutions under Laws 1919, Chapter 86, and acts amendatory thereof, applications by insuring companies for licenses to carry on business within the state and all matters pertaining to such licenses, and applications for the consolidation of insuring companies transacting business within the state shall be determined by the commission in the manner provided by the laws defining the powers and duties of the superintendent of banks, the commissioner of insurance, and the state securities commission, respectively, or, in the absence of any law prescribing the procedure, then by such reasonable procedure as the commission may prescribe. The commissioner may promulgate rules and regulations to carry out the provisions of sections 80.05 to 80.27.

[1925 c 426 art 8 s 3; 1941 c 547 s 21; 1965 c 333 s 9] (53-30)

80.03 ASSISTANT COMMISSIONER OF SECURITIES. The commissioner of securities may appoint an assistant commissioner of securities. The assistant commissioner of securities shall, before entering upon the discharge of his duties, give bond to the state in the amount of \$5,000, conditioned for the faithful discharge of his duties during his continuance in office and for the payment without delay to the officer or person entitled by law thereto of all moneys which come into his hands by virtue thereof. During the disability of the commissioner of securities, his absence from the seat of government, or a vacancy occurring in his office, and pending the filling thereof as provided by law, the assistant shall have and possess all the rights and powers to perform all the duties of the commissioner of securities.

[1925 c 426 art 8 s 3; 1963 c 73 s 1] (53-30)

80.04 [Repealed, 1961 c 561 s 17]

80.05 SECURITIES NOT SUBJECT TO REGISTRATION. Subdivision 1. The provisions of sections 80.07 to 80.10 with respect to the registration of securities, shall not apply to the securities set forth in this section.

Subd. 2. Any security issued or guaranteed by the United States or by any state, territory or insular possession thereof, or by the District of Columbia, or by the Dominion of Canada or any province thereof, or by any political subdivision, municipality, or agency of any one or more of the foregoing or by any public instrumentality or corporate or quasi-corporate public body lawfully created by any one or more of the foregoing; provided such security is payable by exercise of the issuer's or guarantor's general taxation, special assessment, or licensing powers or by appropriation of revenues to be derived from operation of a publicly owned utility or convenience and also any certificate of deposit for, temporary or interim certificate for, or receipt for any such security.

Subd. 3. Any security issued by and representing an interest in, or issued by and representing a direct obligation of, a state bank or trust company organized and operating under the laws of Minnesota, a national bank, wherever located, or a corporation created or existing by an act of the congress of the United States other than corporations created or existing under the code of laws for the District of Columbia or under the code of laws for any territory or possession of the United States, provided that such corporation is subject to supervision or regulation by the government of the United States.

Subd. 4. Any security issued or guaranteed either as to principal, interest or dividends, by a railroad which is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by any regulatory board, body or official, of the United States, or of any state or territory or insular possession of the United States, or of the District of Columbia, and all securities senior thereto; also equipment notes, bonds, or trust certificates, based on chattel mortgages, leases, or agreements for conditional sale, of cars, motive power or other rolling stock mortgaged, leased or sold to or furnished for the use of any railroad and equipment notes, bonds or trust certificates where the ownership of title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state, or of the Dominion of Canada, to secure the payment of such equipment notes, bonds or trust certificates; provided that such railroad is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by a regulatory board, body or official having like powers, of the United States or of any state or territory or insular possession of the United States, or of the District of Columbia, and also any interest bearing securities issued by a public service utility which utility is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by a public service commission, or any board, body, or official having like powers, of the United States or of any state or territory, which security would, at the time of sale, qualify for registration under section 80.09, subdivision 2, clause (2) (a).

Subd. 5. Securities listed on the New York Stock Exchange, American Stock Exchange, and Midwest Stock Exchange, and additional amounts of any such securities when regularly approved for listing upon notice of issuance thereof, which securities have been so listed pursuant to official authorization by such exchange, and all securities senior to any securities so listed, subscription rights so listed, or evidences of indebtedness guaranteed by companies any stock of

which is so listed, such securities to be exempt only so long as such listing shall remain in effect.

Subd. 6. Commercial paper or negotiable promissory notes which have a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace.

Subd. 7. Any security issued by a person, organized exclusively for social, religious, educational, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, trade, or professional association purposes and not for pecuniary gain, and no part of the net earnings of which inures to the benefit of any private stockholder or individual; provided, that any security, in whatever form, issued by any such person offering and furnishing a burial service or funeral benefit, directly or indirectly, for a financial consideration, shall be subject to registration.

Subd. 8. Policy contracts of insurance companies licensed to do business in this state.

Subd. 9. Any security issued by a savings, building and loan association organized under the laws of this state.

Subd. 10. Securities of any cooperative association organized in good faith under the laws of this state exclusively for the purpose of conducting upon the cooperative plan among its members, stockholders, and patrons any or all of the following businesses: Any agricultural, dairy, livestock or produce business; the business of selling, marketing, or otherwise handling any agricultural, dairy or livestock products, or other produce, raised or produced by the members, stockholders, and patrons of such association, or by any cooperative associations; the manufacture of anything from any agricultural, dairy or livestock products, or other produce, produced by the members, stockholders, and patrons of such associations; any business incidental to any of the above purposes, the operation of a rural telephone or rural electrification distribution system among its stockholders. Except as last hereinabove provided otherwise, all cooperative associations organized or existing under Laws 1923, Chapter 326, shall be deemed within the purview of sections 80.05 to 80.27 and any provision to the contrary in Laws 1923, Chapter 326, is hereby repealed.

Subd. 11. Capital shares, which have been outstanding for at least five years, of a corporation, organized under the laws of a state of the United States or the District of Columbia, which has outstanding only one class of shares and which is authorized by law to write insurance in this state and which corporation itself, or together with its predecessor or predecessors, has been continuously engaged in the insurance business for 20 years, has an aggregate capital and surplus of not less than \$5,000,000 and has, during each of the past five years, paid a dividend, which aggregate dividends for such period averaged at least three percent, calculated on the proposed sale price, on all its shares outstanding on the date of sale.

Subd. 12. Capital shares, which have been outstanding for at least five years, of a bank or trust company, organized under the laws of a state of the United States, or the District of Columbia, which has outstanding only one class of shares and which itself, or together with its predecessor or predecessors, has been continuously engaged in the banking business for 20 years, has an aggregate capital, surplus, and undivided profits of not less than \$5,000,000 and has, during each of the past five years, paid a dividend, which aggregate dividends for such period averaged at least three percent, calculated on the proposed sale price, on all its shares outstanding on the date of sale.

Subd. 13. Any security issued or guaranteed by any common carrier subject to regulation or supervision as to the issuance of its own securities by a public commission, board, or officer of the government of the United States.

Subd. 14. The commission may, by written order or regulation, suspend or wholly revoke the exempt status of any security or class of security exempted by this section or may require, prior to the sale of any such security or class of security, such information with respect thereto or the manner or terms of the proposed sales thereof, or such reports after sales thereof, as the commission may deem necessary to enable it to determine whether or not it should suspend or revoke the exempt status of such security or class of security.

[1925 c 192 s 2; 1927 c 66 s 3; 1931 c 404 s 1; 1933 c 408 s 4; 1939 c 275 s 1; 1941 c 547 s 2; 1949 c 265 s 1; 1953 c 52 s 1; 1963 c 73 s 2; 1963 c 538 s 1; 1965 c 333 s 4] (3996-2)

80.06 SALES EXEMPTED FROM OPERATION OF LAW. Subdivision 1. The provisions of sections 80.05 to 80.27, except as herein expressly provided, shall not apply to sales of the character set forth in this section.

Subd. 2. Any isolated sales of any securities by the issuer or owner thereof, or by a representative for the account of such issuer or owner, such sales not being made in the course of repeated and successive sales of securities of the same issue by such issuer or owner or by such representative for the account of such issuer or owner. This exception shall not be deemed to exempt a broker-dealer or a broker-dealer's agent from the requirement of obtaining a license as herein provided. In any complaint, information, or indictment charging a sale in violation of sections 80.05 to 80.27, it shall not be necessary to specifically name or identify persons, other than the complainant, to whom like sales have been made but it shall be sufficient to sustain the same upon the demurrer or motion for dismissal before trial if it alleges that such sale was made in the course of repeated and successive sales of the same issue.

Subd. 3. Any sale of notes or bonds secured by a mortgage lien when the entire lien together with all notes or bonds secured thereby are sold to a single purchaser at a single sale.

Subd. 4. Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction in this state.

Subd. 5. The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution.

Subd. 6. Any subscription for securities when no cash or other consideration is paid by, or agreed to be paid by, the purchaser prior to the registration of the securities; provided, that all such subscriptions are expressly conditioned upon the registration of such securities within one year from the date of such subscription and otherwise to be null and void; provided, further, that the commissioner of securities has been furnished with a general description of the transaction and with such other information as he may prescribe by rules and regulations.

Subd. 7. The sale, by a pledge holder or mortgagee selling in the ordinary course of business at public or private sale, of a security pledged with him in good faith as a security for a bona fide debt.

Subd. 8. The sale to any licensed broker-dealer or to any bank or financial institution under the supervision of an instrumentality or officer of the United States or of the commissioner of banks or of the commissioner of insurance of this state.

Subd. 9. The exchange of securities by the issuer thereof with its own security holders without any other consideration from such security holders and where no commission or other remuneration is to be paid to any one for effecting such exchanges; provided that the offer of exchange is filed with the commission at least ten days prior to the making thereof with the fee required by section 80.20, clause (5).

Subd. 10. The solicitation or execution of any orders by a licensed broker-dealer for the purchase or sale of any security; provided, that such broker-dealer acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of such security, receives no commission, profit, or other compensation from any source other than the purchaser or seller and delivers to the purchaser or seller written confirmation of the transaction which clearly itemizes his commission, or other compensation.

Subd. 11. The solicitation and sale by any corporation of its securities to its security holders where a pro rata offering is made only to its security holders pursuant to a specific plan adopted by the corporation, or where such offer is required pursuant to preemptive rights of such security holders either by operation of law in the state in which such corporation is organized or pursuant to the charter or articles of such corporation, provided that no commission is paid for the sale of such securities, and provided that no such solicitations shall be made unless:

(a) Such issuer, prior to any such solicitation, shall file with the commission detailed information concerning such solicitation and sale and such further information, statements, copies of papers and instruments as the commission may require in order to determine whether or not the proposed sale of securities

may be unfair, inequitable or fraudulent, or whether or not registration of such securities under section 80.08 or 80.09 is necessary or appropriate in the public interest or for the protection of investors, and

(b) The commission shall have advised such issuer in writing that the proposed solicitation and sale constitute exempt transactions under this subdivision.

Subd. 12. The issue and delivery of any security of the same issuer pursuant to a right of conversion entitling the holder of the security surrendered in exchange to make such conversion; provided, that the security so surrendered has been registered under the law or was, when sold, exempt from the provisions of the law.

Subd. 13. The sale of any cooperative association of its own securities to its patrons when all or substantially all of the consideration is comprised of patronage refunds accruing to the purchaser on business transacted with the issuer.

Subd. 14. The sale by a licensed broker-dealer, acting either as principal or agent, of securities theretofore sold and distributed to the public, provided that:

(a) Such securities are sold at prices reasonably related to the current market price thereof at the time of sale and if such broker-dealer is acting as agent, that the commission collected by such broker-dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics; and

(b) Such securities do not constitute an unsold allotment to or subscription by such broker-dealer as a participant in the distribution of such securities by the issuer or by or through an underwriter; and

(c) Either Moody's, Fitch's, or Standard and Poor's securities manuals, or other recognized securities manuals approved by the commissioner of securities contain the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of such sale, and a profit and loss statement of issuer for the fiscal year preceding the date of such balance sheet; and

(d) Such securities would qualify for registration by notification pursuant to the provisions of section 80.09; and

(e) Such securities are limited to issuers organized under the laws of any state or territory or insular possession of the United States.

Subd. 15. The issuance and delivery of any securities of one corporation to the security holders of another corporation in exchange for all or substantially all of the assets of such other corporation, or in connection with a consolidation or merger of such corporation, provided, that the commissioner of securities has been furnished with a general description of the transaction and with such other information as he may prescribe by rules and regulations.

Subd. 16. The commissioner may, by written order or regulation, suspend or wholly revoke the exempt status of any sales or class of sales exempted by this section or may require, prior to the making of any such sales or class of sales, such information with respect thereto or the security to be sold thereunder, or such reports after the making of such sale, as the commissioner may deem necessary to enable him to determine whether or not he should suspend or revoke the exempt status of such sales or class of sales.

[1925 c 192 s 3; 1927 c 66 s 4; 1933 c 408 s 5, 6; 1941 c 547 s 3; 1943 c 553 s 1, 2; 1949 c 265 s 2; 1953 c 52 s 2; 1955 c 222 s 9; 1959 c 285 s 1; 1963 c 73 s 3; 1965 c 333 s 5] (3996-3)

80.07 SECURITIES, REGISTRATION. No securities, except those exempt under section 80.05 and those sold in sales exempt under section 80.06, shall be offered for sale or sold within the state unless such securities have been registered pursuant to sections 80.08 or 80.09, except that it shall be permissible for licensed broker-dealers and agents to offer for sale in Minnesota prior to registration securities for which a registration statement has been filed under the federal Securities Act of 1933.

Registration may be secured by application as provided in section 80.08 or by notification as provided in section 80.09. Applications and notifications may be filed by the issuer, the owner, a licensed broker-dealer and may be for restricted registration or unlimited registration. A restricted registration is one which permits sales of a specified number only of units of a security by an issuer, owner, licensed broker-dealer or any one or more thereof designated by the applicant.

An unlimited registration is one which permits sales of all outstanding or to be outstanding units of a security by all licensed broker-dealers for secondary trading only. Any licensed broker-dealer may sell, pursuant to an unlimited registration, additional units of a security issued through conversion of any security outstanding on the date of registration or as a stock dividend on shares of the issuer outstanding at said date or through split-up of the security registered, and may also sell additional units of the security otherwise issued after the date of registration if, after reasonable investigation, he had no reason to believe that such additional units were issued otherwise than as hereinabove in this proviso set forth. The sale price fixed in any registration shall be a maximum price unless otherwise expressly provided in the registration.

[1925 c 192 s 4; 1927 c 66 s 5; 1941 c 547 s 4; 1943 c 553 s 3; 1953 c 52 s 3; 1955 c 19 s 2; 1957 c 504 s 1; 1963 c 73 s 4; 1965 c 333 s 9] (3996-4)

80.08 REGISTRATION BY APPLICATION. Applications for registration of securities shall be made on forms prescribed by the commission. The application shall contain such information and representations as the commission may require as necessary or appropriate in the public interest or for the protection of investors.

When the commissioner deems it necessary he shall have power, in connection with pending applications and at the expense of the applicant, to require the applicant to furnish additional information, to order an appraisal, audit or other examination and report, and, where the applicant is the issuer of the securities, or the proposed sale is to be on behalf of the issuer, to make an investigation of the books, records, property, business, and affairs of such issuer.

Upon compliance with all the provisions of sections 80.05 to 80.27 applicable to such application and the requirements of the commission or commissioner, the commission shall either register such securities or deny the application. The commission shall have power to place such conditions, limitations, and restrictions on any registration as may be necessary to carry out the purposes of sections 80.05 to 80.27. Registration shall be by entry in a book called Register of Securities, which entry shall show the securities registered and for whom registered, and the conditions, limitations, and restrictions, if any, or shall make proper reference to a formal order of the commission on file showing such conditions, limitations, and restrictions. The commission shall have power to deny an application for registration if the commission is of the opinion that the securities are fraudulent, or if it appears to the commission that the sale thereof would work a fraud or deception on the purchasers thereof, or if the proposed plan of business of the issuer and the terms of the securities are unfair and unjust, or if the applicant has violated any of the provisions of sections 80.05 to 80.27 or any registration or lawful order of the commission, or for good cause appearing to the commission. Denial shall be by written order.

[1925 c 192 s 5; 1933 c 408 s 7; 1941 c 547 s 5; 1963 c 73 s 5] (3996-5)

80.09 REGISTRATION BY NOTIFICATION. Subdivision 1. **Notification of intention.** When any securities required to be registered by the provisions of sections 80.05 to 80.27 are within the following subdivisions of this section, any person entitled to make application for the registration thereof may, in lieu of such application, file with the commission a notification of intention to sell such securities, which notification shall be on forms prescribed by the commission and shall contain the following information:

- (1) Name of issuer;
- (2) Authorized amount of the issue, the amount issued and outstanding and, if restricted, the amount covered by the notification;
- (3) Statement that the securities covered by the notification are within a designated clause of this section;
- (4) A descriptive circular or statement briefly describing the securities;
- (5) The price at which the securities are to be sold; and
- (6) If the sale is restricted, the names of the designated licensed broker-dealers, if any.

Subd. 2. **Kinds of securities.** The securities which may be registered by notification are as follows.

- (1) **Securities secured by first mortgage on real estate.** Any notes or bonds secured by a first mortgage or deed of trust upon real estate or leaseholds on real estate (not including oil, gas or mining property) situated in any state or

territory of the United States or in the District of Columbia or in the Dominion of Canada.

(a) When the mortgage is upon agricultural lands used and valuable principally for agricultural purposes and the aggregate face value of the notes or bonds covered by such notification together with all notes or bonds already outstanding and equally secured by such mortgage does not exceed 70 percent of the then fair market value of said lands, including any improvements appurtenant thereto.

(b) When the mortgage is upon city or village real estate or leaseholds and the aggregate face value of the notes or bonds covered by such notification together with all notes or bonds outstanding and equally secured by such mortgage does not exceed 70 percent of the then fair market value of the real estate or leaseholds, including any improvements appurtenant thereto, and when the mortgaged property is used principally to produce through rental a net annual income, after deducting operating expenses and taxes, or has a fair rental value after deducting operating expenses and taxes, at least equal to the annual interest on such aggregate face value of notes or bonds plus not less than three percent of the principal of the mortgage indebtedness.

(c) When the mortgage is upon city or village real estate or leaseholds upon which real estate or leaseholds a building or buildings is or are about in good faith forthwith to be erected according to the expressed terms of the mortgage and when reasonable adequate provision has been made for financing the full completion of the building free and clear of any lien superior to the mortgage, and the aggregate face value of the notes or bonds covered by such notification together with all notes or bonds outstanding and equally secured by such mortgage does not exceed 70 percent of the fair market value of such mortgaged property, including the building or buildings to be erected thereon, as aforesaid, and when the mortgaged property is to be used principally to produce through rental a net annual income, after deducting operating expenses and taxes, or will have a fair rental value after deducting operating expenses and taxes, at least equal to the annual interest on such aggregate face value of notes or bonds plus not less than three percent of the principal of the mortgage indebtedness.

(2) **Securities of business having certain qualifications.** Securities issued by any person who, at the time of the notification, owns a property, business, or industry which has been in continuous operation, either under a single ownership or under several ownerships for not less than five years next preceding the filing of the notification, and which property, business, or industry has shown, during a period of not less than three years or more than ten years next prior to the close of its fiscal year next preceding such notification, average annual net earnings, after income taxes, determined in accordance with accepted accounting practices, after deducting all charges, excepting the charges and fixed dividends upon any securities to be retired out of the proceeds of such sale, and assets (not including patents, copyrights, secret processes, formulas, good will, trade-marks, trade brands, franchises, and other like intangible property), as of the close of its fiscal year next preceding such notification, together with the proceeds of the sale of such securities accruing to the issuer, as follows:

(a) In the case of interest-bearing securities, not less than one and one-half times the annual interest charge thereon and upon all other outstanding interest-bearing obligations of equal rank, and assets at least equal to 125 percent of the face value of such interest-bearing securities, and all other obligations of equal or prior rank outstanding and not to be retired out of the proceeds of the sale of such securities.

(b) In the case of preferred stock, not less than one and one-half times the annual dividend on such preferred stock and on all other outstanding stock of equal rank, and assets at least equal to 125 percent of the par value of the aggregate amount of such preferred stock and all other outstanding preferred stock of equal rank, after the deduction from such assets of all indebtedness, which will be existing and all stock of senior rank which will be outstanding after the application of the proceeds of the preferred stock offered for sale.

(c) In the case of common stock, not less than four percent upon all outstanding common stock of equal rank together with the amount of common stock then offered for sale, all reckoned upon the price at which the stock is then offered for sale or sold.

For the purpose of registering under this subsection securities of any issuer owning more than 50 percent of the outstanding voting stock of a subsidiary

company, such issuer shall be deemed to be the owner of the business of the subsidiary company, and the earnings of the subsidiary company applicable to the payment of dividends upon all stock of the subsidiary company owned by such issuer shall be considered as earnings of such issuer.

(3) **Certain seasoned securities.** (a) Securities which have been outstanding more than five years, which have a fixed interest or dividend rate, as to which no default exists or has existed for five years, and the issuer of which, as of the close of its fiscal year next preceding such notification, has, in the case of interest-bearing securities, assets (not including patents, copyrights, secret processes, formulas, good will, trade-marks, trade brands, franchises, and other like intangible property), at least equal to 125 percent of the face value of such securities and all other securities of the issuer of equal or prior rank thereto, and, in the case of dividend bearing securities, assets, as above defined, after deducting therefrom all indebtedness of the issuer, at least equal to 125 percent of the par or liquidating value, whichever is greater, of such securities and all other capital shares of the issuer of equal or prior rank thereto.

(b) Capital shares which have been outstanding more than five years, which have no fixed dividend charge, and the issuer of which has had, during a period of five years next prior to the close of its last fiscal year next preceding such notification, average annual net earnings available for dividends thereon, determined according to sound accounting practice, at least equal to four percent upon all of the outstanding issue of which the shares are a part, reckoned upon the price at which the shares are proposed to be sold. The provisions of clause (2) with respect to the ownership by an issuer of stock of a subsidiary company shall be applicable to this clause (3).

The commission shall have the same powers and duties with respect to a notification under any of the subdivisions of this section as it has with respect to an application. If no action is taken by the commission with respect to a notification within 48 hours after the filing thereof, the securities covered thereby shall become registered, subject to the terms of the notification, provided that the commission may, within that period, extend the same for such reasonable time as it deems necessary or may, within such 48-hour period, or any extension thereof, require the registration to be made by application notwithstanding that it would otherwise be registerable by notification, and in such event all provisions with respect to registration by application shall apply. Notice of any such extension of time or of such requirement of registration by application shall be deemed to have been given when deposited in the post office in and for the city of St. Paul addressed to the person giving such notification, first-class postage prepaid thereon, or when filed with a telegraph company in that city addressed to such person and sent collect or prepaid. In the event that the commission shall so require registration to be made by application, the applicant may withdraw such notification, and in such event the entire fee paid by the applicant, except the sum of \$10, shall be returned to the applicant.

[1925 c 192 s 6; 1927 c 66 s 6; 1933 c 408 s 8; 1941 c 547 s 6; 1965 c 333 s 6, 9] (3996-6)

80.10 TERMINATIONS: AMENDMENTS. A registration shall remain in effect until suspended, revoked, or canceled except that a restricted registration shall terminate upon the sale of the number of units therein designated, at which time the registrant shall notify the commission of that fact and request cancellation of the registration. Anyone who may apply for registration of a security may apply to the commission in writing for an amendment to any existing registration.

[1925 c 192 s 7; 1933 c 408 s 9; 1941 c 547 s 7; 1943 c 553 s 4; 1963 c 73 s 6] (3996-7)

80.11 POWERS REGARDING REGISTRATIONS. Subdivision 1. **Investigative.** The commission shall have power in connection with any registration of any securities, which is not canceled or revoked, to require the person for whom such registration was made to furnish to the commission in such form as it may designate any information deemed necessary to assist the commission or commissioner in determining whether such registration should remain in force, whether such securities are fraudulent, whether the sale thereof has worked or will work a fraud on purchasers or whether such person has violated or is about to violate such registration or any lawful order of the commission or commissioner or any of the provisions of sections 80.05 to 80.27. In such case the commission or commissioner shall

also have power to make an examination and investigation of the books, records, papers, accounts, property, business, and affairs of such person, and to make or cause to be made on its behalf, an audit of the accounts, books and records of such person, and by its order to require such person to permit such examination, investigation, and audit to be made and to require such person to submit to the commission his books, papers, records, and accounts for the purpose of such examination, investigation, and audit. If a registration has been made for a broker-dealer acting under a fiscal agency contract or other authority from the issuer, the commission shall have the same power as against such issuer.

Subd. 2. Revocation. When the commission or commissioner is in possession of information indicating that any registered security is fraudulent, or that the further sale thereof would work a fraud or deception on the purchasers thereof, or that the person for whom a registration was made has violated or is about to violate the registration or any lawful order of the commission or commissioner or any of the provisions of sections 80.05 to 80.27 or for good cause appearing to the commission, it may issue its order requiring such person to show cause before the commission why such registration should not be revoked. In any such order the commission shall fix the time and place for hearing thereon not less than 10 nor more than 30 days from the date of such order and at which time and place a full hearing shall be had. A registration may be suspended pending the final determination of any order to show cause, during which suspension it shall be unlawful to sell such securities. After such hearing the commission shall enter its order either vacating the order to show cause and suspension, or modifying the terms of the registration, or permanently revoking the registration or making such other disposition of the matter as the facts require.

Subd. 3. Annual reports, cancellation. Within 30 days after each anniversary date of a registration, any person may file with the commission an annual report on forms prescribed by the commission. Upon failure to file such report the commission may, in its discretion, cancel such registration, provided that the power so conferred upon the commission shall in no wise delimit the other powers conferred upon the commission with respect to registrations. Any registration canceled for failure to file an annual report may, in the discretion of the commission, be reinstated upon the filing of such report and any subsequent ones which otherwise would have been subject to filing had the registration not been canceled, and the payment of one annual report filing fee. Any such reinstatement shall be effective as of the date thereof.

A registration may be canceled by the commission in its discretion at any time at the request of the person who made the application or gave the notification on which such registration was made.

All amendments, suspensions, revocations, cancellations, and reinstatements of registrations shall be entered on the register of securities. No suspension, revocation, or cancellation of a registration shall become effective as to any person prior to his receipt of actual notice thereof, or, as to any person not theretofore receiving actual notice thereof, prior to the second business day following the mailing to such person by the commission of notice thereof or the filing by the commission of telegraphic notice thereof to such person.

Subd. 4. Report of sales. The department of commerce may at any time require any issuer, broker-dealer, or agent to report to it all sales of any specified security registered or required to be registered under the securities law. Such reports shall be made within ten days after demand therefor by the department of commerce and shall be open for inspection only to public authorities, and then only upon a court order. Any person who shall make known, in any manner not provided by law, any information contained in these reports shall be guilty of a gross misdemeanor.

[1925 c 192 s 8; 1927 c 66 s 6½; 1931 c 382 s 3; 1941 c 547 s 8; 1965 c 333 s 9] (3996-8, 3996-31)

80.12 BROKER-DEALER; LICENSE. Subdivision 1. **Application.** No broker-dealer shall offer for sale, sell or profess the business of selling, any securities unless or until he shall have been licensed as a broker-dealer as hereinafter provided; except that a broker-dealer licensed as such in another state may sell any securities to any licensed broker-dealer or to any bank or financial institution under the supervision of an instrumentality or officer of the United States, or of the commissioner of banks, or of the commissioner of insurance of this state.

To secure a broker-dealer's license application shall be made to the commission on forms prescribed by the commission, which application shall be signed and sworn to by the applicant and contain, in addition to other information which the commission may require, applicant's name and address or addresses at which the business is to be conducted, the names and addresses of all officers of the applicant, if a corporation, and of all persons interested in the business, if a partnership or unincorporated association, and a statement of the business to be transacted. The commission shall have power, in connection with application for broker-dealers' licenses, to require applicant to furnish in such form as it shall designate any additional information deemed necessary to enable it to properly pass on the application before it; to order an appraisal, audit or such other expert or technical examination and report as may seem necessary; and to make an investigation of the books, records, property, business, and affairs of the applicant.

Upon compliance by an applicant for a broker-dealer's license with the provisions of sections 80.05 to 80.27 and the requirements of the commission, the commission shall either issue a license as prayed, or deny the application. The commission shall have power to deny if the applicant has not sufficient financial responsibility to carry out the obligations incidental to the business of a broker-dealer, is of bad business repute, has violated any of the provisions of sections 80.05 to 80.27, or any registration, license, or lawful order of the commission, or has engaged in, or is about to engage in, any fraudulent transactions, or if it appears to the commission that the sale of securities by the applicant would work a fraud on purchasers thereof, or for good cause to the commission appearing. Denial shall be by written order.

Broker-dealers' licenses shall be good for one year from date of issuance, unless sooner suspended, canceled, or revoked, as hereinafter provided, and shall authorize the licensee therein named to transact business as a broker-dealer subject to the provisions of sections 80.05 to 80.27.

A licensed broker-dealer shall at all times keep securities and funds of his customers in trust for such customers and segregated from his own securities and funds; however, this provision shall not apply to broker-dealers who are members of the New York, American, or Midwest Stock Exchanges, and who are governed by rules of their respective exchanges.

Subd. 2. Revocation, cancellation. The commission shall have power, in connection with any broker-dealer's license which is not revoked or canceled, to require the licensee to furnish to the commission, in such form as it may designate, any information deemed necessary to assist the commission in determining whether such license should remain in force, whether such licensee is solvent, whether such licensee has violated, or is about to violate, any of the provisions of sections 80.05 to 80.27 or any registration, license or lawful order of the commission, has sold, or is about to sell, any fraudulent securities, has engaged in, or is about to engage in, any fraudulent transaction, or whether the sale of securities by such licensee will work a fraud on purchasers.

In such case the commission shall also have power to make an examination and investigation of the books, records, papers, accounts, property, business and affairs of such licensee, and to make, or cause to be made on its behalf, an audit of the accounts, books, and records of such licensee, and by its order to require such licensee to permit such examination, investigation, and audit to be made, and to require such licensee to submit to the commission his books, papers, records and accounts for the purpose of such examination, investigation, and audit. When the commission is in possession of information indicating that the licensee is not solvent, is of bad business repute, has violated, or is about to violate, any of the provisions of sections 80.05 to 80.27, or any registration, license or lawful order of the commission, has engaged in, or is about to engage in, any fraudulent transaction, or that the sale of securities by such licensee would work a fraud on purchasers thereof, or for good cause appearing to the commission, it may issue its order requiring such licensee to show cause why his license should not be revoked. In any such order the commission shall fix the time and place for hearing thereon, at which time a hearing shall be had. Any license may be suspended pending the final determination of any order to show cause during which suspension it shall be unlawful for such licensee to transact any business as a broker-dealer. After the hearing the commission shall enter its order vacating such order to show cause

and suspension, or permanently revoking the license, or making such other disposition of the matter as the facts require.

A broker-dealer's license may be canceled by the commission at any time at the request of the licensee.

[1925 c 192 s 9; 1927 c 66 s 7; 1933 c 408 s 10; 1941 c 547 s 9; 1949 c 265 s 3; 1955 c 19 s 3; 1957 c 504 s 2; 1963 c 73 s 7; 1963 c 674 s 1; 1965 c 333 s 9] (3996-9)

80.13 AGENTS, LICENSES. No agent shall offer for sale or sell any securities unless or until he shall have been licensed as hereinafter required; provided that this section shall not apply to an agent of an issuer selling securities exempted under section 80.05, or selling securities in a manner exempted under section 80.06. No agent, except one appointed or employed by a licensed broker-dealer, shall be issued a license under sections 80.05 to 80.27 until he shall have resided in this state for one year immediately prior to making his application. Before any license shall be issued to an agent, he shall file a surety bond of such an amount as may be approved by the commission for the benefit of the public, or any issuer, owner, or licensed broker-dealer may file a blanket surety bond covering all of its licensed agents, or may deposit in and with a depository acceptable to and approved by the commissioner of securities, securities, cash or other collateral of such kind and in such amount and in such a manner as may be prescribed and approved by the commissioner of securities. The filing of such blanket bond or the deposit of securities as aforesaid, shall operate in lieu of a bond as otherwise required for the individual agents. The commissioner of securities shall have power to require an additional or new bond to be filed when, in the opinion of the commissioner of securities, the bond theretofore filed is insufficient due to the number of agents licensed for and on behalf of that issuer, owner, or licensed broker-dealer, or that the amount of the bond has become impaired by reason of liability contingent or accrued thereunder.

Agents' licenses shall be issued only to agents of issuers or owners for whom securities are registered or to agents of licensed broker-dealers.

To secure such a license application shall be made to the commission on forms prescribed by the commissioner, which application shall be signed and sworn to by the person desiring such license, contain the applicant's address, and such other information as the commissioner may require, and be accompanied by a statement signed by the issuer, owner, or licensed broker-dealer for whom such applicant is agent stating that such issuer, owner, or licensed broker-dealer has appointed the person therein named as his agent. The commission or commissioner shall have power to require the applicant, or his principal, to furnish such additional information regarding the agent as may seem necessary. The application shall either be granted and license issued, or denied. The commission shall have power to deny an agent's application, if the applicant is not of good business repute or has violated any of the provisions of sections 80.05 to 80.27, or any registration, license, or lawful order of the commission, or has engaged in any fraudulent transaction, or if it appears to the commission that the sale of securities by such applicant would work a fraud on purchasers thereof, or for good cause appearing to the commission. Denial shall be by written order. Agents' licenses shall be good for one year from date of issuance, unless sooner cancelled, suspended or revoked, and authorize the licensee therein named to do anything his principal is authorized to do.

The commission shall have power, in connection with an agent's license outstanding, to require the agent, or the issuer, owner, or licensed broker-dealer for whom such agent was licensed, to furnish to the commission in such form as it may designate, any information deemed necessary to assist the commission in determining whether such license should remain in force. When the commission or commissioner is in possession of information indicating that any licensed agent is not of good business repute, has violated, or is about to violate, any of the provisions of sections 80.05 to 80.27 or any regulation, license, or lawful order of the commission, or has engaged, or is about to engage, in any fraudulent transaction, or that the sale of securities by such licensee would work a fraud on purchasers thereof, or for good cause appearing to the commission, it may issue its order requiring such licensee to show cause why his license

should not be revoked. In any such order the commission shall fix the time and place for hearing thereon, at which time a hearing shall be had.

Any agent's license may be suspended pending the final determination of any order to show cause, during which suspension it shall be unlawful for such licensee to act as such agent. After the hearing the commission shall enter its order vacating such order to show cause and suspension, or permanently revoking the license, or making such other disposition of the matter as the facts require.

On any matter pertaining to an agent's license, the issuer, owner, or licensed broker-dealer for whom such agent was appointed shall be deemed an interested party. Failure to secure an agent's license shall be deemed a violation of sections 80.05 to 80.27 by both the issuer, owner, or licensed broker-dealer and the agent.

An agent's license may be cancelled by the commission at any time at the request of the issuer, owner, or broker-dealer for whom such agent was licensed, or the agent.

[1925 c 192 s 10; 1927 c 66 s 8; 1933 c 408 s 11; 1937 c 481 s 2; 1941 c 547 s 10; 1955 c 19 s 4; 1965 c 333 s 7] (3996-10)

80.131 INVESTMENT ADVISERS' LICENSES. No person shall engage in or profess to engage in business as an investment adviser, unless or until he shall have been licensed as an investment adviser as hereinafter provided. Application for such license shall be made on forms prescribed by the commission, and shall contain information as required by the commission with respect to the nature of applicant's proposed business, the method of conducting the same, and the applicant's experience, repute and qualifications. The commission shall have power in connection with such applications to require applicant to furnish in such form as the commission or the commissioner shall designate any additional information deemed necessary to enable it to properly pass on the application before it, and if the applicant has previously engaged in business as an investment adviser, to make an examination of the books, records, business, and affairs of such applicant.

Upon compliance by an applicant for an investment adviser's license with the provisions of sections 80.05 to 80.27 and the requirements of the commission, the commission shall either issue a license as prayed for, or deny the application. The commission shall have power to deny if the applicant is not solvent, is of bad business repute, has violated any of the provisions of sections 80.05 to 80.27 or any registration, license, or lawful order of the commission, or if he does not, in the opinion of the commission, possess the necessary experience and qualifications or if the nature of his proposed business or the method of conducting the same appears to the commission to be such that it would work a fraud, or for good cause to the commission appearing. Denial shall be by written order.

Investment adviser's licenses shall be good for one year from date of issuance, unless sooner suspended, canceled, or revoked, as hereinafter provided, and shall authorize the licensee therein named to transact business as an investment adviser and subject to the provisions of sections 80.05 to 80.27. An investment adviser's license may be canceled by the commission at any time at the request of the licensee.

The commission or commissioner shall have power to require an investment adviser to make written reports to the commission in such form and detail as the commissioner may require with respect to the nature of his business, the method of conducting the same, and the type and class of his clients and such other information as the commission or commissioner may deem necessary to assist in determining whether the license should remain in force, whether a licensee has violated or is about to violate any of the provisions of sections 80.05 to 80.27 or has engaged in or is about to engage in any fraudulent transaction.

When the commission or commissioner is in possession of information indicating that a licensee is insolvent, is of bad business repute, has violated or is about to violate any of the provisions of sections 80.05 to 80.27 or lacks the necessary experience and qualifications for acting as an investment adviser, or has engaged in, or is about to engage in, any fraudulent transaction, the commission may issue its order requiring such licensee to show cause why his license should not be revoked. In any such order the commission shall fix the time and place for hearing thereon, at which time a hearing shall be had. Any license may be suspended pending the final determination of any order to show cause, during which suspension it shall be unlawful for such licensee to transact any business as an investment adviser.

After the hearing the commission shall enter its order vacating such order to show cause and suspension, or permanently revoking the license, or making such other disposition of the matter as the facts require.

[1941 c. 547 s. 19]

80.132 CHARGES OF ADVISERS. No investment adviser who shall recommend the purchase or sale of a security to a client and no licensed broker-dealer acting as a broker-dealer for a customer in the purchase or sale of a security shall take or accept any remuneration or other thing of value from any person other than the client or customer in connection with such purchase or sale unless, prior to or contemporaneously with such recommendation in the case of an investment adviser and prior to or contemporaneously with the confirmation of the transaction in the case of a licensed broker-dealer so acting, written disclosure to the client or customer is made of the acceptance or intended acceptance of such remuneration or other thing of value and of the amount thereof. All charges made by an investment adviser for services and all charges by a licensed broker-dealer for services rendered by him as broker-dealer or for advice with respect to securities shall be reasonable, and no such charges shall be based upon or measured by profits accrued or to accrue from transactions recommended or carried out by an investment adviser, or licensed broker-dealer.

[1941 c. 547 s. 20; 1965 c. 333 s. 9]

80.14 NONRESIDENTS, SERVICE OF PROCESS. Subdivision 1. **Commissioner, agent for service of process.** Every nonresident person shall, before having any securities registered or being licensed as a broker-dealer, investment adviser, or agent, appoint the commissioner of securities, and his successor or successors in office, his true and lawful attorney upon whom may be served all legal process in any action or proceeding against such person or in which such person may be a party, in relation to or involving any transaction covered by sections 80.05 to 80.27, which appointment shall be irrevocable. Service upon such attorney shall be as valid and binding as if due and personal service had been made upon such person. Any such appointment shall become effective upon the registration of the securities or the issuance of the license in connection with which the appointment was filed.

The commission of any act which constitutes a violation of sections 80.05 to 80.27 by any nonresident person who has not theretofore appointed the commissioner of securities his attorney in compliance with the first paragraph of this section shall be conclusively deemed an irrevocable appointment by such person of the commissioner of securities, and his successor or successors in office, as his true and lawful attorney upon whom may be served all legal process in any action or proceeding against him or in which he may be a party in relation to or involving such violation, and such violation shall be a signification of his agreement that all such legal process which is so served shall be as valid and binding upon him as if due and personal service thereof had been made upon him.

Service of process under this section shall be made by delivering a copy thereof to the commissioner of securities personally or by filing the same in his office, accompanied by one additional copy for each person so served, and by the mailing by the commissioner of a copy thereof by registered mail, not later than the business day following the day of such service, to each person so served at his address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney pursuant to appointment in compliance with the first paragraph of this section and at his last known address in the case of service made on the commissioner as attorney pursuant to appointment by virtue of the second paragraph of this section.

Subd. 2. Actions by commissioner. Where the commissioner deems it necessary to institute any legal proceeding for the enforcement of any of the provisions of sections 80.05 to 80.27 and it shall appear that he is unable to effect personal service within this state, service may be made in any of the following manners:

(1) Personal service without the state proved by an affidavit of the person making the same;

(2) Deposit in the mails, by registered mail, addressed to the interested person at the last known address and the publication once only of notice of the institution of such legal proceeding, such publication to be made in a legal publication in the

county where such proceeding is instituted at least ten days prior to the hearing thereon or the return date provided for in such proceeding; or

(3) Any mode of service approved by the court having jurisdiction over the matter.

[1925 c 192 s 11; 1933 c 408 s 12; 1941 c 547 s 11; 1957 c 504 s 3; 1965 c 333 s 9] (3996-11)

80.15 HEARINGS, WHEN DEMANDED. On all lawful orders of the commissioner made without a hearing having been had on the matter thereby determined, or opportunity therefor afforded, the interested person shall have the right within 30 days from the date thereof to demand a hearing on such matter. On any such demand it shall be the duty of the commissioner to fix a date for a hearing not more than 30 days from the date of the demand. At the time set a hearing shall be had, after which the commissioner shall make such further order as the facts require and may either vacate, modify, or adhere to the order theretofore made.

[1925 c. 192 s. 12; 1927 c. 66 s. 9] (3996-12)

80.16 ORDERS OF COMMISSIONER; SERVICE. All lawful orders of the commissioner may be served by mailing a true and correct copy thereof by registered mail addressed to the interested person at the address on file with the commissioner. Any person may, by notice to the commissioner in writing, change his address on file, after which notice service shall be to the address last furnished. Service made as herein provided shall be deemed sufficient for the purposes of sections 80.05 to 80.27.

[1925 c. 192 s. 13] (3996-13)

80.17 DEPOSITS FOR EXAMINATION; FUNDS; DISBURSEMENTS; REFUNDS; FIELD EXAMINATIONS. When it is necessary for the commission or commissioner to incur any expense in connection with any application, notification, registration, or license, it shall have the power to require the interested person to make an advance deposit with the commissioner in an amount estimated as sufficient to cover such expense. All such deposits shall be covered into the state treasury and credited to the state securities commission, investigation fund, from which fund the commission shall have power to make disbursements to pay such expenses. Any unexpended portion shall be refunded. On field examinations made by a commissioner or employee away from the office of the commissioner a per diem of \$10 for each such person may be charged in addition to the actual expenses. Where additional technical, expert, or special services are used, the actual cost of such services may be charged in addition to actual expenses.

[1925 c. 192 s. 14; 1941 c. 547 s. 12] (3996-14)

80.18 CIRCULAR, PROSPECTUS, ADVERTISEMENT, OR OTHER MATTER. No person shall himself, or by or through others, or as agent or otherwise, publish, circulate, distribute, or cause to be published, circulated, or distributed, in any manner, any circular, prospectus, printed matter, document, pamphlet, advertisement through any medium, or other matter, pertaining to any securities which have not been registered as herein provided; but this provision shall not apply to securities for which a registration statement has been filed under the federal Securities Act of 1933.

No circular, prospectus, advertisement, printed matter, document, pamphlet, leaflet, or other matter (hereinafter referred to as advertising matter) containing or constituting an offer to sell any securities required to be registered in compliance with the provisions of sections 80.08 and 80.09, or rendering advice with relation thereto, shall be published, circulated, distributed, or caused to be published, circulated, or distributed, in any manner unless and until such advertising matter shall have been submitted in duplicate to the commission and approved by it. The commission shall have power to disapprove any such advertising matter which it deems in conflict with the purposes of sections 80.05 to 80.27.

All such advertising matter shall carry the name and address of the issuer, or broker-dealer, circulating, publishing or distributing same and make no reference to the registration of the securities or the issuance of a license by the commission.

The provisions of this section shall not apply to securities exempted under section 80.05, nor to sales of securities made in a manner exempted under section 80.06.

[1925 c 192 s 15; 1927 c 66 s 10; 1933 c 408 s 13; 1941 c 547 s 13; 1955 c 19 s 5; 1957 c 504 s 4; 1965 c 333 s 9] (3996-15)

80.19 FALSE STATEMENTS OR MISLEADING ACTS. No person shall knowingly subscribe to, make, or file, or cause to be subscribed to, made, or filed, any statement, information, or proof required by sections 80.05 to 80.27 or by the commissioner, which is in whole or in part materially false, nor shall any person knowingly make, or cause to be made, any false entry in any book or record of any person making application for registration or license or for whom securities have been registered or who has been licensed, nor exhibit any paper, document, book, or record to any person authorized to examine the same for the purpose of deceiving or misleading such person or the commissioner.

[1925 c. 192 s. 16] (3996-16)

80.20 FEES. The following fees shall be paid to the commission:

(1) On application for registration, an examination fee of \$10, and a fee of \$1 per \$1,000 on the total proposed sale price of the securities covered by such application, of which last stated amount \$25 shall be considered a filing fee and the remainder a registration fee; provided, that the minimum fee shall be \$35 and the maximum fee \$500, which maximum fee shall include the \$10 examination fee. An unlimited registration shall require the maximum fee.

(2) On notification of intention to sell, an examination fee of \$5, and a fee of 50 cents per \$1,000 on the total proposed sale price of the securities covered by such notification, of which last stated amount \$10 shall be considered a filing fee and the remainder a registration fee; provided, that the minimum fee shall be \$15 and the maximum fee \$200 except that the maximum fee shall be \$100 on securities outstanding for more than one year, which maximum fees shall include the \$5 examination fee. An unlimited notification shall require the maximum fee.

(3) On application for agents' licenses, \$7.50.—

(4) On application for broker-dealers' licenses, \$100.

(5) On filing an offer under section 80.06, subdivision 9, \$10.

(6) On application for an amendment to a registration increasing the maximum selling price thereunder, \$10, plus an additional fee calculated in accordance with clause (1) or (2) of this section, as the case may be, less the amount of all fees theretofore paid pursuant to clause (1) or (2) of this section in connection with the registration the amendment of which is requested; and on any other application for an amendment, \$10.

(7) On annual reports of any investment company as now defined by section 3 of the "Investment Company Act of 1940" (Title I of Public Law No. 768—76th Congress, 3rd Session), \$100.

(8) On annual reports other than those covered by the preceding clause (7), \$10.

(9) On applications for investment advisor's licenses, \$75.

(10) For acceptance of service and mailing of process served upon the commissioner under any of the provisions of sections 80.05 to 80.27, \$2 for each person so served.

(11) The commission in the case of an application for registration, and the commissioner of securities in the case of notification of intention to sell, at any time prior to the registration of securities, may order the return of registration fees provided for in clauses (1) and (2) when securities applications and notifications of intention to sell are permitted to be withdrawn. When such a withdrawal is made, the commissioner of securities shall certify to the state auditor the portion of the fee to be refunded to the applicant, and the auditor shall issue his warrant in payment thereof out of the fund to which such fee was credited in the manner provided by law. There is hereby appropriated to the persons entitled to such refunds from the fund in the state treasury to which such fees were credited an amount to make such refunds and payments.

No application, notification, request for amendment of a registration, service of process, annual report, or filing of offer shall be deemed to be filed or given any effect until the proper fee is paid. All fees and charges collected by the commission shall be covered into the state treasury.

[1925 c 192 s 17; 1933 c 408 s 14; 1937 c 243 s 1; 1941 c 547 s 14; 1943 c 553 s 5, 6; 1953 c 52 s 4; 1955 c 280 s 14; 1957 c 504 s 5; 1963 c 73 s 8; 1965 c 333 s 8] (3996-17)

80.21 CERTIFICATES; CERTIFIED COPIES; DUPLICATE ORDERS OR LICENSES. The commissioner is hereby vested with power to prepare and issue the following:

(1) Certified copies of any order of registration, or of any license, or of any

lawful order of the commissioner; any such certificate may recite that such registration, license, or lawful order has not been suspended, revoked, canceled, or amended except as therein stated;

(2) Any certificate to the effect that the records of the commissioner show that a specified security was or was not registered, or that a specified person was or was not licensed, on a specified date or between specified dates; and

(3) Certified copies of any application, document, exhibit, report, or other paper on file with the commissioner.

All certificates issued pursuant to the above specified clauses (1), (2), and (3) shall be signed by the commissioner and identified by an impression of the seal of the department of commerce, securities division. The commissioner shall charge 50 cents for each certificate and ten cents per folio for all copies certified. All these certificates shall be prima facie evidence of the facts therein stated; and all copies certified shall be received in evidence in all courts with the same force and effect as the originals thereof.

The commissioner may issue any order or license in duplicate, both of which shall have the force and effect of originals.

[1925 c. 192 s. 18] (3996-18)

80.22 INVESTIGATIONS. Subdivision 1. **Powers.** When the commission or commissioner, from information in its or his possession, has reasonable ground to believe that any person within three years has sold, or is about to sell, any securities, including securities exempted by section 80.05, and that such securities are or were fraudulent, or are about to be or were sold in a fraudulent manner, or that such person in such sale or attempted sale of such securities has worked or will work a fraud on purchasers thereof, or that such person in such sale or attempted sale has violated, or is about to violate, any of the provisions of sections 80.05 to 80.27, the commission or commissioner shall have power to investigate these matters. In any such case the commission or commissioner shall have power to make an examination and investigation of the books, records, papers, accounts, property, business, and affairs of such person, and to make or cause to be made on its behalf an audit of the accounts, books, and records of such person, and by its order to require such person to permit such examination, investigation, and audit to be made and to require such person to submit to the commission or commissioner his books, papers, records, and accounts for the purpose of such examination, investigation, and audit. If such securities were or are about to be sold for or on behalf of the issuer thereof the commission or commissioner shall have like powers as against such issuer.

Subd. 2. **Orders.** If any person or issuer shall fail or refuse to obey any order of the commission or commissioner which it or he is authorized under sections 80.05 to 80.27 to make, requiring such person to permit an examination, investigation or audit of his books, records, papers, or accounts by or on behalf of the commission and to submit the same to the commission for such purpose, the district court, upon petition of the commission or commissioner, subject to the limitations in the Constitution of the State of Minnesota, Article 1, Sections 7 and 10, and in the Constitution of the United States, Articles 4 and 5, shall forthwith and without notice cause a search warrant to be issued directed to the sheriff commanding the sheriff forthwith to search for and seize the books, records, papers and accounts of such person or issuer and deliver them to the commissioner for the purpose of such examination. The petition of the commission or commissioner filed with the district court, if duly verified and sufficiently specific, or any affidavit filed in such proceedings may be taken by the court as authority for the issuance of such search warrant; and all proceedings thereunder shall be substantially the same as like proceedings under sections 626.04 to 626.17. Any books, papers, records, or accounts so seized shall be held by the commissioner for a reasonable length of time for the purpose of making such examination, investigation, or audit and shall be then returned to the person from whose possession they were taken, unless otherwise ordered by the court.

Subd. 3. **Duties of county attorney.** It shall have power to take such steps as are necessary to cause the arrest and prosecution of all persons guilty of any such violations. It shall be the duty of each county attorney to prosecute any violation of sections 80.05 to 80.27 in his county and upon his request or the request of the commission or commissioner, the attorney general shall assist in such prosecution.

Subd. 4. **Attorney general to furnish counsel.** The attorney general shall

assign from his staff an assistant attorney general who shall be attorney and counsel for the division of securities and the department of commerce, and shall have charge of and may conduct all prosecutions for the violation or prosecutions involving the violation of sections 80.05 to 80.27 and all other proceedings for the enforcement thereof.

Subd. 5. Aid by bureau of criminal apprehension. The bureau of criminal apprehension shall be at the service of the division of securities and the department of commerce and at the service of the assistant attorney general assigned thereto, for the purpose of detecting and apprehending any violators of this law and gathering evidence and otherwise aiding in the prosecution of such violators.

Subd. 6. Inquisitorial powers. The commission or commissioner may by summons or subpoena require the attendance and testimony of witnesses and the production of records, books, and papers relating to any matter as to which it has jurisdiction under sections 80.05 to 80.27 at any designated place, before the commission, commissioner, or any employee of the securities division authorized to conduct such hearing or investigation. Such a summons or subpoena may be issued by any member of the commission. It shall be served in the same manner as a summons or subpoena for witnesses in criminal cases issued on behalf of the state, and all provisions of law relative to a summons or subpoena issued in such cases shall apply to a summons or subpoena issued under this act so far as applicable. The commission, commissioner or any authorized employee of the securities division may require any witnesses to be sworn before testifying and may administer the oath. Any judge of the district court may, upon application by the attorney general on behalf of the commission or commissioner, compel the attendance of witnesses and the giving of testimony before the commission or commissioner in the same manner and to the same extent as before said court.

A natural person who shall claim the privilege of refusing to testify on the ground that his testimony or evidence, documentary or otherwise, might tend to criminate or subject him to a penalty or forfeiture, shall not be excused on that ground from attending and testifying before the commission or commissioner acting under the provisions of sections 80.05 to 80.27; but such natural person, having claimed that privilege and having been required nevertheless to testify, shall not be prosecuted or subjected to a penalty or forfeiture for, or on account of, any action, matter, or thing, concerning which he may be required so to testify or produce evidence, except for perjury committed in such testimony.

[1925 c 192 s 19; 1927 c 66 s 11; 1933 c 408 s 15; 1941 c 547 s 15; 1965 c 51 s 9] (3996-19)

80.225 INJUNCTIONS, RECEIVERS. When it shall appear from evidence satisfactory to the commissioner of securities that any securities are being sold, have been sold, or are about to be sold, in violation of any of the provisions of sections 80.05 to 80.27, or that in the issuance, sale, promotion, negotiation, advertisement, or disposition of any securities, including any securities exempted by section 80.05, or in any transaction exempted by section 80.06, any person shall have employed, or employs, or is about to employ, any device, scheme, or artifice to defraud or for obtaining any money or property by means of any false pretense, representation, or promise, whether the same be a representation or promise of a present existing fact or otherwise, or that any person shall have made, makes, or attempts to make, fictitious or pretended sale of securities, including any securities exempted by section 80.05, or in any transaction exempted by section 80.06, the commissioner of securities shall have power to issue and cause to be served upon any person violating any of the provisions hereof an order requiring the person guilty thereof to cease and desist therefrom, and, in addition to all other remedies, he shall have power to apply for an injunction in any court of competent jurisdiction to restrain such unlawful acts or fraudulent practices, or such proposed unlawful acts or fraudulent practices, without abridging the penalties and other remedies provided by sections 80.05 to 80.27.

In addition thereto, when any of the facts in this section referred to are made to appear from evidence satisfactory to the commissioner, or when it shall be made to appear by satisfactory evidence to the commissioner that any of the companies licensed under sections 80.05 to 80.27 are operating or conducting their business, or have operated or conducted their business, contrary to the laws of this state or with disregard to the rights of investors therein who have purchased securities or investment contracts, the department of commerce, by and

with consent of the governor, may apply to any court of competent jurisdiction for a receiver to be appointed for the property, assets, business, and affairs of the person, firm, copartnership, association, or corporation whose securities have been so sold, or who have sold or are selling such securities; and, upon such showing made to such court, the court shall appoint a receiver therefor to liquidate, wind up, conserve the assets of the person, firm, copartnership, association, or corporation, or to conduct or carry on such business, or otherwise dispose of the same with due regard to the rights of creditors and the holders and purchasers of said securities or investment contracts.

In any proceeding brought under the provisions of sections 80.05 to 80.27 in relation to injunction or receivership, the same may be brought on for hearing and disposition upon an order to show cause returnable upon not more than eight days' notice to the defendant therein; and such cases shall have precedence over other cases upon the court calendar, and shall not be continued without the consent of the State of Minnesota, except upon good cause shown to the court, and then only for such reasonable length of time as may be necessary in the opinion of the court to protect the rights of the defendant party.

[1927 c 66 s 7; 1933 c 408 s 10; 1941 c 547 s 9; 1951 c 129 s 1] (3996-9)

80.23 INFORMATION; INSPECTION; PUBLICITY; REPORTS. All information received by the commissioner from applicants under sections 80.05 to 80.27 shall be open to inspection whenever it appears to the commissioner that this inspection may assist in carrying out or furthering the purposes of sections 80.05 to 80.27. The commissioner shall supply at cost copies of any such information. The commissioner shall have the power to withhold any information which he deems, in justice to the person filing the same, should not be made public.

The commissioner shall have power to publish, in pamphlet form, by newspaper advertisement, or otherwise, any information regarding securities which he considers fraudulent or which are being sold in violation of sections 80.05 to 80.27, or any other information he deems necessary or helpful in connection with the enforcement of sections 80.05 to 80.27.

It shall be the duty of the commissioner biennially, on or before October 1, in each even-numbered year, to prepare and file in the office of the governor a report for the preceding two fiscal years ending June thirtieth preceding the report, which shall contain a summary of all applications received, withdrawn, granted, and denied; a summary of all registrations and licenses suspended, revoked, or canceled, a schedule of receipts and disbursements of the commissioner, and such other information as the commissioner considers material.

[1925 c 192 s 20; 1953 c 52 s 5; 1955 c 847 s 8] (3996-20)

80.24 SEARCHES AND SEIZURES. Subject to the limitations in the Constitution of the State of Minnesota, Article I, Sections 7 and 10, and in Articles IV and V of the amendments to the Constitution of the United States, a search warrant may be issued at any time and without notice in any proceeding, civil or criminal, under sections 80.05 to 80.27, which search warrant may be used for the purpose of obtaining and holding until after trial and decision of the case any books, records, documents, writings, or papers deemed pertinent or material in such proceeding. All proceedings thereunder shall be substantially the same as like proceedings under Laws 1963, Chapter 849.

[1925 c 192 s 21; 1927 c 66 s 12; 1941 c 547 s 16; 1963 c 849 s 1] (3996-21)

80.25 CIVIL OR CRIMINAL PROCEEDINGS; EXEMPTIONS OR EXCEPTIONS NEED NOT BE NEGATED; BURDEN OF PROOF. In any suit, complaint, information, indictment, or other writ or proceeding, civil or criminal, brought under sections 80.05 to 80.27, it shall not be necessary to negative any of the exemptions or exceptions provided by sections 80.05 to 80.27; and the burden of proof of any such exemption or exception claimed shall be upon the party claiming the existence of the benefit thereof.

[1925 c. 192 s. 23] (3996-23)

80.26 LIMITATION OF ACTIONS; EXCEPTIONS. No action shall be maintained for relief upon a sale of securities made in violation of any of the provisions of sections 80.05 to 80.27, or upon a sale of securities made in violation of any of the provisions of a registration thereunder, or for failure to disclose that the sale thereof was made in violation of any of these provisions or in violation of any of the provisions of a registration thereunder, or upon any representation with respect

to the registration or non-registration of the security claimed to be implied from any such sale, unless commenced within six years after the date on which the securities were delivered to the purchaser pursuant to such sale; provided, that if, prior to the effective date of this section, more than five years shall have elapsed from the date of such delivery, then such action may be brought within a period of one year following such effective date, and provided, that no purchaser of a security otherwise entitled thereto shall bring any action for relief of the character above set forth who shall have refused or failed, within 30 days after the receipt thereof by such purchaser, to accept a written offer from the seller or from any person who participated in such sale to take back the securities in question and to refund the full amount paid therefor by such purchaser, together with interest on such amount from the date of payment to the date of repayment, such interest to be computed at the same rate as the fixed interest or dividend rate, if any, provided for in such securities, or, if no rate is so provided, at the rate of six percent per annum, less in every case the amount of any income received by the purchaser on such securities. Any written offer so made to a purchaser of a security shall be of no force or effect unless a duplicate thereof shall be filed with the commissioner of securities prior to the delivery thereof to such purchaser.

Nothing in this section, except as herein expressly set forth, shall limit any other right of any person to bring any action in any court for any act involved in or right arising out of a sale of securities or the right of the state to punish any person for any violation of law.

[1925 c. 192 s. 24; 1941 c. 547 s. 18] (3996-24)

80.27 CERTIORARI FROM SUPREME COURT. The supreme court, upon petition of any person aggrieved, may review by certiorari any final order or determination of the commission or commissioner. The issuance of the writ shall not operate as a stay of proceedings unless specifically so ordered.

[1925 c. 192 s. 27] (3996-27)

80.28 APPLICATION; PENDING ACTIONS. No person subject to the provisions of sections 54.26 to 54.29 and subject to sections 80.05 to 80.27 and no agent, broker-dealer of, or security issued by, any such person subject to sections 80.05 to 80.27 shall be subject to any of the provisions of Mason's Minnesota Statutes of 1927, Chapter 19.

Except as provided in section 80.26, all actions, civil or criminal, pending or which may arise under sections 80.05 to 80.27 as they were in effect prior to April 28, 1941, shall in no wise be affected by Laws 1941, Chapter 547, but shall continue under sections 80.05 to 80.27 as they were in effect prior to April 28, 1941. All registrations and licenses in effect on April 28, 1941, shall be subject to sections 80.05 to 80.27 and continue in effect but may be suspended, canceled, or revoked in accordance with the provisions thereof.

[1941 c 547 s 22, 23; 1965 c 333 s 9]

80.29 SALE OF LIQUOR WAREHOUSE RECEIPTS IS SALE OF SECURITIES. The sale of warehouse receipts for the storing of liquor during the aging or processing period of liquor in a duly bonded warehouse in any state other than the state of Minnesota, is hereby declared to be a sale of securities as defined by section 80.01, subdivision 4, and that the sale of such warehouse receipts is hereby permitted and legalized by duly licensed broker-dealers or agents without having to procure a liquor license, when such liquor is not to be shipped nor imported into the state of Minnesota, except as authorized by law. The provisions of Laws 1943, Chapter 645, shall not apply to the sale of warehouse receipts to distillers, manufacturers, or wholesalers of liquor duly licensed as such in the state of Minnesota.

The sale of warehouse receipts for the storing of liquor during the aging or processing period in bonded warehouses within the state, is hereby declared to be a sale of securities as defined by section 80.01, subdivision 4, and sales thereof are hereby permitted as provided in this section.

Any broker-dealer or agent, before offering for sale or selling such warehouse receipts shall obtain a broker-dealer's or agent's license, for the sale of securities, from the commission, under the rules and regulations of the department of commerce.

[1937 c 145 s 1, 1a, 2; 1943 c 645 s 1-3; 1965 c 333 s 9] (3996-36, 3996-37, 3996-38)

80.30 REGISTRATION OF OIL OR GAS LANDS OR INTERESTS BEFORE SALE. No person shall sell to any person in this state any oil or gas lands, or any

lands represented to contain or to be a prospect for oil or gas, or any interest therein or thereunder or royalties therefrom, unless and until these lands, interests, or royalties shall have been first registered for sale by the division.

[1927 c. 68 s. 1] (4000-1)

80.31 REGISTRATION; PROCEDURE. Registration of these lands, interests, or royalties shall be made or denied upon application to the division in substantially the same manner, under substantially the same procedure, and upon substantially the same grounds or conditions as are prescribed for the registration of securities by section 80.08. The commissioner shall have power to make such changes in the forms of application, details of procedure, and record of registration as are reasonably necessary or convenient for the effective registration of these oil or gas lands or interests therein. A separate register may be kept, if deemed advisable.

[1927 c. 68 s. 2] (4000-2)

80.32 FEES FOR REGISTRATION. There shall be paid to the commission on application for registration, an examination fee of \$10, and a fee of \$1 per \$1,000 on the total proposed sale price of the lands, interests, or royalties covered by such application, of which last stated amount \$25 shall be considered a filing fee; provided, that the minimum fee shall be \$35 and the maximum fee \$500, which maximum fee shall include the \$10 examination fee. Such fees shall accompany the application.

Section 80.20 shall apply to and govern fees to be paid by applicants for broker-dealers' licenses or agents' licenses under sections 80.30 to 80.36.

All fees and charges collected under sections 80.30 to 80.36 shall be covered into the state treasury.

[1927 c 68 s 3; 1957 c 504 s 6; 1965 c 333 s 9] (4000-3)

80.33 CERTAIN SECTIONS MADE PART OF SECTIONS 80.30 TO 80.36. The provisions of sections 80.01, 80.11 to 80.19, and 80.21 to 80.27 are hereby incorporated into and made a part of sections 80.30 to 80.36 and shall have full force and effect therein. For the purposes of sections 80.30 to 80.36, the word "security" and the word "securities," wherever the same appear in these sections incorporated from the other law, shall be deemed stricken therefrom, and the words "oil or gas lands, and lands represented to contain or be a prospect for oil or gas, and interests in or under such lands and royalties therefrom," shall be deemed substituted therefor; the term "issuer of securities," or any term of like import in the sections incorporated from the other law, shall be here construed to mean and include the maker or grantor of any deed or conveyance or like instrument coming within the purview of sections 80.30 to 80.36; and the phraseology of the sections incorporated from the other law shall be so construed generally in sections 80.30 to 80.36 as to make the same most effective.

[1927 c. 68 s. 4] (4000-4)

80.34 LICENSED BROKER-DEALERS. Broker-dealers and agents licensed under sections 80.05 to 80.27 shall be deemed licensed under sections 80.30 to 80.36.

[1927 c 68 s 5; 1965 c 333 s 9] (4000-5)

80.35 SALES EXEMPTED FROM OPERATION OF LAW. Sections 80.30 to 80.36 shall not apply to any isolated sale not made or occurring in the course of repeated or successive sales; nor to any judicial sale, or any transaction lawfully ordered, authorized, or approved by a court of competent jurisdiction in this state; nor to any sale to any bank or financial institution, under the supervision of any instrumentality or officer of the United States or of the commissioner of banks or of the commissioner of insurance of this state, or licensed broker-dealer. In any complaint, information, or indictment, charging a sale in violation of sections 80.30 to 80.36, it shall not be necessary to specifically name or identify persons other than the complainant to whom like sales have been made.

[1927 c 68 s 7; 1943 c 646 s 2; 1965 c 333 s 9] (4000-7)

80.36 LAWS APPLICABLE TO REGULATED TRANSACTIONS. Any transaction involving or relating to oil or gas lands, or lands represented to contain or be a prospect for oil or gas, or any interest in or under such lands, or royalties therefrom, which comes within the purview of sections 80.05 to 80.27 shall be controlled thereby; but any transaction or offense coming within the provisions of both sections 80.05 to 80.27 and sections 80.30 to 80.36 may be dealt with by the division,

or prosecuted by the proper public officers, under either sections 80.05 to 80.27 or sections 80.30 to 80.36.

[1927 c. 68 s. 9] (4000-9)

80.37 VIOLATIONS; PENALTIES. Subdivision 1. Any person who violates any of the provisions of sections 80.05 to 80.27, or any registration or license, or any lawful order of the commission, shall be punished by a fine of not more than \$5,000 or imprisoned for not more than five years or both such fine and imprisonment.

Subd. 2. Whoever shall, with fraudulent intent, sell, or cause to be sold, or in any manner participate directly or indirectly in the sale of any stocks, bonds, investment contracts, or securities, as defined in section 80.01, pursuant to any scheme or artifice to defraud, or by means of false or fraudulent pretenses, representations, or promises, including fraudulent promises as to the worth or earnings of such stock in the future, or by means of any false or fictitious financial statement or representation as to the worth thereof, or otherwise, shall be guilty of a felony; and upon conviction thereof punished in the same manner as upon conviction for obtaining money under false pretenses.

Subd. 3. Any person who violates the provisions of section 80.29 shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years or by both.

Subd. 4. Any person who violates any of the provisions of sections 80.30 to 80.36, or any registration or license or any lawful order of the commerce commission, shall be fined not more than \$5,000 or imprisoned for not more than three years or both fined and imprisoned.

[1925 c. 192 s. 22; 1927 c. 68 s. 6; 1933 c. 408 s. 15; 1937 c. 145 s. 3; 1941 c. 547 s. 17; 1943 c. 553 s. 7; 1943 c. 645 s. 4; 1943 c. 646 s. 1] (3996-22, 3996-29, 3996-39)