**South Carolina General Assembly**

119th Session, 2011-2012

**A251, R279, S1354**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Bryant, Thomas, Ford and L. Martin

Document Path: l:\s-res\klb\016secu.rem.klb.docx

Introduced in the Senate on March 20, 2012

Introduced in the House on April 17, 2012

Last Amended on June 5, 2012

Passed by the General Assembly on June 6, 2012

Governor's Action: June 18, 2012, Signed

Summary: Cease and desist orders issued by Securities Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/20/2012 Senate Introduced and read first time ([Senate Journal‑page 72](file:///h:\sj%20archive\2012\03-20-12.docx))

3/20/2012 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 72](file:///h:\sj%20archive\2012\03-20-12.docx))

3/27/2012 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 17](file:///h:\sj%20archive\2012\03-27-12.docx))

3/28/2012 Scrivener's error corrected

3/29/2012 Senate Amended ([Senate Journal‑page 20](file:///h:\sj%20archive\2012\03-29-12.docx))

3/29/2012 Senate Read second time ([Senate Journal‑page 20](file:///h:\sj%20archive\2012\03-29-12.docx))

3/29/2012 Senate Roll call Ayes‑33 Nays‑0 ([Senate Journal‑page 20](file:///h:\sj%20archive\2012\03-29-12.docx))

3/30/2012 Scrivener's error corrected

4/10/2012 Senate Read third time and sent to House ([Senate Journal‑page 14](file:///h:\sj%20archive\2012\04-10-12.docx))

4/17/2012 House Introduced and read first time ([House Journal‑page 11](file:///h:\hj%20archive\2012\04-17-12.docx))

4/17/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 11](file:///h:\hj%20archive\2012\04-17-12.docx))

5/30/2012 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 31](file:///h:\hj%20archive\2012\05-30-12.docx))

6/5/2012 House Amended ([House Journal‑page 68](file:///h:\hj%20archive\2012\06-05-12.docx))

6/5/2012 House Read second time ([House Journal‑page 68](file:///h:\hj%20archive\2012\06-05-12.docx))

6/5/2012 House Roll call Yeas‑96 Nays‑0 ([House Journal‑page 70](file:///h:\hj%20archive\2012\06-05-12.docx))

6/6/2012 House Read third time and returned to Senate with amendments ([House Journal‑page 36](file:///h:\hj%20archive\2012\06-06-12.docx))

6/6/2012 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 102](file:///h:\sj%20archive\2012\06-06-12.docx))

6/6/2012 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 102](file:///h:\sj%20archive\2012\06-06-12.docx))

6/12/2012 Ratified R 279

6/18/2012 Signed By Governor

6/25/2012 Effective date See Act for Effective Date

6/27/2012 Act No. 251

**VERSIONS OF THIS BILL**

[3/20/2012](file:///p:\pprever\2011-12\1354_20120320.docx)

[3/27/2012](file:///p:\pprever\2011-12\1354_20120327.docx)

[3/28/2012](file:///p:\pprever\2011-12\1354_20120328.docx)

[3/29/2012](file:///p:\pprever\2011-12\1354_20120329.docx)

[3/30/2012](file:///p:\pprever\2011-12\1354_20120330.docx)

[5/30/2012](file:///p:\pprever\2011-12\1354_20120530.docx)

[6/5/2012](file:///p:\pprever\2011-12\1354_20120605.docx)

(A251, R279, S1354)

**AN ACT** **TO AMEND SECTION 35‑1‑604, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SECURITIES VIOLATIONS, SO AS TO REQUIRE A COPY OF ALL FINAL CEASE AND DESIST ORDERS ISSUED BY THE SECURITIES COMMISSIONER BE FORWARDED TO THE DEPARTMENT OF REVENUE AND SECRETARY OF STATE, AND TO PROVIDE THAT ALL CEASE AND DESIST ORDERS ISSUED BY THE COMMISSIONER ARE PUBLIC DOCUMENTS SUBJECT TO THE FREEDOM OF INFORMATION ACT, AND TO REQUIRE PUBLICATION OF ALL SUCH ORDERS ON THE ATTORNEY GENERAL’S WEBSITE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Cease and desist orders issued by Securities Commissioner, copy of final order must be sent to Department of Revenue and Secretary of State, orders subject to Freedom of Information Act**

SECTION 1. Section 35‑1‑604 of the 1976 Code is amended to read:

“Section 35‑1‑604. (a) If the Securities Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter, the Securities Commissioner may:

(1) issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

(2) issue an order denying, suspending, revoking, or conditioning the exemptions for a broker‑dealer under Section 35‑1‑401(b)(1)(D) or (F) or an investment adviser under Section 35‑1‑403(b)(1)(C); or

(3) issue an order under Section 35‑1‑204.

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the Securities Commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the Securities Commissioner will seek, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the Securities Commissioner within thirty days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought becomes final as to that person by operation of law. If a hearing is requested or ordered, the Securities Commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered pursuant to subsection (b), a hearing must be held. A final order may not be issued unless the Securities Commissioner makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) In a final order under subsection (c), the Securities Commissioner may impose a civil penalty in an amount not to exceed ten thousand dollars for each violation.

(e) In a final order, the Securities Commissioner may charge the actual cost of an investigation or proceeding for a violation of this chapter or a rule adopted or order issued under this chapter.

(f) If a petition for judicial review of a final order is not filed in accordance with Section 35‑1‑609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.

(g) If a person does not comply with an order under this section, the Securities Commissioner may petition a court of competent jurisdiction to enforce the order. The court may not require the Securities Commissioner to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five hundred dollars but not greater than five thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(h) All orders issued under this section are public documents subject to the Freedom of Information Act and must be published on the Attorney General’s website searchable by the name of the parties involved.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor and applies only to orders issued after the effective date of this act.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

\_\_\_\_\_\_\_\_\_\_