

HOUSE No. 1257

Bill accompanying the petition of the Massachusetts Real Estate Exchange for the regulation of the issue, sale and advertising of stock, bonds or other securities. Banks and Banking. January 21.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Fourteen.

AN ACT

Relative to the Sale of Stock, Bonds and Other Securities, and to provide for the Licensing of Dealers in the Same.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The commissioner of corporations shall
2 collect and keep in his office, open to public inspection,
3 information, in such form and detail as he shall from
4 time to time determine, concerning the financial condi-
5 tion, dividend record, property and earnings of any cor-
6 poration, co-partnership, company or association, whose
7 shares, bonds or other securities, whether listed or dealt
8 in on any stock exchange or otherwise, are kept for sale
9 or offered for sale in this commonwealth by any person,
10 firm, association or corporation engaged in the business
11 of selling shares or securities. The commissioner may
12 make use of standard and financial publications which

13 contain such information, or of the financial statements
14 of such companies or of any other sources of information
15 which are, in his opinion, reliable. He may make in-
16 quires and investigations as to the credibility of any
17 such information, and may refuse to file any information
18 which he considers unreliable.

1 SECTION 2. No dealer in stocks, bonds, debentures,
2 certificates of participation or other securities, shall in
3 this state sell, offer for sale, invite offers for, or inquiries
4 about such securities by personal solicitation, letters or
5 circulars, or by advertising in any newspaper, magazine
6 or other periodical published in this state, without a
7 license from the commissioner of corporations, nor until
8 such dealer has been registered, and has filed with the
9 commissioner of corporations : —

10 (a) A statement under oath showing the name and
11 principal place of business of such dealer, and the name,
12 residences and business addresses of all persons inter-
13 ested as principals, officers, directors or trustees, includ-
14 ing the name, residence and business address of an agent
15 residing in this state, if any.

16 (b) If such a dealer is non-resident, a designation
17 duly signed, by which its terms shall be irrevocable so
18 long as the dealer shall in this state do any of the acts
19 named in this section, designating the commissioner at-
20 torney for the dealer for the service of any legal process,
21 as provided for the appointment of attorney of a foreign
22 corporation in Revised Laws, chapter one hundred and
23 twenty-six, section four, and acts in amendment thereof
24 and in addition thereto.

25 (c) Copies of all advertisements, and all written or
26 printed matter other than correspondence not in multi-
27 form used, or to be used by such dealer in the sale of

28 securities, which copies shall be mailed or delivered to
29 the commissioner before use or publication.

30 (d) A list on the first day of each month of the se-
31 curities on hand for sale, and sold or negotiated for sale
32 by him during the preceding month for his own account.

33 (e) A written statement of his intention to sell or
34 offer for sale any new security not previously sold or
35 offered for sale.

1 SECTION 3. In this act the term "dealer" shall mean
2 any individual, partnership, association or corporation
3 engaging in this state in the occupation of selling
4 stocks, bonds, debentures, certificates of participation or
5 other securities, whether as principal or agent.

6 An individual, corporation or unincorporated associa-
7 tion offering its own securities generally for sale by cir-
8 cular, advertising or through agents, to others than its
9 own shareholders or members, or by such means inviting
10 offers for or inquiries about its securities, shall be con-
11 sidered a dealer under the terms of this act.

1 SECTION 4. All dealers licensed under this act shall
2 be registered. Any dealer desiring a license and regis-
3 tration shall file written application therefor with the
4 commissioner of corporations, accompanied by a registra-
5 tion fee of twenty-five dollars; the fee to be returned if
6 the application is not granted. Upon the filing of the
7 application the commissioner shall forthwith give notice
8 of the fact and date of such application, together with
9 the name and place of business of the dealer by adver-
10 tisement inserted once in a newspaper of general circula-
11 tion where the dealer's principal place of business in this
12 commonwealth is located.

13 The registration and license certificate shall not be
14 issued before the expiration of two weeks from the com-

15 pletion of such application. Any person may within
16 such two weeks period file objections to the proposed
17 registration and license.

18 Upon being satisfied with the dealer's good repute, by
19 special investigation or otherwise, the commissioner,
20 after such objections have been filed or in any event if
21 no objections have been filed and he is so satisfied, shall
22 cause such registration to be made and a license to issue.
23 Licenses shall be renewed annually in the discretion of
24 the commissioner upon payment of a license fee of
25 twenty-five dollars. Agents and salesmen employed by
26 dealers shall before engaging in business be registered
27 annually, subject to the approval of the commissioner.
28 Every agent and salesman so registered shall pay an an-
29 nual registration fee of five dollars.

1 SECTION 5. The commissioner may at any time order
2 a dealer to file with him :—

3 (a) Copies or summaries, or both, of all or any
4 written or printed contracts, stocks, bonds or other
5 securities which such dealer proposes to sell or offer
6 for sale.

7 (b) Evidence, including a statement under oath, of
8 assets and earnings or other information in relation to
9 any security the dealer is offering for sale, or inviting
10 offers for, or is advertising. Unless the commissioner is
11 satisfied that all such offerings of the dealer have been
12 and are to be made honestly and in good faith, and with-
13 out intent to deceive or defraud, and without statements
14 of fact or opinion which, by reason of failure to disclose
15 unfavorable facts or otherwise, and are not likely to cre-
16 ate false impressions as to values or to arouse or en-
17 courage unreasonable hopes of future profit, or other-
18 wise to mislead intending purchasers, he may prohibit

19 the dealer from selling or offering the securities, or any
20 of them, or in any way advertising them. The com-
21 missioner may also prohibit the sale or offer or advertis-
22 ing for sale of any shares or securities which in his opinion,
23 based on any information he may have received or ac-
24 quired as aforesaid, or otherwise, appear to be offered
25 for sale in a fraudulent manner tending to deceive or
26 mislead as to values.

1 SECTION 6. On ordering a dealer not to sell, offer for
2 sale, circularize, or advertise in such publications in this
3 state, any security, the commissioner shall send notice to
4 the dealer by registered mail, addressed to the dealer's
5 principal place of business, stated as required under sec-
6 tion one, or to such address as the dealer may designate
7 for that purpose, stating the reasons therefor. The com-
8 missioner may also publish a copy or summary of such
9 order in one or more newspapers as often and in such
10 manner as to give what is in his judgment reasonable
11 notice to the public that such order has been made, and
12 the treasurer of the commonwealth shall, on request of
13 the commissioner, pay the expense of such publication.

1 SECTION 7. Any dealer, person or other firm, asso-
2 ciation or corporation aggrieved by any action or order
3 of the commissioner may, within seven days, appeal
4 therefrom to the board, consisting of the bank commis-
5 sioner, the treasurer and receiver general of the com-
6 monwealth, and the director of the bureau of statistics.
7 Such board, after public notice and hearing, may amend
8 or vacate any such order. The order appealed from
9 may remain in force while the appeal is pending.

1 SECTION 8. The commissioner, with the consent of
2 the board created by section seven of this act, shall have

3 authority to make or cause to be made an examination
4 of the accounts, books and papers of any person, firm,
5 association or corporation engaged in the business of
6 selling shares, bonds or other securities, in order to
7 ascertain whether such person, firm, association or cor-
8 poration has violated or is violating any provision of this
9 act. The proper expenses incurred in any such examina-
10 tion shall be paid by the person, firm, association or cor-
11 poration examined. Any violations of the provisions of
12 this act shall forthwith be reported by the said commis-
13 sioner to the attorney-general, who shall bring an in-
14 formation or other appropriate proceeding in the supreme
15 judicial court or the superior court to enjoin and restrain
16 such person, firm, association or corporation from further
17 selling or offering such shares, bonds or other securities
18 for sale. The supreme judicial court and the superior
19 court shall have jurisdiction to enforce the provisions of
20 this act, and the attorney-general shall report such viola-
21 tion to the district attorneys of the several counties for
22 the enforcement of the penalties hereinafter provided by
23 section nine.

1 SECTION 9. Any dealer or agent or officer of a dealer
2 violating the provisions of this act, upon conviction
3 thereof, shall be punished by a fine of not more than one
4 thousand dollars, and if such violation is with intent to
5 defraud, by imprisonment for not more than two years.

1 SECTION 10. Every sale or contract of sale (*a*) made
2 by a dealer not registered and licensed under this act
3 (*b*) made in violation of any order of the commissioner
4 under this act (*c*) made in violation of any injunction or
5 order of any court having jurisdiction in the premises,
6 shall be void, and may be rescinded by the purchaser
7 within two years of its date, but not thereafter.

1 SECTION 11. The provisions of this act shall not ap-
2 ply to:—

3 Bonds or other evidences of indebtedness of the United
4 States or any foreign government.

5 Bonds or other evidences of indebtedness of any
6 county, city, township, village, district, or other po-
7 litical or taxing subdivision of any state or territory of
8 the United States.

9 Commercial paper running not more than twelve
10 months.

1 SECTION 12. To carry out the provisions of this act
2 said commissioner is hereby authorized to employ such
3 additional assistants, subject to the approval of the gov-
4 ernor and council, as he may deem necessary.

1 SECTION 13. Should the courts declare any section of
2 this act unconstitutional, then such decision shall affect
3 only the section or provision so declared to be unconstitu-
4 tional, and shall not affect any other section or part of
5 this act.

1 SECTION 14. This act shall go into effect the first day
2 of January in the year nineteen hundred and fifteen, ex-
3 cept that dealers may register at any time after Novem-
4 ber first, nineteen hundred and fourteen. Licenses of
5 dealers registered before January first, nineteen hundred
6 and fifteen, shall take effect as of that date.

