

Proviso.

Upon neglect or refusal to make report, accounting officers shall add penalty.

Proviso.

Tax on premiums of foreign insurance companies.

Repeal.

the State treasury or settled against them by the fiscal officers of the Commonwealth as tax on premiums and assessments received by them during any part of said year: Provided, That said reports shall be made under oath or affirmation, and it shall be the duty of the accounting officers of the Commonwealth to add ten per centum to the account of any company [or] association or exchange whose officers shall neglect or refuse for a period of thirty days to make said report, or to pay into the State treasury the tax imposed by this section: And provided further, That hereafter the annual tax upon premiums of insurance companies of other States or foreign governments shall be at the rate of two per centum upon the gross premiums of every character and description received from business done within this Commonwealth within the entire calendar year preceding.

Section 2. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

APPROVED—The 6th day of May, A. D. 1925.

GIFFORD PINCHOT.

No. 284.

AN ACT

To amend section two of the act, approved the fourteenth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, seven hundred and seventy-nine), entitled "An act for the registration and regulation of certain individuals and entities selling, offering for sale or delivery, soliciting subscriptions to or orders for, or undertaking to dispose of, inviting offers for or inquiries about, or dealing in any manner in, securities defined herein; conferring powers and imposing duties on the Commissioner of Banking, and otherwise providing for the administration of this act; prescribing penalties; and making an appropriation," exempting building and loan associations, banks, savings banks, and trust companies from the provisions of the act.

"Securities act" amended.

Section 2 of act of June 14, 1923 (P. L. 779), amended.

Section 1. Be it enacted, &c., That section two of the act, approved the fourteenth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, seven hundred and seventy-nine), entitled "An act for the registration and regulation of certain individuals and entities selling, offering for sale or delivery, soliciting subscriptions to or orders for, or undertaking to dispose of, inviting offers for or inquiries about, or dealing in any manner in, securities defined herein; conferring powers and imposing duties on the Commissioner of Banking, and otherwise providing for the administration of this act; prescribing penalties; and making an appropriation," is hereby amended to read as follows:

Section 2. The following terms shall, unless the context otherwise indicates, have the following respective meanings:

Definitions.

(a) The terms "security" or "securities" shall include any bond, stock, certificate under a voting trust agreement, treasury stock, note, debenture, certificate in or under a profit-sharing or participation agreement subscription, or reorganization certificate, oil, gas, or mining lease or certificate of any interest in or under the same, evidence of indebtedness or any certificate or instrument representing or secured by an interest in the capital, assets, or property of any corporation, unincorporated organization, association, trust, or public corporation or body, or any other instrument commonly known as a security.

"Security" or "securities."

(b) The term "company" shall include a corporation, part-stock company partnership, association, company, syndicate, trust, incorporated or unincorporated, heretofore or hereafter formed under the laws of this State or any other State or Territory of the United States or any foreign State or country; as used herein, the term "trust" shall be deemed to include a common law trust, but 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.

"Company."

(c) The term "dealer" shall include every person or company, other than a salesman, who engages for profit in this State, either for all or part of his time, directly or through an agent, in selling, offering for sale or delivery, or soliciting subscriptions to or orders for, or undertaking to dispose of, or to invite offers for or inquiries about, or dealing in any manner in, any security or securities within this State: *Provided, however, That building and loan associations organized under the laws of this State, in the issuance and sale of their own stock shall not be held to be a "dealer" within the meaning of this act.*

"Trust."

"Dealer."

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None of the following transactions shall constitute the person or company engaging therein a "dealer" within the meaning of this act; that is to say, a sale, offer for sale, solicitation, subscription, invitation, dealing in, or delivery:

Transactions that do not constitute person engaging therein a dealer.

One. Of a security issued or guaranteed by any of the following: the United States of America, or a State, Territory, insular possession, political subdivision or agency thereof, the District of Columbia, a national bank corporation created or acting as an instrumentality of the Government of the United States pursuant to the authority of Congress.

Two. At any judicial, executor's, administrator's, guardian's, committee's, or conservator's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy.

Three. In an isolated transaction in which any security is sold or offered for sale, subscription, or delivery, by the owner thereof, or by his representative or agent for the owner's account; such sale or offer for sale, subscription, or delivery not being made in the course of repeated and successive transactions of a like character by such owner or on his account by such representative or agent; and such owner or representative or agent not being the underwriter of such security.

Four. By or for the account of a pledge holder or mortgagee selling or offering for sale or delivery, in the ordinary course of business to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

Five. To any bank, savings institution, or trust company created under the laws of this Commonwealth, or to any person or company registered under the provisions of this act.

Six. Wherein the securities disposed of consist exclusively of unsecured commercial paper.

Seven. Wherein the securities disposed of consist exclusively of mortgages upon real or personal property situated in Pennsylvania, and the entire mortgage is sold or transferred with the note or notes secured thereby.

Eight. Wherein the issuer, a company organized under the laws of this State, disposes of its own securities in good faith, and not for the purpose of avoiding the provisions of this act, for the sole account of the issuer, without any commission or fee, and at a total expense of not more than three per centum of the proceeds realized thereon, and where no part of the issue is used directly or indirectly in payment for patents, services, good will, or for property located outside of this State: *Provided, however, That building and loan associations organized under the laws of this State, in the issuance and sale of their own stock whether with or without expense of any commission or fee, shall not be deemed to be a "dealer" within the meaning of this act.*

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Nine. Wherein the securities are the securities of any corporation organized under the laws of this State, whose authorized capital stock added to its other outstanding securities does not exceed twenty-five thousand dollars (\$25,000)—shares of stock without nominal or par value being considered for the purpose of this act to be of one hundred dollars (\$100) each—and such securities are issued and disposed of for the sole account of the issuer in good faith and not for the purpose of avoiding the provisions of this act.

Ten. In the original issuance and sale by any corporation organized under the laws of this State of its stock, issued in good faith and not for the purpose of

avoiding the provisions of this act, for the sole account of the issuer, so long as the number of stockholders of said corporation does not exceed twenty-five (25), and the securities are issued and disposed of without the use of advertisements, circulars, agents, salesmen, solicitors, or any form of public solicitation.

Eleven. The distribution by a corporation of capital stock, bonds, or other security, to its stockholders as stock dividend, or other distribution out of earnings or surplus, or the issue of securities to the security holders or other creditors of a corporation, in the process of a bona fide reorganization of such corporation, made in good faith either in exchange for the securities of such security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such security holders or creditors or the issue of increased capital stock of a corporation sold or distributed by it entirely among its own stockholders.

Twelve. The transfer or exchange by, or on account of, one corporation to another corporation of their own securities in connection with a proposed consolidation or merger of such corporations.

(d) The term "salesman" shall, except as provided in section four, include every person or company employed or appointed or authorized by a dealer to sell, offer for sale or delivery, or solicit subscriptions to or orders for, or dispose of inquires about, or deal in any manner in, securities within this State, whether by direct act or through sub-agents.

"Salesman."

(e) The term "commissioner" shall mean the [Commissioner] *Secretary* of Banking of the Commonwealth of Pennsylvania.

"Commissioner "

(f) The terms "fraud," "fraudulent," or "fraudulent practice" shall include any misrepresentation, in any manner, of a relevant fact not made honestly and in good faith; any promise or representation or predication as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact, the gaining, directly or indirectly, through the sale of any security, of an underwriting or promotion fee or profit, selling or managing commission, or profit so gross and exorbitant as to be unconscionable and fraudulent; and any scheme, device or other artifice to obtain such a profit, fee, or commission: Provided, however, That nothing herein shall limit or diminish the full meaning of the terms "fraud" and "fraudulent," as applied or accepted in courts of law or equity.

"Fraud,"
"fraudulent" or
"fraudulent prac-
tice."

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APPROVED—The 6th day of May, A. D. 1925.

GIFFORD PINCHOT.