

Union Calendar No. 361

105TH CONGRESS
2^D SESSION

H. R. 1689

[Report No. 105-640]

A BILL

To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

JULY 21, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1997

Mr. WHITE (for himself, Ms. ESHOO, Mr. BARTON of Texas, Mr. BROWN of Ohio, Mr. BILBRAY, Mr. DOOLEY of California, Mr. CAMPBELL, Mr. FAZIO of California, Mr. COBURN, Mr. FARR of California, Mr. COX of California, Mr. FRANK of Massachusetts, Ms. DUNN, Ms. HARMAN, Mr. KLUG, Mr. KENNEDY of Massachusetts, Mr. NETHERCUTT, Ms. LOFGREN, Mr. PAXON, Mr. ROEMER, Ms. PRYCE of Ohio, Mrs. TAUSCHER, Mr. TAUZIN, Mr. TOWNS, and Mr. DEUTSCH) introduced the following bill; which was referred to the Committee on Commerce

JULY 21, 1998

Additional sponsors: Mr. ROGAN, Ms. PELOSI, Mr. BURR of North Carolina, Mr. SHIMKUS, Mr. DEAL of Georgia, Mr. KLECZKA, Mr. PICKETT, Mr. HASTERT, Mr. PALLONE, Mr. RUSH, Ms. FURSE, Mr. GANSKE, Mrs. MYRICK, Mr. CRAPO, Mr. STEARNS, Mr. BOEHNER, Mr. MORAN of Virginia, Mr. BLUMENAUER, Mr. GORDON, Mr. GREEN, Mr. HALL of Texas, Ms. MCCARTHY of Missouri, Mr. HOYER, Mr. DAVIS of Virginia, Mr. WYNN, Mr. NORWOOD, Mr. STRICKLAND, Mr. BOUCHER, Mr. DAN SCHAEFER of Colorado, Mr. PETERSON of Minnesota, Mr. MCCOLLUM, Ms. HOOLEY of Oregon, Mr. WHITFIELD, Mr. SHERMAN, Mr. HOLDEN, Mr. SHAW, Mr. UPTON, Mr. LARGENT, Mr. ROHRABACHER, Mr. CUNNINGHAM, Ms. STABENOW, Mr. KENNEDY of Rhode Island, Mr. BAKER, Mr. ROYCE, Mr. WELDON of Florida, Mr. BILIRAKIS, Mr. SAWYER, Mr. COOKSEY, Mr. LIVINGSTON, Mr. BOYD, Mr. EDWARDS, Mr. HEFLEY, Mr. PORTER, Mr. RIGGS, Mr. MILLER of Florida, Mr. CALVERT, Mr. DREIER, Mr. DOYLE, Mr. BARCIA, Mr. BUNNING, Mr. McHALE, Mr. GOODLING, Mr. PITTS, Mr. GREENWOOD, Mr. CONDIT, Mr. BARR of Georgia, Mr. GEKAS, Mr. McKEON, Mrs. CUBIN, Mr.

SCHIFF, Mr. LINDER, Mr. BONO, Mr. GEJDENSON, Mr. LUTHER, Mr. THORNBERRY, Mr. FOX of Pennsylvania, Mr. MICA, Mr. HOUGHTON, Mr. METCALF, Mr. HAYWORTH, Mr. COLLINS, Mr. MINGE, Mr. ADAM SMITH of Washington, Mr. FRELINGHUYSEN, Mr. FORBES, Ms. GRANGER, Mr. PAPPAS, Mr. MANZULLO, Mr. ADERHOLT, Mr. POMBO, Mr. LAHOOD, Mr. CAMP, Mr. CRAMER, Mrs. LINDA SMITH of Washington, Mr. PICKERING, Mr. PACKARD, Mr. SNOWBARGER, Mr. KIND, Mr. HILLEARY, Mr. HASTINGS of Washington, Mr. ORTIZ, Mr. CRANE, Mr. SALMON, Mr. NEAL of Massachusetts, Ms. DELAURO, Mr. DAVIS of Florida, Mr. BISHOP, Mr. VENTO, Mr. FRANKS of New Jersey, Ms. SLAUGHTER, Mr. HERGER, Mrs. KENNELLY of Connecticut, Mr. JEFFERSON, Mr. ROTHMAN, Mr. STENHOLM, Mr. ETHERIDGE, Mr. GOSS, Mrs. KELLY, Mrs. NORTHUP, Mr. GALLEGLY, Mr. GOODE, Mr. PETERSON of Pennsylvania, Mr. RAMSTAD, Mr. ENSIGN, Mr. WICKER, Mr. SKEEN, Mr. WATTS of Oklahoma, Mr. KING, Mr. COMBEST, Mr. INGLIS of South Carolina, Mr. SHADEGG, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Kentucky, Mr. SUNUNU, Mr. TURNER, Mr. WEYGAND, Mr. LOBIONDO, Mr. HOSTETTLER, Mr. MEEHAN, Mr. KINGSTON, Mr. SHAYS, Mr. MCINTOSH, Mr. CLEMENT, Mr. HILL, Mr. BARTLETT of Maryland, Mr. STUMP, Mr. SNYDER, Mr. EHRLICH, Mr. FOSSELLA, Mr. HOEKSTRA, Mr. FORD, Mr. MCCRERY, Mr. GRAHAM, Mr. WELLER, Mr. MALONEY of Connecticut, Ms. SANCHEZ, Mr. RILEY, Mr. ROGERS, Mr. NEUMANN, Mr. CHRISTENSEN, Mr. MCGOVERN, Mr. LAZIO of New York, Mr. GILLMOR, Mr. CANNON, Mr. REDMOND, Ms. VELÁZQUEZ, Mr. LANTOS, Mrs. MORELLA, Mr. ARCHER, Mrs. JOHNSON of Connecticut, Mr. FOLEY, Mr. WALSH, Mr. BENTSEN, Mr. BURTON of Indiana, Mr. SENSENBRENNER, Mr. DOOLITTLE, Mr. ACKERMAN, Mr. SOUDER, Mr. WOLF, Mr. GUTKNECHT, Mr. SMITH of Texas, Mr. RYUN, Mr. NEY, Mr. CHABOT, Mr. DELAY, Mr. COOK, Mr. BRYANT, Mr. SMITH of New Jersey, Mr. JOHN, Mr. POMEROY, Mr. TALENT, Mr. KOLBE, Mr. BOB SCHAFFER of Colorado, Mr. BRADY, Mr. ARMEY, Mr. GIBBONS, Mr. BERRY, Mr. BAESLER, Mr. SISISKY, Mrs. BONO, Mr. MCINTYRE, Mr. BALLENGER, Mrs. ROUKEMA, Mr. GOODLATTE, Mr. THOMAS, Mr. MORAN of Kansas, Mr. ANDREWS, and Mr. CHAMBLISS

JULY 21, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 21, 1997]

A BILL

To amend the Securities Act of 1933 and the Securities

Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Securities Litigation*
 5 *Uniform Standards Act of 1998”.*

6 **TITLE I—SECURITIES LITIGA-**
 7 **TION UNIFORM STANDARDS**

8 **SEC. 101. LIMITATION ON REMEDIES.**

9 *(a) AMENDMENTS TO THE SECURITIES ACT OF*
 10 *1933.—*

11 *(1) AMENDMENT.—Section 16 of the Securities*
 12 *Act of 1933 (15 U.S.C. 77p) is amended to read as*
 13 *follows:*

14 **“SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REM-**
 15 **EDIES.**

16 *“(a) REMEDIES ADDITIONAL.—Except as provided in*
 17 *subsection (b), the rights and remedies provided by this title*
 18 *shall be in addition to any and all other rights and rem-*
 19 *edies that may exist at law or in equity.*

20 *“(b) CLASS ACTION LIMITATIONS.—No class action*
 21 *based upon the statutory or common law of any State or*
 22 *subdivision thereof may be maintained in any State or Fed-*
 23 *eral court by any private party alleging—*

1 “(1) *an untrue statement or omission of a mate-*
2 *rial fact in connection with the purchase or sale of a*
3 *covered security; or*

4 “(2) *that the defendant used or employed any*
5 *manipulative or deceptive device or contrivance in*
6 *connection with the purchase or sale of a covered secu-*
7 *rity.*

8 “(c) *REMOVAL OF CLASS ACTIONS.—Any class action*
9 *brought in any State court involving a covered security,*
10 *as set forth in subsection (b), shall be removable to the Fed-*
11 *eral district court for the district in which the action is*
12 *pending, and shall be subject to subsection (b).*

13 “(d) *PRESERVATION OF CERTAIN ACTIONS.—*

14 “(1) *ACTIONS UNDER STATE LAW OF STATE OF*
15 *INCORPORATION.—*

16 “(A) *ACTIONS PRESERVED.—Notwithstand-*
17 *ing subsection (b) or (c), a class action described*
18 *in subparagraph (B) of this paragraph that is*
19 *based upon the statutory or common law of the*
20 *State in which the issuer is incorporated (in the*
21 *case of a corporation) or organized (in the case*
22 *of any other entity) may be maintained in a*
23 *State or Federal court by a private party.*

1 “(B) *PERMISSIBLE ACTIONS*.—A class ac-
2 tion is described in this subparagraph if it in-
3 volves—

4 “(i) the purchase or sale of securities
5 by the issuer or an affiliate of the issuer ex-
6 clusively from or to holders of equity securi-
7 ties of the issuer; or

8 “(ii) any recommendation, position, or
9 other communication with respect to the
10 sale of securities of the issuer that—

11 “(I) is made by or on behalf of the
12 issuer or an affiliate of the issuer to
13 holders of equity securities of the
14 issuer; and

15 “(II) concerns decisions of those
16 equity holders with respect to voting
17 their securities, acting in response to a
18 tender or exchange offer, or exercising
19 dissenters’ or appraisal rights.

20 “(2) *STATE ACTIONS*.—

21 “(A) *IN GENERAL*.—Notwithstanding any
22 other provision of this section, nothing in this
23 section may be construed to preclude a State or
24 political subdivision thereof or a State pension
25 plan from bringing an action involving a cov-

1 *ered security on its own behalf, or as a member*
2 *of a class comprised solely of other States, politi-*
3 *cal subdivisions, or State pension plans that are*
4 *named plaintiffs, and that have authorized par-*
5 *ticipation, in such action.*

6 *“(B) STATE PENSION PLAN DEFINED.—For*
7 *purposes of this paragraph, the term ‘State pen-*
8 *sion plan’ means a pension plan established and*
9 *maintained for its employees by the government*
10 *of the State or political subdivision thereof, or by*
11 *any agency or instrumentality thereof.*

12 *“(3) ACTIONS UNDER CONTRACTUAL AGREE-*
13 *MENTS BETWEEN ISSUERS AND INDENTURE TRUST-*
14 *EES.—Notwithstanding subsection (b) or (c), a class*
15 *action that seeks to enforce a contractual agreement*
16 *between an issuer and an indenture trustee may be*
17 *maintained in a State or Federal court by a party*
18 *to the agreement or a successor to such party.*

19 *“(4) REMAND OF REMOVED ACTIONS.—In an ac-*
20 *tion that has been removed from a State court pursu-*
21 *ant to subsection (c), if the Federal court determines*
22 *that the action may be maintained in State court*
23 *pursuant to this subsection, the Federal court shall re-*
24 *mand such action to such State court.*

1 “(e) *PRESERVATION OF STATE JURISDICTION.*—The
2 *securities commission (or any agency or office performing*
3 *like functions) of any State shall retain jurisdiction under*
4 *the laws of such State to investigate and bring enforcement*
5 *actions.*

6 “(f) *DEFINITIONS.*—For purposes of this section, the
7 *following definitions shall apply:*

8 “(1) *AFFILIATE OF THE ISSUER.*—The term ‘af-
9 *filiate of the issuer’ means a person that directly or*
10 *indirectly, through 1 or more intermediaries, controls*
11 *or is controlled by or is under common control with,*
12 *the issuer.*

13 “(2) *CLASS ACTION.*—

14 “(A) *IN GENERAL.*—The term ‘class action’
15 *means—*

16 “(i) *any single lawsuit in which—*

17 “(I) *damages are sought on behalf*
18 *of more than 50 persons or prospective*
19 *class members, and questions of law or*
20 *fact common to those persons or mem-*
21 *bers of the prospective class, without*
22 *reference to issues of individualized re-*
23 *liance on an alleged misstatement or*
24 *omission, predominate over any ques-*

1 *tions affecting only individual persons*
2 *or members; or*

3 *“(II) 1 or more named parties*
4 *seek to recover damages on a represent-*
5 *ative basis on behalf of themselves and*
6 *other unnamed parties similarly situ-*
7 *ated, and questions of law or fact com-*
8 *mon to those persons or members of the*
9 *prospective class predominate over any*
10 *questions affecting only individual per-*
11 *sons or members; or*

12 *“(ii) any group of lawsuits filed in or*
13 *pending in the same court and involving*
14 *common questions of law or fact, in*
15 *which—*

16 *“(I) damages are sought on behalf*
17 *of more than 50 persons; and*

18 *“(II) the lawsuits are joined, con-*
19 *solidated, or otherwise proceed as a*
20 *single action for any purpose.*

21 *“(B) EXCEPTION FOR DERIVATIVE AC-*
22 *TIONS.—Notwithstanding subparagraph (A), the*
23 *term ‘class action’ does not include an exclu-*
24 *sively derivative action brought by 1 or more*
25 *shareholders on behalf of a corporation.*

1 “(C) *COUNTING OF CERTAIN CLASS MEM-*
2 *BERS.—For purposes of this paragraph, a cor-*
3 *poration, investment company, pension plan,*
4 *partnership, or other entity, shall be treated as*
5 *1 person or prospective class member, but only if*
6 *the entity is not established for the purpose of*
7 *participating in the action.*

8 “(D) *RULE OF CONSTRUCTION.—Nothing in*
9 *this paragraph shall be construed to affect the*
10 *discretion of a State court in determining wheth-*
11 *er actions filed in such court should be joined,*
12 *consolidated, or otherwise allowed to proceed as*
13 *a single action.*

14 “(3) *COVERED SECURITY.—The term ‘covered se-*
15 *curity’ means a security that satisfies the standards*
16 *for a covered security specified in section 18(b)(1) at*
17 *the time during which it is alleged that the misrepre-*
18 *sentation, omission, or manipulative or deceptive con-*
19 *duct occurred, except that such term shall not include*
20 *any debt security that is exempt from registration*
21 *under this title pursuant to rules issued by the Com-*
22 *mission under section 4(2) of this title.”.*

23 “(2) *CIRCUMVENTION OF STAY OF DISCOVERY.—*
24 *Section 27(b) of the Securities Act of 1933 (15 U.S.C.*

1 77z-1(b)) is amended by inserting after paragraph
2 (3) the following new paragraph:

3 “(4) *CIRCUMVENTION OF STAY OF DISCOVERY.*—
4 *Upon a proper showing, a court may stay discovery*
5 *proceedings in any private action in a State court as*
6 *necessary in aid of its jurisdiction, or to protect or*
7 *effectuate its judgments, in an action subject to a stay*
8 *of discovery pursuant to this subsection.”*

9 (3) *CONFORMING AMENDMENTS.*—Section 22(a)
10 *of the Securities Act of 1933 (15 U.S.C. 77v(a)) is*
11 *amended—*

12 (A) by inserting “*except as provided in sec-*
13 *tion 16 with respect to class actions,”* after “*Ter-*
14 *ritorial courts,”*; and

15 (B) by striking “*No case*” and inserting
16 “*Except as provided in section 16(c), no case*”.

17 (b) *AMENDMENTS TO THE SECURITIES EXCHANGE*
18 *ACT OF 1934.*—

19 (1) *AMENDMENT.*—Section 28 of the *Securities*
20 *Exchange Act of 1934 (15 U.S.C. 78bb) is amended—*

21 (A) in subsection (a), by striking “*The*
22 *rights and remedies*” and inserting “*Except as*
23 *provided in subsection (f), the rights and rem-*
24 *edies*”; and

1 (B) by adding at the end the following new
2 subsection:

3 “(f) *LIMITATIONS ON REMEDIES.*—

4 “(1) *CLASS ACTION LIMITATIONS.*—No class ac-
5 tion based upon the statutory or common law of any
6 State or subdivision thereof may be maintained in
7 any State or Federal court by any private party
8 alleging—

9 “(A) a misrepresentation or omission of a
10 material fact in connection with the purchase or
11 sale of a covered security; or

12 “(B) that the defendant used or employed
13 any manipulative or deceptive device or contriv-
14 ance in connection with the purchase or sale of
15 a covered security.

16 “(2) *REMOVAL OF CLASS ACTIONS.*—Any class
17 action brought in any State court involving a covered
18 security, as set forth in paragraph (1), shall be re-
19 movable to the Federal district court for the district
20 in which the action is pending, and shall be subject
21 to paragraph (1).

22 “(3) *PRESERVATION OF CERTAIN ACTIONS.*—

23 “(A) *ACTIONS UNDER STATE LAW OF STATE*
24 *OF INCORPORATION.*—

1 “(i) *ACTIONS PRESERVED.*—*Notwith-*
2 *standing paragraph (1) or (2), a class ac-*
3 *tion described in clause (ii) of this subpara-*
4 *graph that is based upon the statutory or*
5 *common law of the State in which the*
6 *issuer is incorporated (in the case of a cor-*
7 *poration) or organized (in the case of any*
8 *other entity) may be maintained in a State*
9 *or Federal court by a private party.*

10 “(ii) *PERMISSIBLE ACTIONS.*—*A class*
11 *action is described in this clause if it in-*
12 *volves—*

13 “(I) *the purchase or sale of securi-*
14 *ties by the issuer or an affiliate of the*
15 *issuer exclusively from or to holders of*
16 *equity securities of the issuer; or*

17 “(II) *any recommendation, posi-*
18 *tion, or other communication with re-*
19 *spect to the sale of securities of an*
20 *issuer that—*

21 “(aa) *is made by or on behalf*
22 *of the issuer or an affiliate of the*
23 *issuer to holders of equity securi-*
24 *ties of the issuer; and*

1 “(bb) concerns decisions of
2 such equity holders with respect to
3 voting their securities, acting in
4 response to a tender or exchange
5 offer, or exercising dissenters’ or
6 appraisal rights.

7 “(B) STATE ACTIONS.—

8 “(i) IN GENERAL.—Notwithstanding
9 any other provision of this subsection, noth-
10 ing in this subsection may be construed to
11 preclude a State or political subdivision
12 thereof or a State pension plan from bring-
13 ing an action involving a covered security
14 on its own behalf, or as a member of a class
15 comprised solely of other States, political
16 subdivisions, or State pension plans that
17 are named plaintiffs, and that have author-
18 ized participation, in such action.

19 “(ii) STATE PENSION PLAN DE-
20 FINED.—For purposes of this subparagraph,
21 the term ‘State pension plan’ means a pen-
22 sion plan established and maintained for its
23 employees by the government of a State or
24 political subdivision thereof, or by any
25 agency or instrumentality thereof.

1 “(C) *ACTIONS UNDER CONTRACTUAL*
2 *AGREEMENTS BETWEEN ISSUERS AND INDEN-*
3 *TURE TRUSTEES.*—*Notwithstanding paragraph*
4 *(1) or (2), a class action that seeks to enforce a*
5 *contractual agreement between an issuer and an*
6 *indenture trustee may be maintained in a State*
7 *or Federal court by a party to the agreement or*
8 *a successor to such party.*

9 “(D) *REMAND OF REMOVED ACTIONS.*—*In*
10 *an action that has been removed from a State*
11 *court pursuant to paragraph (2), if the Federal*
12 *court determines that the action may be main-*
13 *tained in State court pursuant to this subsection,*
14 *the Federal court shall remand such action to*
15 *such State court.*

16 “(4) *PRESERVATION OF STATE JURISDICTION.*—
17 *The securities commission (or any agency or office*
18 *performing like functions) of any State shall retain*
19 *jurisdiction under the laws of such State to inves-*
20 *tigate and bring enforcement actions.*

21 “(5) *DEFINITIONS.*—*For purposes of this sub-*
22 *section, the following definitions shall apply:*

23 “(A) *AFFILIATE OF THE ISSUER.*—*The term*
24 *‘affiliate of the issuer’ means a person that di-*
25 *rectly or indirectly, through 1 or more inter-*

1 *mediaries, controls or is controlled by or is*
2 *under common control with, the issuer.*

3 “(B) *CLASS ACTION.*—*The term ‘class ac-*
4 *tion’ means—*

5 “(i) *any single lawsuit in which—*

6 “(I) *damages are sought on behalf*
7 *of more than 50 persons or prospective*
8 *class members, and questions of law or*
9 *fact common to those persons or mem-*
10 *bers of the prospective class, without*
11 *reference to issues of individualized re-*
12 *liance on an alleged misstatement or*
13 *omission, predominate over any ques-*
14 *tions affecting only individual persons*
15 *or members; or*

16 “(II) *1 or more named parties*
17 *seek to recover damages on a represent-*
18 *ative basis on behalf of themselves and*
19 *other unnamed parties similarly situ-*
20 *ated, and questions of law or fact com-*
21 *mon to those persons or members of the*
22 *prospective class predominate over any*
23 *questions affecting only individual per-*
24 *sons or members; or*

1 “(ii) any group of lawsuits filed in or
2 pending in the same court and involving
3 common questions of law or fact, in
4 which—

5 “(I) damages are sought on behalf
6 of more than 50 persons; and

7 “(II) the lawsuits are joined, con-
8 solidated, or otherwise proceed as a
9 single action for any purpose.

10 “(C) *EXCEPTION FOR DERIVATIVE AC-*
11 *TIONS.—Notwithstanding subparagraph (B), the*
12 *term ‘class action’ does not include an exclu-*
13 *sively derivative action brought by 1 or more*
14 *shareholders on behalf of a corporation.*

15 “(D) *COUNTING OF CERTAIN CLASS MEM-*
16 *BERS.—For purposes of this paragraph, a cor-*
17 *poration, investment company, pension plan,*
18 *partnership, or other entity, shall be treated as*
19 *1 person or prospective class member, but only if*
20 *the entity is not established for the purpose of*
21 *participating in the action.*

22 “(E) *COVERED SECURITY.—The term ‘cov-*
23 *ered security’ means a security that satisfies the*
24 *standards for a covered security specified in sec-*
25 *tion 18(b)(1) of the Securities Act of 1933, at the*

1 *time during which it is alleged that the mis-*
2 *representation, omission, or manipulative or de-*
3 *ceptive conduct occurred, except that such term*
4 *shall not include any debt security that is ex-*
5 *empt from registration under the Securities Act*
6 *of 1933 pursuant to rules issued by the Commis-*
7 *sion under section 4(2) of such Act.*

8 “(F) *RULE OF CONSTRUCTION.*—*Nothing in*
9 *this paragraph shall be construed to affect the*
10 *discretion of a State court in determining wheth-*
11 *er actions filed in such court should be joined,*
12 *consolidated, or otherwise allowed to proceed as*
13 *a single action.”.*

14 (2) *CIRCUMVENTION OF STAY OF DISCOVERY.*—
15 *Section 21D(b)(3) of the Securities Exchange Act of*
16 *1934 (15 U.S.C. 78u-4(b)(3)) is amended by insert-*
17 *ing after subparagraph (C) the following new sub-*
18 *paragraph:*

19 “(D) *CIRCUMVENTION OF STAY OF DISCOV-*
20 *ERY.*—*Upon a proper showing, a court may stay*
21 *discovery proceedings in any private action in a*
22 *State court as necessary in aid of its jurisdic-*
23 *tion, or to protect or effectuate its judgments, in*
24 *an action subject to a stay of discovery pursuant*
25 *to this paragraph.”.*

1 (c) *APPLICABILITY.*—*The amendments made by this*
2 *section shall not affect or apply to any action commenced*
3 *before and pending on the date of enactment of this Act.*

4 **SEC. 102. ISSUANCE OF SUBPOENAS IN JUDICIAL ACTIONS.**

5 (a) *SECURITIES ACT.*—*Section 22(a) of the Securities*
6 *Act of 1933 (15 U.S.C. 77v(a)) is amended by inserting*
7 *after the second sentence the following: “In any action or*
8 *proceeding instituted by the Commission under this title in*
9 *the district court of the United States for any judicial dis-*
10 *trict, subpoenas issued by such court to compel the attend-*
11 *ance of witnesses may be served in any other district.”.*

12 (b) *SECURITIES EXCHANGE ACT.*—*Section 27 of the*
13 *Securities Act of 1934 (15 U.S.C. 78aa) is amended by in-*
14 *serting after the third sentence the following: “In any action*
15 *or proceeding instituted by the Commission under this title*
16 *in the district court of the United States for any judicial*
17 *district, subpoenas issued by such court to compel the at-*
18 *tendance of witnesses may be served in any other district.”.*

19 (c) *INVESTMENT COMPANY ACT.*—*Section 44 of the In-*
20 *vestment Company Act of 1940 (15 U.S.C. 80a-43) is*
21 *amended by inserting after the fourth sentence the following:*
22 *“In any action or proceeding instituted by the Commission*
23 *under this title in the district court of the United States*
24 *for any judicial district, subpoenas issued by such court to*

1 *compel the attendance of witnesses may be served in any*
2 *other district.”.*

3 (d) *INVESTMENT ADVISERS ACT.*—Section 214 of the
4 *Investment Advisers Act of 1940 (15 U.S.C. 80b–14)* is
5 *amended by inserting after the third sentence the following:*
6 *“In any action or proceeding instituted by the Commission*
7 *under this title in the district court of the United States*
8 *for any judicial district, subpoenas issued by such court to*
9 *compel the attendance of witnesses may be served in any*
10 *other district.”.*

11 (e) *PUBLIC UTILITY HOLDING COMPANY ACT.*—Sec-
12 *tion 25 of the Public Utility Holding Company Act of 1935*
13 *(15 U.S.C. 79y)* is amended by inserting after the third sen-
14 *tence the following: “In any action or proceeding instituted*
15 *by the Commission under this title in the district court of*
16 *the United States for any judicial district, subpoenas issued*
17 *by such court to compel the attendance of witnesses may*
18 *be served in any other district.”.*

19 **SEC. 103. PROMOTION OF RECIPROCAL SUBPOENA EN-**
20 **FORCEMENT.**

21 (a) *COMMISSION ACTION.*—The Securities and Ex-
22 *change Commission, in consultation with State securities*
23 *commissions, shall seek to encourage the adoption of State*
24 *laws providing for reciprocal enforcement by State securi-*
25 *ties commissions of subpoenas issued by another State secu-*

1 *rities commission seeking to compel persons to attend, tes-*
2 *tify in, or produce documents or records in connection with*
3 *an action or investigation by a State securities commission*
4 *of an alleged violation of State securities laws.*

5 (b) *REPORT.*—*Within 24 months after the date of en-*
6 *actment of this Act, the Commission shall submit a report*
7 *to the Congress—*

8 (1) *identifying the States that have adopted laws*
9 *described in subsection (a);*

10 (2) *describing the actions undertaken by the*
11 *Commission and State securities commissions to pro-*
12 *mote the adoption of such laws; and*

13 (3) *identifying any further actions the Commis-*
14 *sion recommends for such purposes.*

15 **SEC. 104. REPORT ON CONSEQUENCES.**

16 *The Securities and Exchange Commission shall in-*
17 *clude in each of its first 3 annual reports submitted after*
18 *the date of enactment of this Act a report regarding—*

19 (1) *the nature and the extent of the class action*
20 *cases that are preempted by, or removed pursuant to,*
21 *the amendments made by section 101 of this title;*

22 (2) *the extent to which that preemption or re-*
23 *moval either promotes or adversely affects the protec-*
24 *tion of securities investors or the public interest; and*

1 (3) if adverse effects are found, alternatives to, or
2 revisions of, such preemption or removal that—

3 (A) would not have such adverse effects;

4 (B) would further promote the protection of
5 investors and the public interest; and

6 (C) would still substantially reduce the risk
7 of abusive securities litigation.

8 **TITLE II—REAUTHORIZATION OF**
9 **THE SECURITIES AND EX-**
10 **CHANGE COMMISSION**

11 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 35 of the Securities Exchange Act of 1934 (15
13 U.S.C. 78kk) is amended to read as follows:

14 **“SEC. 35. AUTHORIZATION OF APPROPRIATIONS.**

15 “(a) *IN GENERAL.*—In addition to any other funds au-
16 thorized to be appropriated to the Commission, there are
17 authorized to be appropriated to carry out the functions,
18 powers, and duties of the Commission \$351,280,000 for fis-
19 cal year 1999.

20 “(b) *MISCELLANEOUS EXPENSES.*—Funds appro-
21 priated pursuant to this section are authorized to be ex-
22 pended—

23 “(1) not to exceed \$3,000 per fiscal year, for offi-
24 cial reception and representation expenses;

1 “(2) not to exceed \$10,000 per fiscal year, for
2 *funding a permanent secretariat for the International*
3 *Organization of Securities Commissions; and*

4 “(3) not to exceed \$100,000 per fiscal year, for
5 *expenses for consultations and meetings hosted by the*
6 *Commission with foreign governmental and other reg-*
7 *ulatory officials, members of their delegations, appro-*
8 *priate representatives, and staff to exchange views*
9 *concerning developments relating to securities mat-*
10 *ters, for development and implementation of coopera-*
11 *tion agreements concerning securities matters and*
12 *provision of technical assistance for the development*
13 *of foreign securities markets, such expenses to include*
14 *necessary logistic and administrative expenses and*
15 *the expenses of Commission staff and foreign invitees*
16 *in attendance at such consultations and meetings, in-*
17 *cluding—*

18 “(A) such incidental expenses as meals
19 *taken in the course of such attendance;*

20 “(B) any travel or transportation to or
21 *from such meetings; and*

22 “(C) any other related lodging or subsist-
23 *ence.”.*

1 **TITLE III—CLERICAL AND**
2 **TECHNICAL AMENDMENTS**

3 **SEC. 301. CLERICAL AND TECHNICAL AMENDMENTS.**

4 (a) *SECURITIES ACT OF 1933.*—*The Securities Act of*
5 1933 (15 U.S.C. 77 et seq.) *is amended as follows:*

6 (1) *Section 2(a)(15)(i) (15 U.S.C. 77b(a)(15)(i))*
7 *is amended by striking “section 2(13) of the Act” and*
8 *inserting “paragraph (13) of this subsection”.*

9 (2) *Section 11(f)(2)(A) (15 U.S.C. 77k(f)(2)(A))*
10 *is amended by striking “section 38” and inserting*
11 *“section 21D(f)”.*

12 (3) *Section 13 (15 U.S.C. 77m) is amended—*

13 (A) *by striking “section 12(2)” each place it*
14 *appears and inserting “section 12(a)(2)”;* and

15 (B) *by striking “section 12(1)” each place it*
16 *appears and inserting “section 12(a)(1)”.*

17 (4) *Section 18 (15 U.S.C. 77r) is amended—*

18 (A) *in subsection (b)(1)(A), by inserting “,*
19 *or authorized for listing,” after “Exchange, or*
20 *listed”;*

21 (B) *in subsection (c)(2)(B)(i), by striking*
22 *“Capital Markets Efficiency Act of 1996” and*
23 *inserting “National Securities Markets Improve-*
24 *ment Act of 1996”;*

1 (C) in subsection (c)(2)(C)(i), by striking
2 “Market” and inserting “Markets”;

3 (D) in subsection (d)(1)(A)—

4 (i) by striking “section 2(10)” and in-
5 serting “section 2(a)(10)”; and

6 (ii) by striking “subparagraphs (A)
7 and (B)” and inserting “subparagraphs (a)
8 and (b)”;

9 (E) in subsection (d)(2), by striking “Secu-
10 rities Amendments Act of 1996” and inserting
11 “National Securities Markets Improvement Act
12 of 1996”; and

13 (F) in subsection (d)(4), by striking “For
14 purposes of this paragraph, the” and inserting
15 “The”.

16 (5) Sections 27, 27A, and 28 (15 U.S.C. 77z–1,
17 77z–2, 77z–3) are transferred to appear after section
18 26.

19 (6) Paragraph (28) of schedule A of such Act (15
20 U.S.C. 77aa(28)) is amended by striking “identic”
21 and inserting “identical”.

22 (b) SECURITIES EXCHANGE ACT OF 1934.—The Secu-
23 rities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amend-
24 ed as follows:

1 (1) *Section 3(a)(10) (15 U.S.C. 78c(a)(10)) is*
2 *amended by striking “deposit, for” and inserting “de-*
3 *posit for”.*

4 (2) *Section 3(a)(12)(A) (15 U.S.C.*
5 *78c(a)(12)(A)) is amended by moving clause (vi) two*
6 *em spaces to the left.*

7 (3) *Section 3(a)(22)(A) (15 U.S.C.*
8 *78c(a)(22)(A)) is amended—*

9 (A) *by striking “section 3(h)” and inserting*
10 *“section 3”; and*

11 (B) *by striking “section 3(t)” and inserting*
12 *“such section 3”.*

13 (4) *Section 3(a)(39)(B)(i) (15 U.S.C.*
14 *78c(a)(39)(B)(i)) is amended by striking “an order to*
15 *the Commission” and inserting “an order of the Com-*
16 *mission”.*

17 (5) *The following sections are each amended by*
18 *striking “Federal Reserve Board” and inserting*
19 *“Board of Governors of the Federal Reserve System”:*
20 *subsections (a) and (b) of section 7 (15 U.S.C. 78g(a),*
21 *(b)); section 17(g) (15 U.S.C. 78q(g)); and section 26*
22 *(15 U.S.C. 78z).*

23 (6) *The heading of subsection (d) of section 7 (15*
24 *U.S.C. 78g(d)) is amended by striking “EXCEPTION”*
25 *and inserting “EXCEPTIONS”.*

1 (7) Section 14(g)(4) (15 U.S.C. 78n(g)(4)) is
2 amended by striking “consolidation sale,” and insert-
3 ing “consolidation, sale,”.

4 (8) Section 15 (15 U.S.C. 78o) is amended—

5 (A) in subsection (c), by moving paragraph

6 (8) two em spaces to the left;

7 (B) in subsection (h)(2), by striking “affect-
8 ing” and inserting “effecting”;

9 (C) in subsection (h)(3)(A)(i)(II)(bb), by in-
10 serting “or” after the semicolon;

11 (D) in subsection (h)(3)(A)(ii)(I), by strik-
12 ing “maintains” and inserting “maintained”;

13 (E) in subsection (h)(3)(B)(ii), by striking
14 “association” and inserting “associated”.

15 (9) Section 15B(c)(4) (15 U.S.C. 78o–4(c)(4)) is
16 amended by striking “convicted by any offense” and
17 inserting “convicted of any offense”.

18 (10) Section 15C(f)(5) (15 U.S.C. 78o–5(f)(5)) is
19 amended by striking “any person or class or persons”
20 and inserting “any person or class of persons”.

21 (11) Section 19(c) (15 U.S.C. 78s(c)) is amended
22 by moving paragraph (5) two em spaces to the right.

23 (12) Section 20 (15 U.S.C. 78t) is amended by
24 redesignating subsection (f) as subsection (e).

1 (13) *Section 21D (15 U.S.C. 78u-4) is amend-*
2 *ed—*

3 (A) *by redesignating subsection (g) as sub-*
4 *section (f); and*

5 (B) *in paragraph (2)(B)(i) of such sub-*
6 *section, by striking “paragraph (1)” and insert-*
7 *ing “subparagraph (A)”.*

8 (14) *Section 31(a) (15 U.S.C. 78ee(a)) is amend-*
9 *ed by striking “this subsection” and inserting “this*
10 *section”.*

11 (c) *INVESTMENT COMPANY ACT OF 1940.—The Invest-*
12 *ment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is*
13 *amended as follows:*

14 (1) *Section 2(a)(8) (15 U.S.C. 80a-2(a)(8)) is*
15 *amended by striking “Unitde” and inserting*
16 *“United”.*

17 (2) *Section 3(b) (15 U.S.C. 80a-3(b)) is amend-*
18 *ed by striking “paragraph (3) of subsection (a)” and*
19 *inserting “paragraph (1)(C) of subsection (a)”.*

20 (3) *Section 12(d)(1)(G)(i)(III)(bb) (15 U.S.C.*
21 *80a-12(d)(1)(G)(i)(III)(bb)), by striking “the ac-*
22 *quired fund” and inserting “the acquired company”.*

23 (4) *Section 18(e)(2) (15 U.S.C. 80a-18(e)(2)) is*
24 *amended by striking “subsection (e)(2)” and inserting*
25 *“paragraph (1) of this subsection”.*

1 (5) *Section 30 (15 U.S.C. 80a–29) is amended—*

2 (A) *by inserting “and” after the semicolon*
3 *at the end of subsection (b)(1);*

4 (B) *in subsection (e), by striking “semi-an-*
5 *nually” and inserting “semiannually”; and*

6 (C) *by redesignating subsections (g) and (h)*
7 *as added by section 508(g) of the National Secu-*
8 *rities Markets Improvement Act of 1996 as sub-*
9 *sections (i) and (j), respectively.*

10 (6) *Section 31(f) (15 U.S.C. 80a–30(f)) is*
11 *amended by striking “subsection (c)” and inserting*
12 *“subsection (e)”.*

13 (d) *INVESTMENT ADVISERS ACT OF 1940.—The Invest-*
14 *ment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amend-*
15 *ed as follows:*

16 (1) *Section 203(e)(8)(B) (15 U.S.C. 80b–*
17 *3(e)(8)(B)) is amended by inserting “or” after the*
18 *semicolon.*

19 (2) *Section 222(b)(2) of (15 U.S.C. 80b–*
20 *18a(b)(2)) is amended by striking “principle” and*
21 *inserting “principal”.*

22 (e) *TRUST INDENTURE ACT OF 1939.—The Trust In-*
23 *denture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended*
24 *as follows:*

1 (1) *Section 303 (15 U.S.C. 77ccc) is amended by*
2 *striking “section 2” each place it appears in para-*
3 *graphs (2) and (3) and inserting “section 2(a)”.*

4 (2) *Section 304(a)(4)(A) (15 U.S.C.*
5 *77ddd(a)(4)(A)) is amended by striking “(14) of sub-*
6 *section” and inserting “(13) of section”.*

7 (3) *Section 313(a) (15 U.S.C. 77mmm(a)) is*
8 *amended—*

9 (A) *by inserting “any change to” after the*
10 *paragraph designation at the beginning of para-*
11 *graph (4); and*

12 (B) *by striking “any change to” in para-*
13 *graph (6).*

14 (4) *Section 319(b) (15 U.S.C. 77sss(b)) is*
15 *amended by striking “the Federal Register Act” and*
16 *inserting “chapter 15 of title 44, United States*
17 *Code,”.*

18 **SEC. 302. EXEMPTION OF SECURITIES ISSUED IN CONNEC-**

19 **TION WITH CERTAIN STATE HEARINGS.**

20 *Section 18(b)(4)(C) of the Securities Act of 1933 (15*
21 *U.S.C. 77r(b)(4)(C)) is amended by striking “paragraph*
22 *(4) or (11)” and inserting “paragraph (4), (10), or (11)”.*