

CHAPTER 113

AN ACT to create 201.105 and 201.106 of the statutes, relating to insider trading of and solicitation of proxies for equity securities of domestic stock insurance companies to implement the model act recommended by the national association of insurance commissioners.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

201.105 and 201.106 of the statutes are created to read:

201.105 INSIDER TRADING OF SECURITIES. (1) Every person who is directly or indirectly the beneficial owner of more than 10 per cent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner on or before January 31, 1966, or within 10 days after he becomes such beneficial owner, director or officer a statement, in such form as the commissioner prescribes, of the amount of all equity securities of such company of which he is the beneficial owner, and within 10 days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner a statement, in such form as the commissioner prescribes, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

(2) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than 6 months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding 6 months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company fails or refuses to bring such suit within 60 days after request or fails diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction which the commissioner by rule exempts as not comprehended within the purpose of this subsection.

(3) It is unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal does not own the security sold, or if owning the security, does not deliver it against such sale within 20 days thereafter or does not within 5 days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this subsection if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit

within such time, or that to do so would cause undue inconvenience or expense.

(4) Subsection (2) shall not apply to any purchase and sale, or sale and purchase, and sub. (3) shall not apply to any sale, of any equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the federal securities exchange act of 1934) for such security. The commissioner may, by such rules as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

(5) Subsections (1), (2) and (3) shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules as the commissioner adopts in order to carry out this section.

(6) In this section "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner deems to be of similar nature and considers necessary or appropriate, by such rules as he prescribes in the public interest or for the protection of investors, to treat as an equity security.

(7) Subsections (1), (2) and (3) shall not apply to equity securities of a domestic stock insurance company if:

(a) Such securities are registered, or are required to be registered, pursuant to section 12 of the federal securities exchange act of 1934, as amended, or if

(b) Such domestic stock insurance company shall not have any class of its equity securities held of record by 100 or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to subs. (1), (2) and (3), except for this paragraph.

(8) The commissioner may make such rules as are necessary for the execution of his functions under this section, and may for such purpose classify domestic stock insurance companies, securities and persons or matters within his jurisdiction. No provision of sub. (1), (2) or (3) imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule of the commissioner, notwithstanding that such rule may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

201.106 PROXY SOLICITATION. It is unlawful for any person in contravention of such rules as the commissioner prescribes as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any equity security of a domestic stock insurer having 100 or more stockholders of record.

Approved June 22, 1965.