

fiscal year prior to July 1 and taxes imposed by subch. III of ch. 77 in the last quarter of the fiscal year but not payable until July 31 following the close of the fiscal year for periods ending prior to July 1 shall be deemed accrued tax receipts as of the close of the fiscal year but no revenue shall be deemed accrued tax receipts unless deposited by the state on or before July 31 the August 15 following the end of the fiscal year. Solely for purposes of relating annual taxes to estimated expenses, fees imposed under subch. II of ch. 77 and taxes imposed under ss. 139.02 and 139.03 (2n) shall be deemed accrued tax receipts as of the close of the fiscal year, but no revenue shall be deemed accrued tax receipts unless deposited by this state on or before July 31.

SECTION 3. 79.02 (2) (c) of the statutes is amended to read:

79.02 (2) (c) Beginning on ~~June 30, 1978~~ July 1, 1981, and annually thereafter, \$90,000,000 shall be entered from the general fund into the shared revenue account for the preliminary distribution prescribed under this subsection.

SECTION 4. Laws of 1981, chapter 1, section 38 (1) (intro.) is amended to read:

(Laws of 1981, chapter 1) Section 38 (1) (intro.) Notwithstanding section 79.02 (2) (c) of the statutes, the amount entered into the shared revenue account on July 1, 1981, for purposes of the preliminary distribution under section 79.02 of the statutes shall be \$79,469,400. The preliminary distribution to each municipality and county in 1981 under section 79.02 of the statutes shall be equal to the difference between the amounts under paragraphs (a) and (b).

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1981 Senate Bill 112

Date published: June 16, 1981

## CHAPTER 15 , Laws of 1981

AN ACT to repeal 449.17 (1) of the statutes, relating to making permanent the authorization for optometrists to use topical ocular diagnostic pharmaceutical agents.

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

SECTION 1. 449.17 (1) of the statutes is repealed.

SECTION 2. **Effective date.** This act takes effect on July 1, 1982.

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1981 Senate Bill 129

Date published: June 16, 1981

## CHAPTER 16 , Laws of 1981

AN ACT to repeal 552.01 (5) (e) and 552.03 (5); to renumber 552.01 (5) (f) and (g) and 552.03 (6) and (7); to amend 552.01 (4) and (6), 552.03 (4), 552.05 (1), (2) (d), (4) and (5), 552.09 (1) to (3), 552.11 (2), 552.13 (2) and (3), 552.15 (2), 552.17, 552.19 (1) and (2) and 552.21 (1) and (2); and to create 552.08 of the statutes, relating to changes in statutes regulating the take-over of target companies.

## CHAPTER 16

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

SECTION 1. 552.01 (4) of the statutes is amended to read:

552.01 (4) "Offeree" means ~~the~~ a record or beneficial owner of equity securities which a security that an offeror acquires, or offers or proposes to acquire, in connection with a take-over offer.

SECTION 2. 552.01 (5) (e) of the statutes is repealed.

SECTION 3. 552.01 (5) (f) and (g) of the statutes are renumbered 552.01 (5) (e) and (f).

SECTION 4. 552.01 (6) of the statutes is amended to read:

552.01 (6) "Target company" means a corporation or other issuer of securities ~~which:~~

(a) Which is organized under the laws of this state or has its principal office in this state, which;

(b) Which has substantial assets located in this state, whose;

(c) Whose equity securities of any class are or have been registered under ch. 551 or predecessor laws or are registered under s. 12 of the securities exchange act of 1934; and which is or may be involved in a take-over offer relating to any class of its equity securities

(d) Which has at least 100 record or beneficial holders of securities qualifying under par. (c) who are residents of this state or which has at least 5% of the securities qualifying under par. (c) held by residents of this state.

SECTION 6. 552.03 (4) of the statutes is amended to read:

552.03 (4) If any material change occurs in the facts set forth in the statement, the person filing the statement shall, within 10 days thereafter, file with the commissioner an amendment describing the change, in accordance with ~~such~~ rules as adopted by the commissioner prescribes.

SECTION 7. 552.03 (5) of the statutes is repealed.

SECTION 8. 552.03 (6) and (7) of the statutes are renumbered 552.03 (5) and (6).

SECTION 9. 552.05 (1), (2) (d), (4) and (5) of the statutes are amended to read:

552.05 (1) It is unlawful for any person to make a take-over offer involving a target company in this state, or to acquire any equity securities of a target company pursuant to the offer, unless the offer is effective under this chapter or is exempted by rule or order of the commissioner. The commissioner may by an exemption order, with or without petition of the offeror, permit a take-over offer to be made without prior registration under this chapter if the offeror's purchase of any securities tendered incident to the offer is conditioned upon subsequent registration under this chapter. The commissioner may hold a hearing under sub. (4) with respect to the registration of a take-over offer which is subject to an exemption order. Before a take-over offer becomes effective under this chapter, the offeror shall file with the commissioner a registration statement containing the information prescribed in sub. (2), and send a copy of the registration statement by certified mail to the target company at its principal office and publicly disclose the material terms of the proposed offer, not later than the date of filing of the registration statement.

(2) (d) Material information concerning the identity and background of any offeror who is not a corporation, including ~~his~~ the offeror's material business activities and affiliations during the past 3 years, and a description of any material pending legal or administrative proceedings in which the offeror is a party.

(4) A take-over offer becomes effective 10 days after the date of filing the registration statement with the commissioner unless delayed by order, or unless prior thereto the commissioner calls a hearing with respect to the offer. The commissioner may call a hearing if

~~he deems it is necessary or appropriate for the protection of offerees in this state, and shall call a hearing if so requested by. Within 5 days after the filing of the registration statement, the target company, acting through its board of directors, may petition the commissioner to hold a hearing with respect to the take-over offer, except that the target company may not request a hearing if it has requested a hearing with respect to the take-over offer under a law of any other state similar to this chapter. The petition shall set forth the specific basis asserted under sub. (5) for denying, delaying or requiring amendment of the registration statement. Within 72 hours after the petition is filed the commissioner shall either call a hearing or notify the target company in writing or by telephone or telegraph why a hearing was not called. If a hearing is called by the commissioner and the target company subsequently requests a hearing with respect to the take-over offer under a law of another state similar to this chapter the commissioner shall dismiss any hearing proceedings under this chapter. If a hearing is called, the offer shall is not become effective until registered by order of the commissioner, except that the commissioner may issue an exemption order permitting a conditional take-over offer under sub. (1) to commence.~~

(5) Any hearing called by the commissioner under this section shall be held within 20 days of the date of filing of the registration statement under sub. (1), and any determination made following the hearing shall be made within 30 days after such the filing, unless extended by order of the commissioner for the convenience of the parties or for the protection of offerees in this state, but an extension may not exceed offering period limitations relating to take-over offers prescribed by the securities exchange act of 1934 or rules and regulations under that act, if the take-over offer is subject to the securities exchange act of 1934. If, following the hearing, the commissioner finds that the take-over offer fails to provide for full and fair disclosure to offerees of all material information concerning the offer, ~~or that the offer is unfair or inequitable to offerees or will not be made to all stockholders on substantially equal terms or, the offer is in violation of ch. 551, he shall or this chapter or the offeror is delinquent in the filing of an ownership information statement or has filed an ownership information statement that contains a false statement of a material fact or omits to state a material fact necessary to make the statements made not misleading, the commissioner may, by order, deny registration of the offer, prohibit the offeror from filing a registration statement relating to a proposed take-over offer involving the target company for a period of up to 180 days or permit the take-over offer to be amended and by order register the amended take-over offer.~~

(6) ~~If he finds that the take-over offer provides for full and fair disclosure to offerees of all material information concerning the offer, and he does not find that the offer is unfair or inequitable to offerees or is not made on substantially equal terms to all stockholders or is in violation of ch. 551, he the commissioner does not enter an order denying or postponing registration under sub. (5), the commissioner shall, by order, register the take-over offer or amended take-over offer. Registration of the take-over offer is not deemed approval of the take-over offer by the commissioner.~~

SECTION 10. 552.08 of the statutes is created to read:

**552.08 Comity.** The registration and filing requirements of ss. 552.05 and 552.07 do not apply to a take-over offer subject to this chapter if the commissioner determines by order that another jurisdiction has statutes or rules which are applicable to the take-over offer and are being applied which afford protection to security holders located in this state substantially equal to the protection afforded security holders by this chapter. The issuance of an order under this section does not prohibit the commissioner from participating in any proceeding in the other jurisdiction to the extent necessary to protect security holders in this state.

SECTION 11. 552.09 (1) to (3) of the statutes are amended to read:

552.09 (1) Solicitation of any offeree for acceptance or rejection of a take-over offer, ~~or acquisition of any equity security of a target company pursuant to, or acquisition, removal or exercise of control, directly or indirectly, of any target company assets in this state, in connection with a nonexempt take-over offer, that is not effective or exempt before the take-over offer is permitted to be made under this chapter.~~

(2) Publication or use in connection with the offer of any false statement of a material fact or omitting to state a material fact necessary to make the statements made by him or her not misleading, but not including the mailing by a target company to its stockholders of solicitation materials published by an offeror.

(3) Sale to the offeror by any controlling ~~stockholders~~ person of a target company of ~~all or any part of their equity securities to the offeror at a price of the target company for consideration higher than that to be paid other stockholders pursuant to offerees under the take-over offer.~~

SECTION 12. 552.11 (2) of the statutes is amended to read:

552.11 (2) An offeror shall provide that any equity securities of a target company deposited or tendered pursuant to a registered take-over offer may be withdrawn by or on behalf of any offeree at any time within 7 days from the date the offer has become effective under this chapter and after 60 days from the date the offer has become effective under this chapter, except as to offers subject to and made in compliance with withdrawal requirements under the securities exchange act of 1934 or rules and regulations under that act, or except as the commissioner may otherwise prescribe by rule or order for the protection of investors. In any offer permitted to commence by an exemption order under s. 552.05 (1), the offeror shall provide that any equity securities tendered or deposited pursuant to the conditional offer will be purchased by the offeror only in the event a subsequent registration of the offer occurs under this chapter.

SECTION 13. 552.13 (2) and (3) of the statutes are amended to read:

552.13 (2) The commissioner may ~~make~~ adopt rules necessary to carry out the purposes of this chapter, including rules defining fraudulent or deceptive practices and other terms used in this chapter.

(3) The commissioner may by rule or order exempt from any provisions of this chapter take-over offers that ~~he~~ the commissioner determines are not made for the purpose or do not have the effect of changing or influencing the control of a target company or where compliance with this chapter is not necessary for the protection of ~~the stockholders of the target company offerees~~ offerees in this state, and ~~he~~ may ~~similarly~~ exempt any ~~persons~~ person from the filing of statements under this chapter.

SECTION 14. 552.15 (2) of the statutes is amended to read:

552.15 (2) The expenses reasonably attributable to any hearing held under this chapter shall be charged ratably to the offeror and the target company, ~~but the total amount charged shall not exceed \$500.~~

SECTION 15. 552.17 of the statutes is amended to read:

**552.17 Injunctions.** Whenever it appears ~~to the commissioner~~ that any person, including a controlling person of an offeror or target company, has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order ~~hereunder, he~~ under this chapter, the commissioner may bring an action in the name of the state in the circuit court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order ~~hereunder~~ under this chapter, or ~~he~~ may refer the matter to the attorney general or the district attorney of the appropriate county. Upon a proper showing, the court may grant a permanent or temporary injunction or restraining order ~~or~~, may order rescission of any sales or purchases of securities determined to be unlawful under this chapter or any rule or order ~~hereunder~~ under this

chapter or may grant other appropriate relief. The court may not require the commissioner to post a bond.

SECTION 16. 552.19 (1) and (2) of the statutes are amended to read:

552.19 (1) Any person, including a controlling person of an offeror or target company, who violates this chapter or any rule under this chapter, or any order of which ~~he~~ the person has notice, may be fined not more than \$5,000 or imprisoned not more than 5 years or both. Each of the acts specified ~~shall~~ constitute a separate offense and a prosecution or conviction for any one of ~~such the~~ offenses ~~shall does~~ not bar prosecution or conviction for any other offense. ~~No indictment or information may be returned under this chapter more than 6 years after the alleged violation.~~

(2) The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule or order ~~hereunder~~ under this chapter to the attorney general or the district attorney of the appropriate county who may, with or without any reference, institute the appropriate criminal proceedings under this chapter. If referred to a district attorney, ~~he~~ the district attorney shall, within 90 days, file with the commissioner a statement concerning any action taken or, if no action has been taken, the reasons therefor.

SECTION 17. 552.21 (1) and (2) of the statutes are amended to read:

552.21 (1) Any offeror who purchases a security in connection with a take-over offer not in compliance with this chapter or by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, ~~shall be~~ is liable to the person selling the security to ~~him~~ the offeror, who may sue either at law or in equity to recover the security, plus any income received by the purchaser ~~thereon on the security~~, upon tender of the consideration received, or for damages. Damages are the excess of either the value of the security on the date of purchase or its present value, whichever is greater, over the present value of the consideration received for the security. Tender requires only notice of willingness to pay the amount specified in exchange for the security. Any notice may be given by service as in civil actions or by certified mail to the ~~last known~~ last-known address of the person liable.

(2) Every person who directly or indirectly controls a person liable under sub. (1), every partner, principal executive officer or director of such person, every person occupying a similar status or performing similar functions, every employe of such person who materially aids in the act or transaction constituting the violation, and every broker-dealer or agent who materially aids in the act or transaction constituting the violation, is also liable jointly or severally with and to the same extent as such person, unless the person liable ~~hereunder~~ under this subsection proves that he or she did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

SECTION 18. **Change in terminology.** (1) Wherever the term "he" or "him" appears in the following sections of the statutes, the term "the commissioner" is substituted: 552.03 (1) (intro.), 552.05 (3), 552.09 (5) and 552.13 (1).

(2) Wherever the term "his" appears in the following section of the statutes, the term "the person's" is substituted: 552.03 (3).

(3) Wherever the term "he" or "him" appears in the following section of the statutes, the term "the person" is substituted: 552.03 (3).

SECTION 19. **Applicability.** Section 552.19 (1) of the 1979 statutes applies to any violation which occurred prior to the date which is 6 years prior to the effective date of this act. Section 939.74 of the statutes applies to any violation which occurs after that date.