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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

**1995-96**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on Insurance, Securities and  
Corporate Policy...**

### **COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### **INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

# Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 2-26-96  
 Moved by Green Seconded by Lasee  
 AB 181 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt 3476  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage
  - Introduction *of amd.*
  - Adoption *" " unanimous*
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrency
  - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair				
2.	Rep. William Lorge, Vice-Chair				
3.	Rep. Gregg Underheim				
4.	Rep. Robin Kreibich				
5.	Rep. Mary Lazich				
6.	Rep. Tim Hoven				
7.	Rep. Frank Lasee				
8.	Rep. Mark Green				
9.	Rep. Al Baldus				
10.	Rep. Barbara Notestein				
11.	Rep. Judy Robson				
12.	Rep. David Cullen				
13.	Rep. Robert Ziegelbauer				
14.					
15.					
16.					
17.					
18.					
Totals					

MOTION CARRIED       MOTION FAILED

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# Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 2-26-96  
 Moved by Cullen Seconded by Lorge  
 AB 781 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage *as amended*
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence
  - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lorge, Vice-Chair	✓			
3.	Rep. Gregg Underheim		✓		
4.	Rep. Robin Kreibich	✓			
5.	Rep. Mary Lazich	✓			
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein	ⓧ			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen		✓		
13.	Rep. Robert Ziegelbauer	✓			
14.					
15.					
16.					
17.					
18.					
Totals		10	2		

MOTION CARRIED 
MOTION FAILED

# Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 2-26-96

Moved by ~~SB~~ Seconded by \_\_\_\_\_

AB 781 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_

A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

Passage

Introduction

Adoption *of am*

Rejection

Indefinite Postponement

Tabling

Concurrence

Nonconcurrence

Confirmation

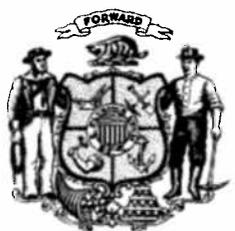
	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lorge, Vice-Chair	✓			
3.	Rep. Gregg Underheim	✓			
4.	Rep. Robin Kreibich	✓			
5.	Rep. Mary Lazich	✓			
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein	✓			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen	✓			
13.	Rep. Robert Ziegelbauer	✓			
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15.					
16.					
17.					
18.					
Totals					

MOTION CARRIED

MOTION FAILED



# WISCONSIN STATE LEGISLATURE



# Marshall & Ilsley Trust Company

1000 North Water Street/Milwaukee, WI 53202-6629/Tel 414 287-8700

February 8, 1996

VIA FACSIMILE

Representative Sheryl Albers, Chair  
Insurance, Securities and  
Corporate Policy Committee  
136 South Capitol  
Madison, Wisconsin

Re: 1995 Assembly Bill 781

Dear Representative Albers:

In connection with the hearings scheduled for today before your committee, I am writing to express my general support for 1995 Assembly Bill 781. Among other things, AB 781 modifies Chapter 551 of the Wisconsin Statutes to severely restrict the ability of the Office of the Wisconsin Commissioner of Securities to engage in the merit review of securities offerings.

My current position with the Marshall & Ilsley Trust Company entails representation of this organization and its affiliates, including the Marshall Funds family of mutual funds, with respect to securities regulatory compliance. Prior to December 1994, I was engaged in private practice for 15 years with the Milwaukee law firm of Gibbs, Roper, Loots & Williams, S.C., where my specialty involved the representation of publicly held and private issuers of securities, as well as securities broker-dealers and investment advisers. In addition, I am currently serving as Chair of the Securities Law Committee of the State Bar of Wisconsin's Business Law Section, although the views expressed in this letter are my own and do not necessarily represent the views of my colleagues at the State Bar.

This legislation recognizes and acknowledges that merit review is no longer practical given the nature of current securities markets and the protections available to investors. Wisconsin has historically had a reputation as one of the more difficult states in which to obtain an effective registration following application of merit review standards. There have been numerous instances during prior administrations in the Commissioner's Office where initial public offerings have either not been registered in Wisconsin, as a result of the merit review process, or have not been attempted, in order to avoid Wisconsin's merit review process. The impact of these instances has been to deny Wisconsin residents the opportunity to invest in, and profit from initial public offerings of securities that ultimately traded in the secondary market at significant premiums.

Wisconsin investors will not suffer as a result of this legislation. In addition to significant state and federal securities rights of action for fraudulent acts and material misrepresentations, this legislation appropriately retains the ability of the Commissioner of Securities to summarily issue a stop order on a securities registration in instances where a fraud on Wisconsin investors would occur as a result of the registration. Additionally, the legislation should permit the effective reallocation of staff resources to enforcement functions.

The diminished usefulness of the merit review process has been recognized over the past

Representative Sheryl Albers  
February 8, 1996  
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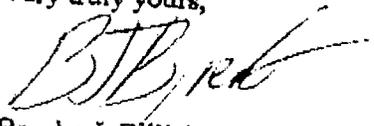
several years. Applicability of the merit review process has been watered down over the years, with expansions of statutory and regulatory exemptions, such as Wis. Stat. § 551.28(7), which currently excludes investors meeting an issuer's financial suitability requirements from the merit review process. The time is right for the elimination of the merit review process altogether.

AB 781 also amends certain portions of Wis. Stat. § 551.31 to clarify that broker-dealers, agents and investment advisers whose clients may be limited to individual accredited investors, as defined in § 551.23(8)(g), remain subject to the licensing provisions of Chapter 551. It is true that the current wording of the individual accredited investor exemption of § 551.23(8)(g), which requires an issuer determination of the existence of accredited investor status in connection with a sale in reliance on the exemption, may not strictly apply to a licensing exemption under § 551.31(3) for investment advisers. However, I disagree with the concept that individual accredited investors should be excluded from the realm of potential clients identified in § 551.23(8) that an investment adviser could serve without having to be licensed in Wisconsin.

The concept of the "accredited investor" under federal as well as state securities law, is that certain types of individuals, by virtue of wealth, sophistication and independent advice, may not need the whole panoply of protections as investors of more limited means. In my view, this same philosophy should apply at least to the licensing of investment advisers. An investment adviser should be afforded an exemption from licensing under Wisconsin law if the adviser's clients are limited to those who can be viewed as more capable of protecting themselves than the general public. In that regard, individual accredited investors who meet certain predefined wealth and sophistication tests should be included within the range of institutional investors, such as banks, trust companies and other financial institutions, who an adviser should be able to serve without the necessity of licensing.

Thank you for the opportunity to submit my views on this proposed legislation.

Very truly yours,



Brooke J. Billick  
Vice President and Securities Counsel



**To:** Insurance, Securities and Corporate Policy Committee  
**From:** Patricia D. Struck, Commissioner of Securities  
**Subject:** 1995 AB 781, relating to merit review of registration statements for securities offerings.

### Background

- Wisconsin securities laws apply to all offers and sales of securities in the state. These laws act in addition to federal regulation of securities transactions.
- Nationally, state securities registration laws fall primarily into two categories: disclosure-based and merit-based:
  - 1) Disclosure-based provisions which require that all material facts regarding an offering be fully and fairly disclosed to prospective investors.
  - 2) "Merit review" provisions which deal with the substantive merits and fairness to investors of the various aspects of securities offerings.
- The current Wisconsin securities law subjects public securities offerings to both disclosure review and merit review standards.
- Under the existing statute, if securities fail to pass merit review in Wisconsin, the securities cannot be offered or sold in the state (other than to institutional investors, such as banks, or to individuals in the secondary market).

### Purpose and necessity of this legislation

- This legislation would eliminate merit review from the Wisconsin securities statute (Chapter 551). Included in the legislation is a remedial change to a broker-dealer and investment adviser licensing exclusion made necessary by the enactment of the "individual accredited investor" exemption last year.
- Instead of deciding for the public what to buy and how much to pay for it, the Office of the Commissioner of Securities (OCS) **has focused its resources on investor protection through stronger enforcement and innovative investor education programs.**
- Merit review is time-consuming and costly.
- Merit review makes it more difficult for smaller companies to raise capital.
- Today's technology and information access provide investors with different sources of information about companies and securities that were not readily available to small investors when the current laws establishing merit review were enacted.
- This legislation would not be "breaking new ground" because the merit review process and requirements already have been removed by the OCS for most securities offerings as a result of the Administrative Rule revisions in 1994 and 1995. The OCS has undergone internal restructuring to ensure that the regulatory changes already made are implemented while the Office's enforcement and investor education efforts are maintained.
- "If Wisconsin doesn't do it, Congress will." -Congress is considering federal preemption of states' regulation of securities. If other states followed Wisconsin's lead, preemption would be unnecessary. This bill is consistent with Wisconsin's reputation as a national leader in securities regulation.

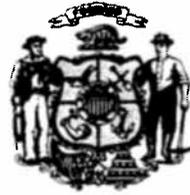
I will be making an appointment to meet with you individually and respond to any questions you may have. In addition, I may be contacted at 266-3431.



**State of Wisconsin**  
**Office of the Commissioner of Securities**

**Tommy G. Thompson**  
Governor

**Patricia D. Struck**  
Commissioner



Mailing Address:  
101 E. Wilson Street, Fourth Floor  
Post Office Box 1768  
Madison, WI 53701

Information	(608) 266-3431
Registration	(608) 266-1064
Franchise	(608) 266-8557
Licensing	(608) 266-3693
Legal Services	(608) 266-9886

Summary of Assembly Amendment 1 to AB 781

Assembly Amendment 1 makes the following two remedial/technical corrections to AB 781 that were identified after the bill was introduced.

- ▶ The amendment in Item 1 updates a citation to a federal securities law regulation that was renumbered in 1992. (The citation is contained in a private offering registration exemption under the Wisconsin Securities Law which was adopted in 1983 to coordinate with a 1981 federal private offering registration exemption).
- ▶ The amendment in Item 2 removes "fair and equitable" terminology from this section (which inadvertently was not included in the original drafting of AB 781) to be consistent with the other changes in AB 781 repealing "fair and equitable" as a basis for regulatory action.

[The amendment in Item 3 merely reflects that the effective date of the Item 2 amendment will be July 1, 1996].

\* \* \* \* \*