

SESSION OF 2015

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2106**

As Amended by Senate Committee on  
Corrections and Juvenile Justice

**Brief\***

HB 2106, as amended, would make several amendments to the Kansas Uniform Securities Act (Act). The first amendment, concerning exemptions from securities registration requirements, would state that nothing in the statutory section governing denial, suspension of the application of, condition, limit, or revocation of an exemption should be construed to exempt a person from the relevant anti-fraud provisions, nor should any existing exemption be construed to provide relief from any other provision of the Act if the sale of the security would violate the provisions of the anti-fraud statute.

Further, the bill would amend the law governing criminal penalties of the Act, which often are based on the amount lost as a result of the violation. The bill would clarify that when amounts are obtained in violation of the Act under one scheme or continuing course of business, whether from the same or several sources, the conduct may be considered as one continuing offense and the amounts aggregated in determining the grade of the offense.

If a crime under the Act is a continuing offense, the bill would specify the statute of limitations does not begin to run until the last act in the scheme or course of business is completed. The bill states this would not prevent the exclusion of a time period as currently provided by statute.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill also would add a section to the Kansas Code of Criminal Procedure to allow business records obtained pursuant to the investigative authority of the Office of the Securities Commissioner to be admissible in evidence at any preliminary examination in the same manner and with the same force and effect as if the individuals who made the record and the record custodian who keeps the record had testified in person.

Finally, the bill would make a technical change to address a conflict.

### **Background**

In the House Judiciary Committee, a representative of the Office of the Securities Commissioner appeared in support of the bill. There were no opponents.

The same proponent appeared in support of the bill in the Senate Corrections Committee.

The Senate Committee amended the bill to clarify that the new provision concerning the running of the statute of limitations would not prevent the exclusion of a time period as currently provided by statute. The Senate Committee also adopted an amendment requested by the Office of the Securities Commissioner concerning the admissibility of business records obtained pursuant to the investigative authority of the Office.

The fiscal note prepared by the Division of the Budget indicates the bill, as introduced, could result in the prosecution of additional cases, causing district and appellate court staff to spend additional time processing, researching, and hearing those cases. The additional cases also could increase docket fee revenue. It is not possible, however, to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. The

Office of the Securities Commissioner states the bill would have no fiscal effect on the Office. The Kansas Sentencing Commission notes the bill would not have an effect on prison admissions, prison beds, or the workload of the Commission.