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1 A bill to be entitled

2 An act relating to securities transactions; amending s.  
3 517.03, F.S.; authorizing the Attorney General to enforce  
4 certain provisions and to initiate certain actions;  
5 amending s. 517.191, F.S.; authorizing the Attorney  
6 General to bring civil actions to recover civil penalties,  
7 action costs, and attorney's fees; amending s. 517.2015,  
8 F.S.; deleting a provision granting a privilege against  
9 civil immunity for furnishing certain information or  
10 evidence; amending s. 517.302, F.S.; providing a criminal  
11 penalty for violations of specified sections of ch. 517,  
12 F.S.; deleting a criminal penalty for violating a  
13 provision of ch. 517, F.S.; authorizing the use of funds  
14 from the Anti-Fraud Trust Fund to compensate victims of  
15 violations of ch. 517, F.S.; assigning duties for  
16 administering the program of compensation; providing for  
17 rules; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Subsection (3) is added to section 517.03,  
22 Florida Statutes, to read:

23 517.03 Rulemaking; immunity for acts in conformity with  
24 rules.--

25 (3) Notwithstanding any other provision of this chapter,  
26 the Attorney General may enforce the provisions of ss. 517.07,  
27 517.12, 517.275, 517.301, 517.311, and 517.312; may commence any  
28 proceeding, issue any order, or conduct any investigation  
29 pursuant to this chapter for violations of this chapter or a  
30 rule or order under this chapter; and may seek all available



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31 remedies. Any information relative to a civil investigation or  
 32 examination by the Attorney General pursuant to this chapter is  
 33 subject to s. 517.2015.

34 Section 2. Section 517.191, Florida Statutes, is amended  
 35 to read:

36 517.191 Injunction to restrain violations; civil action.--

37 (1) When it shall appear to the department, either upon  
 38 complaint or otherwise, that a person has engaged or is about to  
 39 engage in any act or practice constituting a violation of this  
 40 chapter or a rule or order hereunder, the department may  
 41 investigate; and whenever it shall believe from evidence  
 42 satisfactory to it that any such person has engaged, is engaged,  
 43 or is about to engage in any act or practice constituting a  
 44 violation of this chapter or a rule or order hereunder, the  
 45 department may, in addition to any other remedies, bring action  
 46 in the name and on behalf of the state against such person and  
 47 any other person concerned in or in any way participating in or  
 48 about to participate in such practices or engaging therein or  
 49 doing any act or acts in furtherance thereof or in violation of  
 50 this chapter to enjoin such person or persons from continuing  
 51 such fraudulent practices or engaging therein or doing any act  
 52 or acts in furtherance thereof or in violation of this chapter.  
 53 In any such court proceedings, the department may apply for, and  
 54 on due showing be entitled to have issued, the court's subpoena  
 55 requiring forthwith the appearance of any defendant and her or  
 56 his employees, associated persons, or agents and the production  
 57 of documents, books, and records that may appear necessary for  
 58 the hearing of such petition, to testify or give evidence  
 59 concerning the acts or conduct or things complained of in such  
 60 application for injunction. In such action, the equity courts



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61 shall have jurisdiction of the subject matter, and a judgment  
62 may be entered awarding such injunction as may be proper.

63 (2) In addition to all other means provided by law for the  
64 enforcement of any temporary restraining order, temporary  
65 injunction, or permanent injunction issued in any such court  
66 proceedings, the court shall have the power and jurisdiction,  
67 upon application of the department, to impound and to appoint a  
68 receiver or administrator for the property, assets, and business  
69 of the defendant, including, but not limited to, the books,  
70 records, documents, and papers appertaining thereto. Such  
71 receiver or administrator, when appointed and qualified, shall  
72 have all powers and duties as to custody, collection,  
73 administration, winding up, and liquidation of said property and  
74 business as shall from time to time be conferred upon her or him  
75 by the court. In any such action, the court may issue orders and  
76 decrees staying all pending suits and enjoining any further  
77 suits affecting the receiver's or administrator's custody or  
78 possession of the said property, assets, and business or, in its  
79 discretion, may with the consent of the presiding judge of the  
80 circuit require that all such suits be assigned to the circuit  
81 court judge appointing the said receiver or administrator.

82 (3) In addition to any other remedies provided by this  
83 chapter, the department may apply to the court hearing this  
84 matter for an order of restitution whereby the defendants in  
85 such action shall be ordered to make restitution of those sums  
86 shown by the department to have been obtained by them in  
87 violation of any of the provisions of this chapter. Such  
88 restitution shall, at the option of the court, be payable to the  
89 administrator or receiver appointed pursuant to this section or



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90 directly to the persons whose assets were obtained in violation  
91 of this chapter.

92 (4) In addition to all other actions provided for by this  
93 chapter, the Attorney General may bring a civil action in the  
94 name of the state to recover civil penalties not to exceed  
95 \$10,000 for each violation of this chapter or a rule or order  
96 under this chapter and the cost of such action, including  
97 reasonable attorney's fees.

98 Section 3. Subsection (3) of section 517.2015, Florida  
99 Statutes, is amended to read:

100 517.2015 Confidentiality of information relating to  
101 investigations and examinations.--

102 ~~(3) A privilege against civil liability is granted to a~~  
103 ~~person who furnishes information or evidence to the department,~~  
104 ~~unless such person acts in bad faith or with malice in providing~~  
105 ~~such information or evidence.~~

106 Section 4. Section 517.302, Florida Statutes, is amended  
107 to read:

108 517.302 Criminal penalties; alternative fine; Anti-Fraud  
109 Trust Fund; time limitation for criminal prosecution.--

110 (1)(a) Except as provided in paragraph (b), whoever  
111 violates any of the provisions of this chapter commits ~~is guilty~~  
112 ~~of~~ a felony of the third degree, punishable as provided in s.  
113 775.082, s. 775.083, or s. 775.084.

114 (b) Whoever violates any of the provisions of s. 517.275,  
115 s. 517.301, or s. 517.311 commits a felony of the second degree,  
116 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

117 ~~(2) Any person who violates the provisions of s.~~  
118 ~~517.312(1) by obtaining money or property of an aggregate value~~  
119 ~~exceeding \$50,000 from five or more persons is guilty of a~~



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120 ~~felony of the first degree, punishable as provided in s.~~  
 121 ~~775.082, s. 775.083, or s. 775.084.~~

122 (2)~~(3)~~ In lieu of a fine otherwise authorized by law, a  
 123 person who has been convicted of or who has pleaded guilty or no  
 124 contest to having engaged in conduct in violation of the  
 125 provisions of this chapter may be sentenced to pay a fine that  
 126 does not exceed the greater of three times the gross value  
 127 gained or three times the gross loss caused by such conduct,  
 128 plus court costs and the costs of investigation and prosecution  
 129 reasonably incurred.

130 (a) There is created within the department a trust fund to  
 131 be known as the Anti-Fraud Trust Fund. Any amounts assessed as  
 132 costs of investigation and prosecution under this subsection  
 133 shall be deposited in the trust fund. Funds deposited in such  
 134 trust fund shall be used, when authorized by appropriation, for  
 135 investigation and prosecution of administrative, civil, and  
 136 criminal actions arising under the provisions of this chapter.  
 137 In addition, funds may be used, when authorized by  
 138 appropriation, to compensate victims of criminal violations of  
 139 this chapter. The department shall adopt rules to administer the  
 140 disbursement of funds in compensation of such victims, including  
 141 application forms and methods for substantiation of damages and  
 142 determination of priority of payment when available funds are  
 143 insufficient to pay all compensation claims. Funds may also be  
 144 used to improve the public's awareness and understanding of  
 145 prudent investing.

146 (b) The department shall report to the Executive Office of  
 147 the Governor annually by November 15, the amounts deposited into  
 148 the Anti-Fraud Trust Fund during the previous fiscal year. The  
 149 Executive Office of the Governor shall distribute these reports



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150 to the President of the Senate and the Speaker of the House of  
151 Representatives.

152 (3)~~(4)~~ Criminal prosecution for offenses under this  
153 chapter is subject to the time limitations of s. 775.15.

154 Section 5. This act shall take effect July 1, 2003.