

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to enacting the "institutional investor recovery act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "institutional investor recovery act".

3     S 2. The general business law is amended by adding a new section 353-b  
4     to read as follows:

5     S 353-B. ACTION BY CERTAIN PUBLIC RETIREMENT SYSTEMS AND MULTI-EMPLOY-  
6     ER HEALTH AND WELFARE RETIREMENT PLANS ORGANIZED UNDER THE TAFT-HARTLEY  
7     ACT. (A) ANY PUBLIC RETIREMENT SYSTEM AS DEFINED IN SUBDIVISION TWEN-  
8     TY-THREE OF SECTION FIVE HUNDRED ONE OF THE RETIREMENT AND SOCIAL SECU-  
9     RITY LAW, OR ANY MULTI-EMPLOYER HEALTH AND WELFARE RETIREMENT PLAN  
10    ORGANIZED UNDER THE TAFT-HARTLEY ACT AND INCORPORATED UNDER THE LAWS OF  
11    THIS STATE OR WHICH MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS IN THIS  
12    STATE, THAT IS DAMAGED IN CONNECTION WITH THE PURCHASE OR SALE OF A  
13    SECURITY AS A RESULT OF THE COMMISSION OF ANY ACT PROHIBITED BY SECTION  
14    THREE HUNDRED FIFTY-TWO-C OF THIS ARTICLE, MAY BRING AN ACTION FOR  
15    DAMAGES AGAINST ANY PERSON, PARTNERSHIP, CORPORATION, COMPANY, LIMITED  
16    LIABILITY COMPANY, TRUST, OR ASSOCIATION THAT COMMITTED, AIDED OR ABET-  
17    TED OR IN ANY WAY PARTICIPATED IN THE COMMISSION OF SUCH PROHIBITED ACT.

18    (B) NO PUBLIC RETIREMENT SYSTEM OR MULTI-EMPLOYER HEALTH AND WELFARE  
19    RETIREMENT PLANS ORGANIZED UNDER THE TAFT-HARTLEY ACT THAT HAD FEWER  
20    THAN ONE HUNDRED BENEFICIARIES AT THE TIME OF THE PURCHASE OR SALE OF  
21    THE SECURITY MAY BRING AN ACTION UNDER THIS SECTION.

22    (C) NO SUCH ACTION MAY BE BROUGHT MORE THAN SIX YEARS FROM THE TIME  
23    THE PLAINTIFF DISCOVERED THE ALLEGEDLY PROHIBITED ACT OR COULD, WITH  
24    REASONABLE DILIGENCE, HAVE DISCOVERED IT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD05286-01-3

1 (D) AFTER SUCH ACTION HAS BEEN BROUGHT, NOTWITHSTANDING ANY PROVISION  
2 OF LAW TO THE CONTRARY, DISCLOSURE AND RELATED PROCEEDINGS SHALL NOT BE  
3 STAYED DURING THE PENDENCY OF ANY MOTION TO DISMISS, UNLESS THE COURT SO  
4 DIRECTS.

5 S 3. Section 353 of the general business law is amended by adding a  
6 new subdivision 4 to read as follows:

7 4. NOTHING IN THIS ARTICLE SHALL PREEMPT ANY PURCHASER OR SELLER OF  
8 SECURITIES OR COMMODITIES FROM BRINGING ANY COMMON LAW CLAIMS CONCERNING  
9 ANY ALLEGED DECEPTION, MISREPRESENTATION, CONCEALMENT, SUPPRESSION,  
10 FRAUD, FALSE PRETENSE OR FALSE PROMISE MADE IN CONNECTION WITH THE SALE  
11 OR PURCHASE OF SUCH SECURITIES OR COMMODITIES AS DESCRIBED IN SECTION  
12 THREE HUNDRED FIFTY-TWO OF THIS ARTICLE.

13 S 4. This act shall take effect immediately and shall apply to causes  
14 of action accruing and actions pending before, on, or after its effec-  
15 tive date.