292.420 Burden of proving exemption.

(1) In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(2) The commissioner may require any person, who is selling or offering for sale or who is about to sell or offer for sale or who has sold or offered for sale any security within this state, to file a statement of the claim of exemption, if any, upon which such person is relying, and if any time, in the opinion of the commissioner, the information contained in such statement filed is misleading, incorrect, inadequate, or fails to establish the right of exemption, the commissioner may require such person, agent, or investment adviser to file such information as may in his opinion be necessary to establish the claimed exemption. The refusal to furnish information as required by order of the commissioner pursuant to the provisions of this subsection, within a reasonable time to be fixed by the commissioner, shall be proper ground for the entry of an order by the commissioner suspending and/or canceling the registration of the broker-dealer, agent or investment adviser.

(3) The commissioner shall have authority at all times to consider and determine whether any proposed sale, transaction, issue, or security is entitled to an exemption or an exception from the definition accorded by this chapter, provided, however, that the commissioner in his or her discretion may decline to exercise such authority as to any proposed sale, transaction, issue, or security. Any interested party desiring the commissioner to exercise such authority shall submit to the commissioner a verified statement of all material facts relating to the proposed sale, transaction, issue, or security, which verified statement shall be accompanied by a request for a ruling as to the particular exemption or exception from definition, together with a filing fee of two hundred fifty dollars ($250). After such notice to interested parties as the commissioner shall deem proper and after a hearing, if any, the commissioner may enter an order finding the proposed sale, transaction, issue, or security entitled or not entitled to the exemption or the exception from definition as claimed. An order so entered, unless an appeal be taken therefrom in the manner prescribed in this chapter, shall be binding upon the commissioner, provided that the proposed sale, transaction, issue, or security when consummated or issued conforms in every relevant and material particular with the facts as set forth in the verified statement as submitted.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 871, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 20, sec. 15, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 165, sec. 14, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 346, sec. 9, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 368, sec. 7, effective July 15, 1980. -- Amended 1972 Ky. Acts ch. 265, sec. 12. -- Created 1960 Ky. Acts ch. 110, sec. 21, effective January 1, 1961.