

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 207
HOUSE BILL 2601

AN ACT

AMENDING SECTIONS 44-1801 AND 44-1844, ARIZONA REVISED STATUTES; RELATING
TO SECURITIES SALES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1801, Arizona Revised Statutes, is amended to
3 read:

4 44-1801. Definitions

5 In this chapter and chapter 13 of this title, unless the context
6 otherwise requires:

7 1. "Blind pool offering" means an offering in which either:

8 (a) The offering materials do not describe specific operational
9 plans.

10 (b) Eighty ~~per cent~~ PERCENT or more of the net offering proceeds
11 are not specifically allocated for the purchase, construction or
12 development of identified property or products, for the payment of
13 indebtedness or overhead expenses, or for other activities set forth in
14 the issuer's business plan.

15 2. "Commission" means the Arizona corporation commission.

16 3. "Commodity" means any agricultural, grain or livestock product
17 or by-product, any metal or mineral including a precious metal, any gem or
18 gemstone whether characterized as precious, semiprecious or otherwise, any
19 fuel whether liquid, gaseous or otherwise, any foreign currency and all
20 other goods, articles, products or items of any kind. Commodity does not
21 include a numismatic coin with a fair market value at least fifteen ~~per~~
22 ~~cent~~ PERCENT higher than the value of the metal it contains, real property
23 or any timber, agricultural or livestock product grown or raised on real
24 property and offered or sold by the owner or lessee of such real property,
25 or any work of art offered or sold by art dealers, at public auction or
26 offered or sold through a private sale by the owner.

27 4. "Commodity exchange act" means the act of Congress known as the
28 commodity exchange act (7 United States Code, chapter 1).

29 5. "Commodity futures trading commission" means the independent
30 regulatory agency established by Congress to administer the commodity
31 exchange act.

32 6. "Commodity investment contract" means any account, agreement or
33 contract for the purchase or sale, primarily for speculation or investment
34 purposes and not for use or consumption by the offeree or purchaser, of
35 one or more commodities, whether for immediate or subsequent delivery or
36 whether delivery is intended by the parties, and whether characterized as
37 a cash contract, deferred shipment or deferred delivery contract, forward
38 contract, futures contract, installment or margin contract, leverage
39 contract or otherwise. Any commodity investment contract offered or sold,
40 in the absence of evidence to the contrary, is presumed to be offered or
41 sold for speculation or investment purposes. A commodity investment
42 contract does not include any contract or agreement ~~which~~ THAT requires,
43 and under which the purchaser receives, within twenty-eight calendar days
44 after the payment in good funds of any portion of the purchase price,

1 physical delivery of the total amount of each commodity to be purchased
2 under the contract or agreement.

3 7. "Commodity option" means any account, agreement or contract
4 giving a party to the account, agreement or contract the right but not the
5 obligation to purchase or sell one or more commodities or one or more
6 commodity investment contracts, whether characterized as an option,
7 privilege, indemnity, bid, offer, put, call, advance guaranty, decline
8 guaranty or otherwise.

9 8. "CRD system" means the central registration depository system of
10 the national association of securities dealers, incorporated.

11 9. "CROWDFUNDING" MEANS THE PRACTICE OF FUNDING A PROJECT OR
12 VENTURE BY RAISING MANY SMALL AMOUNTS OF MONEY FROM A LARGE NUMBER OF
13 PEOPLE.

14 ~~9.~~ 10. "Dealer":

15 (a) Means a person who directly or indirectly engages full-time or
16 part-time in this state as agent, broker or principal in the business of
17 offering, buying, selling or otherwise dealing or trading in securities
18 issued by another person, and who is not a salesman for a registered
19 dealer or is not a bank or savings institution the business of which is
20 supervised and regulated by an agency of this state or the United States.

21 (b) Means an issuer, other than an investment company, who,
22 directly or through an officer, director, employee or agent who is not
23 registered as a dealer under this chapter, engages in selling securities
24 issued by such issuer.

25 (c) Does not include a person who sells or offers to sell
26 securities exclusively to dealers registered under this chapter, and who
27 has no place of business within this state.

28 (d) Does not include a person who buys or sells securities for his
29 own account, either individually or in a fiduciary capacity, but not as
30 part of a regular business.

31 ~~10.~~ 11. "Director" means the director of the securities division
32 of the commission.

33 ~~11.~~ 12. "Division" means the securities division of the
34 commission.

35 ~~12.~~ 13. "Federal covered security" means any security described as
36 a covered security in section 18 of the securities act of 1933.

37 ~~13.~~ 14. "Issuer" means any person who issues or proposes to issue
38 any security, except:

39 (a) With respect to certificates of deposit, voting-trust
40 certificates, collateral-trust certificates, certificates of interest or
41 shares in an unincorporated investment trust, whether or not of the fixed,
42 restricted management, or unit type, issuer means the person or persons
43 performing the acts and assuming the duties of depositor or manager
44 pursuant to the provisions of the trust or other agreement or instrument
45 under which such securities are issued.

1 (b) With respect to equipment-trust certificates or like
2 securities, issuer means the person by whom the equipment or property is
3 or is to be used.

4 (c) With respect to fractional interests in any oil, gas or other
5 mineral lease, permit, claim or right, issuer means the owner thereof or
6 of any interest therein, whether whole or fractional, fractional interests
7 in which are created for the purpose of a public offering.

8 ~~14.~~ 15. "Numismatic coin":

9 (a) Means a coin that has all of the following characteristics:

10 (i) The coin is of interest primarily to coin collectors rather
11 than to speculators or investors in precious metals.

12 (ii) The fair market value of the coin is determined primarily by
13 its design, subject matter, limited mintage, rarity and relative condition
14 of preservation from wear rather than by its intrinsic precious metal or
15 bullion content.

16 (iii) The fair market value of the coin is directly related to an
17 individual inspection and grading of its relative condition according to
18 an established system of numismatic standards promulgated independently of
19 the offerer of the coin.

20 (iv) With the exception of proof, mint and commemorative coins, the
21 coin is minted or manufactured under authority of the issuing government
22 for the purpose of being used as legal tender.

23 (b) Does not include a coin that has at least one of the following
24 characteristics:

25 (i) The coin is minted, manufactured or advertised for sale
26 primarily to persons who seek to invest or speculate in precious metals
27 rather than to coin collectors or for use in commerce as legal tender.

28 (ii) The coin is advertised or sold with the expectation that it
29 will be purchased or traded for its intrinsic precious metal or bullion
30 content.

31 (iii) The price of the coin is directly related to the spot market
32 price of its intrinsic precious metal or bullion content.

33 (iv) The coin is generally not used as legal tender.

34 (v) The quantity of mintage or manufacture of the coin is based on
35 market demand.

36 (vi) The coin is not sought for its design, subject matter, limited
37 mintage, rarity or relative condition of preservation from wear, but
38 instead is sought for the value of its intrinsic precious metal or bullion
39 content.

40 ~~15.~~ 16. "Offer to sell" or "offer for sale" means an attempt or
41 offer to dispose of, or solicitation of an order or offer to buy, a
42 security or interest in a security for value or any sale or offer for sale
43 of a warrant or right to subscribe to another security of the same issuer
44 or of another issuer. Any sale or offer for sale of a security ~~which~~ THAT
45 gives the holder thereof a present or future right or privilege to convert

1 such security into another security of the same issuer or of another
2 issuer shall be deemed an offer to sell the security to be acquired
3 pursuant to such right or privilege, but the existence thereof shall not
4 be construed as affecting the registration or exemption under this chapter
5 of the security to which it attaches.

6 ~~16.~~ 17. "Person" means an individual, corporation, partnership,
7 association, joint stock company or trust, limited liability company,
8 government or governmental subdivision or agency or any other
9 unincorporated organization.

10 ~~17.~~ 18. "Precious metal" means the following in either coin,
11 bullion or other form:

- 12 (a) Silver.
- 13 (b) Gold.
- 14 (c) Platinum.
- 15 (d) Palladium.
- 16 (e) Copper.

17 ~~18.~~ 19. "Real property investment contract" means a contract for
18 the sale or purchase of a promissory note secured directly or collaterally
19 by a mortgage, deed of trust or other lien on real property, including a
20 contract as defined by IN section 33-741, or any agreement, arrangement or
21 understanding in connection with such note, lien or contract in which a
22 person agrees, implies to do or does any of the following, whether or not
23 the investor is aware that any of the following actions are contemplated
24 or taken:

- 25 (a) Guarantee the note, lien or contract against loss at any time.
- 26 (b) Promise to provide a market for the sale of the note, lien or
27 contract, in connection with a sale or purchase.
- 28 (c) Offer to accept or accept funds for investment in notes or
29 contracts secured directly or indirectly by a lien on real property, where
30 the real property is unspecified at the time of investment.
- 31 (d) Pay any interest or premium for a period before actual purchase
32 and delivery of the note or contract.
- 33 (e) Pay any money to an investor if the note or contract is in
34 arrears.
- 35 (f) Guarantee that principal or interest will be paid in conformity
36 with the terms of the note or contract.
- 37 (g) Accept, from time to time, partial payment toward the purchase
38 of the note or contract.
- 39 (h) Promise to repurchase the note or contract, in connection with
40 sale or purchase.

41 ~~19.~~ 20. "Registered dealer" means a dealer registered under this
42 chapter.

43 ~~20.~~ 21. "Registered salesman" means a salesman registered under
44 this chapter.

1 ~~21.~~ 22. "Sale" or "sell" means a sale or any other disposition of
2 a security or interest in a security for value, and includes a contract
3 to make such sale or disposition. A security given or delivered with, or
4 as a bonus on account of, a purchase of securities or other thing shall be
5 conclusively presumed to constitute a part of the subject of the purchase
6 and to have been sold for value.

7 ~~22.~~ 23. "Salesman" means an individual, other than a dealer,
8 employed, appointed or authorized by a dealer to sell securities in this
9 state. The partners or executive officers of a registered dealer shall
10 not be deemed salesmen within the meaning of this definition.

11 ~~23.~~ 24. "SEC" means the United States securities and exchange
12 commission.

13 ~~24.~~ 25. "Securities act of 1933" means the act of Congress known
14 as the securities act of 1933.

15 ~~25.~~ 26. "Securities exchange act of 1934" means the act of
16 Congress known as the securities exchange act of 1934.

17 ~~26.~~ 27. "Security":

18 (a) Means any note, stock, treasury stock, bond, commodity
19 investment contract, commodity option, debenture, evidence of
20 indebtedness, certificate of interest or participation in any
21 profit-sharing agreement, collateral-trust certificate, preorganization
22 certificate or subscription, transferable share, investment contract,
23 viatical or life settlement investment contract, voting-trust certificate,
24 certificate of deposit for a security, fractional undivided interest in
25 oil, gas or other mineral rights, real property investment contract or, in
26 general, any interest or instrument commonly known as a "~~security~~", or
27 any certificate of interest or participation in, temporary or interim
28 certificate for, receipt for, guarantee of, or warrant or right to
29 subscribe to or purchase, any of the foregoing.

30 (b) NOTWITHSTANDING SUBDIVISION (a) OF THIS PARAGRAPH, WITH RESPECT
31 TO A VIRTUAL COIN SHALL NOT BE CONSTRUED MORE BROADLY THAN THE TERM
32 SECURITY IS CONSTRUED IN THE SECURITIES ACT OF 1933, THE SECURITIES
33 EXCHANGE ACT OF 1934 OR ANY FEDERAL REGULATIONS RELATING TO EITHER ACT.

34 ~~27.~~ 28. "~~Self-regulatory organization~~" or "SRO" means any national
35 securities or commodities exchange, registered association or registered
36 clearing agency.

37 ~~28.~~ 29. "Underwriter" means a person who has acquired from an
38 issuer with a view to, or sells for an issuer in connection with, the
39 distribution of any securities or participates or has a direct or indirect
40 participation in such undertaking, or participates or has a participation
41 in the direct or indirect underwriting of such undertaking. Underwriter
42 ~~shall~~ DOES not include a person whose interest is limited to a commission
43 from an underwriter or dealer not in excess of the usual and customary
44 distributor's or seller's commission.

1 ~~29.~~ 30. "Viatical or life settlement investment contract" means an
2 agreement for consideration for the purchase, assignment, transfer, sale,
3 devise or bequest of any portion of the death benefit under or ownership
4 of either an insurance policy or certificate of insurance. A viatical or
5 life settlement investment contract does not include:

6 (a) Any agreement for the original issuance of an insurance policy
7 or certificate of insurance.

8 (b) An assignment, transfer, sale, devise or bequest of a death
9 benefit under or ownership of either an insurance policy or certificate of
10 insurance by the original owner or a person who has an insurable interest
11 in the insured pursuant to section 20-1104 to any of the following:

12 (i) The insured.

13 (ii) A person who has an insurable interest in the insured pursuant
14 to section 20-1104.

15 (iii) A dealer.

16 (iv) A person who is engaged in the business of purchasing the
17 death benefit under or ownership of either insurance policies or
18 certificates of insurance.

19 (c) An assignment of an insurance policy or certificate of
20 insurance to any bank, savings bank, savings and loan association, credit
21 union or other licensed lending institution as collateral for a loan.

22 (d) The exercise of accelerated benefits pursuant to the life
23 insurance policy.

24 31. "VIRTUAL COIN" MEANS A DIGITAL REPRESENTATION OF VALUE THAT CAN
25 BE DIGITALLY TRADED AND THAT FUNCTIONS AS A MEDIUM OF EXCHANGE, UNIT OF
26 ACCOUNT AND STORE OF VALUE.

27 32. "VIRTUAL COIN OFFERING":

28 (a) MEANS AN OFFER FOR SALE OF A VIRTUAL COIN THAT EITHER:

29 (i) MEETS THE DEFINITION OF A SECURITY PRESCRIBED IN THIS SECTION.

30 (ii) THE ISSUER ELECTS TO TREAT AS A SECURITY BY COMPLYING WITH
31 SECTION 44-1844, SUBSECTION A, PARAGRAPH 22.

32 (b) DOES NOT INCLUDE AN OFFER FOR SALE OF A VIRTUAL COIN THAT BOTH:

33 (i) HAS NOT BEEN MARKETED BY THE ISSUER AS AN INVESTMENT.

34 (ii) GRANTS TO THE PURCHASER, WITHIN NINETY DAYS AFTER THE
35 PURCHASER'S RECEIPT OF THE VIRTUAL COIN, THE RIGHT TO USE, CONTRIBUTE TO
36 THE DEVELOPMENT OF OR LICENSE THE USE OF A PLATFORM USING BLOCKCHAIN
37 TECHNOLOGY AS DEFINED IN SECTION 44-7061, INCLUDING A LICENSE TO USE A
38 PRODUCT OR SERVICE ON THE PLATFORM OR A DISCOUNT AGAINST FEES FOR USE OF
39 THE PLATFORM.

40 Sec. 2. Section 44-1844, Arizona Revised Statutes, is amended to
41 read:

42 44-1844. Exempt transactions

43 A. Except as provided in subsections B and C of this section,
44 sections 44-1841 and 44-1842, section 44-1843.02, subsections B and C and

1 sections 44-3321 and 44-3325 do not apply to any of the following classes
2 of transactions:

3 1. Transactions by an issuer not involving any public offering.

4 2. The sale of securities by an executor, administrator, guardian
5 or conservator or by a bank the business of which is supervised and
6 regulated by an agency of this state or of the United States, as trustee
7 under a will or trust agreement, or by a receiver or trustee in insolvency
8 or bankruptcy approved by a court of competent jurisdiction of this state
9 or the United States.

10 3. The sale in good faith and not for the purpose of avoiding the
11 provisions of this chapter by a pledgee of securities pledged for a bona
12 fide debt.

13 4. The sale in good faith and not for the purpose of avoiding the
14 provisions of this chapter of securities, including securities that when
15 originally issued were exempt pursuant to subsection ~~D~~ A, PARAGRAPH 22 of
16 this section, by the bona fide owner of such securities, other than an
17 issuer or underwriter, in an isolated transaction, in which the securities
18 are sold either directly or through a dealer as agent for the owner but
19 where the sales are not made in the course of repeated or successive
20 transactions of similar character by the owner and are not made directly
21 or indirectly for the benefit of the issuer or an underwriter of the
22 securities. For the purposes of this paragraph, the sale is not
23 considered to be made in the course of repeated or successive transactions
24 of similar character by the owner if both of the following apply:

25 (a) The sale is of a security that when originally issued was
26 exempt pursuant to subsection ~~D~~ A, PARAGRAPH 22 of this section.

27 (b) At least six months have passed after the date of the last sale
28 of the security by the issuer to a resident of this state.

29 5. The distribution by a corporation of capital stock or other
30 securities to its stockholders or other security holders as a stock
31 dividend or other distribution out of retained earnings.

32 6. Any transaction or series of transactions incident to a
33 statutory or judicially approved reorganization, merger, triangular
34 merger, consolidation, or sale of assets, incident to a vote by securities
35 holders pursuant to the articles of incorporation, the applicable
36 corporate statute or other controlling statute, a partnership agreement or
37 the controlling agreement among securities holders.

38 7. The exchange of securities by an issuer with its existing
39 security holders exclusively, where no commission or remuneration is paid
40 or given, directly or indirectly, for soliciting the exchange, if such
41 exchange has been duly authorized and has been approved by the holders of
42 not less than a majority of the outstanding securities of each class
43 affected by the exchange.

1 8. An offer or sale of securities to a bank, a savings institution,
2 a trust company, an insurance company, an investment company as defined in
3 the investment company act of 1940, a pension or profit sharing trust or
4 other financial institution or institutional buyer or a dealer whether the
5 purchaser is acting for itself or in a fiduciary capacity.

6 9. The issuance and delivery of securities in exchange for other
7 securities of the same issuer pursuant to a right of conversion entitling
8 the holder of the securities surrendered in exchange to make such
9 conversion.

10 10. The issuance and delivery of securities of a corporation,
11 limited liability company or limited partnership to the original
12 incorporators, organizers or general partners, not exceeding ten in
13 number, where the securities are not acquired by the incorporators,
14 organizers or general partners for the purpose of sale to others and are
15 not directly or indirectly sold to a third party within twenty-four months
16 unless an incorporator, organizer or general partner experiences a bona
17 fide change of financial circumstances within such time period, providing
18 original incorporators, organizers or general partners are notified of
19 their right pursuant to title 10 or 29 to review the financial books and
20 records of the corporation, limited liability company or limited
21 partnership at reasonable times.

22 11. A nonissuer transaction in an outstanding security, including
23 the sale by a dealer, including an underwriter no longer acting as an
24 underwriter in respect to the securities involved, of securities sold and
25 distributed to the public, but not including securities constituting an
26 unsold allotment to or subscription by the dealer as a participant in the
27 distribution of the securities by the issuer or by or through an
28 underwriter, if the class of security has been outstanding in the hands of
29 the public for not less than ninety days preceding the date of the
30 transaction and a recognized manual of securities designated by the
31 commission by rule or order at the time of sale contains the names of the
32 issuer's officers and directors, a statement of financial condition of the
33 issuer as of a date within eighteen months of the date of the sale and a
34 statement of income or operations for each of the two fiscal years next
35 before the date of the statement of financial condition or for the period
36 from the commencement of the issuer's existence to the date of the
37 statement of financial condition if the period is less than two years.

38 12. The sale by a dealer, including an underwriter no longer acting
39 as an underwriter in respect to the securities involved, of securities of
40 an issue sold and distributed to the public, but not including securities
41 constituting an unsold allotment to or subscription by the dealer as a
42 participant in the distribution of the securities by the issuer or by or
43 through an underwriter, if securities of such issue have been registered
44 by description under sections 44-1871 through 44-1875 or registered by
45 qualification under sections 44-1891 through 44-1902.

1 13. The sale of commodity investment contracts traded on a
2 commodities exchange recognized by the commission at the time of sale.

3 14. The sale or issuance of any investment contract or other
4 security in connection with an employee's pension, profit sharing, stock
5 purchase, stock bonus, savings, thrift, stock option or other similar
6 employee benefit plan that meets the requirements for qualification under
7 the United States internal revenue code.

8 15. Transactions within the exclusive jurisdiction of the commodity
9 futures trading commission as granted under the commodity exchange act.

10 16. Transactions involving the purchase of one or more precious
11 metals that require, and under which the purchaser receives, within seven
12 calendar days after the payment in good funds of any portion of the
13 purchase price, physical delivery of the quantity of the precious metals
14 purchased by such payment. For the purposes of this paragraph, physical
15 delivery is deemed to have occurred if, within such seven day period, the
16 quantity of precious metals purchased by such payment is delivered,
17 whether in specifically segregated or fungible bulk form, into the
18 possession of a depository other than the seller which is a financial
19 institution, a depository the warehouse receipts of which are recognized
20 for delivery purposes for any commodity on a contract market designated by
21 the commodity futures trading commission or a storage facility licensed or
22 regulated by the United States or any agency of the United States and such
23 depository or other person that qualifies as a depository issues and the
24 purchaser receives a certificate, document of title, confirmation or other
25 instrument evidencing that such quantity of precious metals has been
26 delivered to the depository and is being and will continue to be held by
27 the depository on the purchaser's behalf, free and clear of all liens and
28 encumbrances, other than liens of the purchaser, tax liens, liens agreed
29 to by the purchaser, or liens of the depository for fees and expenses,
30 that have previously been disclosed to the purchaser. For the purposes of
31 this paragraph, "financial institution" means a bank, savings institution
32 or trust company organized under, or supervised pursuant to, the laws of
33 the United States or of this state.

34 17. Transactions involving a commodity investment contract solely
35 between persons engaged in producing, processing, using commercially or
36 handling as merchants each commodity subject to the contract or any
37 by-product.

38 18. A nonissuer transaction in an outstanding security, including
39 the sale by a dealer, including an underwriter no longer acting as an
40 underwriter in respect to the securities involved, of securities sold and
41 distributed to the public, but not including securities constituting an
42 unsold allotment to or subscription by the dealer as a participant in the
43 distribution of the securities by the issuer or by or through an
44 underwriter if both of the following apply:

1 (a) The class of security has been outstanding in the hands of the
2 public for not less than ninety days preceding the date of the
3 transaction.

4 (b) The securities are listed on an automated quotation system of a
5 national securities association registered under the securities exchange
6 act of 1934.

7 19. Transactions involving the sale of securities to persons who
8 are not residents of this state and are not present in this state if all
9 of the following conditions are met:

10 (a) The securities being offered are not blind pool offerings.

11 (b) At least ten days before the offering date:

12 (i) The issuer certifies that the securities being offered will be
13 offered and sold in compliance with the securities act of 1933 and the
14 laws and regulations of those states in which the offers and sales will be
15 made.

16 (ii) The issuer files as a notice filing one copy of any offering
17 materials that may be required by the SEC or the laws and rules of those
18 states in which the offers and sales will be made.

19 (iii) The issuer submits a filing fee of two hundred dollars.

20 (c) Within ten working days of completion of the offering the
21 issuer files a description of the actions taken as to compliance with the
22 securities act of 1933 and the laws and rules of those states in which the
23 offers and sales were made.

24 (d) The transaction complies with any rule adopted by the
25 commission further restricting the exemption created by this paragraph to
26 prevent any fraudulent practices.

27 20. Transactions involving offers or sales of one or more
28 promissory notes directly secured by a first lien on a single parcel of
29 real estate on which is located a dwelling or other residential or
30 commercial structure and participation interest in those notes that are
31 exempt under section 4(5) of the securities act of 1933.

32 21. Offerings of securities of not more than one million dollars or
33 the limit established under 17 Code of Federal Regulations section 230.504
34 as follows:

35 (a) An unlimited number of sophisticated purchasers may be
36 involved.

37 (b) Written offering documents providing full and adequate
38 disclosure of material facts must be provided to each purchaser.

39 (c) Advertising is not allowed without a waiver from the director.

40 (d) The sum of the following amounts may not exceed the greater of
41 one million dollars or the limit established under 17 Code of Federal
42 Regulations section 230.504:

43 (i) The dollar value for the amount of securities being offered.

44 (ii) The aggregate offering price of all securities of the issuer
45 sold within the twelve months before the date of the offering.

1 (iii) The aggregate offering price of all securities of the issuer
2 sold during the course of the offering if the securities were sold in
3 reliance on 15 United States Code section 77c(b) or in violation of 15
4 United States Code section 77e(a).

5 (e) Provisions on offerings to sophisticated purchasers are as
6 follows:

7 (i) An offering to sophisticated purchasers under this section
8 allows sales to either an accredited investor as defined in 17 Code of
9 Federal Regulations section 230.501 or a person, acting alone or with a
10 purchaser representative, who the dealer reasonably believes has the
11 knowledge and experience in financial and business matters to be capable
12 of evaluating the merits and risks of the proposed investment. The dealer
13 must reasonably believe that the person has knowledge and experience
14 before a person becomes a purchaser.

15 (ii) The issuer shall display the following notice on the cover
16 page of the disclosure document in a conspicuous manner in at least
17 twelve-point boldface type:

18 In making an investment decision, investors shall rely
19 on their own examination of the issuer and the terms of the
20 offering, including the merits and risks involved. These
21 securities have not been recommended by any federal or state
22 securities commission or division or regulatory authority.
23 Furthermore, the foregoing authorities have not confirmed the
24 accuracy or determined the adequacy of this document. Any
25 representation to the contrary is a criminal offense. These
26 securities are subject to restrictions on transferability and
27 resale and may not be transferred or resold, except as allowed
28 by 17 Code of Federal Regulations and applicable state
29 securities laws, pursuant to registration or exemption from
30 registration. Investors must be aware that they are required
31 to bear the financial risks of this investment for an
32 indefinite period of time.

33 (f) One copy of the notice on form D filed with the SEC is filed
34 with the commission not later than fifteen calendar days after the first
35 sale of securities in or from this state.

36 (g) An offering to purchasers under this section allows all of the
37 following:

38 (i) Sales to be made only by a dealer who is not the issuer and who
39 is registered in this state.

40 (ii) The dealer to conduct the sales if the dealer reasonably
41 believes that adequate diligence and review have been applied in
42 connection with the offering and the dealer adequately determines the
43 suitability of the offering to a purchaser.

1 (iii) Sales if the dealer reasonably believes that the security is
2 suitable for the purchaser after reasonable inquiry concerning the
3 purchaser's investment objectives, financial situation and needs and after
4 consideration of any other information known by the dealer.

5 (h) The exemption may not be used if an issuer or person affiliated
6 with the issuer or offering is subject to disqualification pursuant to any
7 of the following:

8 (i) This chapter.

9 (ii) A rule or order of the commission.

10 (iii) The securities act of 1933 (15 United States Code section
11 77c(a)(11)).

12 (iv) The securities act of 1933, 17 Code of Federal Regulations
13 section 230.262.

14 (i) The commission may set aside disqualification if:

15 (i) On a showing of good cause and without prejudice to any other
16 action by the commission, the commission determines that it is not
17 necessary that an exemption be denied under the circumstances.

18 (ii) The issuer establishes that it made a factual inquiry into
19 whether any disqualification existed under subdivision (h) of this
20 paragraph but did not know and could not have known with the exercise of
21 reasonable care that a disqualification existed. The nature and scope of
22 the requisite inquiry will vary based on the circumstances of the subject
23 issuer and the other offering participants.

24 22. TRANSACTIONS INVOLVING AN INTRASTATE OFFERING, INCLUDING
25 CROWDFUNDING OR VIRTUAL COIN OFFERINGS, IF ALL OF THE FOLLOWING CONDITIONS
26 ARE MET:

27 (a) THE ISSUER IS AUTHORIZED TO DO BUSINESS IN THIS STATE.

28 (b) THE TRANSACTION MEETS THE REQUIREMENTS OF THE FEDERAL EXEMPTION
29 FOR INTRASTATE OFFERINGS UNDER 15 UNITED STATES CODE SECTION 77c(a)(11) OR
30 17 CODE OF FEDERAL REGULATIONS SECTION 230.147 OR 230.147A, OR ANY
31 SUBSEQUENTLY AMENDED OR EXPANDED VERSIONS OF THOSE SECTIONS. FOR THE
32 PURPOSES OF THIS CHAPTER, A CORPORATION, PARTNERSHIP, TRUST OR OTHER FORM
33 OF BUSINESS ORGANIZATION IS NOT DEEMED TO BE ORGANIZED FOR THE SPECIFIC
34 PURPOSE OF ACQUIRING SECURITIES OFFERED UNDER 17 CODE OF FEDERAL
35 REGULATIONS SECTION 230.147 OR 230.147A IF THE CORPORATION, PARTNERSHIP,
36 TRUST OR OTHER FORM OF BUSINESS ORGANIZATION EITHER:

37 (i) WAS CREATED BEFORE JANUARY 1, 2018.

38 (ii) INVESTS NINETY-FIVE PERCENT OR LESS OF ITS INVESTABLE ASSETS
39 IN OFFERINGS AUTHORIZED BY THIS CHAPTER.

40 (c) THE ISSUER OBTAINS FROM EACH PROSPECTIVE PURCHASER EVIDENCE
41 THAT THE PROSPECTIVE PURCHASER IS A RESIDENT OF THIS STATE AND, IF
42 APPLICABLE, IS AN ACCREDITED INVESTOR. A PROSPECTIVE PURCHASER'S
43 RESIDENCE SHALL BE DETERMINED IN ACCORDANCE WITH 17 CODE OF FEDERAL
44 REGULATIONS SECTION 230.147(d) OR 230.147A(d). IF THE PURCHASER IS AN
45 ENTITY, AN AFFIRMATIVE REPRESENTATION MADE BY THE ENTITY THAT THE ENTITY

1 IS A RESIDENT OF THIS STATE IS SUFFICIENT EVIDENCE THAT THE ENTITY IS A
2 RESIDENT OF THIS STATE IF THE ENTITY ALSO SUBMITS PROOF THAT THE ENTITY IS
3 INCORPORATED OR ORGANIZED IN THIS STATE, IS QUALIFIED AS A RESIDENT
4 PURSUANT TO ANY OF THE CATEGORIES IDENTIFIED IN 17 CODE OF FEDERAL
5 REGULATIONS SECTION 230.147(c)(1) OR 230.147A(c)(1) OR USES AN INTERNET
6 PROTOCOL ADDRESS ORIGINATING FROM THIS STATE TO PURCHASE THE OFFERING. IF
7 THE PURCHASER IS AN INDIVIDUAL, AN AFFIRMATIVE REPRESENTATION MADE BY THE
8 INDIVIDUAL THAT THE INDIVIDUAL IS A RESIDENT OF THIS STATE IS SUFFICIENT
9 EVIDENCE THAT THE INDIVIDUAL IS A RESIDENT OF THIS STATE IF THE INDIVIDUAL
10 ALSO SUBMITS PROOF OF ANY OF THE FOLLOWING:

11 (i) THE INDIVIDUAL HAS A VALID DRIVER LICENSE OR NONOPERATING
12 IDENTIFICATION LICENSE ISSUED PURSUANT TO TITLE 28.

13 (ii) THE INDIVIDUAL IS REGISTERED TO VOTE IN THIS STATE.

14 (iii) GENERAL PROPERTY TAX RECORDS SHOW THE INDIVIDUAL OWNS AND
15 OCCUPIES PROPERTY IN THIS STATE AS THE INDIVIDUAL'S PRINCIPAL RESIDENCE.

16 (iv) THE INDIVIDUAL USES AN INTERNET PROTOCOL ADDRESS ORIGINATING
17 FROM THIS STATE TO PURCHASE THE OFFERING.

18 (d) THE ISSUER INFORMS ALL PURCHASERS THAT THE SECURITIES HAVE NOT
19 BEEN REGISTERED AND THAT THE SECURITIES ARE SUBJECT TO THE LIMITATION ON
20 REALES CONTAINED IN EITHER:

21 (i) 17 CODE OF FEDERAL REGULATIONS SECTION 230.147(e), IN THE
22 MANNER DESCRIBED IN 17 CODE OF FEDERAL REGULATIONS SECTION 230.147(f).

23 (ii) 17 CODE OF FEDERAL REGULATIONS SECTION 230.147A(e), IN THE
24 MANNER DESCRIBED IN 17 CODE OF FEDERAL REGULATIONS SECTION 230.147A(f).

25 (e) BEFORE AN OFFER IS MADE IN RELIANCE ON THIS EXEMPTION, THE
26 ISSUER PAYS A FILING FEE TO BE PRESCRIBED BY THE DIRECTOR AND FILES A
27 NOTICE WITH THE DIRECTOR, IN WRITING OR IN ELECTRONIC FORM, THAT CONTAINS
28 ALL OF THE FOLLOWING:

29 (i) THE NAME OF THE ISSUER, INCLUDING THE ISSUER'S TYPE OF ENTITY
30 AND THE ADDRESS AND TELEPHONE NUMBER OF THE ISSUER'S PRINCIPAL OFFICE.

31 (ii) THE INTENDED USE OF THE OFFERING PROCEEDS, INCLUDING ANY
32 AMOUNTS TO BE PAID, AS COMPENSATION OR OTHERWISE, TO ANY OWNER, EXECUTIVE
33 OFFICER, DIRECTOR, MANAGING MEMBER OR OTHER PERSON OCCUPYING A SIMILAR
34 STATUS OR PERFORMING SIMILAR FUNCTIONS ON BEHALF OF THE ISSUER.

35 (iii) THE IDENTITY OF ALL PERSONS WHO WILL BE INVOLVED IN THE OFFER
36 OR SALE OF SECURITIES ON BEHALF OF THE ISSUER.

37 (iv) THE IDENTITY OF EACH PERSON THAT OWNS MORE THAN TEN PERCENT OF
38 THE OWNERSHIP INTERESTS OF ANY CLASS OF SECURITIES OF THE ISSUER.

39 (v) THE IDENTITY OF THE EXECUTIVE OFFICERS, DIRECTORS AND MANAGING
40 MEMBERS OF THE ISSUER AND ANY OTHER INDIVIDUALS WHO OCCUPY SIMILAR STATUS
41 OR PERFORM SIMILAR FUNCTIONS IN THE NAME OF AND ON BEHALF OF THE ISSUER.

42 (vi) NOTICE THAT THE ISSUER IS CLAIMING THIS EXEMPTION FOR THE
43 TRANSACTION.

1 (vii) THE NAME AND LOCATION, WHETHER PHYSICAL OR VIRTUAL OF THE
2 BANK, INSTITUTION OR OTHER REPOSITORY IN WHICH INVESTOR MONIES OR
3 PROCEEDS, OR BOTH, FROM THE OFFERING WILL BE DEPOSITED.

4 (f) IF THE INFORMATION CONTAINED ON THE NOTICE REQUIRED IN
5 SUBDIVISION (e) OF THIS PARAGRAPH BECOMES INACCURATE FOR ANY REASON, THE
6 ISSUER FILES AN AMENDMENT IN WRITING WITH THE DIRECTOR WITHIN THIRTY DAYS.

7 (g) ALL DOLLAR-DENOMINATED MONIES RECEIVED FROM INVESTORS ARE
8 DEPOSITED INTO A BANK OR DEPOSITORY INSTITUTION AUTHORIZED TO DO BUSINESS
9 IN THIS STATE, AND ALL SUCH MONIES ARE USED IN ACCORDANCE WITH
10 REPRESENTATIONS MADE TO INVESTORS.

11 (h) THE SUM OF ALL CASH AND OTHER CONSIDERATION TO BE RECEIVED AS A
12 RESULT OF AN OFFERING UNDER THIS EXEMPTION DOES NOT EXCEED FIVE MILLION
13 DOLLARS IN A TWELVE-MONTH PERIOD.

14 (i) THE ISSUER AND ANY PERSONS AFFILIATED WITH THE ISSUER OR
15 OFFERING ARE NOT SUBJECT TO DISQUALIFICATION PURSUANT TO THIS CHAPTER, A
16 RULE OR ORDER OF THE DIRECTOR, 15 UNITED STATES CODE SECTION 77c(a)(11) OR
17 CODE OF FEDERAL REGULATIONS SECTION 230.262. THE DIRECTOR MAY SET
18 ASIDE DISQUALIFICATION IF BOTH OF THE FOLLOWING APPLY:

19 (i) ON A SHOWING OF GOOD CAUSE AND WITHOUT PREJUDICE TO ANY OTHER
20 ACTION BY THE DIRECTOR, THE DIRECTOR DETERMINES THAT IT IS NOT NECESSARY
21 THAT AN EXEMPTION BE DENIED UNDER THE CIRCUMSTANCES.

22 (ii) THE ISSUER ESTABLISHES THAT THE ISSUER MADE A FACTUAL INQUIRY
23 INTO WHETHER ANY DISQUALIFICATION EXISTED AND DID NOT KNOW AND COULD NOT
24 HAVE KNOWN IN THE EXERCISE OF REASONABLE CARE THAT A DISQUALIFICATION
25 EXISTED. THE NATURE AND SCOPE OF THE REQUISITE INQUIRY WILL VARY BASED ON
26 THE CIRCUMSTANCES OF THE SUBJECT ISSUER AND THE OTHER OFFERING
27 PARTICIPANTS.

28 (j) THE ISSUER DOES NOT ACCEPT MORE THAN TEN THOUSAND DOLLARS FROM
29 ANY SINGLE PURCHASER UNLESS THE PURCHASER IS AN ACCREDITED INVESTOR UNDER
30 17 CODE OF FEDERAL REGULATIONS SECTION 230.501.

31 B. Subsection A, paragraph 11 of this section does not apply to
32 either of the following:

33 1. Sales by a dealer or salesman who is not registered in this
34 state.

35 2. Solicited sales to or purchases from a resident of this state by
36 a dealer who does not have, before the initial solicitation, a written new
37 account form signed by the resident or a customer agreement signed by the
38 resident and a previous sale or purchase of a security with the resident.

39 C. The commission may by order revoke or suspend the exemption
40 under subsection A, paragraph 11 or 18 of this section with respect to any
41 securities or the use of the exemption under subsection A, paragraph 11 of
42 this section by any dealer if it finds that the further sale in this state
43 of the securities or by the dealer would work, or tend to work, a fraud or
44 deceit on the purchaser.

1 ~~D. Sections 44-1841 and 44-1842, section 44-1843.02, subsections B~~
2 ~~and C and sections 44-3321 and 44-3325 do not apply to the offer or sale~~
3 ~~of a security by the issuer of the security if all of the following apply:~~

4 ~~1. The issuer of the security is:~~

5 ~~(a) A resident of this state as described in 17 Code of Federal~~
6 ~~Regulations section 230.147 or 230.147A.~~

7 ~~(b) A business entity organized under the laws of this state.~~

8 ~~(c) Authorized to do business in this state.~~

9 ~~(d) Doing business in this state pursuant to the securities act of~~
10 ~~1933, 17 Code of Federal Regulations section 230.147 or 230.147A.~~

11 ~~2. The transaction meets the requirement of the federal exemption~~
12 ~~for intrastate offerings in the securities act of 1933 (15 United States~~
13 ~~Code section 77c(a)(11) or 77e) and 17 Code of Federal Regulations section~~
14 ~~230.147 or 230.147A.~~

15 ~~3. The aggregate offering price of the securities complies with the~~
16 ~~following:~~

17 ~~(a) If the issuer has not undergone and made available to each~~
18 ~~prospective purchaser and the commission the opinion letter and applicable~~
19 ~~documentation resulting from a financial audit of its most recently~~
20 ~~completed fiscal year that complies with generally accepted accounting~~
21 ~~principles, the sum of all cash and other consideration to be received for~~
22 ~~all sales of securities in reliance on this exemption may not exceed one~~
23 ~~million dollars in a twelve-month period.~~

24 ~~(b) If the issuer has undergone and made available to each~~
25 ~~prospective purchaser and the commission the opinion letter and applicable~~
26 ~~documentation resulting from a financial audit of its most recently~~
27 ~~completed fiscal year that complies with generally accepted accounting~~
28 ~~principles, the sum of all cash and other consideration to be received for~~
29 ~~all sales of securities in reliance on this exemption may not exceed two~~
30 ~~million five hundred thousand dollars in a twelve-month period.~~

31 ~~(c) An offer or sale to an officer, director, partner, trustee or~~
32 ~~individual occupying similar status or performing similar functions with~~
33 ~~respect to the issuer or to a person owning ten percent or more of the~~
34 ~~outstanding shares of any class or classes of securities of the issuer~~
35 ~~does not count toward the monetary limitations prescribed in this~~
36 ~~paragraph.~~

37 ~~4. All sales that are part of the same offering, made in reliance~~
38 ~~on this exemption, meet all of the terms and conditions of this exemption.~~
39 ~~Offers and sales that are made more than six months after completion of an~~
40 ~~offering may not be considered part of the offering if during that~~
41 ~~six-month period there are no offers or sales of securities by or for the~~
42 ~~issuer that are of the same or a similar class as those offered or sold~~
43 ~~under this exemption, other than offers and sales to individuals~~
44 ~~identified in the disclosure document.~~

1 ~~5. The issuer does not accept more than ten thousand dollars from~~
2 ~~any single purchaser unless the purchaser is an accredited investor as~~
3 ~~defined by the securities act of 1933, 17 Code of Federal Regulations~~
4 ~~section 230.501.~~

5 ~~6. Unless waived by written consent of the director, not less than~~
6 ~~ten days before the commencement of an offering of securities, pursuant to~~
7 ~~this exemption, the issuer submits all of the following to the commission:~~

8 ~~(a) A notice filing on a form prescribed by the commission.~~

9 ~~(b) A copy of the disclosure document to be provided to prospective~~
10 ~~purchasers pursuant to paragraph 16 of this subsection.~~

11 ~~(c) A copy of the escrow agreement entered into pursuant to~~
12 ~~paragraph 7 of this subsection.~~

13 ~~(d) Any other documents or information the commission may require~~
14 ~~to administer and enforce this exemption.~~

15 ~~7. All cash and other consideration paid for securities sold~~
16 ~~pursuant to an offering pursuant to this exemption are directed to and~~
17 ~~deposited into a single escrow account maintained by a bank, a credit~~
18 ~~union or another depository financial institution in this state that is~~
19 ~~authorized to do business in this state and that maintains deposit or~~
20 ~~share insurance on its deposits or shares or by an escrow agent that is~~
21 ~~licensed by the department of financial institutions. The escrow agent~~
22 ~~for the escrow account shall maintain the records necessary to obtain~~
23 ~~pass-through insurance for the escrowed funds. The commission may request~~
24 ~~information from the escrow agent or financial institution necessary to~~
25 ~~ensure compliance with this paragraph. Any information received by the~~
26 ~~commission is confidential and not subject to disclosure, unless the~~
27 ~~director authorizes the disclosure of the information as not contrary to~~
28 ~~the public interest. The bank, regulated trust company or corporate~~
29 ~~fiduciary, savings bank, savings and loan association or credit union in~~
30 ~~which the investor monies are deposited is only responsible to act at the~~
31 ~~direction of the party establishing the escrow agreement and does not have~~
32 ~~any duty or liability, contractual or otherwise, to any investor or other~~
33 ~~person.~~

34 ~~8. Offers made pursuant to this exemption state a target offering~~
35 ~~amount and an offering deadline. The offering deadline may not be less~~
36 ~~than twenty-one days and not more than one year from the date the offer is~~
37 ~~made.~~

38 ~~9. The sum of all cash and other consideration received and held in~~
39 ~~escrow, as required by paragraph 7 of this subsection, may not be less~~
40 ~~than eighty percent of the target offering amount on expiration of the~~
41 ~~offering deadline or the early closing of the offering, pursuant to~~
42 ~~paragraph 11 of this subsection, and if this requirement is not met the~~
43 ~~transaction is void and the escrow agent shall return all funds deposited~~
44 ~~into the escrow account to the purchasers.~~

1 ~~10. A purchaser is permitted to cancel the purchaser's commitment~~
2 ~~to invest at any time before forty-eight hours before expiration of the~~
3 ~~offering deadline if notice of cancellation is delivered electronically or~~
4 ~~physically in writing to the individual or addresses identified in the~~
5 ~~disclosure document. If a purchaser is given notice of an early closing,~~
6 ~~pursuant to paragraph 11 of this subsection, the purchaser may cancel the~~
7 ~~commitment within seventy-two hours of delivery of the notice.~~

8 ~~11. If an issuer closes an offering before the offering deadline,~~
9 ~~the issuer delivers notice of the closing to each purchaser pursuant to~~
10 ~~the notice provisions set forth in the disclosure document prescribed by~~
11 ~~paragraph 16 of this subsection and posts the notice conspicuously on each~~
12 ~~internet website on which the offer was posted, at least five days before~~
13 ~~the early closing.~~

14 ~~12. Before or as a result of the offering, the issuer is not any of~~
15 ~~the following:~~

16 ~~(a) An investment company, as defined by the investment company act~~
17 ~~of 1940 (15 United States Code section 80a-3(a)).~~

18 ~~(b) An entity that would be an investment company but for the~~
19 ~~exclusions provided in the investment company act of 1940 (15 United~~
20 ~~States Code section 80a-3(c)).~~

21 ~~(c) Subject to the reporting requirements of the securities~~
22 ~~exchange act of 1934 (15 United States Code section 78o(d)).~~

23 ~~(d) A company that has not yet defined its business operations,~~
24 ~~that does not have a business plan or a stated investment goal for the~~
25 ~~funds being raised or that plans to engage in a merger or acquisition with~~
26 ~~an unspecified business entity.~~

27 ~~13. The issuer informs all prospective purchasers of securities~~
28 ~~that the securities have not been registered under federal or state~~
29 ~~securities laws and that the securities are subject to limitations on~~
30 ~~resale. The issuer shall display the following notice on the cover page~~
31 ~~of the disclosure document in a conspicuous manner in at least~~
32 ~~twelve-point boldface type:~~

33 ~~In making an investment decision, investors shall rely~~
34 ~~on their own examination of the issuer and the terms of the~~
35 ~~offering, including the merits and risks involved. These~~
36 ~~securities have not been recommended by any federal or state~~
37 ~~securities commission or division or regulatory authority.~~
38 ~~Furthermore, the foregoing authorities have not confirmed the~~
39 ~~accuracy or determined the adequacy of this document. Any~~
40 ~~representation to the contrary is a criminal offense. These~~
41 ~~securities are subject to restrictions on transferability and~~
42 ~~resale and may not be transferred or resold, except as~~
43 ~~permitted by 17 Code of Federal Regulations section 230.147 or~~
44 ~~230.147A and the applicable state securities laws, pursuant to~~
45 ~~registration or exemption therefrom. Investors shall be aware~~

1 ~~that they will be required to bear the financial risks of this~~
2 ~~investment for an indefinite period of time.~~

3 ~~14. The issuer requires each purchaser to certify in writing or~~
4 ~~electronically as follows:~~

5 ~~I understand and acknowledge that I am investing in a~~
6 ~~high-risk, speculative business venture. I may lose all of my~~
7 ~~investment, or under some circumstances more than my~~
8 ~~investment, and I can afford this loss. This offering has not~~
9 ~~been reviewed or approved by any state or federal securities~~
10 ~~commission or division or other regulatory authority and no~~
11 ~~such person or authority has confirmed the accuracy or~~
12 ~~determined the adequacy of any disclosure made to me relating~~
13 ~~to this offering. The securities I am acquiring in this~~
14 ~~offering are illiquid, there is no ready market for the sale~~
15 ~~of such securities, it may be difficult or impossible for me~~
16 ~~to sell or otherwise dispose of this investment and,~~
17 ~~accordingly, I may be required to hold this investment~~
18 ~~indefinitely. I may be subject to tax on my share of the~~
19 ~~taxable income and losses of the company, whether or not I~~
20 ~~have sold or otherwise disposed of my investment or received~~
21 ~~any dividends or other distributions from the company.~~

22 ~~15. The issuer obtains from each prospective purchaser evidence~~
23 ~~that the prospective purchaser is a resident of this state and, if~~
24 ~~applicable, is an accredited investor. A prospective purchaser's~~
25 ~~residence shall be determined in accordance with the securities act of~~
26 ~~1933, 17 Code of Federal Regulations section 230.147 or 230.147A. An~~
27 ~~affirmative representation made by an individual that the individual is a~~
28 ~~resident of this state and proof of at least one of the following is~~
29 ~~sufficient evidence that the individual is a resident of this state:~~

30 ~~(a) A valid driver license or nonoperating identification license~~
31 ~~issued pursuant to title 28.~~

32 ~~(b) A current voter registration for this state.~~

33 ~~(c) General property tax records showing that the individual owns~~
34 ~~and occupies property in this state as the individual's principal~~
35 ~~residence.~~

36 ~~16. The issuer shall provide a disclosure document to each~~
37 ~~prospective purchaser at the time the offer of securities is made that~~
38 ~~contains all of the following:~~

39 ~~(a) A description of the company, its type of entity, the address~~
40 ~~and telephone number of its principal office, its history, its business~~
41 ~~plan and the intended use of the offering proceeds, including any amounts~~
42 ~~to be paid as compensation or otherwise to any owner, executive officer,~~
43 ~~director, managing member or other person occupying a similar status with~~
44 ~~the company or performing similar functions on behalf of the issuer.~~

1 ~~(b) The identity of all persons owning more than ten percent of the~~
2 ~~ownership interests of any class of securities of the company.~~

3 ~~(c) The identity of the executive officers, directors, managing~~
4 ~~members and other persons occupying a similar status or performing similar~~
5 ~~functions in the name of and on behalf of the issuer, including their~~
6 ~~titles and prior experience.~~

7 ~~(d) The terms and conditions of the securities being offered and of~~
8 ~~any outstanding securities of the company.~~

9 ~~(e) The offering deadline and the target offering amount.~~

10 ~~(f) Any conditions on which the issuer may exercise its right to~~
11 ~~close an offering before the offering deadline, including the notice that~~
12 ~~will be provided to both purchasers and potential purchasers if the~~
13 ~~offering is closed before the offering deadline and the method in which~~
14 ~~the notice will be delivered.~~

15 ~~(g) Either the percentage ownership of the company represented by~~
16 ~~the offered securities or the valuation of the company implied by the~~
17 ~~price of the offered securities.~~

18 ~~(h) The price per share, unit or interest of the securities being~~
19 ~~offered.~~

20 ~~(i) Any restrictions on transfer of the securities being offered.~~

21 ~~(j) A disclosure of any anticipated future issuance of securities~~
22 ~~that might dilute the value of securities being offered.~~

23 ~~(k) The identity of any person who has been or will be retained by~~
24 ~~the issuer to assist the issuer in conducting the offering and sale of the~~
25 ~~securities, including any internet website operator. This subdivision~~
26 ~~does not apply to persons acting solely as accountants, attorneys or~~
27 ~~employees whose primary job responsibilities involve operating the~~
28 ~~business of the issuer except that the identity of any person assisting~~
29 ~~the issuer in raising capital must be disclosed.~~

30 ~~(l) A description of the consideration being paid to any person~~
31 ~~identified in subdivision (k) of this paragraph, for such assistance to~~
32 ~~the issuer.~~

33 ~~(m) A description of any litigation, legal proceedings or pending~~
34 ~~regulatory action involving the company or its management.~~

35 ~~(n) The names and addresses, including the uniform resource~~
36 ~~locator, of each internet website that the issuer will use to offer or~~
37 ~~sell securities pursuant to this exemption.~~

38 ~~(o) The name of the individual and addresses to which purchasers~~
39 ~~may deliver cancellations pursuant to paragraph 10 of this subsection.~~
40 ~~Issuers shall provide the name of at least one individual with both an~~
41 ~~electronic and a physical address to which cancellations may be delivered.~~

42 ~~(p) Current financial statements certified by the principal~~
43 ~~executive officer shall be true and complete in all material respects. If~~
44 ~~applicable, the documentation required by paragraph 3, subdivision (b) of~~
45 ~~this subsection shall also be provided.~~

1 ~~(q) Any additional information material to the offering including,~~
2 ~~if appropriate, a written statement of significant factors that make the~~
3 ~~offering speculative or risky. This statement shall be concise and~~
4 ~~organized logically and shall not be limited to risks that could apply to~~
5 ~~any issuer or any offering.~~

6 ~~17. The exemption is not used if an issuer or person affiliated~~
7 ~~with the issuer or offering is subject to disqualification pursuant to:~~

8 ~~(a) This chapter.~~

9 ~~(b) A rule or order of the commission.~~

10 ~~(c) The securities act of 1933 (15 United States Code section~~
11 ~~77c(a)(11)).~~

12 ~~(d) The securities act of 1933, 17 Code of Federal Regulations~~
13 ~~section 230.262.~~

14 ~~18. The commission may set aside disqualification if:~~

15 ~~(a) On a showing of good cause and without prejudice to any other~~
16 ~~action by the commission, the commission determines that it is not~~
17 ~~necessary that an exemption be denied under the circumstances.~~

18 ~~(b) The issuer establishes that it made a factual inquiry into~~
19 ~~whether any disqualification existed under this subsection but did not~~
20 ~~know and could not have known in the exercise of reasonable care that a~~
21 ~~disqualification existed. The nature and scope of the requisite inquiry~~
22 ~~will vary based on the circumstances of the subject issuer and the other~~
23 ~~offering participants.~~

24 ~~19. The sale is made exclusively through one or more internet~~
25 ~~websites that are operated by the issuer of the securities sold, by a~~
26 ~~dealer who is registered pursuant to article 9 of this chapter or by a~~
27 ~~person who does not receive a commission or remuneration, directly or~~
28 ~~indirectly, for the offer or sale of the security and who makes a notice~~
29 ~~filing pursuant to paragraph 6 of this subsection. Each issuer and~~
30 ~~website operator shall comply with the following:~~

31 ~~(a) Before any offer or sale of securities, the issuer shall~~
32 ~~provide to the website operator evidence that the issuer is organized~~
33 ~~under the laws of this state and is authorized to do business in this~~
34 ~~state.~~

35 ~~(b) The website operator shall limit website access to the offer or~~
36 ~~sale of securities only to residents of this state.~~

37 ~~(c) The website operator may not be a purchaser in any offering~~
38 ~~made pursuant to this exemption. This subdivision does not apply if the~~
39 ~~website operator is the issuer of the securities offered or sold pursuant~~
40 ~~to this exemption.~~

41 ~~(d) The website operator may not hold an interest in or be~~
42 ~~affiliated with or under common control with any issuer making an offer or~~
43 ~~sale pursuant to this exemption. This subdivision does not apply if the~~
44 ~~website operator is the issuer of the securities offered or sold pursuant~~
45 ~~to this exemption.~~

1 ~~(e) Before and throughout the term of any offering, the website~~
2 ~~operator shall give the commission access to the internet website on which~~
3 ~~any offering is made pursuant to this exemption.~~

4 ~~(f) The issuer may distribute a limited notice stating that the~~
5 ~~issuer is conducting an offering pursuant to this exemption, the name of~~
6 ~~the website operator through which the offer is being conducted and a link~~
7 ~~directing potential purchasers to the internet website of the website~~
8 ~~operator. The notice shall contain a disclaimer that states that the~~
9 ~~offering is limited to residents of this state.~~

10 ~~20. The issuer makes and keeps all accounts, correspondence,~~
11 ~~memoranda, papers, books and other records that the commission prescribes~~
12 ~~by rule or order. All required records shall be:~~

13 ~~(a) Preserved for three years unless the commission prescribes~~
14 ~~otherwise for particular types of records, by administrative rule or~~
15 ~~order.~~

16 ~~(b) Maintained within this state, or at the request of the~~
17 ~~commission be made available at any time for examination by the commission~~
18 ~~in the issuer's principal office or by production of exact copies in this~~
19 ~~state.~~

20 ~~21. The issuer provides, free of charge, a quarterly report to the~~
21 ~~issuer's purchasers until no securities issued under this exemption are~~
22 ~~outstanding. The issuer may satisfy this reporting requirement by making~~
23 ~~the information available on an internet website if the information is~~
24 ~~made available within forty-five days after the end of each fiscal quarter~~
25 ~~and remains available until the succeeding quarterly report is issued.~~
26 ~~The issuer shall also provide a written copy of the report to any~~
27 ~~purchaser on request. The report shall contain all of the following:~~

28 ~~(a) Any compensation received by each director or executive~~
29 ~~officer, including cash compensation earned since the previous report and~~
30 ~~on an annual basis, any bonuses, stock options or other rights to receive~~
31 ~~securities of the issuer or any affiliate of the issuer and payments that~~
32 ~~reduce personal living expenses such as a company vehicle, free housing,~~
33 ~~meals or club dues.~~

34 ~~(b) An analysis by the issuer's management of the business~~
35 ~~operations and financial condition of the issuer.~~

36 ~~D. A PURCHASER ENGAGING IN AN OFFERING THAT COMPLIES WITH~~
37 ~~SUBSECTION A, PARAGRAPH 22 OF THIS SECTION SHALL NOT BE CONSIDERED AN~~
38 ~~UNDERWRITER, UNLESS THE PURCHASER PURCHASES MORE THAN FIFTY PERCENT OF THE~~
39 ~~SECURITIES OR VIRTUAL COINS OFFERED FOR SALE IN THE OFFERING.~~

40 ~~E. THE ISSUER AND ALL OTHER PARTIES INVOLVED IN AN OFFERING THAT~~
41 ~~COMPLIES WITH SUBSECTION A, PARAGRAPH 22 OF THIS SECTION MAY AGREE THAT~~
42 ~~ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THE OFFERING SHALL~~
43 ~~BE RESOLVED BY PRIVATE ARBITRATION BETWEEN THE PARTIES AND THE AGREEMENT~~
44 ~~SHALL BE ENFORCEABLE BY THE LAWS OF THIS STATE.~~

1 F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
2 DIRECTOR MAY ENTER INTO AGREEMENTS WITH FEDERAL, STATE OR FOREIGN
3 REGULATORS TO ALLOW SECURITIES ISSUED OR SOLD IN THIS STATE TO BE SOLD IN
4 ANOTHER JURISDICTION AND SECURITIES ISSUED OR SOLD IN ANOTHER JURISDICTION
5 TO BE ISSUED OR SOLD IN THIS STATE.

6 G. EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, A PERSON WHO
7 FACILITATES THE EXCHANGE OF A VIRTUAL COIN SHALL NOT BE DEEMED TO BE A
8 DEALER OR A PERSON WHO OTHERWISE DEALS IN SECURITIES UNDER THIS CHAPTER
9 AND IS NOT SUBJECT TO THIS CHAPTER OR CHAPTER 13 DUE TO THE EXCHANGED
10 VIRTUAL COIN IF BOTH OF THE FOLLOWING ARE MET:

11 1. THE PERSON HAS A REASONABLE AND GOOD FAITH BELIEF THAT THE
12 VIRTUAL COIN SUBJECT TO EXCHANGE DOES NOT MEET THE DEFINITION OF A VIRTUAL
13 COIN OFFERING UNDER SECTION 44-1801.

14 2. THE PERSON TAKES REASONABLY PROMPT ACTION TO TERMINATE THE
15 PERSON'S FACILITATION OF THE EXCHANGE OF THE VIRTUAL COIN AFTER OBTAINING
16 KNOWLEDGE THAT THE VIRTUAL COIN MEETS THE DEFINITION OF A VIRTUAL COIN
17 OFFERING UNDER SECTION 44-1801.

18 H. SECTIONS 44-1991 AND 44-3241 APPLY TO A PERSON DESCRIBED IN
19 SUBSECTION G OF THIS SECTION.

20 ~~E.~~ I. The director may adopt rules based on 17 Code of Federal
21 Regulations section 230.504 and revise the rules as necessary to keep them
22 current with the federal law.

APPROVED BY THE GOVERNOR APRIL 12, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2018.