

House Engrossed

sales of securities; definition

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

# **HOUSE BILL 2048**

AN ACT

AMENDING SECTIONS 44-1801 AND 44-1991, ARIZONA REVISED STATUTES; RELATING TO THE SALES OF SECURITIES.

(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 percent or more of the net offering proceeds are not  
11 specifically allocated for the purchase, construction or development of  
12 identified property or products, for the payment of indebtedness or  
13 overhead expenses, or for other activities set forth in the issuer's  
14 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  
22 percent higher than the value of the metal it contains, real property or  
23 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 that requires, and  
43 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 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 11. "Director" means the director of the securities division of the  
32 commission.

33 12. "Division" means the securities division of the commission.

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

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

38 (a) With respect to certificates of deposit, voting-trust  
39 certificates, collateral-trust certificates, certificates of interest or  
40 shares in an unincorporated investment trust, whether or not of the fixed,  
41 restricted management or unit type, issuer means the person or persons  
42 performing the acts and assuming the duties of depositor or manager  
43 pursuant to the provisions of the trust or other agreement or instrument  
44 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       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       16. "Offer to sell" or "offer for sale" means an attempt or offer  
41 to dispose of, or solicitation of an order or offer to buy, a security or  
42 interest in a security for value or any sale or offer for sale of a  
43 warrant or right to subscribe to another security of the same issuer or of  
44 another issuer. Any sale or offer for sale of a security that gives the  
45 holder thereof a present or future right or privilege to convert such

1 security into another security of the same issuer or of another issuer  
2 shall be deemed an offer to sell the security to be acquired pursuant to  
3 such right or privilege, but the existence thereof shall not be construed  
4 as affecting the registration or exemption under this chapter of the  
5 security to which it attaches. **AN OFFER, INCLUDING AN OFFER TO SELL OR**  
**OFFER FOR SALE, OCCURS ONLY WHERE ACCEPTANCE OF THE OFFER AND PAYMENT OF**  
**7 CONSIDERATION WOULD COMPLETE THE SALE.**

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

12 18. "Precious metal" means the following in either coin, bullion or  
13 other form:

14 (a) Silver.  
15 (b) Gold.  
16 (c) Platinum.  
17 (d) Palladium.  
18 (e) Copper.

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

27 (a) Guarantee the note, lien or contract against loss at any time.  
28 (b) Promise to provide a market for the sale of the note, lien or  
29 contract, in connection with a sale or purchase.

30 (c) Offer to accept or accept funds for investment in notes or  
31 contracts secured directly or indirectly by a lien on real property, where  
32 the real property is unspecified at the time of investment.

33 (d) Pay any interest or premium for a period before actual purchase  
34 and delivery of the note or contract.

35 (e) Pay any money to an investor if the note or contract is in  
36 arrears.

37 (f) Guarantee that principal or interest will be paid in conformity  
38 with the terms of the note or contract.

39 (g) Accept, from time to time, partial payment toward the purchase  
40 of the note or contract.

41 (h) Promise to repurchase the note or contract, in connection with  
42 sale or purchase.

43 20. "Registered dealer" means a dealer registered under this  
44 chapter.

1        21. "Registered salesman" means a salesman registered under this  
2 chapter.

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

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

13        24. "SEC" means the United States securities and exchange  
14 commission.

15        25. "Securities act of 1933" means the act of Congress known as the  
16 securities act of 1933.

17        26. "Securities exchange act of 1934" means the act of Congress  
18 known as the securities exchange act of 1934.

19        27. "Security":

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

32        (b) Notwithstanding subdivision (a) of this paragraph, with respect  
33 to a virtual coin shall not be construed more broadly than the term  
34 security is construed in the securities act of 1933, the securities  
35 exchange act of 1934 or any federal regulations relating to either act.

36        28. "SRO" means any national securities or commodities exchange,  
37 registered association or registered clearing agency.

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

1       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 44-1991, Arizona Revised Statutes, is amended to  
41 read:

42       44-1991. Fraud in purchase or sale of securities

43       A. It is a fraudulent practice and unlawful for a person, in  
44 connection with a transaction or transactions within or from this state  
45 involving an offer, OR CONTEMPLATED OFFER, to sell or buy securities, or a

1 sale or purchase of securities, including securities exempted under  
2 section 44-1843 or 44-1843.01 and including transactions exempted under  
3 section 44-1844, 44-1845 or 44-1850, directly or indirectly to do any of  
4 the following:

- 5 1. Employ any device, scheme or artifice to defraud.
- 6 2. Make any untrue statement of material fact, or omit to state any  
7 material fact necessary in order to make the statements made, in the light  
8 of the circumstances under which they were made, not misleading.
- 9 3. Engage in any transaction, practice or course of business which  
10 operates or would operate as a fraud or deceit.

11 B. In a private action brought pursuant to subsection A, paragraph  
12 2 of this section or section 44-1992, if the person who offered or sold  
13 the security proves that any portion or all of the amount recoverable  
14 under subsection A, paragraph 2 of this section or section 44-1992  
15 represents an amount other than the depreciation in value of the subject  
16 security resulting from the part of the prospectus or oral communication,  
17 with respect to which the liability of the person is asserted, not being  
18 true or omitting to state a material fact required to be stated or  
19 necessary to make the statement not misleading, then the amount shall not  
20 be recoverable. This subsection does not apply to any actions based on  
21 allegations of activities constituting dishonest or unethical practices in  
22 the securities industry.