

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
6 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.