



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU



Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2013 LRB-2664/P5 * (For: Rep. Craig)

has been copied/added to the drafting file for

2013 LRB-2190 (For: Rep. Craig)

Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX - PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 08/12/2013 (Per: ARG)

* **Note:** LRB-2664's Appendix A (early version of LRB-2190) did not need to be included ... per ARG.



The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2013 DRAFTING REQUEST

Bill

Received: 7/10/2013 Received By: agary
Wanted: As time permits Same as LRB:
For: David Craig (608) 266-3363 By/Representing: Nate Schacht
May Contact: Drafter: agary
Subject: Fin. Inst. - securities Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Craig@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Creating transaction exemption to securities registration related to intrastate offerings, crowdfunding, offerings through Internet sites

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	agary 7/18/2013	scalvin 7/17/2013	jfrantze 7/17/2013	_____	sbasford 7/17/2013		State
/P2	mkunkel 7/29/2013	scalvin 7/19/2013	jfrantze 7/19/2013	_____	mbarman 7/19/2013		State
/P3	mkunkel 8/2/2013	scalvin 7/31/2013	jmurphy 7/31/2013	_____	srose 7/31/2013		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P4	agary 8/6/2013	scalvin 8/2/2013	jmurphy 8/2/2013	_____ _____	srose 8/2/2013		State
/P5		evinz 8/6/2013	phenry 8/7/2013	_____ _____	sbasford 8/7/2013		State

FE Sent For:

<END>

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/P3	mkunkel 8/2/2013	scalvin 7/31/2013	jmurphy 7/31/2013	_____	roose 7/31/2013		State

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/P4		scalvin 8/2/2013	jmurphy 8/2/2013	_____	srose 8/2/2013		State

FE Sent For:

*1p5
eev 8/6/13*

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/P3		scalvin 7/31/2013	jmurphy 7/31/2013	_____	roose 7/31/2013		State

Handwritten notes:
 /P4 sec 08/02/2013
 Jm 8/2
 m + SR 8/2

FE Sent For:

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/P2		scalvin 7/19/2013	jfrantze 7/19/2013	_____	mbarman 7/19/2013		State

FE Sent For: /P3 sac
 07/29/2013

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May Contact:
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/P1	agary 7/15/2013	scalvin 7/17/2013	jfrantze 7/17/2013	_____	sbasford 7/17/2013		State

FE Sent For:

/P2 sac
07/19/2013


7/19
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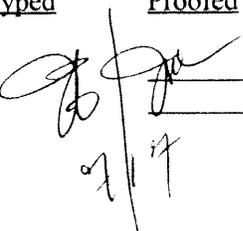
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/P1	agary	/P1 sac 07/16/2013					State
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FE Sent For:

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Gary, Aaron

From: Schacht, Nathan
Sent: Wednesday, July 10, 2013 4:40 PM
To: Gary, Aaron
Subject: RE: crowdfunding p-draft

Perfect, thank you.

Nathan Schacht
Office of State Representative David Craig

From: Gary, Aaron
Sent: Wednesday, July 10, 2013 4:26 PM
To: Schacht, Nathan
Subject: RE: crowdfunding p-draft

Please see below.

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Schacht, Nathan
Sent: Wednesday, July 10, 2013 4:15 PM
To: Gary, Aaron
Subject: RE: crowdfunding p-draft

Perfect. Is there someone over there we can submit changes to? [If the changes are not too complicated, Mark Kunkel could assist you, but I'm the only drafter who has any real experience with ch. 551/securities.]

Also, just spoke to Scott in the LC's office about the NC law. Do you think it necessary, to ensure the SEC intrastate broker requirement is met, that we include language that the web site must ensure that only WI residents access the information (not just on the sales side but the actual info of the website)? [I would think that restricted access to the web site would not be necessary as long as the web site includes notice that any offer is being made only to WI residents and that no investment will be accepted unless the investor provides proof or declaration of WI residence.]

Nathan Schacht
Office of State Representative David Craig

From: Gary, Aaron
Sent: Wednesday, July 10, 2013 4:04 PM
To: Schacht, Nathan
Subject: RE: crowdfunding p-draft

Nate,

I have entered this request as LRB-2664. I can finish the initial drafting within the next week and have it to you shortly after that, but then I will be out of the office for the rest of July.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau

608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Schacht, Nathan
Sent: Wednesday, July 10, 2013 1:55 PM
To: Gary, Aaron
Subject: crowdfunding p-draft
Importance: High

Aaron,

This is going to be our starting point. http://legiscan.com/NC/text/H680/id/866300/North_Carolina-2013-H680-Amended.html

Can you P-draft this with the following changes, besides the changes needed to fit our code?
-Sec 4, change \$2,000 to \$5,000.
-Remove any sunset clause.

I'd also like to add another exemption separate from this geared towards person to person offerings rather than via website like the NC leg. I'd like this exemption to mirror 81-5-21 (http://www.ksc.ks.gov/index.aspx?NID=175#R5_21). However, I'd like to change the limit from \$1,000 to \$5,000. I'd also like to limit the notice requirement to the standard they use, so additional information cannot be required on the notice.

We will end up including this in LRB- 2109 when we are done with the revisions and requesting to rejacket 2109 as a /2.

What is a realistic timeline on this? Rep. Craig is eager to introduce the final 2109 in the next 2-3 weeks. Is that realistic assuming minimal changes to the new P-draft?

Please give me a call as soon as possible if you have any questions or concerns.

-Nate

Nathan Schacht
Office of State Representative David Craig
83rd Assembly District
P: (608) 266-3363
E: nathan.schacht@legis.wi.gov

NOTE: Emails sent to and from this account may be subject to open records requests and should not be considered private.



Bill Text: NC H680 | 2013-2014 | Regular Session | Amended
 North Carolina House Bill 680

Bill Title: Jump-Start Our Business Start-Ups Act (Track Bill)

Status: 2013-06-24 - Ref to Commerce. If fav, re-ref to Finance [H680 Detail]

Download: North_Carolina-2013-H680-Amended.html

GENERAL ASSEMBLY OF NORTH CAROLINA
 SESSION 2013

H

3

HOUSE BILL 680
 Committee Substitute Favorable 5/9/13
 Committee Substitute #2 Favorable 6/19/13

Short Title: Jump-Start Our Business Start-Ups Act. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO ENACT THE JUMP-START OUR BUSINESS START-UPS ACT.

Whereas, start-up companies play a critical role in creating new jobs and sources of revenue; and
 Whereas, crowd funding, or raising money through small contributions from a large number of investors, allows smaller enterprises in North Carolina to have access to the capital they need to initiate new business ventures; and
 Whereas, by promoting crowd funding, the General Assembly can give new businesses access to additional financing tools, can assist in democratizing start-up capital, and can facilitate investment by North Carolina residents in North Carolina start-ups; and
 Whereas, by facilitating investment with appropriate restrictions to protect the interests of North Carolina investors, the General Assembly can promote the formation and growth of smaller North Carolina enterprises, along with additional job formation, and can permit businesses to raise capital using crowd funding unencumbered by excessive government regulation; Now, therefore,
 The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-17 is amended by adding a new subdivision to read:
 "(20) Any offer or sale of a security by an issuer if the offer or sale is conducted in accordance with G.S. 78A-17.1."

SECTION 2. Article 3 of Chapter 78A of the General Statutes is amended by adding a new section to read:

"§ 78A-17.1. Invest NC exemption.

(a) Exemption. Except as otherwise provided in this Chapter, an offer or sale of a security by an issuer is exempt from G.S. 78A-24 and G.S. 78A-49(d) if the offer or sale is conducted in accordance with each of the following requirements:

- (1) The issuer of the security is a business entity formed under the laws of the State and registered with the Secretary of State.
- (2) The transaction meets the requirements of the federal exemption for intrastate offerings in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. § 77e(a)(11), and SEC rule 147, 17 C.F.R. § 230.147.
- (3) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this exemption does not exceed the cap provided in this subdivision.
 - a. One million dollars (\$1,000,000), less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption, if the issuer has not undergone and made available to each prospective investor and the Administrator the documentation resulting from a financial audit with respect to its most recently completed fiscal year and meeting generally accepted accounting principles.
 - b. Two million dollars (\$2,000,000), less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption, if the issuer has undergone and made available to each prospective investor and the Administrator the documentation resulting from a financial audit with respect to its most recently completed fiscal year and meeting generally accepted accounting principles.
- (4) The issuer has not accepted more than two thousand dollars (\$2,000) from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. § 230.501.
- (5) Not less than 10 days prior to the commencement of an offering of securities in reliance on this exemption or the use of any publicly available Web site in connection with any such offering, the issuer shall file a notice with the Administrator, in writing or in electronic form as specified by the Administrator, containing the following:
 - a. A notice of claim of exemption from registration, specifying that the issuer will be conducting an offering in reliance upon this exemption, accompanied by the filing fee as specified in this section.
 - b. A copy of the disclosure statement to be provided to prospective investors in connection with the offering, containing the following:
 1. A description of the company, its type of entity, the address and telephone number of its principal office, its history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer.
 2. The identity of all persons owning more than ten percent (10%) of the ownership interests of any class of securities of the company.
 3. The identity of the executive officers, directors, managing members, and other persons occupying a similar status or performing similar functions in the name of and on behalf of the issuer, including their titles and their prior experience.
 4. The terms and conditions of the securities being offered and of any outstanding securities of the company, the minimum and maximum amount of securities being offered, if any, and either the percentage ownership of the company represented by the offered securities or the valuation of the company implied by the price of the offered securities.

5. The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any Web sites, but excluding persons acting solely as accountants or attorneys and employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital, and for each person identified in response to this paragraph, a description of the consideration being paid to such person for such assistance.
6. A description of any litigation or legal proceedings involving the company or its management.
7. The names and addresses, including URL, of any Web sites that will be used in connection with the offering.
- c. An escrow agreement with a bank or other depository institution located within this State in which the investor funds will be deposited, providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the business plan as necessary to implement the business plan and that all investors may cancel their commitments to invest if that target offering amount is not raised by the time stated in the disclosure document.
- (6) The issuer is not, either before or as a result of the offering, an investment company, as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. § 8a-3, or an entity that would be an investment company but for the exclusions provided in section 3(c) of the act, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m and 78o(d)(7). The issuer shall inform all prospective purchasers under this section that the securities have not been registered under federal or State securities law and that the securities are subject to limitations on resale. The issuer shall display the following legend conspicuously on the cover page of the disclosure document:
- "IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RE-SALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 C.F.R. § 230.147(f) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS. PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM, INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME."
- (8) The issuer shall require each purchaser to certify in writing "I understand and acknowledge that:
- a. I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.
 - b. This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and that no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.
 - c. The securities I am acquiring in this offering are illiquid, that there is no ready market for the sale of such securities, that it may be difficult or impossible for me to sell or otherwise dispose of this investment, and that, accordingly, I may be required to hold this investment indefinitely.
 - d. I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.
- (9) If the offer and sale of securities is made through an Internet Web site, the following requirements apply:
- a. Prior to the offer of an investment opportunity to residents of this State through a Web site, the issuer shall provide to the Web site and to the Administrator evidence that the issuer is organized under North Carolina law and that it is authorized to do business within the State.
 - b. The issuer shall obtain from each purchaser of a security under this section evidence that the purchaser is a resident of North Carolina and, if applicable, an accredited investor.
 - c. The Web site operator shall register with the Administrator by filing a statement that it is a business entity that is organized under North Carolina law and that it is authorized to do business within the State and that it is being utilized to offer and sell securities pursuant to this exemption. As part of the registration, the Web site shall notify the Administrator of its and the issuer's identity, location, and contact information.
 - d. The issuer and the Web site must keep and maintain records of the offers and sales of securities effected through the Web site and must provide ready access to the records to the Administrator, upon request. The Administrator may access, inspect, and review any Web site and its records.
- (10) All payments for purchase of securities must be directed to and held by the bank or depository institution subject to the provisions of sub-subdivision (a)(5)c. of this section. The bank or depository institution shall notify the Administrator of the receipt of payments for securities and the identity and residence of the investors. The information shall be confidential and considered trade secrets within the scope of G.S. 132-1.2 while in the possession of the Administrator.
- (11) No offers or sales of a security shall be made through an Internet Web site unless the Web site is registered with the Administrator pursuant to sub-subdivision (a)(9)c. of this section. The Web site shall not be subject to the registration provisions of G.S. 78A-36 provided that all of the following apply:
- a. It does not offer investment advice or recommendations.
 - b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Web site.
 - c. It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Web site.
 - d. It is not compensated based on the amount of securities sold, and it does not hold, manage, possess, or otherwise handle investor funds or securities.
 - e. It does not engage in such other activities as the Administrator, by rule, determines appropriate.
- (12) An executive officer, director, managing member, or person occupying a similar status or performing similar functions in the name of and on behalf of the issuer shall be exempt from the registration provisions of G.S. 78A-36 provided that the person does not receive, directly or indirectly, any commission or remuneration for offering and selling securities of the issuer pursuant to this exemption.
- (13) The issuer must provide a copy of the disclosure document provided to the Administrator pursuant to sub-subdivision (a)(5)b. of this section to each prospective investor at the time the offer of securities is made to the prospective investor. In addition to the information described in sub-subdivision (a)(5)b. of this section, the disclosure document provided to the Administrator and to prospective investors should include additional information material to the offering, including, where appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion must be concise and organized logically and should not present risks that could apply to any issuer or any offering.
- (b) Indexing. The dollar limitations provided in subdivision (a)(3) of this section shall be cumulatively adjusted every fifth year by the Administrator to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting each dollar limitation to the nearest fifty thousand dollars (\$50,000).
- (c) Report. An issuer of a security, the offer and sale of which is exempt under this section, shall provide a quarterly report to the issuer's investors until no securities issued under this section are outstanding. The report required by this subsection shall be free of charge. An issuer may satisfy the reporting requirement of this subsection by making the information available on an Internet Web site address if the information is made available within 45 days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer shall file each such quarterly report with the Administrator and must provide a written copy of the report to any investor upon request. The report must contain each of the following:
- (1) Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received.

(2) An analysis by management of the issuer of the business operations and financial condition of the issuer.

(d) Offers and Sales to Controlling Persons. The exemption provided in this section shall not be used in conjunction with any other exemption under this Chapter, except offers and sales to controlling persons shall not count toward the limitation in subdivision (3) of subsection (a) of this section. A controlling person is an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

(e) Disqualification. The exemption allowed by this section shall not apply if an issuer or person affiliated with the issuer or offering is subject to any disqualification contained in 18 NCAC 06A 1207(a)(1) through (a)(6) or contained in Rule 262 as promulgated under the Securities Act of 1933 (17 C.F.R. § 230.262). The provisions of this subsection shall not apply if (i) upon a showing of good cause and without prejudice to any other action by the Administrator, the Administrator determines that it is not necessary under the circumstances that an exemption be denied and (ii) the issuer establishes that it made factual inquiry into whether any disqualification existed under this subsection but did not know, and in the exercise of reasonable care could not have known, that a disqualification existed under this subsection. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(f) Rules. The Administrator may adopt rules to implement the provisions of this section and to protect investors who purchase securities under this section.

(g) Fee. The Administrator shall charge a nonrefundable filing fee of one hundred fifty dollars (\$150.00) for filing an exemption notice required by subsection (a) of this section. The fees paid to the Administrator pursuant to this subsection shall be used to pay the costs incurred in administering and enforcing this Chapter. The revenue derived from the fee shall be credited to a nonreverting agency revenue account.

SECTION 3. G.S. 78A-49(d) reads as rewritten:

"(d) The Administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security or transaction is exempted by G.S. 78A-16 or 78A-17 (except 78A-17(9), (17), and (19)) G.S. 78A-16 and G.S. 78A-17 (except G.S. 78A-17(9), (17), (19), and (20)) and such exemption has not been denied or revoked under G.S. 78A-18 or the security is a security covered under federal law or the transaction is with respect to a security covered under federal law."

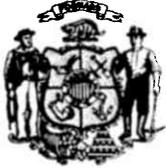
SECTION 4.(a) Notwithstanding any provision of Article 2A of Chapter 150B of the General Statutes, within 12 months of the effective date of this act, the Secretary of State shall adopt rules to implement the provisions of this act in accordance with the following procedure:

- (1) At least 15 business days prior to adopting a rule, submit the rule and a notice of public hearing to the Codifier of Rules. The Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet within five business days.
- (2) At least 15 business days prior to adopting a rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of the Secretary's intent to adopt a rule and of the public hearing.
- (3) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (4) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted in accordance with this section becomes effective on the first day of the month following the month the Secretary adopts the rule and submits the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any rule adopted more than 12 months after the effective date of this act shall comply with the requirement of Article 2A of Chapter 150B of the General Statutes.

SECTION 4.(b) This section is effective when it becomes law and expires 12 months after the effective date of this act.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law and expires on July 1, 2017.



State of Wisconsin
2013 - 2014 LEGISLATURE

in
7/15



LRB-2664/P1
ARG: /:.....
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needed
wed. 7/17

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

gen act

1 **AN ACT** ...; relating to: exemptions from securities registration requirements.

Analysis by the Legislative Reference Bureau

Under the Wisconsin Uniform Securities Law (WUSL), a person may not offer or sell any security in this state unless the security is registered with the Division of Securities in the Department of Financial Institutions (division), the security or transaction is exempt from registration, or the security is a federal covered security. Certain notice filing requirements may apply to federal covered securities. A "security" is defined broadly under the WUSL and includes stocks, notes, bonds, investment contracts, limited partnership interests, and certain other financial interests. Current law identifies various securities transactions that are exempt from registration with the division, such as a sale or offer to sell to an accredited investor or an institutional investor.

This bill creates two additional transaction exemptions to securities registration. Under one exemption, an offer or sale of a security by an issuer is exempt from registration if the offer or sale is conducted in accordance with specified requirements, including the following: 1) the issuer of the security is a business entity organized under the laws of this state and authorized to do business in this state; 2) the transaction meets exemption requirements under federal law and rules of the federal Securities and Exchange Commission (SEC) for intrastate securities offerings; 3) the amount of money to be received for all sales of the security in reliance on the exemption does not exceed either \$2,000,000 or \$1,000,000, adjusted every five years for inflation, depending on whether the issuer has or has not, respectively, undergone a financial audit and made it available; 4) the issuer does not accept more than \$5,000 from any single purchaser unless the purchaser is an accredited

investor; 5) the issuer files notice of the offering with the division at least ten days before commencing the offering or using any publicly available Internet site in connection with the offering, and the notice contains specified information, including a copy of a disclosure statement to be provided to prospective investors and an escrow agreement with a depository institution located in this state in which the investor funds will be deposited; 6) the issuer is not an investment company or an SEC reporting company; 7) the issuer informs all prospective purchasers that the securities have not been registered and are subject to limitations on resale, includes a specified legend conspicuously on the cover page of the disclosure document, requires each purchaser to sign a written acknowledgment containing certain information, and obtains from each purchaser evidence that the purchaser is a resident of this state; 8) all payments for purchase of securities are held by the issuer in the depository institution identified in the escrow agreement under 5), above; 9) a copy of the disclosure document provided to the division is given to each prospective investor at the time of the offer; and 10) the exemption is not used in conjunction with any other exemption to securities registration. The bill also requires the securities issuer to file a quarterly report with the division, and make it available to investors, for so long as securities issued under the exemption are outstanding.

If securities offered under this exemption will be sold through an Internet site, additional requirements apply. The Internet site is generally required to be registered with the division. Registration is accomplished by the Internet site provider filing a statement with the division that contains specified information. However, registration with the division is not required if all of the following apply with respect to the Internet site and its operator: 1) it does not offer investment advice or recommendations; 2) it does not solicit purchases, sales, or offers to buy securities; 3) it does not compensate persons for the solicitation or based on the sale of securities; 4) it is not compensated based on the amount of securities sold, and it does not hold, manage, possess, or otherwise handle investor funds or securities; 5) it does not engage in other activities prohibited by the division. The Internet site operator and the securities issuer must also maintain records of all offers and sales of securities effected through the Internet site and provide the division with access to these records on request.

The second transaction exemption to securities registration created by the bill is similar to the first. Under the second exemption, an offer or sale of a security by an issuer is exempt from registration if the offer or sale is conducted in accordance with specified requirements, including the following: 1) the issuer of the security is a business entity organized under the laws of this state and authorized to do business in this state; 2) the transaction meets exemption requirements under federal law and rules of the SEC for intrastate securities offerings; 3) the amount of money to be received for all sales of the security in reliance on the exemption does not exceed \$1,000,000; 4) the issuer does not accept more than \$5,000 from any single purchaser unless the purchaser is an accredited investor; 5) no commission or other remuneration is paid for any person's participation in the offer or sale of securities unless the person is registered as a broker-dealer or securities agent; 6) all funds received from investors are deposited into a depository institution authorized to do

business in this state, and all the funds are used in accordance with representations made to investors; 7) before the use of any general solicitation or the 25th sale of the security, the issuer provides a notice of the offering to the division containing specified information; 8) the issuer is not an investment company or an SEC reporting company; 9) the issuer informs all purchasers that the securities have not been registered and makes disclosures required by SEC rule, including disclosures related to limitations on resale of the securities; and 10) the exemption is not used in conjunction with any other exemption to securities registration.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 227.01 (13) (zz) of the statutes is created to read:
2 227.01 (13) (zz) Adjusts, under s. 551.205 (3), the amounts specified in s.
3 551.202 (26) (c) 1. and 2.

4 SECTION 2. 551.202 (26) of the statutes is created to read:
5 551.202 (26) An offer or sale of a security by an issuer if the offer or sale is
6 conducted in accordance with all of the following requirements:

7 (a) The issuer of the security is a business entity organized under the laws of
8 this state and authorized to do business in this state.

9 (b) The transaction meets the requirements of the federal exemption for
10 intrastate offerings in section 3 (a) (11) of the Securities Act of 1933 (15 USC 77c (a)
11 (11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147).

12 (c) The sum of all cash and other consideration to be received for all sales of the
13 security in reliance on the exemption under this subsection does not exceed the
14 following amount:

15 1. If the issuer has not undergone and made available to each prospective
16 investor and the administrator the documentation resulting from a financial audit
17 of its most recently completed fiscal year which ~~meets~~ generally accepted accounting

complies with

1 principles, \$1,000,000 subject to adjustment under s. 551.205 (3), less the aggregate
2 amount received for all sales of securities by the issuer within the 12 months before
3 the first offer or sale made in reliance on the exemption under this subsection.

4 2. If the issuer has undergone and made available to each prospective investor
5 and the administrator the documentation resulting from a financial audit of its most
6 recently completed fiscal year which ~~meets~~ ^{complies with} generally accepted accounting principles,
7 \$2,000,000 subject to adjustment under s. 551.205 (3), less the aggregate amount
8 received for all sales of securities by the issuer within the 12 months before the first
9 offer or sale made in reliance on the exemption under this subsection.

10 (d) The issuer does not accept more than \$5,000 from any single purchaser
11 unless the purchaser is an accredited investor, as defined in Rule 501 (a) adopted
12 under the Securities Act of 1933 (17 CFR 230.501 (a)).

13 (e) Not less than 10 days prior to the commencement of an offering of securities
14 in reliance on the exemption under this subsection or the use of any publicly
15 available Internet site in connection with any such offering, the issuer files a notice
16 with the administrator, in writing or in electronic form as prescribed by the
17 administrator, containing all of the following:

18 1. A notice of claim of exemption from registration, specifying that the issuer
19 will be conducting an offering in reliance on the exemption under this subsection,
20 accompanied by the filing fee specified in s. 551.614 (1m).

21 2. A copy of the disclosure statement to be provided to prospective investors in
22 connection with the offering, containing all of the following:

23 a. A description of the company, its type of entity, the address and telephone
24 number of its principal office, its history, its business plan, and the intended use of
25 the offering proceeds, including any amounts to be paid, as compensation or

1 otherwise, to any owner, executive officer, director, managing member, or other
2 person occupying a similar status or performing similar functions on behalf of the
3 issuer.

4 b. The identity of all persons owning more than 10 percent of the ownership
5 interests of any class of securities of the company.

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

9 d. The terms and conditions of the securities being offered and of any
10 outstanding securities of the company, the minimum and maximum amount of
11 securities being offered, if any, and either the percentage ownership of the company
12 represented by the offered securities or the valuation of the company implied by the
13 price of the offered securities.

14 e. The identity of any person who has been or will be retained by the issuer to
15 assist the issuer in conducting the offering and sale of the securities, including any
16 Internet sites ^{or operator} but excluding persons acting solely as accountants or attorneys and
17 employees whose primary job responsibilities involve the operating business of the
18 issuer rather than assisting the issuer in raising capital, ^{and # f.} and for each person
19 identified as required under this subd. 2. e., a description of the consideration being
20 paid to the person for such assistance.

21 g. f. A description of any litigation or legal proceedings involving the company or
22 its management.

23 h. g. The names and addresses, including the ^{or Uniform} Universal Resource Locator, of any
24 Internet site that will be used in connection with the offering

by the issuer to offer or sell securities
under this subsection

① h. Any additional information material to the offering, including, if
2 appropriate, a discussion of significant factors that make the offering speculative or
3 risky. This discussion shall be concise and organized logically and may not be limited
4 to risks that could apply to any issuer or any offering.

5 3. An escrow agreement with a bank or other depository institution located in
6 this state in which the investor funds will be deposited, providing that all offering
7 proceeds will be released to the issuer only when the aggregate capital raised from
8 all investors is equal to or greater than the minimum target offering amount
9 specified in the business plan as necessary to implement the business plan and that
10 all investors may cancel their commitments to invest if that target offering amount
11 is not raised by the time stated in the disclosure document.

12 (f) The issuer is not, either before or as a result of the offering, an investment
13 company, as defined in section 3 of the Investment Company Act of 1940 (15 USC
14 80a-3), or an entity that would be an investment company but for the exclusions
15 provided in section 3 (c) of the Investment Company Act of 1940 (15 USC 80a-3 (c)),
16 or subject to the reporting requirements of section 13 or 15 (d) of the Securities
17 Exchange Act of 1934 (15 USC 78m or 78o (d)).

18 (g) The issuer informs all prospective purchasers of securities offered under
19 this subsection that the securities have not been registered under federal or state
20 securities law and that the securities are subject to limitations on resale. The issuer
21 shall display the following legend conspicuously on the cover page of the disclosure
22 document:

23 IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON
24 THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE
25 OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE

1 SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR
2 STATE SECURITIES COMMISSION OR DIVISION OR OTHER REGULATORY
3 AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT
4 CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS
5 DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL
6 OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON
7 TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR
8 RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF SEC RULE 147 (17
9 CFR 230.147 (e)) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933,
10 AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS,
11 PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS
12 SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE
13 FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF
14 TIME.

15 (h) The issuer requires each purchaser to certify in writing as follows:

16 I UNDERSTAND AND ACKNOWLEDGE THAT:

17 I am investing in a high-risk, speculative business venture. I may lose all of my
18 investment, and I can afford the loss of my investment.

19 This offering has not been reviewed or approved by any state or federal
20 securities commission or division or other regulatory authority and that no such
21 person or authority has confirmed the accuracy or determined the adequacy of any
22 disclosure made to me relating to this offering.

23 The securities I am acquiring in this offering are illiquid, that there is no ready
24 market for the sale of such securities, that it may be difficult or impossible for me to

1 sell or otherwise dispose of this investment, and that, accordingly, I may be required
2 to hold this investment indefinitely.

3 I may be subject to tax on my share of the taxable income and losses of the
4 company, whether or not I have sold or otherwise disposed of my investment or
5 received any dividends or other distributions from the company.

6 (Signature)

7 (i) The issuer obtains from each purchaser of a security offered under this
8 subsection evidence that the purchaser is a resident of this state and, if applicable,
9 is an accredited investor.

10 (j) All payments for purchase of securities offered under this subsection are
11 directed to and held by the bank or depository institution specified in par. (e) 3. The
12 bank or depository institution shall notify the administrator of the receipt of
13 payments for securities and the identity and residence of the investors. This
14 information shall be confidential as provided in s. 551.607 (2) (g).

15 (k) Except as provided in s. 551.205 (1) (b) 2., no offer or sale of a security may
16 be made under this subsection through an Internet site unless the Internet site is
17 registered with the division under s. 551.205 (1) (b) 1.

18 (L) The issuer of securities offered under this subsection provides a copy of the
19 disclosure document provided to the administrator under par. (e) 2. to each
20 prospective investor at the time the offer of securities is made to the prospective
21 investor.

22 (m) The exemption under this subsection is not used in conjunction with any
23 other exemption under this section or s. 551.201, except that an offer or sale to an
24 officer, director, partner, trustee, or individual occupying similar status or
25 performing similar functions with respect to the issuer or to a person owning 10

1 percent or more of the outstanding shares of any class or classes of securities of the
2 issuer does not count toward the monetary limitation in par. (c) 1. and 2.

3 **SECTION 3.** 551.202 (27) of the statutes is created to read:

4 551.202 (27) An offer or sale of a security by an issuer if the offer or sale is
5 conducted in accordance with all of the following requirements:

6 (a) The issuer of the security is a business entity organized under the laws of
7 this state and authorized to do business in this state.

8 (b) The transaction meets the requirements of the federal exemption for
9 intrastate offerings in section 3 (a) (11) of the Securities Act of 1933 (15 USC 77c (a)
10 (11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147).

11 (c) The sum of all cash and other consideration to be received for all sales of the
12 security in reliance on the exemption under this subsection does not exceed
13 \$1,000,000, less the aggregate amount received for all sales of securities by the issuer
14 within the 12 months before the first offer or sale made in reliance on the exemption
15 under this subsection.

16 (d) The issuer does not accept more than \$5,000 from any single purchaser
17 unless the purchaser is an accredited investor, as defined in Rule 501 (a) adopted
18 under the Securities Act of 1933 (17 CFR 230.501 (a)).

19 (e) No commission or other remuneration is paid or given, directly or indirectly,
20 for any person's participation in the offer or sale of securities for the issuer unless the
21 person is registered as a broker-dealer or agent under this chapter.

22 (f) All funds received from investors are deposited into a bank or depository
23 institution authorized to do business in this state, and all the funds are used in
24 accordance with representations made to investors.

1 (g) Before the use of any general solicitation or the 25th sale of the security,
2 whichever occurs first, the issuer provides a notice to the administrator in writing
3 or in electronic form. Notwithstanding s. 551.204 (1) and (3), the notice shall be
4 limited to all of the following:

5 1. Stating that the issuer is conducting an offering in reliance on the exemption
6 under this subsection.

7 2. Identifying the names and addresses of all of the following persons:

8 a. The issuer.

9 b. All persons who will be involved in the offer or sale of securities on behalf of
10 the issuer.

11 c. The bank or other depository institution in which investor funds will be
12 deposited.

13 (h) The issuer is not, either before or as a result of the offering, an investment
14 company, as defined in section 3 of the Investment Company Act of 1940 (15 USC
15 80a-3), or subject to the reporting requirements of section 13 or 15 (d) of the
16 Securities Exchange Act of 1934 (15 USC 78m or 78o (d)).

17 (i) The issuer informs all purchasers that the securities have not been
18 registered under this chapter and makes the disclosures required under subsection
19 (f) of Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147 (f)).

20 (j) The exemption under this subsection is not used in conjunction with any
21 other exemption under this section or s. 551.201, except that an offer or sale to an
22 officer, director, partner, trustee, or individual occupying similar status or
23 performing similar functions with respect to the issuer or to a person owning 10
24 percent or more of the outstanding shares of any class or classes of securities of the
25 issuer does not count toward the monetary limitation in par. (c).

1 **SECTION 4.** 551.205 of the statutes is created to read:

2 **551.205 Additional provisions related to crowdfunding exemption;**
3 **funding of intrastate offerings through Internet sites.** (1) If the offer or sale
4 of securities pursuant to the exemption under s. 551.202 (26) is made through an
5 Internet site, all of the following requirements apply:

6 (a) Prior to any offer or sale of securities, the issuer shall provide to the Internet
7 site operator evidence that the issuer is organized under the laws of this state and
8 is authorized to do business in this state.

9 (b) 1. Except as provided in subd. 2., the Internet site operator shall register
10 with the division by filing a statement. This statement shall include all of the
11 following:

12 a. That the Internet site operator is a business entity organized under the laws
13 of this state and authorized to do business in this state.

14 b. That the Internet site is being utilized to offer and sell securities pursuant
15 to the exemption under s. 551.202 (26).

16 c. The identity and location of, and contact information for, the Internet site
17 operator and the issuer.

18 2. The Internet site operator is not required to register with the division if all
19 of the following apply with respect to the Internet site and its operator:

20 a. It does not offer investment advice or recommendations.

21 b. It does not solicit purchases, sales, or offers to buy the securities offered or
22 displayed on the Internet site.

23 c. It does not compensate employees, agents, or other persons for the
24 solicitation or based on the sale of securities displayed or referenced on the Internet
25 site.

1 d. It is not compensated based on the amount of securities sold, and it does not
2 hold, manage, possess, or otherwise handle investor funds or securities.

3 e. It does not engage in such other activities as the division, by rule, determines
4 are prohibited of such an Internet site.

5 (c) The issuer and the Internet site operator shall maintain records of all offers
6 and sales of securities effected through the Internet site and shall provide ready
7 access to the records to the division, upon request. The division may access, inspect,
8 and review any Internet site registered under this subsection as well as its records.

9 (2) An issuer of a security, the offer and sale of which is exempt under s. 551.202
10 (26)', shall provide, free of charge, a quarterly report to the issuer's investors until no
11 securities issued under s. 551.202 (26)' are outstanding. An issuer may satisfy the
12 reporting requirement of this subsection' by making the information available on an
13 Internet site if the information is made available within 45 days after the end of each
14 fiscal quarter and remains available until the succeeding quarterly report is issued.
15 An issuer shall file each quarterly report under this subsection' with the division and,
16 if the quarterly report is made available on an Internet site, the issuer shall also
17 provide a written copy of the report to any investor upon request. The report shall
18 contain all of the following:

19 (a) Compensation received by each director and executive officer, including
20 cash compensation earned since the previous report and on an annual basis and any
21 bonuses, stock options, other rights to receive securities of the issuer or any affiliate
22 of the issuer, or other compensation received.

23 (b) An analysis by management of the issuer of the business operations and
24 financial condition of the issuer.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2664/P1dn

ARG.:...

Sec

- date -

ATTN: Nathan Schacht

Please review the attached draft carefully to ensure that it is consistent with your intent. This draft is modeled after the provisions of North Carolina and Kansas laws that you provided to me. Wisconsin has adopted the Uniform Securities Act of 2002 (USA) but it appears that North Carolina and Kansas have not. There are significant differences in the way the laws of these two states are written, compared to Wisconsin's statutes, and therefore certain provisions of these states' laws are unnecessary or don't make sense in Wisconsin. I also believe some "clean up" is necessary in the way the North Carolina and Kansas provisions are organized and in their details, and I have tried to do this in the draft. I'm sure further improvements could be made by persons better-versed than I in securities law. I also note that there is significant overlap in the two exemptions in the attached draft, which I view not as two different types of exemptions but as two states' differing approaches to the same exemption.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

→ ¶ I am not familiar with the nuances of Internet site operation and web hosting. In this draft, I have used the term "Internet site operator," but that might not be the most technically accurate term. I have also included language from the North Carolina law relating to ^{DFI} DFI's ability to access, inspect, and review Internet sites, but as a technical matter I'm not sure how this would be accomplished.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2664/P1dn
ARG:sac:jf

July 17, 2013

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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Hlc w/ Nate

7/18

- exemption ⁽²⁶⁾ applies only if it is offered thru an internet site
- NC : want to set it up just for internet sites

in order for exemption to apply, it would be offered only thru internet

take out (27) → will send add'l info. on exemption change in August