



2001 SENATE BILL 236

August 29, 2001 - Introduced by Senators COWLES, BURKE, ROESSLER, DARLING and WELCH, cosponsored by Representatives TOWNSEND, SYKORA, KRAWCZYK and JESKEWITZ. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

1 **AN ACT to renumber** 551.02 (1); **to amend** 551.23 (8) (g), 551.23 (10) and 551.23
2 (11) (a); and **to create** 551.02 (1g) and 551.31 (1) (d) of the statutes; **relating**
3 **to:** exemptions from securities registration requirements and licensing
4 requirements for securities broker-dealers and securities agents.

Analysis by the Legislative Reference Bureau

Under current law, a person may not offer or sell any security in this state unless a registration statement relating to the security is filed with the division of securities in the department of financial institutions (division) or unless the security is exempt from state registration requirements under federal law. However, current law exempts certain types of securities and transactions from this registration requirement. For example, an offer or sale of a security currently is exempt from registration if the offer or sale is made to an individual who qualifies as an accredited investor under the rules of the division, as long as the issuer of the security reasonably believes that the accredited investor has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of the investment. In addition, with certain exceptions, an offer or sale of a security by the issuer of that security is exempt from registration if the issuer has its principal office in this state and if, among other things, not more than 15 persons will hold all of the securities after the sale. Also, under current law, any transaction that is entered into pursuant to an offer made to not more than ten persons in this state during any period of 12 consecutive months is exempt from registration, if certain other requirements are satisfied.

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This bill expands these exemptions from registration. Under this bill, an offer or sale of a security to an accredited investor is exempt from registration if the individual or person receiving the offer or making the purchase qualifies as an accredited investor under certain federal rules. These federal rules define “accredited investor” to include, among other things, certain financial entities, such as banking institutions, and individuals who have a net worth of greater than \$1,000,000 or who have had an income of greater than \$200,000 in the two most recent years. The bill also repeals the requirement that the issuer reasonably believe the accredited investor has a specified level of knowledge and experience in financial and business matters. In addition, under this bill, an offer or sale of a security by the issuer of that security generally is exempt from registration if the issuer has its principal office in this state and if, among other things, not more than 25 persons will hold all of the issuer’s securities after the sale. Also, under this bill, any transaction that is entered into pursuant to an offer made to not more than 25 persons in this state during any period of 12 consecutive months generally is exempt from registration, if the other requirements under current law are satisfied.

Currently, in order to transact business as a securities broker-dealer or securities agent in this state, a person must obtain a license from the division, unless the person is exempt from the licensing requirement. Current law exempts persons who give certain group presentations relating to securities, persons who engage exclusively in transactions on account of or with certain financial and governmental entities, and certain persons who are exempt from state licensing requirements under federal law.

This bill creates an additional exemption from this licensing requirement. This bill exempts any securities agent who is acting exclusively on behalf of an issuer of securities (as opposed to acting on behalf of a securities broker-dealer) and who makes offers and sales of the issuer’s securities in certain transactions involving accredited investors.

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.** 551.02 (1) of the statutes is renumbered 551.02 (1r).
- 2 **SECTION 2.** 551.02 (1g) of the statutes is created to read:
- 3 551.02 **(1g)** “Accredited investor” has the meaning given in 17 CFR 230.501(a).
- 4 **SECTION 3.** 551.23 (8) (g) of the statutes is amended to read:
- 5 551.23 **(8)** (g) An individual accredited investor, ~~as defined by rule of the~~
- 6 ~~division, if the issuer reasonably believes immediately before the sale that the~~

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1 ~~individual accredited investor, either alone or with the individual accredited~~
2 ~~investor's representative, has such knowledge and experience in financial and~~
3 ~~business matters as to be capable of evaluating the merits and risks of the~~
4 ~~prospective investment.~~

5 **SECTION 4.** 551.23 (10) of the statutes is amended to read:

6 551.23 (10) Any offer or sale of its securities by an issuer having its principal
7 office in this state, if the aggregate number of persons holding directly or indirectly
8 all of the issuer's securities, after the securities to be issued are sold, does not exceed
9 ~~15~~ 25, exclusive of persons under sub. (8), if no commission or other remuneration
10 is paid or given directly or indirectly for soliciting any person in this state, except to
11 broker-dealers and agents licensed in this state, and if no advertising is published
12 unless it has been permitted by the division.

13 **SECTION 5.** 551.23 (11) (a) of the statutes is amended to read:

14 551.23 (11) (a) Any transaction pursuant to an offer directed by the offeror to
15 not more than ~~10~~ 25 persons in this state, excluding persons exempt under sub. (8)
16 but including persons exempt under sub. (10), during any period of 12 consecutive
17 months, whether or not the offeror or any of the offerees is then present in this state,
18 if the offeror reasonably believes that all the persons in this state are purchasing for
19 investment, and no commission or other remuneration is paid or given directly or
20 indirectly for soliciting any person in this state other than those exempt by sub. (8).

21 **SECTION 6.** 551.31 (1) (d) of the statutes is created to read:

22 551.31 (1) (d) An agent who is acting exclusively as an agent representing an
23 issuer of securities and who makes offers and sales of the issuer's securities in
24 transactions that are exempt under s. 551.23 (8) (g) or under a rule of the division
25 promulgated under s. 551.23 (18) that specifically exempts transactions involving

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1 accredited investors and that is based on a model accredited investor exemption
2 adopted by the North American Securities Administrators Association.

3 (END)