



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU



Appendix A ... segment II

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.



State of Wisconsin
2013 - 2014 LEGISLATURE

in
7/18



LRB-2664/PZ PZ
ARG:sac

Wanted
by 7/23

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 AN ACT to create 227.01 (13) (zz), 551.202 (26), 551.202 (27), 551.205, 551.607
2 (2) (g) and 551.614 (1m) of the statutes; relating to: exemptions from securities
3 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
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

insert ANAL-A

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.

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or electronic

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insert ANAL-B

~~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.~~

operator

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:

1 1. If the issuer has not undergone and made available to each prospective
2 investor and the administrator the documentation resulting from a financial audit
3 of its most recently completed fiscal year which complies with generally accepted
4 accounting principles, \$1,000,000 subject to adjustment under s. 551.205 (3), less the
5 aggregate amount received for all sales of securities by the issuer within the 12
6 months before the first offer or sale made in reliance on the exemption under this
7 subsection.

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

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

17 (f) Not less than 10 days prior to the commencement of an offering of securities

18 in reliance on the exemption under this subsection ~~for the use of any publicly~~

19 ~~available Internet site in connection with any such offering~~, the issuer files a notice

20 with the administrator, in writing or in electronic form as prescribed by the
21 administrator, containing all of the following:

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

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

3 a. A description of the company, its type of entity, the address and telephone
4 number of its principal office, its history, its business plan, and the intended use of
5 the offering proceeds, including any amounts to be paid, as compensation or
6 otherwise, to any owner, executive officer, director, managing member, or other
7 person occupying a similar status or performing similar functions on behalf of the
8 issuer.

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

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

14 d. The terms and conditions of the securities being offered and of any
15 outstanding securities of the company, the minimum and maximum amount of
16 securities being offered, if any, and either the percentage ownership of the company
17 represented by the offered securities or the valuation of the company implied by the
18 price of the offered securities.

19 e. The identity of any person who has been or will be retained by the issuer to
20 assist the issuer in conducting the offering and sale of the securities, including any
21 Internet site operator but excluding persons acting solely as accountants or
22 attorneys and employees whose primary job responsibilities involve the operating
23 business of the issuer rather than assisting the issuer in raising capital.

24 f. For each person identified as required under subd. 2. e., a description of the
25 consideration being paid to the person for such assistance.

1 g. A description of any litigation or legal proceedings involving the company or
2 its management.

3 h. The names and addresses, including the Uniform Resource Locator, of ^gany ^{each}
4 Internet site that will be used by the issuer to offer or sell securities under this
5 subsection.

6 i. Any additional information material to the offering, including, if appropriate,
7 a discussion of significant factors that make the offering speculative or risky. This
8 discussion shall be concise and organized logically and may not be limited to risks
9 that could apply to any issuer or any offering.

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

17 ^g~~(f)~~ The issuer is not, either before or as a result of the offering, an investment
18 company, as defined in section 3 of the Investment Company Act of 1940 (15 USC
19 80a-3), or an entity that would be an investment company but for the exclusions
20 provided in section 3 (c) of the Investment Company Act of 1940 (15 USC 80a-3 (c)),
21 or subject to the reporting requirements of section 13 or 15 (d) of the Securities
22 Exchange Act of 1934 (15 USC 78m or 78o (d)).

23 ^h~~(g)~~ The issuer informs all prospective purchasers of securities offered under
24 this subsection that the securities have not been registered under federal or state
25 securities law and that the securities are subject to limitations on resale. The issuer

1 shall display the following legend conspicuously on the cover page of the disclosure
2 document:

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

(20) (h) The issuer requires each purchaser to certify in writing ^{or electronically} as follows:

21 I UNDERSTAND AND ACKNOWLEDGE THAT:

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

24 This offering has not been reviewed or approved by any state or federal
25 securities commission or division or other regulatory authority and that no such

1 person or authority has confirmed the accuracy or determined the adequacy of any
2 disclosure made to me relating to this offering.

3 The securities I am acquiring in this offering are illiquid, that there is no ready
4 market for the sale of such securities, that it may be difficult or impossible for me to
5 sell or otherwise dispose of this investment, and that, accordingly, I may be required
6 to hold this investment indefinitely.

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

10 (Signature)

11 ^j (j) The issuer obtains from each purchaser of a security offered under this
12 subsection evidence that the purchaser is a resident of this state and, if applicable,
13 is an accredited investor.

14 ^k (k) All payments for purchase of securities offered under this subsection are
15 directed to and held by the bank or depository institution specified in par. ^f (f) 3. The
16 bank or depository institution shall notify the administrator of the receipt of
17 payments for securities and the identity and residence of the investors. This
18 information shall be confidential as provided in s. 551.607 (2) (g).

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

22 (L) The issuer of securities offered under this subsection provides a copy of the
23 disclosure document provided to the administrator under par. ^f (f) 2. to each
24 prospective investor at the time the offer of securities is made to the prospective
25 investor.

1 (m) The exemption under this subsection is not used in conjunction with any
2 other exemption under this section or s. 551.201, except that an offer or sale to an
3 officer, director, partner, trustee, or individual occupying similar status or
4 performing similar functions with respect to the issuer or to a person owning 10
5 percent or more of the outstanding shares of any class or classes of securities of the
6 issuer does not count toward the monetary limitation in par. (c) 1. and 2.

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

8 551.202 (27) An offer or sale of a security by an issuer if the offer or sale is
9 conducted in accordance with all of the following requirements:

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

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

15 (c) The sum of all cash and other consideration to be received for all sales of the
16 security in reliance on the exemption under this subsection does not exceed
17 \$1,000,000, less the aggregate amount received for all sales of securities by the issuer
18 within the 12 months before the first offer or sale made in reliance on the exemption
19 under this subsection.

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

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

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

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

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

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

11 a. The issuer.

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

14 c. The bank or other depository institution in which investor funds will be
15 deposited.

16 (h) The issuer is not, either before or as a result of the offering, an investment
17 company, as defined in section 3 of the Investment Company Act of 1940 (15 USC
18 80a-3), or subject to the reporting requirements of section 13 or 15 (d) of the
19 Securities Exchange Act of 1934 (15 USC 78m or 78o (d)).

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

23 (j) The exemption under this subsection is not used in conjunction with any
24 other exemption under this section or s. 551.201, except that an offer or sale to an
25 officer, director, partner, trustee, or individual occupying similar status or

1 performing similar functions with respect to the issuer or to a person owning 10
2 percent or more of the outstanding shares of any class or classes of securities of the
3 issuer does not count toward the monetary limitation in par. (c).

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

5 551.205 Additional provisions related to crowdfunding exemption, ^{for} ^(B)

6 ~~funding of intrastate offerings through Internet sites.~~ (1) ^{to an} ~~If the offer or sale~~

7 of securities pursuant to the exemption under s. 551.202 (26) ~~is made through an~~

8 ~~Internet site.~~ All of the following requirements apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (3) At 5-year intervals after January 1, 2014, the division shall adjust the
4 monetary amounts specified in s. 551.202 (26) (c) 1. and 2. to reflect changes since
5 January 1, 2014, in the consumer price index for all urban consumers, U.S. city
6 average, as determined by the U.S. department of labor. Each adjustment shall be
7 rounded to the nearest multiple of \$50,000. Each adjustment under this subsection
8 shall be published on the department of financial institutions Internet site.

9 SECTION 5. 551.607 (2) (g) of the statutes is created to read:

10 551.607 (2) (g) Any record received under s. 551.202 (26) ^k ~~(f)~~ relating to
11 payments for securities and the identity and residence of the investors.

12 SECTION 6. 551.614 (1m) of the statutes is created to read:

13 551.614 (1m) FILING FEES RELATING TO CERTAIN REGISTRATION EXEMPTIONS. There
14 shall be a nonrefundable filing fee of \$150 for every notice of claim of exemption filed
15 under s. 551.202 (26) ^f ~~(f)~~ 1.

16 SECTION 7. Initial applicability.

17 (1) This act first applies to securities offered or sold on the effective date of this
18 subsection.

19 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2664/P2ins
ARG:.....

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2 **INSERT ANAL-A:**

(no P) the offering is made exclusively through an Internet site and the Internet site is registered with the division or exempt from registration; 6)

3 **INSERT ANAL-B:**

In addition, all Internet sites through which the securities are offered are

4

5 **INSERT 4-16:**

6 (e) The offering under this subsection is made exclusively through one or more

7 Internet sites and each Internet site is registered with the division under s. 551.205

8 (1) (b) 1. or exempt from registration under s. 551.205 (1) (b) 2. *σ*

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Kunkel, Mark

From: Schacht, Nathan
Sent: Friday, July 26, 2013 8:37 AM
To: Kunkel, Mark
Subject: RE: securities bill edits

Sorry, should say P2 page 4 line 4. That line refers to SEC definition of accredited investor. I want it to instead refer to the accredited investor definition we are creating in the /1. ✓

Make sense?

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Thursday, July 25, 2013 4:57 PM
To: Schacht, Nathan
Subject: RE: securities bill edits

I've made it as far as the third bullet point under LRB-2664/P2, but I'm not sure what that bullet point means. It says that on page 4, line 7-8, use accredited investor. I'm not sure how accredited investor fits into those lines. Can you clarify? ✓

I'm leaving for the day, but will work my way through the rest of the material tomorrow.

--Mark

From: Schacht, Nathan
Sent: Thursday, July 25, 2013 3:57 PM
To: Kunkel, Mark
Subject: RE: securities bill edits

Now I know you're on top of things. What I should have said is use Sec 2 (c)1 and 2(c)2. With the edits to Sec 2(c)1 and 2(c)2 that I included in the P2 notes. ✓

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Thursday, July 25, 2013 3:49 PM
To: Schacht, Nathan
Subject: RE: securities bill edits

Another question:

In the last item for LRB-2664/P1, you refer to Section 2 (1) and (2). I'm not sure what you mean by that. The bill contains a Section 2, but not a Section 2 (1) and (2). ✓

From: Schacht, Nathan
Sent: Thursday, July 25, 2013 3:04 PM

To: Kunkel, Mark
Subject: RE: securities bill edits

Sorry, no. Keep Sec 5 but change the 100 to 50 on that as well.

Thanks for asking.

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Thursday, July 25, 2013 3:02 PM
To: Schacht, Nathan
Subject: RE: securities bill edits

Regarding LRB-2190/1, I assume you want to exclude Section 5 from the new P draft of LRB-2664. Is that correct?

From: Schacht, Nathan
Sent: Thursday, July 25, 2013 1:37 PM
To: Kunkel, Mark
Subject: securities bill edits
Importance: High

NO
- see
above

Thanks for helping us out on this. Below is what we are looking for. If you can have a P draft to me next Monday or early Tuesday that would be great.

Changes-

We want LRB-2190/1, LRB-2664/P1 and LRB-2664/P2 tied together to make one bill with the below changes. Please make this a new P draft of 2664 for now, we will likely make this a /2 of 2190 when the time comes. Please email/call with any questions/concerns.

-Nate

LRB- 2190/1

- Keep sections 1-3 ✓
- Change 100 to 50 twice in section 4 ✓ $\frac{1}{3}$ section 5

LRB-2664/P1

- We'd like to keep Section 3 as a new exemption with the following changes under that section of stats. (the rest of P1 can be scrapped) ✓
 - ✓ (f) - require bank or depository institution instead be a "bank, savings bank, savings and loan association, or credit union chartered under the laws of this state."
 - ✓ (g) "Before the use of any general solicitation or the 25th 100th sale of the security, whichever occurs first, the issuer..." (I think this would prevent this exemption from being offered online and instead strictly through personal relationships, please let me know if you disagree.)
 - ✓ (g) Add a \$50 fee for notice filing.
 - ✓ Require that DFI create a form including the information in (g) and make it available as an electronic document on their website.
 - ✓ For limit in (c) let's use the two standards set in Section 2 (1), and (2) (with the edits below in 2664/P2).

LRB-2664/P2

- ✓ Keep all as a new exemption with the following changes.
- ✓ Page 3-4, exempt accredited and institutional investors from limits in 1 and 2. (use 2190/1 accredited and institutional investor standard throughout bill)
- ✓ Page 4, line 7-8. Use accredited investor in 2190/1

551.202(26)(c)1. 1/2.

line 4

- ✓ Page 4, line 8, remove "or exempt from registration under s. 551.205 (1) (b) 2"...(removed below)
- ✓ Page 4, (f) require that DFI create a form for this notice requirement that is available electronically through the DFI website.

✓ Page 6, 3. Require the "bank or other depository institution" is instead "bank, savings bank, savings and loan association, or credit union chartered under the laws of this state"

✓ Page 8, line 7, accredited investor reference back to 2190/1 definition → *applies because of dofn change*

✓ Page 8, line 9, rather than bank or depository institution, how about financial institution in par (f)3?

✓ Page 9-10: (in addition require that site notify DFI within 30 days of any changes in registration information)

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

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

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

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

✓ d. ~~Except as provided in subd. 2.,~~ that the Internet site operator is a registered Broker-dealer under s. 551.401.

2. The Internet site operator is not required to be a registered Broker-dealer under s. 551.401, ~~with the division~~ if all of the following apply with respect to the Internet site and its operator:

✓ 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 Internet 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 Internet 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 division, by rule, determines are prohibited of such an Internet site.

change highlighter

✓ ******In further regard to the above, we want to allow the site under 2. to be able to charge a flat fee for using the internet site. Do you see a conflict with the requirements under 2. that would limit that? If so we need that changed to allow the following: site could charge a fee based on length of time offering is list on site, site could charge a fee for each individual offering regardless of time, or a combination of both.

✓ Page 10-11, instead of U.S. city average, use Milwaukee-Racine area

✓ Page 11, Section 5, change fee to \$50

✓ Page 11, create fee for internet site registration under (b)1, make fee \$100.

✓ *******Also, do you see a restriction on the ability of the website to advertise their website under this new exemption (not the individual offerings but the website as a whole)? If so, I'd like to create the ability of the website to advertise (online or traditionally) the site as long as references to individual offerings are not made.

Nathan Schacht

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

MDF NOTES

551.202(13)(am) *revised*
(am) (intro.) An **accredited investor**, as defined in Rule 501 (a) adopted under the Securities Act of 1933 (17 CFR 230.501 (a)), provided that prior to the sale in this state to an **accredited investor** described in Rule 501 (a) (5) or (6) adopted under the Securities Act of 1933, the seller files a consent to service of process with the administrator in the form required under s. 551.611. Failure to file the consent as required is a cause for administrative action by the administrator under s. 551.604 but does not result in the loss of this exemption. This consent is not required to be filed if any of the following apply:

551.401(2)(cm)
(cm) **Accredited investors** as defined in Rule 501 (a) (1), (2), (3), (7) or (8) adopted under the Securities Act of 1933.

551.403(2)(a)2m.
2m. **Accredited investors** as defined in Rule 501 (a) (1) or (3) adopted under the Securities Act of 1933.

551.405(2)(a)2m.
2m. **Accredited investors** as defined and listed in 17 CFR 230.501 (a) (1), (2), (3), (7), or (8) under Regulation D under the Securities Act of 1933.

Not applicable

632.69(1)(e)
(e) "Financing entity" means a person whose principal activity related to a life settlement is providing funds to effect the life settlement contract or purchase of one or more policies and who has an agreement in writing with one or more providers to finance the acquisition of life settlement contracts, including an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy from a life settlement provider, credit enhancer, or any entity that has a direct ownership in a policy that is the subject of a life settlement contract. "Financing entity" does not include an investor that is not an **accredited investor**, as defined in 17 CFR 230.501 (a), or a purchaser.

632.69(1)(r)2.
2. An **accredited investor**, as defined in 17 CFR 230.501 (a), or qualified institutional buyer, as defined in 17 CFR 230.114A (a) (1).

632.69(4)(a)8.
8. If the licensee is a provider, that the licensee has assigned, transferred, or pledged a settled policy to a person other than a provider licensed in this state, a purchaser, an **accredited investor** as defined in 17 CFR 230.501 (a) or a qualified institutional buyer as defined in 17 CFR 230.144A (a) (1), a financing entity, a special purpose entity, or a related provider trust.

Kunkel, Mark

From: Schacht, Nathan
Sent: Friday, July 26, 2013 10:11 AM
To: Kunkel, Mark
Cc: Gary, Aaron
Subject: RE: securities bill edits

Yes, change it for (27)(d) as well. Thanks. ✓

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Friday, July 26, 2013 9:57 AM
To: Schacht, Nathan
Cc: Gary, Aaron
Subject: RE: securities bill edits

I think I figured out the "accredited investor" definition issue.

Under current law provisions that your bills do *not* affect, the federal law definition applies in ss. 551.401 (2) (cm), 554.403 (2) (a) 2m., and 551.405 (2) (a) 2m. Because your bills do not affect those provision, Aaron wanted to make sure that the new definition, which is used for the exemption in s. 551.202 (13) (am), does not apply to those provisions.

I assume you still want to take the same approach, and not affect the above provisions. If so, I can change Aaron's definition so that it reads, "accredited investor" means, *except as provided in ss. 551.401 (2) (cm), 554.403 (2) (a) 2m., and 551.405 (2) (a) 2m.* ,

The above will work only if you want the new definition to apply in s. 551.202 (13) (am), 551.202 (26) (d), and 551.202 (27) (d). I already know that you are okay with 551.202 (13) (am) and 551.202 (26) (d). What about 551.202 (27) (d)? That language is found on page 9, line 21 of LRB-2664/P1.

~~**From:** Schacht, Nathan
Sent: Friday, July 26, 2013 8:37 AM
To: Kunkel, Mark
Subject: RE: securities bill edits~~

~~Sorry, should say P2 page 4 line 4. That line refers to SEC definition of accredited investor. I want it to instead refer to the accredited investor definition we are creating in the /1.~~

~~Make sense?~~

~~Nathan Schacht
Office of State Representative David Craig~~

From: Kunkel, Mark
Sent: Thursday, July 25, 2013 4:57 PM
To: Schacht, Nathan
Subject: RE: securities bill edits

Kunkel, Mark

From: Schacht, Nathan
Sent: Friday, July 26, 2013 8:55 AM
To: Kunkel, Mark
Subject: RE: securities bill edits

Mark,

Can you also add this to the P2 changes?

✓ (c)1. and 2.

“less the aggregate amount received for all sales of securities exempt from registration under this section or s. 551.201 by the issuer within the 12 6 months before or after the first offer or sale made in reliance on the exemption under this subsection.”

✓ (m)

~~The exemption under this subsection is not used in conjunction with any other exemption under this section or s. 551.201, except that a~~ An offer or sale to an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning 10 percent or more of the outstanding shares of any class or classes of securities of the issuer does not count toward the monetary limitation in par. (c) 1. and 2.

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Thursday, July 25, 2013 4:57 PM
To: Schacht, Nathan
Subject: RE: securities bill edits

I've made it as far as the third bullet point under LRB-2664/P2, but I'm not sure what that bullet point means. It says that on page 4, line 7-8, use accredited investor. I'm not sure how accredited investor fits into those lines. Can you clarify?

I'm leaving for the day, but will work my way through the rest of the material tomorrow.

--Mark

From: Schacht, Nathan
Sent: Thursday, July 25, 2013 3:57 PM
To: Kunkel, Mark
Subject: RE: securities bill edits

Now I know you're on top of things. What I should have said is use Sec 2 (c)1 and 2(c)2. With the edits to Sec 2(c)1 and 2(c)2 that I included in the P2 notes.

Nathan Schacht
Office of State Representative David Craig

Kunkel, Mark

From: Schacht, Nathan
Sent: Friday, July 26, 2013 9:59 AM
To: Kunkel, Mark
Subject: FW: securities bill edits

Or you can use the language from 551.202(14)(a)1 in addition to the existing (e) language. Whatever you think is best to prohibit the use of general advertising/general solicitations.

Nathan Schacht
Office of State Representative David Craig

From: Schacht, Nathan
Sent: Friday, July 26, 2013 9:54 AM
To: Kunkel, Mark
Subject: RE: securities bill edits

Mark,

Just caught one more thing. Can you add a general solicitation restriction to the P1 section 3 exemption?

(e) No commission or other remuneration is paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is registered as a broker-dealer or agent under this chapter and no advertising is published unless it has been permitted by the division of securities.

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Friday, July 26, 2013 9:01 AM
To: Schacht, Nathan
Cc: Gary, Aaron
Subject: RE: securities bill edits

Okay, I will refer to a person who is an accredited investor for purposes of s. 551.202 (13m), which matches the beginning of the definition created in s. 551.102 (1g). That definition contains the limitation that it applies only for purposes of s. 551.202 (13m). I'm not sure why that limitation is important, but if you want to retain it, I think that whenever I use the term "accredited investor" in a context other than in s. 551.202 (13m), I have to refer to a person who is an accredited investor for purposes of s. 551.202 (13m). If that doesn't make sense, or you want to do something else, let me know.

--Mark

Per Nathan, create definition that applies in ch 551, with current law exceptions not treated in bill

From: Schacht, Nathan
Sent: Friday, July 26, 2013 8:37 AM
To: Kunkel, Mark
Subject: RE: securities bill edits

Sorry, should say P2 page 4 line 4. That line refers to SEC definition of accredited investor. I want it to instead refer to the accredited investor definition we are creating in the /1

Kunkel, Mark

From: Schacht, Nathan
Sent: Friday, July 26, 2013 12:42 PM
To: Kunkel, Mark
Subject: RE: Internet site operator questions

The "or" can stay. I think that address commissions for sale and solicitations. That goes back to your fees question, which we can discuss over phone.

Nathan Schacht
Office of State Representative David Craig

From: Kunkel, Mark
Sent: Friday, July 26, 2013 11:52 AM
To: Schacht, Nathan
Subject: Internet site operator questions

Regarding LRB-2664/P2, you want to allow an Internet site operator to charge a fee based on length of time an offering is on the site, or a fee for each individual offering regardless of time, or a combination of both.

You'll have to excuse my lack of knowledge, but you're talking about the Internet site operator charging the issuer a fee, correct?

Also, I may be missing something, but it appears that you are okay with fees based on length of time, as well as fees that are based on something other than length of time (except number of securities sold). If that's true, why do you need to mention this? If it is necessary to allow the charging of fees, you could simply allow fees, and not mention what they can be based on, because it looks they can be based on anything, except on the number of securities sold.

However, is it even necessary to allow charging of fees? If you don't mention it, is it possible to infer that they aren't allowed? If a fee isn't based on the number of securities sold, wouldn't it be okay without saying so?

Just noticed something else. Section 551.205 (1) (b) 2. C. (LRB-2664/P2 9, line 20), says: "It does not compensate employees, agents, or other persons for the solicitation **or** based on the sale of securities displayed or referenced on the Internet site." Is the highlighted "or" a typo that should be deleted? Or am I misreading something?

PS I haven't yet worked through the new instructions received today, but will do so this afternoon.

Not a typo - see above

Kunkel, Mark

From: Schacht, Nathan
Sent: Friday, July 26, 2013 1:44 PM
To: Kunkel, Mark
Subject: securities bill

If you want to hold off on sending to editing till Tuesday morning, I will have one more exemption to add on Monday afternoon. That exemption will be written up in leg format and will just need to be added to the draft. It's fine if that pushes the bill getting out of editing until Wednesday, I'd rather get the last exemption in now rather than putting it through editing again later.

Nathan Schacht

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