

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment VI

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 8/6



LRB-2664/14

PS

ARG&MDK:sac&eev:jm

wanted 8/7
by end of day
if possible

Staus RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

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1 AN ACT *to amend* 551.102 (11) (o), 551.202 (13) (am) (intro.), 551.202 (14) (a)
2 (intro.), 551.202 (24), 551.401 (1), 551.402 (2) (b) and 551.402 (2) (f); and *to*
3 *create* 227.01 (13) (zz), 551.102 (1g), 551.201 (3) (d), 551.202 (26), 551.202 (27),
4 551.205, 551.206, 551.607 (2) (g) and 551.614 (1m) of the statutes; **relating to:**
5 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. This bill creates an exemption from registration for certain securities, revises requirements under current law regarding certain exempt transactions, and exempts additional transactions from registration.

Security exemption. Under current law, certain securities are exempt from registration with the division, including a security issued by certain banks or other depository institutions, if the security represents an interest in or direct obligation of the bank or other depository institution or if the security is guaranteed by the bank or other depository institution. This bill also exempts a security issued by a bank or

savings and loan holding company, as defined under federal law, if the security represents an interest in or direct obligation of the holding company or if the security is guaranteed by the holding company. In addition, to qualify for the exemption, the holding company must have no significant assets other than securities issued by banks or other depository institutions that are exempt from registration under current law.

Exempt transactions under current law. Under current law, certain securities transactions are exempt from registration with the division. Among these exempt transactions is a sale or offer to sell to an accredited investor, as defined under federal law. For purposes of this registration exemption, "accredited investor" includes, among others, banks or other financial institutions; federally registered broker-dealers; insurance companies; investment companies; private business development companies; certain persons having designated positions with the securities issuer; certain trusts with assets of more than \$5,000,000; and entities in which all of the equity owners are accredited investors. For purposes of this registration exemption, an "accredited investor" also includes any person who comes within any of the following categories, or whom the securities issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person: 1) any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year; or 2) any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds \$1,000,000. For purposes of calculating net worth, the person's primary residence is generally not included as an asset and indebtedness secured by the residence is generally not included as a liability, but there are exceptions.

For purposes of securities registration exemptions, this bill creates a state law definition of "accredited investor" and changes the criteria for being an accredited investor as described in items 1) and 2), above. The bill lowers the individual income threshold in item 1), above, from \$200,000 to \$100,000 and lowers the joint income threshold in item 1), above, from \$300,000 to \$150,000. The bill also lowers the net worth threshold in item 2), above, from \$1,000,000 to \$750,000 and specifies that the net worth calculation includes the person's primary residence as both an asset and a liability.

Under current law, another securities transaction that is exempt from registration with the division is a sale or offer to sell to an institutional investor, as defined under state law. Current law defines "institutional investor" to include, among others, banks and other financial institutions; insurance companies; investment companies; federally registered broker-dealers; private business development companies meeting certain standards; certain qualified institutional buyers, as defined under federal law; and other entities of institutional character with assets of more than \$10,000,000.

This bill modifies this definition of "institutional investor," lowering the asset threshold for other entities of institutional character from \$10,000,000 to \$2,500,000. This change affects this registration exemption and also provisions in

which: a broker-dealer is exempt from registration with the division if it engages in only certain transactions, including transactions with institutional investors; and, a federal covered investment adviser without a place of business in this state is exempt from notice filing with the division if it has only certain types of clients in this state, including institutional investors.

Another securities transaction that is exempt from registration with the division under current law is a transaction pursuant to an offer directed to not more than 25 persons in this state, not including accredited investors and institutional investors, during a 12-month period if certain requirements are met, including that general solicitation or advertising is not made. The division may modify this registration exemption, including increasing or decreasing the number of offerees permitted. This bill modifies this registration exemption to increase the number of offerees permitted from 25 persons to 50 persons.

Under current law, another securities transaction that is exempt from registration with the division is an offer or sale by a securities issuer having its principal office in this state of its securities if the aggregate number of persons holding all of the issuer's securities, after the securities to be issued are sold, does not exceed 25, not including accredited investors and institutional investors, and if certain other requirements are met, including that no advertising is published. This bill modifies this registration exemption to increase the aggregate number of persons who may hold the issuer's securities from 25 persons to 50 persons.

Additional exempt transactions. This bill creates two additional transaction exemptions to securities registration. Under the first 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) with certain exceptions, the amount of money to be received for 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 under state law; 5) the offering is made exclusively through an Internet site and the Internet site is registered with the division; 6) the issuer pays a \$50 fee and files notice of the offering with the division at least ten days before commencing 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 financial institution chartered in this state in which the investor funds will be deposited; 7) the issuer is not an investment company or an SEC reporting company; 8) 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 or electronic acknowledgment containing

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certain information, and obtains from each purchaser evidence that the purchaser is a resident of this state; 9) all payments for purchase of securities are held by the issuer in the financial institution identified in the above escrow agreement; ~~and~~ 10) a copy of the disclosure document provided to the division is given to each prospective investor at the time of the offer. 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.

In addition, all Internet sites through which the securities are offered are required to be registered with the division. Registration is accomplished by the Internet site operator paying a \$100 fee and filing a statement with the division that contains specified information. Also, the bill exempts the Internet site operator from registration with the division as a broker-dealer 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) the fee it charges for securities offerings satisfies specified requirements; 6) it complies with specified advertising restrictions; and 7) 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) with certain exceptions, the amount of money to be received for 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 under state law; 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) unless permitted by the division, no general solicitation or general advertising is made for the securities; 7) all funds received from investors are deposited into a financial institution chartered in this state, and all the funds are used in accordance with representations made to investors; 8) before the 100th sale of the security, the issuer pays a \$50 fee and provides a notice of the offering to the division containing specified information; 9) the issuer is not an investment company or an SEC reporting company; ~~and~~ 10) the issuer informs all purchasers that the securities have not been registered and makes disclosures

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required by SEC rule, including disclosures related to limitations on resale of the securities.

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. 551.206, the amounts specified in s. 551.202
3 (26) (c) 1. a. and 1. b. and (27) (c) 1. a. and 1. b.

4 **SECTION 2.** 551.102 (1g) of the statutes is created to read:
5 551.102 (1g) "Accredited investor," except as provided in ss. 551.401 (2) (cm),
6 551.403 (2) (a) 2m., and 551.405 (2) (a) 2m., has the meaning given in Rule 501 (a)
7 (1), (2), (3), (4), (7), and (8) adopted under the Securities Act of 1933 (17 CFR 230.501
8 (a) (1), (2), (3), (4), (7), and (8)) and also means any person who comes within any of
9 the following categories, or whom the issuer reasonably believes comes within any
10 of the following categories, at the time of the sale of the securities to that person:

11 (a) 1. Subject to subd. 2., any natural person whose individual net worth, or
12 joint net worth with that person's spouse, exceeds \$750,000.

13 2. For purposes of calculating net worth under subd. 1., the person's primary
14 residence shall be included as an asset and indebtedness secured by the primary
15 residence shall be included as a liability. This subdivision does not apply to any
16 calculation of a person's net worth made in connection with a purchase of securities
17 in accordance with a right to purchase the securities if the right was held by the
18 person on July 20, 2010, the person qualified as an accredited investor under 17 CFR
19 230.501 (a) (5) on the basis of net worth at the time the person acquired the right, and
20 the person held securities of the same issuer, other than this right, on July 20, 2010.

1 (b) Any natural person who had an individual income in excess of \$100,000 in
2 each of the two most recent years or joint income with that person's spouse in excess
3 of \$150,000 in each of those years and has a reasonable expectation of reaching the
4 same income level in the current year.

5 **SECTION 3.** 551.102 (11) (o) of the statutes is amended to read:

6 551.102 (11) (o) Any other person, other than an individual, of institutional
7 character with total assets in excess of ~~\$10,000,000~~ \$2,500,000 not organized for the
8 specific purpose of evading this chapter.

9 **SECTION 4.** 551.201 (3) (d) of the statutes is created to read:

10 551.201 (3) (d) A bank holding company, as defined in 12 USC 1841 (a), or
11 savings and loan holding company, as defined in 12 USC 1467a (a) (1) (D), with no
12 significant assets other than securities of one or more entities specified in par. (a),
13 (b), or (c).

14 **SECTION 5.** 551.202 (13) (am) (intro.) of the statutes is amended to read:

15 551.202 (13) (am) (intro.) An accredited investor, ~~as defined in Rule 501 (a)~~
16 ~~adopted under the Securities Act of 1933 (17 CFR 230.501 (a))~~, provided that prior
17 to the sale in this state to an accredited investor described in ~~Rule 501 (a) (5) or (6)~~
18 ~~adopted under the Securities Act of 1933 s. 551.102 (1g) (a) or (b)~~, the seller files a
19 consent to service of process with the administrator in the form required under s.
20 551.611. Failure to file the consent as required is a cause for administrative action
21 by the administrator under s. 551.604 but does not result in the loss of this
22 exemption. This consent is not required to be filed if any of the following apply:

23 **SECTION 6.** 551.202 (14) (a) (intro.) of the statutes is amended to read:

24 551.202 (14) (a) (intro.) Subject to par. (b), any transaction pursuant to an offer
25 directed by the offeror to not more than ~~25~~ 50 persons in this state excluding those

1 persons designated in sub. (13) but including persons exempt under sub. (24), during
2 any period of 12 consecutive months whether or not the offeror or any of the offerees
3 is then present in this state if all of the following apply:

4 **SECTION 7.** 551.202 (24) of the statutes is amended to read:

5 551.202 (24) Any offer or sale of its securities by an issuer, having its principal
6 office in this state, if the aggregate number of persons holding directly or indirectly
7 all of the issuer's securities, after the securities to be issued are sold, does not exceed
8 ~~25~~ 50, exclusive of persons under sub. (13), if no commission or other remuneration
9 is paid or given directly or indirectly for soliciting any person in this state, except to
10 broker-dealers and agents licensed in this state, and if no advertising is published
11 unless it has been permitted by the division of securities.

12 **SECTION 8.** 551.202 (26) of the statutes is created to read:

13 551.202 (26) An offer or sale of a security by an issuer if the offer or sale is
14 conducted in accordance with all of the following requirements:

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

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

20 (c) 1. Except as provided in subd. 2., the sum of all cash and other consideration
21 to be received for all sales of the security in reliance on the exemption under this
22 subsection, excluding sales to any accredited investor or institutional investor, does
23 not exceed the following amount:

24 a. If the issuer has not undergone and made available to each prospective
25 investor and the administrator the documentation resulting from a financial audit

1 of its most recently completed fiscal year which complies with generally accepted
2 accounting principles, \$1,000,000 subject to adjustment under s. 551.206, less the
3 aggregate amount received for all sales of securities exempt from registration under
4 this section or s. 551.201 by the issuer within ^{the 12} 6 months before or 6 months after the
5 first offer or sale made in reliance on the exemption under this subsection.

6 b. If the issuer has undergone and made available to each prospective investor
7 and the administrator the documentation resulting from a financial audit of its most
8 recently completed fiscal year which complies with generally accepted accounting
9 principles, \$2,000,000 subject to adjustment under s. 551.206, less the aggregate
10 amount received for all sales of securities exempt from registration under this
11 section or s. 551.201 by the issuer within ^{the 12} 6 months before or 6 months after the first
12 offer or sale made in reliance on the exemption under this subsection.

13 2. An offer or sale to an officer, director, partner, trustee, or individual
14 occupying similar status or performing similar functions with respect to the issuer
15 or to a person owning 10 percent or more of the outstanding shares of any class or
16 classes of securities of the issuer does not count toward the monetary limitation in
17 subd. 1. a. and 1. b.

18 (d) The issuer does not accept more than \$5,000 from any single purchaser
19 unless the purchaser is an accredited investor.

20 (e) The offering under this subsection is made exclusively through one or more
21 Internet sites and each Internet site is registered with the division under s. 551.205
22 (1) (b).

23 (f) Not less than 10 days prior to the commencement of an offering of securities
24 in reliance on the exemption under this subsection, the issuer files a notice with the
25 administrator, in writing or in electronic form as prescribed by the administrator,

1 which the administrator shall make available as an electronic document on the
2 department of financial institutions Internet site, containing all of the following:

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

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

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

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

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

19 d. The terms and conditions of the securities being offered and of any
20 outstanding securities of the company, the minimum and maximum amount of
21 securities being offered, if any, and either the percentage ownership of the company
22 represented by the offered securities or the valuation of the company implied by the
23 price of the offered securities.

24 e. The identity of any person who has been or will be retained by the issuer to
25 assist the issuer in conducting the offering and sale of the securities, including any

1 Internet site operator but excluding persons acting solely as accountants or
2 attorneys and employees whose primary job responsibilities involve the operating
3 business of the issuer rather than assisting the issuer in raising capital.

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

6 g. A description of any litigation or legal proceedings involving the company or
7 its management.

8 h. The names and addresses, including the Uniform Resource Locator, of each
9 Internet site that will be used by the issuer to offer or sell securities under this
10 subsection.

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

15 3. An escrow agreement with a bank, savings bank, savings and loan
16 association, or credit union chartered under the laws of this state in which the
17 investor funds will be deposited, providing that all offering proceeds will be released
18 to the issuer only when the aggregate capital raised from all investors is equal to or
19 greater than the minimum target offering amount specified in the business plan as
20 necessary to implement the business plan and that all investors may cancel their
21 commitments to invest if that target offering amount is not raised by the time stated
22 in the disclosure document.

23 (g) The issuer is not, either before or as a result of the offering, an investment
24 company, as defined in section 3 of the Investment Company Act of 1940 (15 USC
25 80a-3), or an entity that would be an investment company but for the exclusions

1 provided in section 3 (c) of the Investment Company Act of 1940 (15 USC 80a-3 (c)),
2 or subject to the reporting requirements of section 13 or 15 (d) of the Securities
3 Exchange Act of 1934 (15 USC 78m or 78o (d)).

4 (h) The issuer informs all prospective purchasers of securities offered under
5 this subsection that the securities have not been registered under federal or state
6 securities law and that the securities are subject to limitations on resale. The issuer
7 shall display the following legend conspicuously on the cover page of the disclosure
8 document:

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

1 (i) The issuer requires each purchaser to certify in writing or electronically as
2 follows:

3 I UNDERSTAND AND ACKNOWLEDGE THAT:

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

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

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

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

17 (Signature)

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

21 (k) All payments for purchase of securities offered under this subsection are
22 directed to and held by the financial institution specified in par. (f) 3. The bank or
23 depository institution shall notify the administrator of the receipt of payments for
24 securities. This information shall be confidential as provided in s. 551.607 (2) (g).

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

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5 SECTION 9. 551.202 (27) of the statutes is created to read:

6 551.202 (27) An offer or sale of a security by an issuer if the offer or sale is
7 conducted in accordance with all of the following requirements:

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

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

13 (c) 1. Except as provided in subd. 2., the sum of all cash and other consideration
14 to be received for all sales of the security in reliance on the exemption under this
15 subsection, excluding sales to any accredited investor or institutional investor, does
16 not exceed the following amount:

17 a. If the issuer has not undergone and made available to each prospective
18 investor and the administrator the documentation resulting from a financial audit
19 of its most recently completed fiscal year which complies with generally accepted
20 accounting principles, \$1,000,000 subject to adjustment under s. 551.206, less the

21 aggregate amount received for all sales of securities exempt from registration under

22 this section or s. 551.201 by the issuer within ^{the 12} 6 months before or 6 months after the
23 first offer or sale made in reliance on the exemption under this subsection.

24 b. If the issuer has undergone and made available to each prospective investor
25 and the administrator the documentation resulting from a financial audit of its most

1 recently completed fiscal year which complies with generally accepted accounting
2 principles, \$2,000,000 subject to adjustment under s. 551.206, less the aggregate
3 amount received for all sales of securities exempt from registration under this
4 section or s. 551.201 by the issuer within ^{the 12} 6 months before or 6 months after the first
5 offer or sale made in reliance on the exemption under this subsection.

6 2. An offer or sale to an officer, director, partner, trustee, or individual
7 occupying similar status or performing similar functions with respect to the issuer
8 or to a person owning 10 percent or more of the outstanding shares of any class or
9 classes of securities of the issuer does not count toward the monetary limitation in
10 subd. 1. a. and 1. b.

11 (d) The issuer does not accept more than \$5,000 from any single purchaser
12 unless the purchaser is an accredited investor.

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

16 (f) No general solicitation or general advertising is made in connection with the
17 offer to sell or sale of the securities unless it has been permitted by the administrator.

18 (g) All funds received from investors are deposited into a bank, savings bank,
19 savings and loan association, or credit union chartered under the laws of this state,
20 and all the funds are used in accordance with representations made to investors.

21 (h) Before the 100th sale of the security, the issuer provides a notice to the
22 administrator in writing or in electronic form, accompanied by the filing fee specified
23 in s. 551.614 (1m). The administrator shall prescribe the form required for the notice
24 and make the form available as an electronic document on the department of

1 financial institutions Internet site. Notwithstanding s. 551.204 (1) and (3), the
2 notice shall be limited to all of the following:

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

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

6 a. The issuer.

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

9 c. The bank, savings bank, savings and loan association, or credit union in
10 which investor funds will be deposited.

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

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

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18 **SECTION 10.** 551.205 of the statutes is created to read:

19 **551.205 Additional provisions related to crowdfunding exemption for**
20 **intrastate offerings through Internet sites.** (1) All of the following
21 requirements apply to an offer or sale of securities pursuant to the exemption under
22 s. 551.202 (26):

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

1 (b) 1. The Internet site operator shall register with the division by filing a
2 statement, which the administrator shall make available as an electronic document
3 on the department of financial institutions Internet site, accompanied by the filing
4 fee specified in s. 551.614 (1m), that includes all of the following:

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

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

9 c. The identity and location of, and contact information for, the Internet site
10 operator.

11 d. Except as provided in subd. 2., that the Internet site operator is registered
12 as a broker-dealer under s. 551.401.

13 2. The Internet site operator is not required to register as a broker-dealer
14 under s. 551.401 if all of the following apply with respect to the Internet site and its
15 operator:

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

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

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

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

24 e. The fee it charges an issuer for an offering of securities on the Internet site
25 is a fixed amount for each offering, a variable amount based on the length of time that

1 the securities are offered on the Internet site, or a combination of such fixed and
2 variable amounts.

3 f. It does not identify, promote, or otherwise refer to any individual security
4 offered on the Internet site in any advertising for the Internet site.

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

7 3. If any change occurs in the information that an Internet site operator
8 submits to the division in a statement filed under subd. 1., the Internet site operator
9 shall notify the division within 30 days after the change occurs.

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

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

24 (a) Compensation received by each director and executive officer, including
25 cash compensation earned since the previous report and on an annual basis and any

1 bonuses, stock options, other rights to receive securities of the issuer or any affiliate
2 of the issuer, or other compensation received.

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

5 **SECTION 11.** 551.206 of the statutes is created to read:

6 **551.206 Adjustments.** At 5-year intervals after January 1, 2014, the division
7 shall adjust the monetary amounts specified in s. 551.202 (26) (c) 1. a. and 1. b. and
8 (27) (c) 1. a. and 1. b. to reflect changes since January 1, 2014, in the consumer price
9 index for all urban consumers, Milwaukee-Racine area average, as determined by
10 the U.S. department of labor. Each adjustment shall be rounded to the nearest
11 multiple of \$50,000. Each adjustment under this section shall be published on the
12 department of financial institutions Internet site.

13 **SECTION 12.** 551.401 (1) of the statutes is amended to read:

14 551.401 (1) **REGISTRATION REQUIREMENT.** It is unlawful for a person to transact
15 business in this state as a broker-dealer unless the person is registered under this
16 chapter as a broker-dealer or is exempt from registration as a broker-dealer under
17 sub. (2) or (4) or s. 551.205 (1) (b) 2.

18 **SECTION 13.** 551.402 (2) (b) of the statutes is amended to read:

19 551.402 (2) (b) An individual who represents a broker-dealer that is exempt
20 under s. 551.205 (1) (b) 2. or 551.401 (2) or (4).

21 **SECTION 14.** 551.402 (2) (f) of the statutes is amended to read:

22 551.402 (2) (f) An individual who represents a broker-dealer registered in this
23 state under s. 551.401 (1) or exempt from registration under s. 551.205 (1) (b) 2. or
24 551.401 (2) in the offer and sale of securities for an account of a nonaffiliated federal
25 covered investment adviser with investments under management in excess of

1 \$100,000,000 acting for the account of others pursuant to discretionary authority in
2 a signed record.

3 SECTION 15. 551.607 (2) (g) of the statutes is created to read:

insert
19-5

4 551.607 (2) (g) Any ^{information or} record received under s. 551.202 (26) (k) relating to
5 payments for securities ~~and the identity and residence of the investors.~~

6 SECTION 16. 551.614 (1m) of the statutes is created to read:

7 551.614 (1m) FILING FEES RELATING TO CERTAIN REGISTRATION EXEMPTIONS. There
8 shall be a nonrefundable filing fee of \$50 for every notice of claim of exemption filed
9 under s. 551.202 (26) (f) 1., a nonrefundable filing fee of \$50 for every notice provided
10 under s. 551.202 (27) (h), and a nonrefundable filing fee of \$100 for every statement
11 filed under s. 551.205 (1) (b) 1.

insert
19-11

12 SECTION 17. Initial applicability.

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

15 (END)

D-Note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2664/P5ins
ARG:.....

1

2 **INSERT ANAL-A:**

(no 9t) ; and 11) the issuer has not made an offer or sale of a different class or series of security under either of these two additional transaction exemptions during the immediately preceding 12-month period.

3 **INSERT ANAL-B:**

(no 9t) ; and 11) the issuer has not made an offer or sale of a different class or series of security under either of these two additional transaction exemptions during the immediately preceding 12-month period.

4

5

6 **INSERT 13-4:**

7 (m) No offer or sale of a different class or series of security has been made by
8 the issuer in reliance on the exemption under this subsection or sub. (27) during the
9 immediately preceding 12-month period.

10

11 **INSERT 15-17:**

12 (k) No offer or sale of a different class or series of security has been made by
13 the issuer in reliance on the exemption under this subsection or sub. (26) during the
14 immediately preceding 12-month period.

15

16

17

18

1 **INSERT 19-5:**

2 ^(no P) , the copy of the disclosure statement provided to the administrator under s.
3 551.202 (26) (f) 2., and any information or record obtained by the division under s.
4 551.205 (1) (c)

5

6

7 **INSERT 19-11:**

8 **SECTION 1.** 552.01 (6) (c) of the statutes is amended to read:

9 552.01 (6) (c) Whose equity securities of any class are or have been registered
10 under ch. 551 or predecessor laws, or are registered under section 12 of the securities
11 exchange act of 1934 or which is an entity identified in s. 551.201 (3) [✓](a), [✓](b), or [✓](c);
12 and

History: 1971 c. 300; 1981 c. 16; 1983 a. 200; 1985 a. 195; 1995 a. 27; 2007 a. 196.

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

LRB-2664/P5dn

ARG:.....

Leev

date

This redraft makes changes to the following provisions included in LRB-2664/P4: ss. 551.202 (26) (c) 1. a. and b., 551.202 (27) (c) 1. a. and b., and 551.607 (2) (g). In addition, it adds the following new provisions to the draft: ss. 551.202 (26) (m), 551.202 (27) (k), and 552.01 (6) (c).

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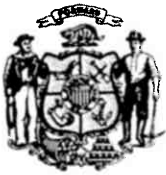
**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2664/P5dn
ARG:eev:ph

August 7, 2013

This redraft makes changes to the following provisions included in LRB-2664/P4: ss. 551.202 (26) (c) 1. a. and b., 551.202 (27) (c) 1. a. and b., and 551.607 (2) (g). In addition, it adds the following new provisions to the draft: ss. 551.202 (26) (m), 551.202 (27) (k), and 552.01 (6) (c).

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2664/P5
ARG&MDK:sac&eev:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 551.102 (11) (o), 551.202 (13) (am) (intro.), 551.202 (14) (a)
2 (intro.), 551.202 (24), 551.401 (1), 551.402 (2) (b), 551.402 (2) (f) and 552.01 (6)
3 (c); and **to create** 227.01 (13) (zz), 551.102 (1g), 551.201 (3) (d), 551.202 (26),
4 551.202 (27), 551.205, 551.206, 551.607 (2) (g) and 551.614 (1m) of the statutes;
5 **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. This bill creates an exemption from registration for certain securities, revises requirements under current law regarding certain exempt transactions, and exempts additional transactions from registration.

Security exemption. Under current law, certain securities are exempt from registration with the division, including a security issued by certain banks or other depository institutions, if the security represents an interest in or direct obligation of the bank or other depository institution or if the security is guaranteed by the bank or other depository institution. This bill also exempts a security issued by a bank or

savings and loan holding company, as defined under federal law, if the security represents an interest in or direct obligation of the holding company or if the security is guaranteed by the holding company. In addition, to qualify for the exemption, the holding company must have no significant assets other than securities issued by banks or other depository institutions that are exempt from registration under current law.

Exempt transactions under current law. Under current law, certain securities transactions are exempt from registration with the division. Among these exempt transactions is a sale or offer to sell to an accredited investor, as defined under federal law. For purposes of this registration exemption, "accredited investor" includes, among others, banks or other financial institutions; federally registered broker-dealers; insurance companies; investment companies; private business development companies; certain persons having designated positions with the securities issuer; certain trusts with assets of more than \$5,000,000; and entities in which all of the equity owners are accredited investors. For purposes of this registration exemption, an "accredited investor" also includes any person who comes within any of the following categories, or whom the securities issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person: 1) any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year; or 2) any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds \$1,000,000. For purposes of calculating net worth, the person's primary residence is generally not included as an asset and indebtedness secured by the residence is generally not included as a liability, but there are exceptions.

For purposes of securities registration exemptions, this bill creates a state law definition of "accredited investor" and changes the criteria for being an accredited investor as described in items 1) and 2), above. The bill lowers the individual income threshold in item 1), above, from \$200,000 to \$100,000 and lowers the joint income threshold in item 1), above, from \$300,000 to \$150,000. The bill also lowers the net worth threshold in item 2), above, from \$1,000,000 to \$750,000 and specifies that the net worth calculation includes the person's primary residence as both an asset and a liability.

Under current law, another securities transaction that is exempt from registration with the division is a sale or offer to sell to an institutional investor, as defined under state law. Current law defines "institutional investor" to include, among others, banks and other financial institutions; insurance companies; investment companies; federally registered broker-dealers; private business development companies meeting certain standards; certain qualified institutional buyers, as defined under federal law; and other entities of institutional character with assets of more than \$10,000,000.

This bill modifies this definition of "institutional investor," lowering the asset threshold for other entities of institutional character from \$10,000,000 to \$2,500,000. This change affects this registration exemption and also provisions in

which: a broker-dealer is exempt from registration with the division if it engages in only certain transactions, including transactions with institutional investors; and, a federal covered investment adviser without a place of business in this state is exempt from notice filing with the division if it has only certain types of clients in this state, including institutional investors.

Another securities transaction that is exempt from registration with the division under current law is a transaction pursuant to an offer directed to not more than 25 persons in this state, not including accredited investors and institutional investors, during a 12-month period if certain requirements are met, including that general solicitation or advertising is not made. The division may modify this registration exemption, including increasing or decreasing the number of offerees permitted. This bill modifies this registration exemption to increase the number of offerees permitted from 25 persons to 50 persons.

Under current law, another securities transaction that is exempt from registration with the division is an offer or sale by a securities issuer having its principal office in this state of its securities if the aggregate number of persons holding all of the issuer's securities, after the securities to be issued are sold, does not exceed 25, not including accredited investors and institutional investors, and if certain other requirements are met, including that no advertising is published. This bill modifies this registration exemption to increase the aggregate number of persons who may hold the issuer's securities from 25 persons to 50 persons.

Additional exempt transactions. This bill creates two additional transaction exemptions to securities registration. Under the first 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) with certain exceptions, the amount of money to be received for 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 under state law; 5) the offering is made exclusively through an Internet site and the Internet site is registered with the division; 6) the issuer pays a \$50 fee and files notice of the offering with the division at least ten days before commencing 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 financial institution chartered in this state in which the investor funds will be deposited; 7) the issuer is not an investment company or an SEC reporting company; 8) 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 or electronic acknowledgment containing

certain information, and obtains from each purchaser evidence that the purchaser is a resident of this state; 9) all payments for purchase of securities are held by the issuer in the financial institution identified in the above escrow agreement; 10) a copy of the disclosure document provided to the division is given to each prospective investor at the time of the offer; and 11) the issuer has not made an offer or sale of a different class or series of security under either of these two additional transaction exemptions during the immediately preceding 12-month period. 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.

In addition, all Internet sites through which the securities are offered are required to be registered with the division. Registration is accomplished by the Internet site operator paying a \$100 fee and filing a statement with the division that contains specified information. Also, the bill exempts the Internet site operator from registration with the division as a broker-dealer 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) the fee it charges for securities offerings satisfies specified requirements; 6) it complies with specified advertising restrictions; and 7) 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) with certain exceptions, the amount of money to be received for 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 under state law; 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) unless permitted by the division, no general solicitation or general advertising is made for the securities; 7) all funds received from investors are deposited into a financial institution chartered in this state, and all the funds are used in accordance with representations made to investors; 8) before the 100th sale of the security, the issuer pays a \$50 fee and provides a notice of the offering to the division containing specified information; 9) the issuer is not an

investment company or an SEC reporting company; 10) 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 11) the issuer has not made an offer or sale of a different class or series of security under either of these two additional transaction exemptions during the immediately preceding 12-month period.

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. 551.206, the amounts specified in s. 551.202
3 (26) (c) 1. a. and 1. b. and (27) (c) 1. a. and 1. b.

4 **SECTION 2.** 551.102 (1g) of the statutes is created to read:

5 551.102 (1g) "Accredited investor," except as provided in ss. 551.401 (2) (cm),
6 551.403 (2) (a) 2m., and 551.405 (2) (a) 2m., has the meaning given in Rule 501 (a)
7 (1), (2), (3), (4), (7), and (8) adopted under the Securities Act of 1933 (17 CFR 230.501
8 (a) (1), (2), (3), (4), (7), and (8)) and also means any person who comes within any of
9 the following categories, or whom the issuer reasonably believes comes within any
10 of the following categories, at the time of the sale of the securities to that person:

11 (a) 1. Subject to subd. 2., any natural person whose individual net worth, or
12 joint net worth with that person's spouse, exceeds \$750,000.

13 2. For purposes of calculating net worth under subd. 1., the person's primary
14 residence shall be included as an asset and indebtedness secured by the primary
15 residence shall be included as a liability. This subdivision does not apply to any
16 calculation of a person's net worth made in connection with a purchase of securities
17 in accordance with a right to purchase the securities if the right was held by the
18 person on July 20, 2010, the person qualified as an accredited investor under 17 CFR

1 230.501 (a) (5) on the basis of net worth at the time the person acquired the right, and
2 the person held securities of the same issuer, other than this right, on July 20, 2010.

3 (b) Any natural person who had an individual income in excess of \$100,000 in
4 each of the two most recent years or joint income with that person's spouse in excess
5 of \$150,000 in each of those years and has a reasonable expectation of reaching the
6 same income level in the current year.

7 **SECTION 3.** 551.102 (11) (o) of the statutes is amended to read:

8 551.102 (11) (o) Any other person, other than an individual, of institutional
9 character with total assets in excess of ~~\$10,000,000~~ \$2,500,000 not organized for the
10 specific purpose of evading this chapter.

11 **SECTION 4.** 551.201 (3) (d) of the statutes is created to read:

12 551.201 (3) (d) A bank holding company, as defined in 12 USC 1841 (a), or
13 savings and loan holding company, as defined in 12 USC 1467a (a) (1) (D), with no
14 significant assets other than securities of one or more entities specified in par. (a),
15 (b), or (c).

16 **SECTION 5.** 551.202 (13) (am) (intro.) of the statutes is amended to read:

17 551.202 (13) (am) (intro.) An accredited investor, ~~as defined in Rule 501 (a)~~
18 ~~adopted under the Securities Act of 1933 (17 CFR 230.501 (a))~~, provided that prior
19 to the sale in this state to an accredited investor described in ~~Rule 501 (a) (5) or (6)~~
20 ~~adopted under the Securities Act of 1933 s. 551.102 (1g) (a) or (b)~~, the seller files a
21 consent to service of process with the administrator in the form required under s.
22 551.611. Failure to file the consent as required is a cause for administrative action
23 by the administrator under s. 551.604 but does not result in the loss of this
24 exemption. This consent is not required to be filed if any of the following apply:

25 **SECTION 6.** 551.202 (14) (a) (intro.) of the statutes is amended to read:

1 551.202 (14) (a) (intro.) Subject to par. (b), any transaction pursuant to an offer
2 directed by the offeror to not more than ~~25~~ 50 persons in this state excluding those
3 persons designated in sub. (13) but including persons exempt under sub. (24), during
4 any period of 12 consecutive months whether or not the offeror or any of the offerees
5 is then present in this state if all of the following apply:

6 **SECTION 7.** 551.202 (24) of the statutes is amended to read:

7 551.202 (24) Any offer or sale of its securities by an issuer, having its principal
8 office in this state, if the aggregate number of persons holding directly or indirectly
9 all of the issuer's securities, after the securities to be issued are sold, does not exceed
10 ~~25~~ 50, exclusive of persons under sub. (13), if no commission or other remuneration
11 is paid or given directly or indirectly for soliciting any person in this state, except to
12 broker-dealers and agents licensed in this state, and if no advertising is published
13 unless it has been permitted by the division of securities.

14 **SECTION 8.** 551.202 (26) of the statutes is created to read:

15 551.202 (26) An offer or sale of a security by an issuer if the offer or sale is
16 conducted in accordance with all of the following requirements:

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

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

22 (c) 1. Except as provided in subd. 2., the sum of all cash and other consideration
23 to be received for all sales of the security in reliance on the exemption under this
24 subsection, excluding sales to any accredited investor or institutional investor, does
25 not exceed the following amount:

1 a. 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. 551.206, 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 b. 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. 551.206, 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 2. An offer or sale to an officer, director, partner, trustee, or individual
15 occupying similar status or performing similar functions with respect to the issuer
16 or to a person owning 10 percent or more of the outstanding shares of any class or
17 classes of securities of the issuer does not count toward the monetary limitation in
18 subd. 1. a. and 1. b.

19 (d) The issuer does not accept more than \$5,000 from any single purchaser
20 unless the purchaser is an accredited investor.

21 (e) The offering under this subsection is made exclusively through one or more
22 Internet sites and each Internet site is registered with the division under s. 551.205

23 (1) (b).

24 (f) Not less than 10 days prior to the commencement of an offering of securities
25 in reliance on the exemption under this subsection, the issuer files a notice with the

1 administrator, in writing or in electronic form as prescribed by the administrator,
2 which the administrator shall make available as an electronic document on the
3 department of financial institutions Internet site, containing all of the following:

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

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

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

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

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

20 d. The terms and conditions of the securities being offered and of any
21 outstanding securities of the company, the minimum and maximum amount of
22 securities being offered, if any, and either the percentage ownership of the company
23 represented by the offered securities or the valuation of the company implied by the
24 price of the offered securities.

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

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

8 g. A description of any litigation or legal proceedings involving the company or
9 its management.

10 h. The names and addresses, including the Uniform Resource Locator, of each
11 Internet site that will be used by the issuer to offer or sell securities under this
12 subsection.

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

17 3. An escrow agreement with a bank, savings bank, savings and loan
18 association, or credit union chartered under the laws of this state in which the
19 investor funds will be deposited, providing that all offering proceeds will be released
20 to the issuer only when the aggregate capital raised from all investors is equal to or
21 greater than the minimum target offering amount specified in the business plan as
22 necessary to implement the business plan and that all investors may cancel their
23 commitments to invest if that target offering amount is not raised by the time stated
24 in the disclosure document.

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

7 (h) The issuer informs all prospective purchasers of securities offered under
8 this subsection that the securities have not been registered under federal or state
9 securities law and that the securities are subject to limitations on resale. The issuer
10 shall display the following legend conspicuously on the cover page of the disclosure
11 document:

12 IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON
13 THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE
14 OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE
15 SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR
16 STATE SECURITIES COMMISSION OR DIVISION OR OTHER REGULATORY
17 AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT
18 CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS
19 DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL
20 OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON
21 TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR
22 RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF SEC RULE 147 (17
23 CFR 230.147 (e)) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933,
24 AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS,
25 PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS

1 SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE
2 FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF
3 TIME.

4 (i) The issuer requires each purchaser to certify in writing or electronically as
5 follows:

6 I UNDERSTAND AND ACKNOWLEDGE THAT:

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

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

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

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

20 (Signature)

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

24 (k) All payments for purchase of securities offered under this subsection are
25 directed to and held by the financial institution specified in par. (f) 3. The bank or

1 depository institution shall notify the administrator of the receipt of payments for
2 securities. This information shall be confidential as provided in s. 551.607 (2) (g).

3 (L) The issuer of securities offered under this subsection provides a copy of the
4 disclosure document provided to the administrator under par. (f) 2. to each
5 prospective investor at the time the offer of securities is made to the prospective
6 investor.

7 (m) No offer or sale of a different class or series of security has been made by
8 the issuer in reliance on the exemption under this subsection or sub. (27) during the
9 immediately preceding 12-month period.

10 **SECTION 9.** 551.202 (27) of the statutes is created to read:

11 551.202 (27) An offer or sale of a security by an issuer if the offer or sale is
12 conducted in accordance with all of the following requirements:

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

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

18 (c) 1. Except as provided in subd. 2., the sum of all cash and other consideration
19 to be received for all sales of the security in reliance on the exemption under this
20 subsection, excluding sales to any accredited investor or institutional investor, does
21 not exceed the following amount:

22 a. If the issuer has not undergone and made available to each prospective
23 investor and the administrator the documentation resulting from a financial audit
24 of its most recently completed fiscal year which complies with generally accepted
25 accounting principles, \$1,000,000 subject to adjustment under s. 551.206, less the

1 aggregate amount received for all sales of securities by the issuer within the 12
2 months before the first offer or sale made in reliance on the exemption under this
3 subsection.

4 b. 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 complies with generally accepted accounting
7 principles, \$2,000,000 subject to adjustment under s. 551.206, less the aggregate
8 amount received for all sales of securities by the issuer within the 12 months before
9 the first offer or sale made in reliance on the exemption under this subsection.

10 2. An offer or sale to an officer, director, partner, trustee, or individual
11 occupying similar status or performing similar functions with respect to the issuer
12 or to a person owning 10 percent or more of the outstanding shares of any class or
13 classes of securities of the issuer does not count toward the monetary limitation in
14 subd. 1. a. and 1. b.

15 (d) The issuer does not accept more than \$5,000 from any single purchaser
16 unless the purchaser is an accredited investor.

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

20 (f) No general solicitation or general advertising is made in connection with the
21 offer to sell or sale of the securities unless it has been permitted by the administrator.

22 (g) All funds received from investors are deposited into a bank, savings bank,
23 savings and loan association, or credit union chartered under the laws of this state,
24 and all the funds are used in accordance with representations made to investors.

1 (h) Before the 100th sale of the security, the issuer provides a notice to the
2 administrator in writing or in electronic form, accompanied by the filing fee specified
3 in s. 551.614 (1m). The administrator shall prescribe the form required for the notice
4 and make the form available as an electronic document on the department of
5 financial institutions Internet site. Notwithstanding s. 551.204 (1) and (3), the
6 notice shall be limited to all of the following:

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

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

10 a. The issuer.

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

13 c. The bank, savings bank, savings and loan association, or credit union in
14 which investor funds will be deposited.

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

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

22 (k) No offer or sale of a different class or series of security has been made by
23 the issuer in reliance on the exemption under this subsection or sub. (26) during the
24 immediately preceding 12-month period.

25 **SECTION 10.** 551.205 of the statutes is created to read:

1 **551.205 Additional provisions related to crowdfunding exemption for**
2 **intrastate offerings through Internet sites.** (1) All of the following
3 requirements apply to an offer or sale of securities pursuant to the exemption under
4 s. 551.202 (26):

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

8 (b) 1. The Internet site operator shall register with the division by filing a
9 statement, which the administrator shall make available as an electronic document
10 on the department of financial institutions Internet site, accompanied by the filing
11 fee specified in s. 551.614 (1m), that includes all of the 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.

18 d. Except as provided in subd. 2., that the Internet site operator is registered
19 as a broker-dealer under s. 551.401.

20 2. The Internet site operator is not required to register as a broker-dealer
21 under s. 551.401 if all of the following apply with respect to the Internet site and its
22 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. The fee it charges an issuer for an offering of securities on the Internet site
7 is a fixed amount for each offering, a variable amount based on the length of time that
8 the securities are offered on the Internet site, or a combination of such fixed and
9 variable amounts.

10 f. It does not identify, promote, or otherwise refer to any individual security
11 offered on the Internet site in any advertising for the Internet site.

12 g. It does not engage in such other activities as the division, by rule, determines
13 are prohibited of such an Internet site.

14 3. If any change occurs in the information that an Internet site operator
15 submits to the division in a statement filed under subd. 1., the Internet site operator
16 shall notify the division within 30 days after the change occurs.

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

21 (2) An issuer of a security, the offer and sale of which is exempt under s. 551.202
22 (26), shall provide, free of charge, a quarterly report to the issuer's investors until no
23 securities issued under s. 551.202 (26) are outstanding. An issuer may satisfy the
24 reporting requirement of this subsection by making the information available on an
25 Internet site if the information is made available within 45 days after the end of each

1 fiscal quarter and remains available until the succeeding quarterly report is issued.
2 An issuer shall file each quarterly report under this subsection with the division and,
3 if the quarterly report is made available on an Internet site, the issuer shall also
4 provide a written copy of the report to any investor upon request. The report shall
5 contain all of the following:

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

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

12 **SECTION 11.** 551.206 of the statutes is created to read:

13 **551.206 Adjustments.** At 5-year intervals after January 1, 2014, the division
14 shall adjust the monetary amounts specified in s. 551.202 (26) (c) 1. a. and 1. b. and
15 (27) (c) 1. a. and 1. b. to reflect changes since January 1, 2014, in the consumer price
16 index for all urban consumers, Milwaukee-Racine area average, as determined by
17 the U.S. department of labor. Each adjustment shall be rounded to the nearest
18 multiple of \$50,000. Each adjustment under this section shall be published on the
19 department of financial institutions Internet site.

20 **SECTION 12.** 551.401 (1) of the statutes is amended to read:

21 **551.401 (1) REGISTRATION REQUIREMENT.** It is unlawful for a person to transact
22 business in this state as a broker-dealer unless the person is registered under this
23 chapter as a broker-dealer or is exempt from registration as a broker-dealer under
24 sub. (2) or (4) or s. 551.205 (1) (b) 2.

25 **SECTION 13.** 551.402 (2) (b) of the statutes is amended to read:

1 551.402 (2) (b) An individual who represents a broker–dealer that is exempt
2 under s. 551.205 (1) (b) 2. or 551.401 (2) or (4).

3 **SECTION 14.** 551.402 (2) (f) of the statutes is amended to read:

4 551.402 (2) (f) An individual who represents a broker–dealer registered in this
5 state under s. 551.401 (1) or exempt from registration under s. 551.205 (1) (b) 2. or
6 551.401 (2) in the offer and sale of securities for an account of a nonaffiliated federal
7 covered investment adviser with investments under management in excess of
8 \$100,000,000 acting for the account of others pursuant to discretionary authority in
9 a signed record.

10 **SECTION 15.** 551.607 (2) (g) of the statutes is created to read:

11 551.607 (2) (g) Any information or record received under s. 551.202 (26) (k)
12 relating to payments for securities, the copy of the disclosure statement provided to
13 the administrator under s. 551.202 (26) (f) 2., and any information or record obtained
14 by the division under s. 551.205 (1) (c).

15 **SECTION 16.** 551.614 (1m) of the statutes is created to read:

16 551.614 (1m) **FILING FEES RELATING TO CERTAIN REGISTRATION EXEMPTIONS.** There
17 shall be a nonrefundable filing fee of \$50 for every notice of claim of exemption filed
18 under s. 551.202 (26) (f) 1., a nonrefundable filing fee of \$50 for every notice provided
19 under s. 551.202 (27) (h), and a nonrefundable filing fee of \$100 for every statement
20 filed under s. 551.205 (1) (b) 1.

21 **SECTION 17.** 552.01 (6) (c) of the statutes is amended to read:

22 552.01 (6) (c) Whose equity securities of any class are or have been registered
23 under ch. 551 or predecessor laws, or are registered under section 12 of the securities
24 exchange act of 1934 or which is an entity identified in s. 551.201 (3) (a), (b), or (c);
25 and

