

ORIGINAL HOUSE  
BILL NO. HB0144

ENROLLED ACT NO. 38, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2018 BUDGET SESSION

AN ACT relating to the Uniform Securities Act; amending provisions relating to exemptions from registration of securities to conform to federal law; modifying requirements for transactions under the federal exemption for intrastate offerings; increasing amounts an issuer may receive from sales of securities or from unaccredited investors as specified; making conforming amendments; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 17-4-203(a)(i), (ii)(intro), (A)(III), (B), (C), (iii)(A), (B), (iv), (v)(B)(intro), by creating a new subdivision (VIII), (vii), (viii), (ix)(intro) and (C) is amended to read:

**17-4-203. Intrastate crowdfunding exemption.**

(a) Except as otherwise provided in this act, an offer or sale of a security by an issuer is exempt from the requirements of W.S. 17-4-301 through 17-4-306 and 17-4-504 if the offer or sale meets all of the following requirements:

(i) The issuer of the security is:

(A) An entity that is incorporated or organized under the laws of this state;

(B) A resident of this state under securities and exchange commission rule 147, (17 C.F.R. 230.147), or rule 147A, (17 C.F.R. 230.147A); and~~is~~

(C) Authorized to do business in this state.~~†~~

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(ii) The transaction meets the requirements for the federal exemption for intrastate offerings under section 3(a)(11) of the Securities Act of 1933, (15 U.S.C. 77c(a)(11)), and securities and exchange commission rule 147, (17 C.F.R. 230.147), including, but not limited to, the requirements for determining whether an offeree or purchaser is a resident of this state, or under 15 U.S.C. 77e and securities and exchange commission rule 147A, (17 C.F.R. 230.147A). All of the following apply concerning these requirements:

(A) Each of the following is prima facie evidence that an individual is a resident of this state:

(III) A signed affidavit showing that the purchaser is a resident of this state as defined by W.S. 22-1-102(a)(xxx); or

(B) The provisions of securities and exchange commission rule 147, (17 C.F.R. 230.147), or rule 147A, (17 C.F.R. 230.147A), apply in determining the residency of an offeree or purchaser that is a corporation, partnership, trust, or other form of business organization;

(C) If a purchaser of a security that is exempt under this section resells that security within ~~nine (9)~~ six (6) months after the closing of the particular offering in which the purchaser obtained that security to a person that is not a resident of this state, the original investment agreement between the issuer and the purchaser is void. If an agreement to purchase, or the purchase of, a security is void under this subparagraph, the issuer may recover damages from the misrepresenting offeree or purchaser. These damages include, but are not limited to,

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the issuer's expenses in resolving the misrepresentation. However, damages described in this subparagraph shall not exceed the amount of the person's investment in the security.

(iii) The sum of all cash and other consideration to be received for all sales of the security in reliance on this exemption does not exceed the following amounts:

(A) ~~One million dollars (\$1,000,000.00)~~ Two million dollars (\$2,000,000.00), less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer or sale made in reliance on this exemption, if the issuer has not made available to each prospective purchaser and the secretary of state audited financial statements or reviewed financial statements for the issuer's most recently completed fiscal year, prepared by a certified public accountant, holding a certificate pursuant to W.S. 33-3-109, in accordance with the statements on auditing standards of the American Institute of Certified Public Accountants or the statements on standards for accounting and review services of the American Institute of Certified Public Accountants, as applicable;

(B) ~~Two million dollars (\$2,000,000.00)~~ Four million dollars (\$4,000,000.00), less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer or sale made in reliance on this exemption, if the issuer has made available to each prospective purchaser and the secretary of state audited financial statements or reviewed financial statements for the issuer's most recently completed fiscal year, prepared by a certified public

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accountant, holding a certificate pursuant to W.S. 33-3-109, in accordance with the statements on auditing standards of the American Institute of Certified Public Accountants or the statements on standards for accounting and review services of the American Institute of Certified Public Accountants, as applicable.

(iv) The issuer has not accepted more than ~~five thousand dollars (\$5,000.00)~~ ten thousand dollars (\$10,000.00) from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of securities and exchange commission regulation D, (17 C.F.R. 230.501) who comes within any category listed in the definition of that rule or who the issuer reasonably believes comes within any category listed in the definition of that rule, at the time of the sale. The issuer may rely on confirmation that the purchaser is an accredited investor from information provided by the purchaser, a licensed broker-dealer or another third party in making a determination that the purchaser is an accredited investor;

(v) At least ten (10) days before an offer of securities is made in reliance on this exemption or the use of any publicly available website in connection with an offering of securities in reliance on this exemption, the issuer files a notice with the secretary of state, in writing or in electronic form as specified by the secretary of state, that contains all of the following:

(B) A copy of the disclosure statement to be provided to prospective investors in connection with the offering. The disclosure statement ~~must~~ shall be provided at the time the offer of securities is made to the prospective purchaser and shall contain all of the following:

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(VIII) Additional information material to the offering, including, where appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion shall be concise and organized logically and need not present risks that could apply to any issuer or any offering.

(vii) The issuer informs each prospective purchaser that the securities are not registered under federal or state securities laws and that the securities are subject to limitations on transfer or resale and displays the following legend conspicuously on the cover page of the disclosure statement:

"IN MAKING AN INVESTMENT DECISION, PURCHASERS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, (17 C.F.R. 230.147(E)), OR RULE 147A, (17 C.F.R. 230.147A(E)), AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. PURCHASERS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME."

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(viii) The issuer requires each purchaser to certify in writing, and to include as part of that certification his signature, and his initials next to each paragraph of the certification, as follows:

"I understand and acknowledge that:

I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment. This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and that no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

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

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

By entering into this transaction with the issuer, I am affirmatively representing myself as being a Wyoming resident at the time that this contract is formed, and if this representation is subsequently shown to be false, the contract is void.

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If I resell any of the securities I am acquiring in this offering to a person that is not a Wyoming resident, within ~~nine (9)~~ six (6) months after the closing of the offering, my contract with the issuer for the purchase of these securities is void."

(ix) If the offer and sale of securities under this section is made through an internet website, all of the following requirements ~~must be~~ are met:

(C) The website operator files a written notice with the secretary of state that includes the website operator's name, business address, and contact information and states that it is authorized to do business in this state and is being utilized to offer and sell securities under this exemption. Beginning twelve (12) months after the date of the written notice, a website operator that has filed a written notice under this subparagraph shall annually notify the secretary of state in writing of any changes in the information provided to the secretary of state under this subparagraph; ~~and shall pay a renewal fee;~~

**Section 2.** W.S. 17-4-203(a)(xiii) is repealed.

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**Section 3.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk