
SENATE BILL 5680

State of Washington

65th Legislature

2017 Regular Session

By Senators Fain and Mullet

Read first time 02/02/17. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to simplifying small securities offerings;
2 amending RCW 21.20.880; and repealing RCW 21.20.883 and 21.20.886.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 21.20.880 and 2014 c 144 s 3 are each amended to
5 read as follows:

6 (1) Any offer or sale of a security is exempt from RCW 21.20.040
7 through 21.20.300 and 21.20.327, except as expressly provided, if:

8 (a) The issuer first files the offering with the director and the
9 director declares the offering ((is first declared)) exempt ((by the
10 director after:

11 ~~(i) The issuer files the offering with the director; or~~

12 ~~(ii) A portal working in collaboration with the director files~~
13 ~~the offering with the director on behalf of the issuer under RCW~~
14 ~~21.20.883));~~

15 (b) The offering is conducted in accordance with ~~((the~~
16 ~~requirements of section 3(a)(11) of the securities act of 1933 and~~
17 ~~securities and exchange commission rule 147, 17 C.F.R. Sec. 230.147))~~
18 an applicable exemption from registration under the securities act of
19 1933;

20 (c) The issuer is an entity ~~((organized and))~~ doing business in
21 the state of Washington;

1 (d) ~~((Each investor provides evidence or certification of~~
2 ~~residency in the state of Washington at the time of purchase;~~

3 ~~(e))~~ The issuer files with the director an escrow agreement
4 ~~((either directly or through a portal))~~ providing that all offering
5 proceeds will be released to the issuer only when the aggregate
6 capital raised from all investors equals or exceeds the minimum
7 target offering, as determined by the director;

8 ~~((f))~~ (e) The aggregate purchase price of all securities sold
9 by an issuer pursuant to the exemption provided by this section does
10 not exceed one million dollars during any twelve-month period;

11 ~~((g))~~ (f) The aggregate amount sold to any investor, other than
12 an "accredited investor" as that term is defined under the securities
13 act of 1933, by one or more issuers during the twelve-month period
14 preceding the date of the sale does not exceed:

15 (i) The greater of two thousand dollars or five percent of the
16 annual income or net worth of the investor, as applicable, if either
17 the annual income or the net worth of the investor is less than one
18 hundred thousand dollars; or

19 (ii) Ten percent of the annual income or net worth of the
20 investor, as applicable, up to one hundred thousand dollars, if
21 either the annual income or net worth of the investor is one hundred
22 thousand dollars or more;

23 ~~((h))~~ (g) The investor acknowledges by manual or electronic
24 signature the following statement conspicuously presented at the time
25 of sale on a page separate from other information relating to the
26 offering: "I acknowledge that I am investing in a high-risk,
27 speculative business venture, that I may lose all of my investment,
28 and that I can afford the loss of my investment";

29 ~~((i))~~ (h) The issuer reasonably believes that all purchasers
30 are purchasing for investment and not for sale in connection with a
31 distribution of the security; and

32 ~~((j))~~ (i) The issuer and investor provide any other information
33 reasonably requested by the director.

34 (2) Attempted compliance with the exemption provided by this
35 section does not act as an exclusive election. The issuer may claim
36 any other applicable exemption.

37 (3) For as long as securities issued under the exemption provided
38 by this section are outstanding, the issuer shall provide ~~((a~~
39 ~~quarterly))~~ an annual report to the issuer's shareholders and the
40 director ~~((by making such report publicly accessible, free of charge,~~

1 ~~at the issuer's internet web site address within forty five days of~~
2 ~~the end of each fiscal quarter))~~ no later than one hundred twenty
3 days after the end of the fiscal year covered by the report. An
4 issuer may provide the report to its shareholders by posting a copy
5 of the report on the issuer's web site. The report must contain the
6 following information:

7 (a) Executive officer and director compensation, including
8 specifically the cash compensation earned by the executive officers
9 and directors since the previous report and on an annual basis, and
10 any bonuses or other compensation, including stock options or other
11 rights to receive equity securities of the issuer or any affiliate of
12 the issuer, received by them; and

13 (b) A brief analysis by management of the issuer of the business
14 operations and financial condition of the issuer.

15 (4) Securities issued under the exemption provided by this
16 section may not be transferred by the purchaser during a one-year
17 period beginning on the date of purchase, unless the securities are
18 transferred:

19 (a) To the issuer of the securities;

20 (b) To an accredited investor;

21 (c) As part of a registered offering; or

22 (d) To a member of the family of the purchaser or the equivalent,
23 or in connection with the death or divorce or other similar
24 circumstances, in the discretion of the director.

25 (5) The director shall adopt disqualification provisions under
26 which this exemption shall not be available to any person or its
27 predecessors, affiliates, officers, directors, underwriters, or other
28 related persons. The provisions shall be substantially similar to the
29 disqualification provisions adopted by the securities and exchange
30 commission pursuant to the requirements of section 401(b)(2) of the
31 Jobs act of 2012 or, if none, as adopted in Rule 506 of Regulation D.
32 Notwithstanding the foregoing, this exemption shall become available
33 on June 12, 2014.

34 (6) Any type of equity or convertible debt security may be
35 offered under the exemption provided under this section.

36 (7) Subject to RCW 21.20.450, the director may adopt, amend, or
37 repeal rules to implement this section, including the establishment
38 of filing and transaction fees sufficient to cover the costs of
39 administering this section.

1 NEW SECTION. **Sec. 2.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 21.20.883 (Portals—Qualifications and use—Requirements)
4 and 2016 c 61 s 16 & 2014 c 144 s 4; and

5 (2) RCW 21.20.886 (Rule making for small securities offerings)
6 and 2014 c 144 s 5.

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