HB3091

99TH GENERAL ASSEMBLY
State of Illinois
2015 and 2016

HB3091
by Rep. Tom Demmer

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Securities Law of 1953. Creates an exemption from certain filing and registration requirements under the Act for intrastate securities offerings that meet certain conditions, including that (1) the offering meets all of the requirements of the federal exemption for intrastate offerings provided under the Securities Exchange Act of 1933; (2) the aggregate purchase price of all securities sold by an issuer within any 12-month period does not exceed certain monetary limitations; and (3) the aggregate amount sold to any purchaser in an offering of securities made within any consecutive 12-month period does not exceed certain monetary limitations. Provides that an issuer may make an offering or sale of securities through the use of one or more qualified Internet portals, subject to certain requirements, including that (i) the Internet portal shall at all times be owned by a corporation or other legal entity which is either organized under the laws of, or is otherwise qualified to do business in, this State; (ii) the Internet portal shall establish and maintain commercially reasonable measures to limit access to any information concerning an offering or sale of the subject securities to residents of this State; and (iii) the Internet portal shall establish and maintain a secure method of communication through the Internet portal itself that will permit potential investors to communicate with one another and with representatives of the issuer about the offering. Requires the Secretary of State to collect a $100 fee for securities offered or sold under the exemption created under this amendatory Act; and a $300 fee for the registration and renewal of a qualified Internet portal.

LRB099 05991 JLS 26043 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR
AN ACT concerning business.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Securities Law of 1953 is amended by changing Sections 4, 11a, and 18.1 and by adding Sections 2.34, 2.35, 2.36, 2.37, and 8d as follows:

(815 ILCS 5/2.34 new)
Sec. 2.34. Accredited investor. "Accredited investor" has the meaning given to that term in 17 CFR 230.501(a), as amended and in effect from time to time.

(815 ILCS 5/2.35 new)
Sec. 2.35. Qualified escrowee. "Qualified escrowee" means a person, firm, partnership, association, corporation, or other legal entity who: (a) falls under the definition of "title insurance company" under, and pursuant to the terms and requirements of, the Title Insurance Act; or (b) is certified as an independent escrowee under, and pursuant to the terms and requirements of, the Title Insurance Act.

(815 ILCS 5/2.36 new)
Sec. 2.36. Qualified Internet portal. "Qualified Internet portal" means an Internet portal maintained by a corporation or
other legal entity that is being used to offer or sell
securities and that meets the requirements of Section 8d of
this Act.

(815 ILCS 5/2.37 new)

Sec. 2.37. Experienced investor. "Experienced investor"
means:

(a) a natural person whose individual income exceeded
$150,000, or joint income with that person's spouse
exceeded $200,000, in each of the 2 most recent years, and
such person has a reasonable expectation of reaching the
same income level in the current year;

(b) a natural person whose individual net worth exceeds
$500,000, or joint net worth with that person's spouse,
exceeds $750,000, provided that net worth for purposes of
this subsection shall be calculated in the same manner as
provided in 17 CFR 230.501(a);

(c) a natural person who has passed the Series 7 and
the Series 63 licensing exams, or the Series 66 licensing
exam, or who is otherwise licensed in the State to practice
as an accountant or financial planner;

(d) a natural person who has received an advanced
degree (a master's degree or higher) in finance or
accounting from an accredited educational institution or
has completed a State recognized securities investment
training program;
(e) a natural person who has worked at least 3 years (consecutively or non-consecutively) out of the then most recent consecutive 10-year period in a position materially focused on analyzing, accounting for, drafting material documentation in connection with (including legal documentation), or otherwise advising issuers or purchasers with respect to, transactions involving the offer or sale of publicly sold or privately placed securities;

(f) any entity (including, without limitation, any trust) in which at least 90% of the equity interest is owned by (or with respect to any trust, the primary beneficiaries are) persons who meet one or more of the criteria in items (a) through (e) of this Section;

(g) with respect to participating in an offering of a particular issuer, a natural person serving as an officer, director, partner, trustee of, or otherwise occupying similar status or performing similar functions with respect to, such issuer; or

(h) with respect to participating in an offering of a particular issuer, a natural person or entity who owns 10% or more of the then aggregate outstanding voting capital securities of such issuer.

In 2019 and every 5th year thereafter, the Secretary of State shall cumulatively adjust the dollar limitations in items (a) and (b) to reflect the change in the Consumer Price Index
for all Urban Consumers published by the United States Department of Labor, Bureau of Labor Statistics, rounding each dollar limitation to the nearest $10,000.

(815 ILCS 5/4) (from Ch. 121 1/2, par. 137.4)

Sec. 4. Exempt transactions. The provisions of Sections 2a, 5, 6 and 7 of this Act shall not apply to any of the following transactions, except where otherwise specified in this Section 4:

A. Any offer or sale, whether through a dealer or otherwise, of securities by a person who is not an issuer, underwriter, dealer or controlling person in respect of such securities, and who, being the bona fide owner of such securities, disposes thereof for his or her own account; provided, that such offer or sale is not made directly or indirectly for the benefit of the issuer or of an underwriter or controlling person.

B. Any offer, sale, issuance or exchange of securities of the issuer to or with security holders of the issuer except to or with persons who are security holders solely by reason of holding transferable warrants, transferable options, or similar transferable rights of the issuer, if no commission or other remuneration is paid or given directly or indirectly for or on account of the procuring or soliciting of such sale or exchange (other than a fee paid to underwriters based on their undertaking to purchase any securities not purchased by
C. Any offer, sale or issuance of securities to any corporation, bank, savings bank, savings institution, savings and loan association, trust company, insurance company, building and loan association, or dealer; to a pension fund, pension trust, or employees' profit sharing trust, other financial institution or institutional investor, any government or political subdivision or instrumentality thereof, whether the purchaser is acting for itself or in some fiduciary capacity; to any partnership or other association engaged as a substantial part of its business or operations in purchasing or holding securities; to any trust in respect of which a bank or trust company is trustee or co-trustee; to any entity in which at least 90% of the equity is owned by persons described under subsection C, H, or S of this Section 4; to any employee benefit plan within the meaning of Title I of the Federal ERISA Act if (i) the investment decision is made by a plan fiduciary as defined in Section 3(21) of the Federal ERISA Act and such plan fiduciary is either a bank, savings and loan association, insurance company, registered investment adviser or an investment adviser registered under the Federal 1940 Investment Advisers Act, or (ii) the plan has total assets in excess of $5,000,000, or (iii) in the case of a self-directed plan, investment decisions are made solely by persons that are described under subsection C, D, H or S of this Section 4; to any plan established and maintained by, and for the benefit of
the employees of, any state or political subdivision or agency
or instrumentality thereof if such plan has total assets in
excess of $5,000,000; or to any organization described in
Section 501(c)(3) of the Internal Revenue Code of 1986, any
Massachusetts or similar business trust, or any partnership, if
such organization, trust, or partnership has total assets in
excess of $5,000,000.

D. The Secretary of State is granted authority to create by
rule or regulation a limited offering transactional exemption
that furthers the objectives of compatibility with federal
exemptions and uniformity among the states. The Secretary of
State shall prescribe by rule or regulation the amount of the
fee for filing any report required under this subsection, but
the fee shall not be less than the minimum amount nor more than
the maximum amount established under Section 11a of this Act
and shall not be returnable in any event.

E. Any offer or sale of securities by an executor,
administrator, guardian, receiver or trustee in insolvency or
bankruptcy, or at any judicial sale, or at a public sale by
auction held at an advertised time and place, or the offer or
sale of securities in good faith and not for the purpose of
avoiding the provisions of this Act by a pledgee of securities
pledged for a bona fide debt.

F. Any offer or sale by a registered dealer, either as
principal or agent, of any securities (except face amount
certificate contracts and investment fund shares) at a price
reasonably related to the current market price of such securities, provided:

(1) (a) the securities are issued and outstanding;

(b) the issuer is required to file reports pursuant to Section 13 or Section 15(d) of the Federal 1934 Act and has been subject to such requirements during the 90 day period immediately preceding the date of the offer or sale, or is an issuer of a security covered by Section 12(g)(2)(B) or (G) of the Federal 1934 Act;

(c) the dealer has a reasonable basis for believing that the issuer is current in filing the reports required to be filed at regular intervals pursuant to the provisions of Section 13 or Section 15(d), as the case may be, of the Federal 1934 Act, or in the case of insurance companies exempted from Section 12(g) of the Federal 1934 Act by subparagraph 12(g)(2)(G) thereof, the annual statement referred to in Section 12(g)(2)(G)(i) of the Federal 1934 Act; and

(d) the dealer has in its records, and makes reasonably available upon request to any person expressing an interest in a proposed transaction in the securities, the issuer's most recent annual report filed pursuant to Section 13 or 15(d), as the case may be, of the Federal 1934 Act or the annual statement in the case of an insurance company exempted from Section 12(g) of the Federal 1934 Act by subparagraph
12(g)(2)(G) thereof, together with any other reports required to be filed at regular intervals under the Federal 1934 Act by the issuer after such annual report or annual statement; provided that the making available of such reports pursuant to this subparagraph, unless otherwise represented, shall not constitute a representation by the dealer that the information is true and correct, but shall constitute a representation by the dealer that the information is reasonably current; or

(2) (a) prior to any offer or sale, an application for the authorization thereof and a report as set forth under sub-paragraph (d) of this paragraph (2) has been filed by any registered dealer with and approved by the Secretary of State pursuant to such rules and regulations as the Secretary of State may prescribe;

(b) the Secretary of State shall have the power by order to refuse to approve any application or report filed pursuant to this paragraph (2) if

(i) the application or report does not comply with the provisions of this paragraph (2), or

(ii) the offer or sale of such securities would work or tend to work a fraud or deceit, or

(iii) the issuer or the applicant has violated any of the provisions of this Act;

(c) each application and report filed pursuant to
this paragraph (2) shall be accompanied by a filing fee and an examination fee in the amount established pursuant to Section 11a of this Act, which shall not be returnable in any event;

(d) there shall be submitted to the Secretary of State no later than 120 days following the end of the issuer's fiscal year, each year during the period of the authorization, one copy of a report which shall contain a balance sheet and income statement prepared as of the issuer's most recent fiscal year end certified by an independent certified public accountant, together with such current information concerning the securities and the issuer thereof as the Secretary of State may prescribe by rule or regulation or order;

(e) prior to any offer or sale of securities under the provisions of this paragraph (2), each registered dealer participating in the offer or sale of such securities shall provide upon request of prospective purchasers of such securities a copy of the most recent report required under the provisions of sub-paragraph (d) of this paragraph (2);

(f) approval of an application filed pursuant to this paragraph (2) of subsection F shall expire 5 years after the date of the granting of the approval, unless said approval is sooner terminated by (1) suspension or
revocation by the Secretary of State in the same manner as is provided for in subsections E, F and G of Section 11 of this Act, or (2) the applicant filing with the Secretary of State an affidavit to the effect that (i) the subject securities have become exempt under Section 3 of this Act or (ii) the applicant no longer is capable of acting as the applicant and stating the reasons therefor or (iii) the applicant no longer desires to act as the applicant. In the event of the filing of an affidavit under either preceding sub-division (ii) or (iii) the Secretary of State may authorize a substitution of applicant upon the new applicant executing the application as originally filed. However, the aforementioned substituted execution shall have no effect upon the previously determined date of expiration of approval of the application. Notwithstanding the provisions of this subparagraph (f), approvals granted under this paragraph (2) of subsection F prior to the effective date of this Act shall be governed by the provisions of this Act in effect on such date of approval; and

(g) no person shall be considered to have violated Section 5 of this Act by reason of any offer or sale effected in reliance upon an approval granted under this paragraph (2) after a termination thereof under the foregoing subparagraph (f) if official notice of
such termination has not been circulated generally to
dealers by the Secretary of State and if such person
sustains the burden of proof that he or she did not
know, and in the exercise of reasonable care, could not
have known, of the termination; or

(3) the securities, or securities of the same class,
are the subject of an existing registration under Section 5
of this Act.

The exemption provided in this subsection F shall apply
only if the offer or sale is made in good faith and not for the
purpose of avoiding any of the provisions of this Act, and only
if the offer or sale is not made for the direct or indirect
benefit of the issuer of the securities, or the controlling
person in respect of such issuer.

G. (1) Any offer, sale or issuance of a security, whether
to residents or to non-residents of this State, where:

(a) all sales of such security to residents of this
State (including the most recent such sale) within the
immediately preceding 12-month period have been made
to not more than 35 persons or have involved an
aggregate sales price of not more than $1,000,000;

(b) such security is not offered or sold by means
of any general advertising or general solicitation in
this State; and

(c) no commission, discount, or other remuneration
exceeding 20% of the sale price of such security, if
sold to a resident of this State, is paid or given
directly or indirectly for or on account of such sales.

(2) In computing the number of resident purchasers or
the aggregate sales price under paragraph (1) (a) above,
there shall be excluded any purchaser or dollar amount of
sales price, as the case may be, with respect to any
security which at the time of its sale was exempt under
Section 3 or was registered under Section 5, 6 or 7 or was
sold in a transaction exempt under other subsections of
this Section 4.

(3) A prospectus or preliminary prospectus with
respect to a security for which a registration statement is
pending or effective under the Federal 1933 Act shall not
be deemed to constitute general advertising or general
solicitation in this State as such terms are used in
paragraph (1) (b) above, provided that such prospectus or
preliminary prospectus has not been sent or otherwise
delivered to more than 150 residents of this State.

(4) The Secretary of State shall by rule or regulation
require the filing of a report or reports of sales made in
reliance upon the exemption provided by this subsection G
and prescribe the form of such report and the time within
which such report shall be filed. Such report shall set
forth the name and address of the issuer and of the
controlling person, if the sale was for the direct or
indirect benefit of such person, and any other information
deemed necessary by the Secretary of State to enforce compliance with this subsection G. The Secretary of State shall prescribe by rule or regulation the amount of the fee for filing any such report, established pursuant to Section 11a of this Act, which shall not be returnable in any event. The Secretary of State may impose, in such cases as he or she may deem appropriate, a penalty for failure to file any such report in a timely manner, but no such penalty shall exceed an amount equal to five times the filing fee. The contents of any such report or portion thereof may be deemed confidential by the Secretary of State by rule or order and if so deemed shall not be disclosed to the public except by order of court or in court proceedings. The failure to file any such report shall not affect the availability of such exemption, but such failure to file any such report shall constitute a violation of subsection D of Section 12 of this Act, subject to the penalties enumerated in Section 14 of this Act. The civil remedies provided for in subsection A of Section 13 of this Act and the civil remedies of rescission and appointment of a receiver, conservator, ancillary receiver or ancillary conservator provided for in subsection F of Section 13 of this Act shall not be available against any person by reason of the failure to file any such report or on account of the contents of any such report.
H. Any offer, sale or issuance of a security to an accredited investor, whether made through a qualified Internet portal or otherwise, if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this State, except to broker-dealers and agents licensed in this State. (1) any natural person who has, or is reasonably believed by the person relying upon this subsection H to have, a net worth or joint net worth with that person's spouse, at the time of the offer, sale or issuance, in excess of $1,000,000 excluding the value of a principal residence, or (2) any natural person who had, or is reasonably believed by the person relying upon this subsection H to have had, an income or joint income with that person's spouse, in excess of $200,000 in each of the two most recent years and who reasonably expects, or is reasonably expected to have, an income in excess of $200,000 in the current year, or (3) any person that is not a natural person and in which at least 90% of the equity interest is owned by persons who meet either of the tests set forth in clauses (1) or (2) of this subsection H, provided that such security is not offered or sold by means of any general advertising or general solicitation in this State.

I. Any offer, sale or issuance of securities to or for the benefit of security holders of any person incident to a vote by such security holders pursuant to such person's organizational document or any applicable statute of the jurisdiction of such person's organization, on a merger, consolidation,
reclassification of securities, or sale or transfer of assets in consideration of or exchange for securities of the same or another person.

J. Any offer, sale or issuance of securities in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash, where such offer, sale or issuance is incident to a reorganization, recapitalization, readjustment, composition or settlement of a claim, as approved by a court of competent jurisdiction of the United States, or any state.

K. Any offer, sale or issuance of securities for patronage, or as patronage refunds, or in connection with marketing agreements by cooperative associations organized exclusively for agricultural, producer, marketing, purchasing, or consumer purposes; and the sale of subscriptions for or shares of stock of cooperative associations organized exclusively for agricultural, producer, marketing, purchasing, or consumer purposes, if no commission or other remuneration is paid or given directly or indirectly for or on account of such subscription, sale or resale, and if any person does not own beneficially more than 5% of the aggregate amount of issued and outstanding capital stock of such cooperative association.

L. Offers for sale or solicitations of offers to buy (but not the acceptance thereof), of securities which are the subject of a pending registration statement filed under the Federal 1933 Act and which are the subject of a pending
application for registration under this Act.

M. Any offer or sale of preorganization subscriptions for any securities prior to the incorporation, organization or formation of any issuer under the laws of the United States, or any state, or the issuance by such issuer, after its incorporation, organization or formation, of securities pursuant to such preorganization subscriptions, provided the number of subscribers does not exceed 25 and either (1) no commission or other remuneration is paid or given directly or indirectly for or on account of such sale or sales or issuance, or (2) if any commission or other remuneration is paid or given directly or indirectly for or on account of such sale or sales or issuance, the securities are not offered or sold by any means of general advertising or general solicitation in this State.

N. The execution of orders for purchase of securities by a registered salesperson and dealer, provided such persons act as agent for the purchaser, have made no solicitation of the order to purchase the securities, have no direct interest in the sale or distribution of the securities ordered, receive no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and deliver to the purchaser written confirmation of the order which clearly identifies the commissions paid to the registered dealer.

O. Any offer, sale or issuance of securities, other than
fractional undivided interests in an oil, gas or other mineral lease, right or royalty, for the direct or indirect benefit of the issuer thereof, or of a controlling person, whether through a dealer (acting either as principal or agent) or otherwise, if the securities sold, immediately following the sale or sales, together with securities already owned by the purchaser, would constitute 50% or more of the equity interest of any one issuer, provided that the number of purchasers is not more than 5 and provided further that no commission, discount or other remuneration exceeding 15% of the aggregate sale price of the securities is paid or given directly or indirectly for or on account of the sale or sales.

P. Any offer, sale or issuance of securities (except face amount certificate contracts and investment fund shares) issued by and representing an interest in an issuer which is a business corporation incorporated under the laws of this State, the purposes of which are to provide capital and supervision solely for the redevelopment of blighted urban areas located in a municipality in this State and whose assets are located entirely within that municipality, provided: (1) no commission, discount or other remuneration is paid or given directly or indirectly for or on account of the sale or sales of such securities; (2) the aggregate amount of any securities of the issuer owned of record or beneficially by any one person will not exceed the lesser of $5,000 or 4% of the equity capitalization of the issuer; (3) the officers and directors of
the corporation have been bona fide residents of the municipality not less than 3 years immediately preceding the effectiveness of the offering sheet for the securities under this subsection P; and (4) the issuer files with the Secretary of State an offering sheet descriptive of the securities setting forth:

(a) the name and address of the issuer;

(b) the title and total amount of securities to be offered;

(c) the price at which the securities are to be offered; and

(d) such additional information as the Secretary of State may prescribe by rule and regulation.

The Secretary of State shall within a reasonable time examine the offering sheet so filed and, unless the Secretary of State shall make a determination that the offering sheet so filed does not conform to the requirements of this subsection P, shall declare the offering sheet to be effective, which offering sheet shall continue effective for a period of 12 months from the date it becomes effective. The fee for examining the offering sheet shall be as established pursuant to Section 11a of this Act, and shall not be returnable in any event. The Secretary of State shall by rule or regulation require the filing of a report or reports of sales made to residents of this State in reliance upon the exemption provided by this subsection P and prescribe the form of such report and
the time within which such report shall be filed. The Secretary of State shall prescribe by rule or regulation the amount of the fee for filing any such report, but such fee shall not be less than the minimum amount nor more than the maximum amount established pursuant to Section 11a of this Act, and shall not be returnable in any event. The Secretary of State may impose, in such cases as he or she may deem appropriate, a penalty for failure to file any such report in a timely manner, but no such penalty shall exceed an amount equal to five times the filing fee. The contents of any such report shall be deemed confidential and shall not be disclosed to the public except by order of court or in court proceedings. The failure to file any such report shall not affect the availability of such exemption, but such failure to file any such report shall constitute a violation of subsection D of Section 12 of this Act, subject to the penalties enumerated in Section 14 of this Act. The civil remedies provided for in subsection A of Section 13 of this Act and the civil remedies of rescission and appointment of a receiver, conservator, ancillary receiver or ancillary conservator provided for in subsection F of Section 13 of this Act shall not be available against any person by reason of the failure to file any such report or on account of the contents of any such report.

Q. Any isolated transaction, whether effected by a dealer or not.

R. Any offer, sale or issuance of a security to any person
who purchases at least $150,000 of the securities being offered, where the purchaser's total purchase price does not, or it is reasonably believed by the person relying upon this subsection R that said purchase price does not, exceed 20 percent of the purchaser's net worth at the time of sale, or if a natural person a joint net worth with that person's spouse, for one or any combination of the following: (i) cash, (ii) securities for which market quotations are readily available, (iii) an unconditional obligation to pay cash or securities for which quotations are readily available, which obligation is to be discharged within five years of the sale of the securities to the purchaser, or (iv) the cancellation of any indebtedness owed by the issuer to the purchaser; provided that such security is not offered or sold by means of any general advertising or general solicitation in this State.

S. Any offer, sale or issuance of a security to any person who is, or who is reasonably believed by the person relying upon this subsection S to be, a director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer. For purposes of this subsection S, "executive officer" shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for
the issuer. Executive officers of subsidiaries may be deemed
effective officers of the issuer if they perform such policy
making functions for the issuer.

A document being filed pursuant to this Section 4 shall be
deemed filed, and any fee paid pursuant to this Section 4 shall
be deemed paid, upon the date of actual receipt thereof by the
Secretary of State.

T. An offer or sale of a security by an issuer that is
organized and, as of the time of the offer or sale, in good
standing under the laws of the State of Illinois, provided:

(1) The offering meets all of the requirements of the
federal exemption for intrastate offerings provided in
Section 3(a)(11) of the Securities Act of 1933 (15 U.S.C.
77c(a)(11)) and Rule 147 adopted under the Securities Act
of 1933 (17 CFR 230.147).

(2) The aggregate purchase price of all securities sold
by an issuer in reliance on the exemption under this
subsection, within any 12-month period, does not exceed
$20,000,000; unless the issuer has been in business for
more than one full consecutive calendar year period and has
made available (directly, or through a qualified Internet
portal) to each prospective purchaser and the Secretary of
State, copies of its most recent annual financial
statements which have been audited by an independent
auditor and certified by such auditor, and by one or more
senior officers of the issuer, as fairly, completely and
accurately presenting the financial condition of the
issuer, in all material respects, as of the dates indicated
therein. In 2019 and every 5th year thereafter, the
Secretary of State shall cumulatively adjust the dollar
limitations in this paragraph (2) to reflect the change in
the Consumer Price Index for all Urban Consumers published
by the United States Department of Labor, Bureau of Labor
Statistics, rounding each dollar limitation to the nearest
$500,000.

(3) The aggregate amount sold by an issuer to any
purchaser (other than an accredited investor or an
experienced investor) in an offering of securities made in
reliance on the exemption provided in this subsection,
within any consecutive 12-month period, does not exceed the
greater of $10,000 or 10% of the purchaser's expected
annual income in the year of sale. With respect to whether
a purchaser has, or has not, exceeded the maximum purchase
limitation provided in this paragraph (3) during the
applicable 12-month period, an issuer may rely on the
written self-representation of the purchaser, provided
that the issuer has no knowledge, or other reason to
believe, that such limitation has been exceeded by the
purchaser.

With respect to satisfaction of the foregoing, an
issuer may rely on the written self-representation of a
purchaser as to whether such purchaser has, or has not,
exceeded such applicable maximum purchase limitation during the applicable 12-month period, provided the issuer has no knowledge, or other reason to believe, that such limitation has been exceeded by the purchaser.

(4) The issuer:

(a) establishes a minimum and a maximum amount of securities to be sold and a deadline for selling (or otherwise getting commitments for the purchase of) the established minimum amount of securities;

(b) conspicuously discloses the information required pursuant to subparagraph (a) in any agreement evidencing a purchaser's subscription to purchase securities of the issuer and that the purchaser may cancel such commitment at any time upon notice to the issuer and without penalty, if the minimum target offering amount is not raised on or before the proposed deadline; and

(c) enters into an escrow agreement with a qualified escrowee providing that, at a minimum:

(i) all funds to be received in connection with the proposed offering shall be delivered to, and held by, the qualified escrowee pursuant to the terms of the escrow agreement; and

(ii) the issuer shall not have access to the escrow funds, or any portion thereof, until the aggregate funds received by the qualified escrowee
in connection with the proposed offering equals or exceeds the minimum amount of securities to be sold as established by the issuer.

(5) The issuer shall have made available to each prospective purchaser and the Secretary of State, copies of its most recent financial statements personally certified by one or more senior officers of the issuer as fairly, completely and accurately presenting the financial condition of the issuer, in all material respects, as of the dates indicated therein.

(6) No commission or other remuneration is paid or given directly or indirectly to any person or entity (including, without limitation, any qualified Internet portal) for soliciting any person in this State, except to broker-dealers and agents licensed in this State.

(7) Not less than 5 days before the earlier of the first sale of securities made in reliance on the exemption provided in this subsection T, or the use of any general solicitation with respect thereto (other than a general announcement made by (or on behalf of) an issuer in accordance with paragraph (13) of this subsection T), the issuer:

(a) files a notice with the Secretary of State, in a written or electronic form as prescribed by the Secretary of State (which form the Secretary of State shall make available on the Secretary of State's
Internet website), which specifies that the issuer intends to make an offering of securities in reliance on the exemption provided in this subsection T and which includes the names and addresses of: (i) the issuer; (ii) all persons or qualified Internet portals that will sell or offer to sell the security on behalf of the issuer; and (iii) the qualified escrowee engaged to escrow the funds from the subject offering; further, for so long as the offering remains open, the issuer shall file a new notice with the Secretary of State (without additional charge, provided such notice is identified as an amendment to a previously filed notice) if any information previously provided has changed or has since become erroneous, false, or materially misleading;

(b) delivers a fully executed copy of the escrow agreement required pursuant to subparagraph (c) of paragraph (4); further, for so long as the offering remains open, the issuer shall promptly deliver to the Secretary of State a fully executed copy of all amendments to the escrow agreement; the information provided pursuant to this subparagraph (b) shall not be a public record and shall not be available for public inspection; and

(c) pays the notification filing fee established under Section 11a of this Act.
The Secretary of State shall, within a reasonable time, examine the materials filed pursuant to this paragraph (7) and, unless the Secretary of State notifies the issuer (or the qualified Internet portal, to the extent used), on or before the initial commencement date of the offering, of his or her determination that any one or more of the filed materials fails to conform to the requirements of this subsection T, the proposed offering shall be deemed permitted.

The Secretary of State shall prescribe by rule the amount of the fee for filing the notice required in subparagraph (a), established pursuant to Section 11a of this Act, which shall not be returnable in any event. The Secretary of State may impose, in such cases as he or she may deem appropriate, a penalty for failure to file any such notice in a timely manner, but no such penalty shall exceed an amount equal to 5 times the filing fee. The contents of any such notice or portion thereof may be deemed confidential by the Secretary of State by rule or order and if so deemed shall not be disclosed to the public except by order of court or in court proceedings. The failure to file any such notice does not affect the availability of such exemption, but such failure to file any such report constitutes a violation of subsection D of Section 12 of this Act, subject to the penalties in Section 14 of this Act. The civil remedies provided in subsection A
of Section 13 of this Act and the civil remedies of rescission and appointment of a receiver, conservator, ancillary receiver, or ancillary conservator provided in subsection F of Section 13 of this Act are not available against any person by reason of the failure to file any such report or on account of the contents of any such report.

(8) The issuer provides a copy of the escrow agreement, the disclosure document, and all other documents or information then provided to the Secretary of State under subparagraph (a) or (b) of paragraph (7) to each prospective purchaser at the time the offer of securities is made. Further, for so long as the offering remains open, the issuer is required to promptly provide a copy to each prospective and completed purchaser of all replacements, modifications, attachments, updates, or other information provided to the Secretary of State pursuant to subparagraph (a) or (b) of paragraph (7). An issuer may satisfy the reporting requirement of this paragraph (8) by making the information available, in a printable format, on its own website or through a qualified Internet portal provided such information is promptly made available by the issuer and the issuer promptly alerts each prospective purchaser or completed purchaser of the availability of the information.

(9) All payments for purchase of securities offered
pursuant to the exemption provided under this subsection T are made directly to, and held by, the qualified escrowee identified in the escrow agreement required pursuant to subparagraph (c) of paragraph (4).

(10) The issuer includes (and, to the extent a qualified Internet portal is used, the qualified Internet portal includes) the following legend conspicuously on the cover page of any disclosure document delivered to a prospective purchaser or to which a prospective purchaser has been granted electronic access:

IN MAKING AN INVESTMENT DECISION, INVESTORS 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 DIVISION OR OTHER 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 UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS, OR PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF
(11) The issuer (directly or through a qualified Internet portal) requires each purchaser to certify, in writing or electronically, as follows:

I UNDERSTAND AND ACKNOWLEDGE THAT:

I am a resident of the State of Illinois.

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 division or other regulatory authority and no such person or 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, there is no ready market for the sale of such securities, it may be difficult or impossible for me to sell or otherwise dispose of this investment, and, 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 company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.

........ (Signature)
(12) The issuer (directly or through a qualified Internet portal) obtains from each purchaser of a security offered under this subsection evidence that the purchaser is a resident of this State and, if applicable, is an experienced investor or accredited investor. Without limiting the generality of the foregoing, and not to the exclusion of other reasonable methods which may be used by the issuer in connection with the foregoing, an issuer may rely:

(a) on a copy of a valid driver's license (or third-party verification based on a purchaser's valid driver's license information), or verification (independently or by a third-party) of the state of origination of the purchaser's Internet Protocol (IP) address, for purposes of establishing an individual purchaser's residence, provided the issuer has no knowledge, or other reason to believe, that the individual purchaser is not a resident of the State; and

(b) on representations signed, in writing or electronically, by a purchaser for purposes of establishing such purchaser's status as an experienced investor and identifying each of the requirements of Section 2.37 which apply to such purchaser (and, with respect to subsections (c), (d), (e), or (g) of Section 2.37, as applicable, a description of the applicable
license, advanced degree, or job position), provided the issuer has no knowledge, or other reason to believe, that such representations are, or may be, false in whole or in part; and

(c) on representations signed, in writing or electronically, by a purchaser for purposes of establishing such purchaser's status as an accredited investor, provided the issuer has no knowledge, or other reason to believe, that such representations are, or may be, false in whole or in part.

(13) The issuer (and to the extent a qualified Internet portal is used, such qualified Internet portal) takes commercially reasonable measures to limit access to any information concerning the offer or sale of the subject securities to residents of this State. Notwithstanding the foregoing, an issuer is permitted to disseminate (and is not deemed in violation of this paragraph (13) for disseminating) through a qualified Internet portal or otherwise a general announcement regarding the issuer's intent to make an offer in reliance on the exemption under this subsection T, so long as such general announcement contains a statement making it clear that the offering is directed only to residents of this State and the information provided in such general announcement is limited only to one or more of the following:

(a) a statement that the issuer is conducting an
offering in reliance on the exemption under this subsection T;

(b) the name and web address of a qualified Internet portal (if any) conducting the offering;

(c) the minimum and maximum amount of the offering;

or

(d) factual information about the legal identity and business location of the issuer, limited to: the name of the issuer; the address, phone number, and website (if any) of the issuer; a one sentence description of the business of the issuer; or the contact information of a representative of the issuer.

(14) The issuer (and to the extent a qualified Internet portal is used, the entity maintaining such qualified Internet portal) reasonably believes that all purchasers are purchasing for investment and not for sale in connection with a distribution of the security.

(15) Until no securities issued under this exemption are outstanding, the issuer shall provide quarterly to each purchaser, free of charge, internally or accountant prepared quarterly financial statements of the issuer, certified by a senior officer of the issuer as fairly, completely and accurately presenting the financial condition of the issuer, in all material respects, as of the dates indicated therein. An issuer may satisfy the reporting requirement of this paragraph (15) by making the
information available on its own website or through a qualified Internet portal if the information is made available within 45 days after the end of each fiscal quarter, the information remains available until the succeeding quarterly report is issued, and the issuer promptly alerts each purchaser of the availability of the information.

(16) The issuer (and to the extent a qualified Internet portal is used, such qualified Internet portal) maintains records of all offers and sales of securities made pursuant to the exemption granted by this subsection T and provides ready access to such records to the Secretary of State, upon reasonable prior written request.

(17) The issuer is not, either before or as a result of the offering:

(a) an investment company, as defined in Section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), as amended and in effect (unless the issuer qualifies for exclusion from such definition pursuant to one or more of the exceptions provided in Section 3(c) of the Investment Company Act of 1940, any other provision of the Investment Company Act of 1940, or any administrative rule or regulation promulgated with respect to the Investment Company Act of 1940 or in connection therewith); or

(b) subject to the reporting requirements of
Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 15 U.S.C. 78o(d)).

(18) Neither the issuer, nor any person affiliated with the issuer (either before or as a result of the offering), nor the offering itself, nor the qualified Internet portal (to the extent used) is subject to disqualification established by the Secretary of State by rule or contained in the Securities Act of 1933 (15 U.S.C. 77c(a)(11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147), unless both of the following are met:

(a) on a showing of good cause and without prejudice to any other action by the Secretary of State, the Secretary of State determines that it is not necessary under the circumstances that an exemption is denied; and

(b) the issuer establishes that it made a factual inquiry into whether any disqualification existed under this paragraph (18), but did not know, and in the exercise of reasonable care could not have known, that a disqualification existed under this paragraph (18); the nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(Source: P.A. 90-70, eff. 7-8-97; 91-809, eff. 1-1-01.)

(815 ILCS 5/8d new)
Sec. 8d. Offerings made through qualified Internet portals. An issuer may make an offering or sale of securities pursuant to subsection T of Section 4 of this Act through the use of one or more qualified Internet portals, subject to the following:

(a) The Internet portal shall at all times be owned by a corporation or other legal entity which is either organized under the laws of, or is otherwise qualified to do business in, this State and the entity shall be in good standing in this State as of the date of the proposed offering of securities.

(b) The Internet portal shall establish and maintain commercially reasonable measures to limit access to any information concerning an offer or sale of the subject securities (other than information permitted of the type permitted in connection with a general announcement by the issuer pursuant to paragraph (13) of subsection T of Section 4) to only residents of this State. Without limiting the generality of the foregoing, and not to the exclusion of other reasonable methods which may be utilized by the Internet portal in connection with the foregoing, an Internet portal may rely:

(i) for purposes of access to offering materials in connection with a proposed offering, a representation signed, in writing or electronically, by an individual prospective purchaser, or verification (independently
or by a third-party) of the state of origination of the
purchaser's Internet Protocol (IP) address, for
purposes of establishing such purchaser's residence,
provided the entity maintaining the Internet portal
has no knowledge, or other reason to believe, that the
individual purchaser is not a resident of the State;
and
(ii) in connection with an actual purchase and sale
of a security pursuant to a proposed offering, on a
copy of a valid driver's license (or third-party
verification based on a purchaser's valid driver's
license information), or verification (independently
or by a third-party) of the state of origination of the
purchaser's Internet Protocol (IP) address, for
purposes of establishing an individual purchaser's
residence, provided the entity maintaining the
Internet portal has no knowledge, or other reason to
believe, that the individual purchaser is not a
resident of the State.

(c) The Internet portal shall establish and maintain
(during the time the offering appears on the Internet
portal) a secure method of communication through the
Internet portal itself that will permit potential
investors to communicate with one another and with
representatives of the issuer about the offering. Further,
the foregoing communications must be made visible and
accessible (at all times during the time the offering appears on the Internet portal) to all those with access to the offering materials of issuer.

(d) The Internet portal shall establish and maintain a secure method of communication through the Internet portal itself that will permit the issuer and purchasers to communicate with one another.

(e) The Internet portal:

(1) shall be a registered broker-dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78o);

(2) shall be a funding portal registered under the Securities Act of 1933 (15 U.S.C. 77d-1) and the Securities and Exchange Commission has adopted rules under authority of Section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c) and Section 304 of the Jumpstart Our Business Startups Act (P.L. 112-106) governing funding portals;

(3) shall be a dealer or an investment advisor registered and in good standing under this Act as of the date of any offer or sale of securities made through the Internet portal; or

(4) shall, to the extent it meets the qualifications for exemption from registration pursuant to subsection (g) of this Section:

(A) file, not later than 30 days before the date of the first offer or sale of securities made
within this State, an application for qualification (or renewal of qualification, as applicable) as a qualified Internet portal with the Secretary of State, in writing or in electronic form as prescribed by the Secretary of State, which the Secretary of State shall make available as an electronic document on the Secretary of State's Internet website, containing such information and required deliveries as specified therein; and

(B) pay the application filing fee established under Section 11a of this Act; the Secretary of State shall, within a reasonable time, examine the filed application and other materials filed and, unless the Secretary of State notifies the Internet portal of the rejection of such application (or renewal application, as applicable) on or before the initial commencement date of the offering, the Internet portal shall be deemed to be a qualified Internet portal for purposes of this Act.

(f) If any change occurs in the information submitted by, or on behalf of, an Internet portal to the Secretary of State, an Internet portal shall notify the Secretary of State within 30 days after such change occurs and shall provide the Secretary of State with such additional information (if any) requested by the Secretary of State in
connection therewith.

(g) Notwithstanding anything contained in this Act to the contrary, neither an Internet portal nor its owning or operating entity is required to register as a dealer or an investment advisor under this Act if each of the following applies with respect to the Internet portal and its owning or operating entity:

(1) It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet portal.

(2) It does not collect or hold funds in connection with any purchase, sale, or offer to buy any securities offered or displayed on the Internet portal.

(3) It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet portal.

(4) It is not compensated based on the amount of securities sold.

(5) The fee it charges an issuer for an offering of securities on the Internet portal is a fixed amount for each offering, a variable amount based on the length of time that the securities are offered on the Internet portal, a variable amount based on the total proposed offering amount, or any combination of such fixed and variable amounts.
(6) It does not offer investment advice or recommendations; however, an Internet portal is not deemed to be offering investment advice or recommendations simply by virtue of:

(A) selecting transactions in which the Internet portal shall serve as an intermediary;

(B) establishing reasonable selection criteria for an issuer to meet in order to establish an offer or sale of securities through the Internet portal;

(C) establishing reasonable selection criteria for a potential purchaser to meet in order to participate in an offer or sale of securities made through the Internet portal; or

(D) terminating an issuer transaction at any time before the first sale of the securities of such issuer if the Internet portal determines such action is appropriate, after reasonable due diligence, to protect potential purchasers and the Internet portal is able to direct the qualified escrowee to return all funds then provided by potential purchasers, if any.

(7) It does not engage in such other activities as the Secretary of State, by rule, determines are prohibited of such an Internet portal.
Sec. 11a. Fees.

(1) The Secretary of State shall by rule or regulation impose and shall collect reasonable fees necessary for the administration of this Act including, but not limited to, fees for the following purposes:

(a) filing an application pursuant to paragraph (2) of subsection F of Section 4 of this Act;

(b) examining an application and report pursuant to paragraph (2) of subsection F of Section 4 of this Act;

(c) filing a report pursuant to subsection G of Section 4 of this Act, determined in accordance with paragraph (4) of subsection G of Section 4 of this Act;

(d) examining an offering sheet pursuant to subsection P of Section 4 of this Act;

(e) filing a report pursuant to subsection P of Section 4, determined in accordance with subsection P of Section 4 of this Act;

(f) examining an application to register securities under subsection B of Section 5 of this Act;

(g) examining an amended or supplemental prospectus filed pursuant to the undertaking required by sub-paragraph (i) of paragraph (2) of subsection B of Section 5 of this Act;

(h) registering or renewing registration of securities under Section 5, determined in accordance with subsection C
of Section 5 of this Act;

    (i) registering securities in excess of the amount initially registered, determined in accordance with paragraph (2) of subsection C of Section 5 of this Act;
    
    (j) failure to file timely an application for renewal under subsection E of Section 5 of this Act;
    
    (k) failure to file timely any document or information required under Section 5 of this Act;
    
    (l) examining an application to register face amount certificate contracts under subsection B of Section 6 of this Act;
    
    (m) examining an amended or supplemental prospectus filed pursuant to the undertaking required by sub-paragraph (f) of paragraph (2) of subsection B of Section 6 of this Act;
    
    (n) registering or renewing registration of face amount certificate contracts under Section 6 of this Act;
    
    (o) amending a registration of face amount certificate contracts pursuant to subsection E of Section 6 of this Act to add any additional series, type or class of contract;
    
    (p) failure to file timely an application for renewal under subsection F of Section 6 of this Act;
    
    (q) adding to or withdrawing from deposits with respect to face amount certificate contracts pursuant to subsection H of Section 6, a transaction charge payable at the times and in the manner specified in subsection H of
Section 6 (which transaction charge shall be in addition to
the annual fee called for by subsection H of Section 6 of
this Act);

(r) failure to file timely any document or information
required under Section 6 of this Act;

(s) examining an application to register investment
fund shares under subsection B of Section 7 of this Act;

(t) examining an amended or supplemental prospectus
filed pursuant to the undertaking required by
sub-paragraph (f) of paragraph (2) of subsection B of
Section 7 of this Act;

(u) registering or renewing registration of investment
fund shares under Section 7 of this Act;

(v) amending a registration of investment fund shares
pursuant to subsection D of Section 7 of this Act to
register an additional class or classes of investment fund
shares;

(w) failure to file timely an application for renewal
under paragraph (1) of subsection G of Section 7 of this
Act;

(x) examining an application for renewal of
registration of investment fund shares under paragraph (2)
of subsection G of Section 7 of this Act;

(y) failure to file timely any document or information
required under Section 7 of this Act;

(z) filing an application for registration or
re-registration of a dealer or limited Canadian dealer under Section 8 of this Act for each office in this State;

(aa) in connection with an application for the registration or re-registration of a salesperson under Section 8 of this Act, for the following purposes:

(i) filing an application;

(ii) a Securities Audit and Enforcement Fund fee;

and

(iii) a notification filing of federal covered investment advisers;

(bb) in connection with an application for the registration or re-registration of an investment adviser under Section 8 of this Act;

(cc) failure to file timely any document or information required under Section 8 of this Act;

(dd) filing a consent to service of process under Section 10 of this Act;

(ee) issuing a certificate pursuant to subsection B of Section 15 of this Act;

(ff) issuing a certified copy pursuant to subsection C of Section 15 of this Act;

(gg) issuing a non-binding statement pursuant to Section 15a of this Act;

(hh) filings by Notification under Section 2a;

(ii) notification filing of federal Regulation D, Section 506 offering under the Federal 1933 Act;
(jj) notification filing of securities and closed-end investment company securities;

(kk) notification filing of face amount certificate contracts;

(ll) notification filing of open-end investment company securities;

(mm) filing a report pursuant to subsection D of Section 4 of this Act;

(nn) in connection with the filing of an application for registration or re-registration of an investment adviser representative under subsection D of Section 8 of this Act;

(oo) filing a notice pursuant to paragraph (6) of subsection T of Section 4 of this Act; and

(pp) applying for qualification, or renewing qualification, as a qualified Internet portal pursuant to paragraph (iv) of subsection (b) of Section 8d of this Act.

(2) The Secretary of State may, by rule or regulation, raise or lower any fee imposed by, and which he or she is authorized by law to collect under, this Act. 

(Source: P.A. 90-70, eff. 7-8-97; 91-357, eff. 7-29-99; revised 12-11-14.)

(815 ILCS 5/18.1)

Sec. 18.1. Additional fees. In addition to any other fee that the Secretary of State may impose and collect pursuant to
the authority contained in Sections 4, 8, and 11a of this Act, beginning on July 1, 2003 the Secretary of State shall also collect the following additional fees:

Securities offered or sold under the Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act ................. $100

Securities offered or sold under the Uniform Limited Offering Exemption pursuant to subsection T of Section 4 of this Act .......... $100

Registration and renewal of a dealer ................. $300

Registration and renewal of a qualified Internet portal .................................................. $300

Registration and renewal of an investment adviser .......... $200

Federal covered investment adviser notification filing and annual notification filing ............... $200

Registration and renewal of a salesperson ........... $75

Registration and renewal of an investment adviser representative and a federal covered investment adviser representative ........... $75

Investment fund shares notification filing and annual notification filing: $800 plus $80 for each series, class, or portfolio.

All fees collected by the Secretary of State pursuant to this amendatory Act of the 93rd General Assembly shall be deposited into the General Revenue Fund in the State treasury.
(Source: P.A. 93-32, eff. 7-1-03.)
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