

SECOND REGULAR SESSION

# HOUSE BILL NO. 1736

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FREDERICK.

5789H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 409, RSMo, by adding thereto one new section relating to the regulation of securities.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 409, RSMo, is amended by adding thereto one new section, to be  
2 known as section 409.315, to read as follows:

**409.315. 1. The offer or sale of a security by an issuer shall be exempt from the**  
2 **requirements sections 409.3-101 to 409.3-106 and section 409.5-504, and each individual**  
3 **who represents an issuer in an offer or sale shall be exempt from the requirements of**  
4 **subsection (a) of section 409.4-402 if the offer or sale is conducted in accordance with each**  
5 **of the following requirements:**

6 **(1) The issuer of the security shall be a business or organization formed under the**  
7 **laws of the state of Missouri and registered with the secretary of state.**

8 **(2) The transaction shall meet the requirements of the federal exemption for**  
9 **intrastate offerings in section 3(a)(11) of the securities act of 1933, 15 U.S.C. § 77c(a)(11),**  
10 **and SEC rule 147, 17 C.F.R. 230.147.**

11 **(3) The sum of all cash and other consideration to be received for all sales of the**  
12 **security in reliance upon this exemption shall not exceed one million dollars, less the**  
13 **aggregate amount received for all sales of securities by the issuer within the twelve months**  
14 **before the first offer or sale made in reliance upon this exemption.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           (4) The issuer shall not accept more than one thousand dollars from any single  
16 purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC  
17 regulation D, 17 C.F.R. 230.501.

18           (5) A commission or other remuneration shall not be paid or given, directly or  
19 indirectly, for any person's participation in the offer or sale of securities for the issuer  
20 unless the person is registered as a broker-dealer or agent under this act.

21           (6) All funds received from investors shall be deposited into a bank or depository  
22 institution authorized to do business in Missouri, and all the funds shall be used in  
23 accordance with representations made to investors.

24           (7) Before the use of any general solicitation or the twenty-fifth sale of the security,  
25 whichever occurs first, the issuer shall provide a notice to the administrator in writing or  
26 in electronic form. The notice shall specify that the issuer is conducting an offering in  
27 reliance upon this exemption and shall contain the names and addresses of the following  
28 persons:

29           (a) The issuer;

30           (b) All persons who will be involved in the offer or sale of securities on behalf of the  
31 issuer; and

32           (c) The bank or other depository institution in which investor funds will be  
33 deposited.

34           (8) The issuer shall not be, either before or as a result of the offering, an investment  
35 company as defined in section 3 of the investment company act of 1940, 15 U.S.C. § 80a-3,  
36 or subject to the reporting requirements of section 13 or 15(d) of the securities exchange  
37 act of 1934, 15 U.S.C. § 78m and 78o(d).

38           (9) The issuer shall inform all purchasers that the securities have not been  
39 registered under the act and, therefore, cannot be resold unless the securities are registered  
40 or qualify for an exemption from registration under K.S.A. 17-12a202 and amendments  
41 thereto, K.A.R. 81-5-3, or another regulation. In addition, the issuer shall make the  
42 disclosures required by subsection (f) of SEC rule 147, 17 C.F.R. 230.147(f).

43           2. Offers and sales to controlling persons. This exemption shall not be used in  
44 conjunction with any other exemption under these regulations or section 409.2-202, except  
45 for offers and sales to controlling persons of the issuer. Sales to controlling persons shall  
46 not count toward the limitation in subdivision (3) of subsection 1 of this section.

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