

1 ENGROSSED HOUSE  
2 BILL NO. 2637

By: Echols and Hill of the  
House

3 and

4 Daniels of the Senate  
5

6  
7 [ securities - providing exempt treatment for  
8 certain specified securities pursuant to rules  
9 adopted by the United States Securities and  
10 Exchange Commission - imposing limitation on sale  
11 of certain securities within certain time period -  
12 imposing requirements related to content of  
13 Internet website - imposing requirements with  
14 respect to crowdfunding portal - requiring  
15 application with the Oklahoma Securities  
16 Department - effective date ]  
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19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1-801 of Title 71, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. Notwithstanding any other provision of law, a security  
24 offered for sale by an issuer under Rule 147 (17 C.F.R 230.147) or

1 Rule 147A (17 C.F.R 230.147A) adopted by the United States  
2 Securities and Exchange Commission under the Securities Act of 1933  
3 shall be exempt from the requirements under Sections 1-301 and 1-504  
4 of Title 71 of the Oklahoma Statutes. Securities issued under this  
5 exemption must maintain compliance with the federal exemption for  
6 intrastate offerings in Section 3(a)(11) of the Securities Act of  
7 1933 (15 U.S.C., Section 77c(a)(11)). Failure to maintain  
8 compliance with the federal exemption for intrastate offerings shall  
9 disqualify an offering for exemption under this section.

10 B. The issuer must file a notice of the offering with the  
11 Oklahoma Department of Securities, in writing or in electronic form,  
12 together with a nonrefundable filing fee, in a form and format to be  
13 determined by Department rule. The notice filing shall include a  
14 notice of exemption, the disclosure statement required by Section 2  
15 of this act, and the summary of the offering required by Section 6  
16 of this act. The Department may adopt rules establishing procedures  
17 for the deposit of fees and the filing of documents by electronic  
18 means. A notice is effective upon receipt by the Department and  
19 payment of the filing fee. The notice may be terminated by filing  
20 with the Department a notice of termination. The notice and  
21 offering expire twelve (12) months after filing the notice with the  
22 Department.

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1 C. The issuer must amend the notice within thirty (30) days if,  
2 at any time, any information provided in the notice becomes  
3 materially inaccurate.

4 D. The sum of all cash and other consideration received for the  
5 sale of securities under this section shall be limited to One  
6 Million Dollars (\$1,000,000.00) within the twelve-month period  
7 starting from the effective date of the notice filing. This  
8 provision shall not be interpreted to restrict an issuer from  
9 issuing additional securities intended to qualify for exemptions  
10 under other federal or Oklahoma securities laws.

11 E. The issuer must disclose in the disclosure statement the  
12 terms under which all other forms of equity are being issued and  
13 sold irrespective of the securities being issued and sold under an  
14 Oklahoma or federal exemption or the purchasers being accredited or  
15 not accredited.

16 F. Unless the investor is an accredited investor as defined by  
17 Rule 501 of Regulation D, adopted pursuant to the Securities Act of  
18 1933, the aggregate amount sold by an issuer to a purchaser in  
19 transactions exempt from registration requirements under this  
20 section in a twelve-month period may not exceed Five Thousand  
21 Dollars (\$5,000.00). The issuer must have a reasonable basis for  
22 believing that the purchaser of a security qualifying for exemption  
23 under this section is an Oklahoma resident and, if applicable, an  
24 accredited investor.

1 G. The issuer shall file with the Department and provide to  
2 purchasers without cost an annual report of the results of the  
3 operations and financial statements of the issuer within forty-five  
4 (45) days after the end of its fiscal year in a form and manner to  
5 be prescribed by the Department until no securities under this  
6 offering are outstanding.

7 H. A notice filing under this section shall be immediately  
8 suspended by the Department if the payment of the filing fee is  
9 dishonored by the financial institution upon which the funds are  
10 drawn. The suspension shall remain in effect for fourteen (14)  
11 calendar days. If the issuer does not remit the filing fee within  
12 fourteen (14) calendar days beginning on the date of the suspension,  
13 the Department shall enter a final order revoking the issuer's  
14 notice filing.

15 I. A notice filing under this section shall be immediately  
16 suspended by the Department if the issuer is determined to have made  
17 any materially false statements in the issuer's notice filing. The  
18 suspension shall remain in effect until the matter has been  
19 investigated by the Department and either the suspension of the  
20 notice filing has been removed or a final order is entered by the  
21 Department revoking the notice filing. If an issuer is determined  
22 to have made any materially false statements in the issuer's notice  
23 filing, the Department shall bar the officers, directors and control  
24 persons of the issuer from the use of the exemption in this section

1 for a period of five (5) years from the entry date of the final  
2 order revoking the notice filing.

3 J. Offers and sales of an issuer's securities must be made  
4 exclusively through an Internet website operated by a registered  
5 broker-dealer or a crowdfunding portal required to be registered  
6 under this act.

7 K. All communications between the issuer, purchasers or  
8 prospective purchasers taking place during the offer of securities  
9 pursuant to this section must occur through the Internet website of  
10 the registered broker-dealer or registered crowdfunding portal.  
11 During the time the offering appears on the Internet website, the  
12 website must provide channels through which purchasers and  
13 prospective purchasers can communicate with one another and with  
14 representatives of the issuer about the offering. These  
15 communications must be visible to all those with access to the  
16 offering materials on the Internet website.

17 L. Notwithstanding subsection K of this section, the issuer may  
18 distribute a general public notice ("General Notice") within  
19 Oklahoma limited to a statement that the issuer is conducting an  
20 offering, the name of the registered broker-dealer or registered  
21 crowdfunding portal through which the offering is being conducted  
22 and a link directing the potential investor to the broker-dealer's  
23 or portal's Internet website.

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1 M. The Department shall immediately suspend the notice filing  
2 of an issuer in violation of subsection K of this section. If  
3 corrective action is not taken by the issuer, the Department shall  
4 enter a final order revoking the notice filing and terminating the  
5 offering.

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1-802 of Title 71, unless there  
8 is created a duplication in numbering, reads as follows:

9 The issuer must make available to potential investors and  
10 deliver to investors and the broker-dealer or registered portal,  
11 along with a copy to the Department at the time the notice is filed,  
12 a disclosure statement containing material information about the  
13 issuer and the offering, including, but not limited to:

14 1. The name, legal status, physical address and Internet  
15 website of the issuer;

16 2. The names of the directors, officers and control persons  
17 along with descriptions of each person's background and  
18 qualifications;

19 3. The names of each person holding more than twenty percent  
20 (20%) of the shares of the issuer;

21 4. A description of the business of the issuer and a history of  
22 the issuer's organization and operations;

23 5. A description of the stated purpose and intended use of the  
24 proceeds of the offering;

1       6. The target offering amount, the deadline to reach the target  
2 offering amount, and any minimum amount required to close the  
3 offering if such minimum is less than the target offering amount;

4       7. The price to the public of the securities along with the  
5 method for determining the price;

6       8. A description of the ownership and capital structure of the  
7 issuer including:

8           a. the terms under which each type and class of security  
9           is offered,

10          b. the rights granted to owners of each type and class of  
11          security, and

12          c. how the rights of the securities being offered may be  
13          affected by the rights of any other class of security  
14          of the issuer;

15       9. A description of the financial condition of the issuer to  
16 include:

17           a. a copy of the most recent tax return filed by the  
18           issuer, if any, and

19           b. financial statements for the previous three (3) years,  
20           or, for an issuer in business for less than three (3)  
21           years, financial statements for each year the issuer  
22           has been operating. The financial statements must be  
23           prepared in accordance with generally accepted  
24           accounting principles and certified by the principal

1 executive officer of the issuer to be true and  
2 complete in all material respects. The financial  
3 statements must be reviewed by a certified public  
4 accountant independent of the issuer using  
5 professional standards and procedures for such review  
6 or standards and procedures established by the  
7 Department for such purpose;

8 10. Any current or reasonably anticipated litigation or legal  
9 proceedings in which the issuer is involved;

10 11. The issuer shall inform all prospective purchasers and  
11 investors of the following:

- 12 a. there is no ready market for the sale of the  
13 securities acquired from this offering; it may be  
14 difficult or impossible for an investor to sell or  
15 otherwise dispose of this investment. An investor may  
16 be required to hold and bear the financial risks of  
17 this investment indefinitely,
- 18 b. the securities have not been registered under federal  
19 or state securities laws and, therefore, cannot be  
20 resold unless the securities are registered or qualify  
21 for an exemption from registration under federal and  
22 state law,
- 23 c. in making an investment decision, investors must rely  
24 on their own examination of the issuer and the terms

1 of the offering, including the merits and risks  
2 involved, and

3 d. no federal or state securities commission or  
4 regulatory authority has confirmed the accuracy or  
5 determined the adequacy of the disclosure statement or  
6 any other information on this Internet website.

7 SECTION 3. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-803 of Title 71, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. An issuer of securities claiming exemption under this  
11 section shall be a resident of and doing business within the State  
12 of Oklahoma.

13 B. An issuer shall be deemed to be a resident of Oklahoma if  
14 the issuer's principal place of business is located within the  
15 state. The issuer shall be deemed to have its principal place of  
16 business in Oklahoma if the officers, partners or managers of the  
17 issuer that primarily direct, control and coordinate the activities  
18 of the issuer are located within the State of Oklahoma.

19 C. An issuer shall be deemed to be doing business in Oklahoma  
20 if the issuer satisfies at least one of the following requirements:

21 1. The issuer derived at least eighty percent (80%) of its  
22 consolidated gross revenues from the operation of a business or of  
23 real property located in or from the rendering of services within  
24 the State of Oklahoma;

1           2. The issuer had at the end of its most recent semiannual  
2 fiscal period prior to an initial offer of securities in any  
3 offering or subsequent offering pursuant to this section, at least  
4 eighty percent (80%) of its assets and those of its subsidiaries on  
5 a consolidated basis located within the State of Oklahoma;

6           3. The issuer intends to use and uses at least eighty percent  
7 (80%) of the net proceeds to the issuer from sales made pursuant to  
8 this section in connection with the operation of a business or of  
9 real property, the purchase of real property located in, or the  
10 rendering of services within, the State of Oklahoma; or

11           4. A majority of the issuer's employees are based in such state  
12 or territory.

13           D. An issuer shall not be permitted to use this exemption if:

14           1. A company that has not yet defined its business operations,  
15 has no business plan, has no stated investment goal for the funds  
16 being raised, or that plans to engage in a merger or acquisition  
17 with an unspecified business entity;

18           2. Subject to the reporting requirements of the Securities and  
19 Exchange Act of 1934, Section 13 or Section 15(d), 15 U.S.C.,  
20 Section 78m and Section 78o(d);

21           3. A control person of the issuer is also a control person of  
22 another issuer that has made a securities offering under this  
23 exemption within the previous twelve-month period in Oklahoma;

1 4. A control person of the issuer is also a control person of  
2 another issuer that is concurrently conducting a securities offering  
3 under this exemption in Oklahoma; or

4 5. The proceeds of the offering will be combined with the  
5 proceeds of a securities offering by another issuer as part of a  
6 single plan of financing.

7 SECTION 4. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-804 of Title 71, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. Notwithstanding the foregoing, the following issuer is  
11 prohibited from offering securities under this section:

12 1. Within the last five (5) years, has filed a registration  
13 statement that is the subject of a currently effective registration  
14 stop order entered by any state securities administrator or the SEC;

15 2. Within the last five (5) years, has been convicted of any  
16 criminal offense in connection with the offer, purchase or sale of  
17 any security, or involving fraud or deceit;

18 3. Is currently subject to any state or federal administrative  
19 enforcement order or judgment, entered within the last five (5)  
20 years, finding fraud or deceit in connection with the purchase or  
21 sale of any security; or

22 4. Is currently subject to any order, judgment or decree of any  
23 court of competent jurisdiction, entered within the last five (5)  
24 years, temporarily, preliminarily or permanently restraining or

1 enjoining such party from engaging in or continuing to engage in any  
2 conduct or practice involving fraud or deceit in connection with the  
3 purchase or sale of any security.

4 B. An issuer may apply to the Administrator for a waiver from  
5 the prohibitions in paragraph 4 of subsection A of this section.  
6 Such application shall be in a form and manner prescribed by the  
7 Oklahoma Department of Securities. The Administrator in his or her  
8 discretion may grant such a waiver based on the specific facts and  
9 circumstances stated and submitted in writing and attested to under  
10 penalty of perjury where the Administrator determines such waiver is  
11 appropriate and in the public interest.

12 SECTION 5. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-805 of Title 71, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. All payments for purchases of securities offered under this  
16 section shall be directed to and deposited into an escrow account or  
17 segregated account if permitted under subsection B of this section.  
18 The payments must be held in an escrow account or a segregated  
19 account until the aggregate capital raised from all purchases is  
20 equal to or greater than the minimum target offering amount  
21 specified in the disclosure statement as necessary to implement the  
22 business plan. In the event that the target offering amount is not  
23 raised by the stated deadline in the disclosure statement, all  
24 subscribed funds will be returned to investors.

1 B. A segregated account may be used in lieu of an escrow  
2 account if the maximum offering amount is One Million Dollars  
3 (\$1,000,000.00) or less.

4 C. For purposes of this section:

5 1. An "escrow account" is one administered by an independent  
6 escrow agent who is a bank or other depositor institution; and

7 2. A "segregated account" is an account established by a  
8 registered broker-dealer or registered crowdfunding portal pursuant  
9 to a written agreement (Segregated Account Agreement) with the  
10 issuer and provides that the registered broker-dealer or registered  
11 portal will act on behalf of the issuer and investors to hold funds  
12 raised from investors in a specific securities offering until such  
13 time as those funds can be disbursed in accordance with subsection A  
14 of this section. The Segregated Account Agreement must identify the  
15 bank or other depository or financial institution and account number  
16 where the funds will be held. All signatories on the Segregated  
17 Account Agreement must be persons registered with the Oklahoma  
18 Department of Securities as an agent of a registered broker-dealer  
19 or registered portal.

20 D. The escrow account or segregated account must be held at a  
21 bank, depository or other financial institution authorized to do  
22 business in the State of Oklahoma and subject to regulation under  
23 the laws of the United States or under the laws of the State of  
24 Oklahoma.

1 E. Each security offering shall have a dedicated segregated  
2 account where a segregated account is used in lieu of an escrow  
3 account. The Segregated Account Agreement entered into in  
4 connection with a segregated account shall include requirements that  
5 the broker-dealer or registered portal shall administer the account  
6 according to the following standards:

7 1. Be responsible for prudent processing, safeguarding and  
8 accounting for funds entrusted to it by investors and the issuer;

9 2. Act to the advantage of and in the best interests of the  
10 investors and the issuer; and

11 3. Ensure that all requirements of the Segregated Account  
12 Agreement between the broker-dealer or portal and issuer are met  
13 before funds are distributed from the segregated account.

14 F. The registered broker-dealer or registered portal shall  
15 notify all prospective purchasers and investors if a segregated  
16 account is to be used to hold investor funds.

17 SECTION 6. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-806 of Title 71, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. The Internet website operated by a registered broker-dealer  
21 or registered portal must meet the following requirements:

22 1. The website must contain a disclaimer that reflects that the  
23 access to securities offerings on the website is limited to Oklahoma  
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1 residents and offers and sales of the securities appearing on the  
2 website are limited to persons that are Oklahoma residents;

3 2. Evidence of residency within Oklahoma is required before a  
4 sale may be made to a prospective purchaser. An affirmative  
5 representation made by a prospective purchaser that the prospective  
6 purchaser is an Oklahoma resident at least eighteen (18) years of  
7 age and proof of at least one of the following shall be required as  
8 evidence that the individual is a resident of Oklahoma:

- 9 a. a valid Oklahoma driver license or official  
10 identification card issued by the State of Oklahoma,
- 11 b. a current Oklahoma voter registration card, or
- 12 c. county property tax records showing the individual  
13 owns and occupies property in the State of Oklahoma as  
14 his or her primary residence.

15 3. Prior to offering securities to residents of Oklahoma and  
16 throughout the term of the offering, the registered broker-dealer or  
17 registered portal shall give the Oklahoma Department of Securities  
18 access to the Internet website.

19 B. Information about the issuer and the offering posted on the  
20 Internet website shall consist of:

21 1. A copy of the disclosure statement required in Section 2 of  
22 this act; and

23 2. A summary of the offering, including:  
24

1 a. a description of the entity, its form of business,  
2 principal office, history, business plan, and the  
3 intended use of the offering proceeds, including  
4 compensation paid to any owner, executive officer,  
5 director, or manager,

6 b. the identity of the executive officers, directors, and  
7 managers, including their titles and their prior  
8 experience and the identity of all persons owning more  
9 than twenty percent (20%) of the ownership interests  
10 of any class of securities of the company, and

11 c. a description of the securities being offered and of  
12 any outstanding securities of the company, the amount  
13 of the offering, and the percentage ownership of the  
14 company represented by the offered securities.

15 C. The information on the Internet website required by  
16 subsection B of this section must be made available to the  
17 Department and potential investors for a minimum of twenty (20) days  
18 ("Cooling Off Period") before any securities are sold in the  
19 offering.

20 D. Prior to permitting the purchase of securities listed on the  
21 Internet website, the portal shall obtain an affirmative  
22 acknowledgement from the investor of the same disclosures required  
23 under paragraph 11 of Section 2 of this act - Disclosure Statement.  
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1           SECTION 7.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-807 of Title 71, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. A crowdfunding portal (Portal) must be an entity:

5           1. With its principal place of business located within the  
6 State of Oklahoma;

7           2. Registered with the Secretary of State's office and  
8 authorized to conduct business in Oklahoma;

9           3. Engaged exclusively in intrastate offers and sales of  
10 securities in Oklahoma;

11           4. That limits its activities to operating an Internet website  
12 utilized to offer and sell securities exempt from registration  
13 pursuant to this act; and

14           5. That does not operate or facilitate a secondary market in  
15 securities.

16           B. A crowdfunding portal must file an application for  
17 registration with the Oklahoma Department of Securities consisting  
18 of at least the following:

19           1. An application in a form and manner to be prescribed by the  
20 Department, including any applicable schedules and supplemental  
21 information;

22           2. Form U-4 for each designated officer;  
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1           3. A copy of the articles of incorporation or organization  
2 certified by the Oklahoma Secretary of State or by an officer,  
3 director or partner of the applicant;

4           4. Any other information deemed necessary by the Department to  
5 determine the financial responsibility, business repute, or  
6 qualifications of the portal; and

7           5. The appropriate registration fee(s).

8           C. Registration as a portal expires at the close of the  
9 calendar year, but subsequent registration for the succeeding year  
10 shall be issued upon written application and upon payment of the  
11 appropriate renewal fee(s).

12           D. Prohibited Activities - A crowdfunding portal shall not:

13           1. Offer investment advice or recommendations;

14           2. Compensate employees, agents, or other persons not  
15 registered with the Securities Commissioner for soliciting offers or  
16 sales of securities displayed or referenced on its platform or  
17 portal;

18           3. Hold, manage, possess or otherwise handle investor funds or  
19 securities, except through the use of a segregated account if  
20 permitted under Section 5 of this act (relating to Intrastate  
21 Crowdfunding Exemption);

22           4. Be affiliated with or under common control with an issuer  
23 whose securities appear on the Internet website;

1           5. Hold a financial interest in any issuer offering securities  
2 on the portal's Internet website; or

3           6. Receive a financial interest in an issuer as compensation  
4 for services provided to or on behalf of an issuer.

5           E. Prior to offering securities to residents of Oklahoma, the  
6 crowdfunding portal shall conduct a reasonable investigation of the  
7 background and regulatory history of each issuer whose securities  
8 are offered on the portal's Internet website and of each of the  
9 issuer's control persons. "Control persons", for purposes of this  
10 subsection, means the issuer's officers, directors, or other persons  
11 having the power, directly or indirectly, to direct the management  
12 or policies of the issuer, whether by contract or otherwise, and  
13 persons holding more than twenty percent (20%) of the outstanding  
14 equity of the issuer. The portal must deny an issuer access to its  
15 Internet website if the portal has a reasonable basis for believing  
16 that:

17           1. The issuer or any of its control persons is subject to a  
18 disqualification under applicable law;

19           2. The issuer has engaged in, is engaging in, or the offering  
20 involves any act, practice, or course of business that will,  
21 directly or indirectly, operate as a fraud or deceit upon any  
22 person; or

23           3. It cannot adequately or effectively assess the risk of fraud  
24 by the issuer or its potential offering.

