

ASSEMBLY BILL

No. 722

Introduced by Assembly Member Perea

February 25, 2015

An act to amend Sections 25102, 25104, 25110, 25501, 25503, and 25608 of, and to add Section 25113.1 to, the Corporations Code, relating to securities.

LEGISLATIVE COUNSEL'S DIGEST

AB 722, as introduced, Perea. Securities transactions: qualifications by permit: liability.

Existing law, the Corporate Securities Law of 1968, requires securities offered or sold in this state in an issuer or nonissuer transaction to be qualified through an application filed with the Commissioner of Business Oversight, unless exempt from the qualification requirements. That law makes it unlawful, for a person in connection with the offer, sale, or purchase of a security, to engage in fraudulent or misleading acts or omissions.

This bill would authorize an applicant to file an application for qualification of the offer or sale of a security by crowdfunding permit if certain conditions are met, including that the total offering of securities by the applicant to be sold in a 12-month period, within or outside this state, is limited to \$1,000,000, less a specified amount; the aggregate amount of securities sold to any investor, including any amount sold during the 12-month period preceding the date of the transaction, does not exceed the lesser of \$5,000 or 10% of the net worth of that natural person; and the issuer will not, directly or indirectly, conduct any unsolicited telephone solicitation of the securities offered. This bill would also exempt from qualification requirements the offer of a security

in an issuer or nonissuer transaction for which an application for that qualification has been filed with the commissioner but has not yet become effective, as specified. This bill would impose a filing fee of \$200 plus $\frac{1}{5}$ of 2% of the aggregate value of the securities sought to be sold in this state.

Existing law provides that any person who violates a condition of qualification of the offer or sale of a security is liable to any person acquiring the security sold in violation, who may sue to recover the consideration paid for such security with interest thereon at the legal rate or for damages, as specified.

This bill would extend that provision to a violation of a condition of qualification by permit authorized by this bill. This bill would also require a court to award reasonable attorney's fees and costs, and authorize the award of treble and punitive damages, to a prevailing purchaser in an action brought against any person who violates those conditions of qualification by permit authorized by this bill.

Existing law imposes liability on any person who engages in specified unlawful activity to the person who purchases a security from him or sells a security to him, and authorizes the purchaser or seller to sue either for rescission or for damages.

This bill would provide that the plaintiff is not required to plead or prove that the defendant acted with scienter.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25102 of the Corporations Code is
2 amended to read:
3 25102. The following transactions are exempted from the
4 provisions of Section 25110:
5 (a) Any offer (but not a sale) not involving any public offering
6 and the execution and delivery of any agreement for the sale of
7 securities pursuant to the offer if (1) the agreement contains
8 substantially the following provision: "The sale of the securities
9 that are the subject of this agreement has not been qualified with
10 the Commissioner of Corporations of the State of California and
11 the issuance of the securities or the payment or receipt of any part
12 of the consideration therefor prior to the qualification is unlawful,
13 unless the sale of securities is exempt from the qualification by

1 Section 25100, 25102, or 25105 of the California Corporations
2 Code. The rights of all parties to this agreement are expressly
3 conditioned upon the qualification being obtained, unless the sale
4 is so exempt"; and (2) no part of the purchase price is paid or
5 received and none of the securities are issued until the sale of the
6 securities is qualified under this law unless the sale of securities
7 is exempt from the qualification by this section, Section 25100,
8 or 25105.

9 (b) Any offer (but not a sale) of a security for which (1) (A) a
10 registration statement has been filed under the Securities Act of
11 1933 but has not yet become effective, or for which an offering
12 statement under Regulation A has been filed but has not yet been
13 qualified, if no stop order or refusal order is in effect *or* (B) *an*
14 *application for qualification under Section 25113.1 has been filed*
15 *with the commissioner but has not yet become effective;* and (2)
16 no public proceeding or examination looking towards an order is
17 pending under Section 8 of the act and no order under Section
18 25140 or subdivision (a) of Section 25143 is in effect under this
19 law.

20 (c) Any offer (but not a sale) and the execution and delivery of
21 any agreement for the sale of securities pursuant to the offer as
22 may be permitted by the commissioner upon application. Any
23 negotiating permit under this subdivision shall be conditioned to
24 the effect that none of the securities may be issued and none of
25 the consideration therefor may be received or accepted until the
26 sale of the securities is qualified under this law.

27 (d) Any transaction or agreement between the issuer and an
28 underwriter or among underwriters if the sale of the securities is
29 qualified, or exempt from qualification, at the time of distribution
30 thereof in this state, if any.

31 (e) Any offer or sale of any evidence of indebtedness, whether
32 secured or unsecured, and any guarantee thereof, in a transaction
33 not involving any public offering.

34 (f) Any offer or sale of any security in a transaction (other than
35 an offer or sale to a pension or profit-sharing trust of the issuer)
36 that meets each of the following criteria:

37 (1) Sales of the security are not made to more than 35 persons,
38 including persons not in this state.

39 (2) All purchasers either have a preexisting personal or business
40 relationship with the offeror or any of its partners, officers,

1 directors or controlling persons, or managers (as appointed or
2 elected by the members) if the offeror is a limited liability
3 company, or by reason of their business or financial experience or
4 the business or financial experience of their professional advisers
5 who are unaffiliated with and who are not compensated by the
6 issuer or any affiliate or selling agent of the issuer, directly or
7 indirectly, could be reasonably assumed to have the capacity to
8 protect their own interests in connection with the transaction.

9 (3) Each purchaser represents that the purchaser is purchasing
10 for the purchaser's own account (or a trust account if the purchaser
11 is a trustee) and not with a view to or for sale in connection with
12 any distribution of the security.

13 (4) The offer and sale of the security is not accomplished by
14 the publication of any advertisement. The number of purchasers
15 referred to above is exclusive of any described in subdivision (i),
16 any officer, director, or affiliate of the issuer, or manager (as
17 appointed or elected by the members) if the issuer is a limited
18 liability company, and any other purchaser who the commissioner
19 designates by rule. For purposes of this section, a husband and
20 wife (together with any custodian or trustee acting for the account
21 of their minor children) are counted as one person and a
22 partnership, corporation, or other organization that was not
23 specifically formed for the purpose of purchasing the security
24 offered in reliance upon this exemption, is counted as one person.
25 The commissioner shall by rule require the issuer to file a notice
26 of transactions under this subdivision.

27 The failure to file the notice or the failure to file the notice within
28 the time specified by the rule of the commissioner shall not affect
29 the availability of the exemption. Any issuer that fails to file the
30 notice as provided by rule of the commissioner shall, within 15
31 business days after discovery of the failure to file the notice or
32 after demand by the commissioner, whichever occurs first, file the
33 notice and pay to the commissioner a fee equal to the fee payable
34 had the transaction been qualified under Section 25110. Neither
35 the filing of the notice nor the failure by the commissioner to
36 comment thereon precludes the commissioner from taking any
37 action that the commissioner deems necessary or appropriate under
38 this division with respect to the offer and sale of the securities.

39 (g) Any offer or sale of conditional sale agreements, equipment
40 trust certificates, or certificates of interest or participation therein

1 or partial assignments thereof, covering the purchase of railroad
2 rolling stock or equipment or the purchase of motor vehicles,
3 aircraft, or parts thereof, in a transaction not involving any public
4 offering.

5 (h) Any offer or sale of voting common stock by a corporation
6 incorporated in any state if, immediately after the proposed sale
7 and issuance, there will be only one class of stock of the
8 corporation outstanding that is owned beneficially by no more than
9 35 persons, provided all of the following requirements have been
10 met:

11 (1) The offer and sale of the stock is not accompanied by the
12 publication of any advertisement, and no selling expenses have
13 been given, paid, or incurred in connection therewith.

14 (2) The consideration to be received by the issuer for the stock
15 to be issued consists of any of the following:

16 (A) Only assets (which may include cash) of an existing business
17 enterprise transferred to the issuer upon its initial organization, of
18 which all of the persons who are to receive the stock to be issued
19 pursuant to this exemption were owners during, and the enterprise
20 was operated for, a period of not less than one year immediately
21 preceding the proposed issuance, and the ownership of the
22 enterprise immediately prior to the proposed issuance was in the
23 same proportions as the shares of stock are to be issued.

24 (B) Only cash or cancellation of indebtedness for money
25 borrowed, or both, upon the initial organization of the issuer,
26 provided all of the stock is issued for the same price per share.

27 (C) Only cash, provided the sale is approved in writing by each
28 of the existing shareholders and the purchaser or purchasers are
29 existing shareholders.

30 (D) In a case where after the proposed issuance there will be
31 only one owner of the stock of the issuer, only any legal
32 consideration.

33 (3) No promotional consideration has been given, paid, or
34 incurred in connection with the issuance. Promotional consideration
35 means any consideration paid directly or indirectly to a person
36 who, acting alone or in conjunction with one or more other persons,
37 takes the initiative in founding and organizing the business or
38 enterprise of an issuer for services rendered in connection with the
39 founding or organizing.

1 (4) A notice in a form prescribed by rule of the commissioner,
2 signed by an active member of the State Bar of California, is filed
3 with or mailed for filing to the commissioner not later than 10
4 business days after receipt of consideration for the securities by
5 the issuer. That notice shall contain an opinion of the member of
6 the State Bar of California that the exemption provided by this
7 subdivision is available for the offer and sale of the securities. The
8 failure to file the notice as required by this subdivision and the
9 rules of the commissioner shall not affect the availability of this
10 exemption. An issuer who fails to file the notice within the time
11 specified by this subdivision shall, within 15 business days after
12 discovery of the failure to file the notice or after demand by the
13 commissioner, whichever occurs first, file the notice and pay to
14 the commissioner a fee equal to the fee payable had the transaction
15 been qualified under Section 25110. The notice, except when filed
16 on behalf of a California corporation, shall be accompanied by an
17 irrevocable consent, in the form that the commissioner by rule
18 prescribes, appointing the commissioner or his or her successor in
19 office to be the issuer's attorney to receive service of any lawful
20 process in any noncriminal suit, action, or proceeding against it
21 or its successor that arises under this law or any rule or order
22 hereunder after the consent has been filed, with the same force and
23 validity as if served personally on the issuer. An issuer on whose
24 behalf a consent has been filed in connection with a previous
25 qualification or exemption from qualification under this law (or
26 application for a permit under any prior law if the application or
27 notice under this law states that the consent is still effective) need
28 not file another. Service may be made by leaving a copy of the
29 process in the office of the commissioner, but it is not effective
30 unless (A) the plaintiff, who may be the commissioner in a suit,
31 action, or proceeding instituted by him or her, forthwith sends
32 notice of the service and a copy of the process by registered or
33 certified mail to the defendant or respondent at its last address on
34 file with the commissioner, and (B) the plaintiff's affidavit of
35 compliance with this section is filed in the case on or before the
36 return day of the process, if any, or within the further time as the
37 court allows.

38 (5) Each purchaser represents that the purchaser is purchasing
39 for the purchaser's own account, or a trust account if the purchaser

1 is a trustee, and not with a view to or for sale in connection with
2 any distribution of the stock.

3 For the purposes of this subdivision, all securities held by a
4 husband and wife, whether or not jointly, shall be considered to
5 be owned by one person, and all securities held by a corporation
6 that has issued stock pursuant to this exemption shall be considered
7 to be held by the shareholders to whom it has issued the stock.

8 All stock issued by a corporation pursuant to this subdivision as
9 it existed prior to the effective date of the amendments to this
10 section made during the 1996 portion of the 1995–96 Regular
11 Session that required the issuer to have stamped or printed
12 prominently on the face of the stock certificate a legend in a form
13 prescribed by rule of the commissioner restricting transfer of the
14 stock in a manner provided for by that rule shall not be subject to
15 the transfer restriction legend requirement and, by operation of
16 law, the corporation is authorized to remove that transfer restriction
17 legend from the certificates of those shares of stock issued by the
18 corporation pursuant to this subdivision as it existed prior to the
19 effective date of the amendments to this section made during the
20 1996 portion of the 1995–96 Regular Session.

21 (i) Any offer or sale (1) to a bank, savings and loan association,
22 trust company, insurance company, investment company registered
23 under the Investment Company Act of 1940, pension or
24 profit-sharing trust (other than a pension or profit-sharing trust of
25 the issuer, a self-employed individual retirement plan, or individual
26 retirement account), or other institutional investor or governmental
27 agency or instrumentality that the commissioner may designate
28 by rule, whether the purchaser is acting for itself or as trustee, or
29 (2) to any corporation with outstanding securities registered under
30 Section 12 of the Securities Exchange Act of 1934 or any wholly
31 owned subsidiary of the corporation that after the offer and sale
32 will own directly or indirectly 100 percent of the outstanding
33 capital stock of the issuer, provided the purchaser represents that
34 it is purchasing for its own account (or for the trust account) for
35 investment and not with a view to or for sale in connection with
36 any distribution of the security.

37 (j) Any offer or sale of any certificate of interest or participation
38 in an oil or gas title or lease (including subsurface gas storage and
39 payments out of production) if either of the following apply:

40 (1) All of the purchasers meet one of the following requirements:

1 (A) Are and have been during the preceding two years engaged
2 primarily in the business of drilling for, producing, or refining oil
3 or gas (or whose corporate predecessor, in the case of a corporation,
4 has been so engaged).

5 (B) Are persons described in paragraph (1) of subdivision (i).

6 (C) Have been found by the commissioner upon written
7 application to be substantially engaged in the business of drilling
8 for, producing, or refining oil or gas so as not to require the
9 protection provided by this law (which finding shall be effective
10 until rescinded).

11 (2) The security is concurrently hypothecated to a bank in the
12 ordinary course of business to secure a loan made by the bank,
13 provided that each purchaser represents that it is purchasing for
14 its own account for investment and not with a view to or for sale
15 in connection with any distribution of the security.

16 (k) Any offer or sale of any security under, or pursuant to, a
17 plan of reorganization under Chapter 11 of the federal bankruptcy
18 law that has been confirmed or is subject to confirmation by the
19 decree or order of a court of competent jurisdiction.

20 (l) Any offer or sale of an option, warrant, put, call, or straddle,
21 and any guarantee of any of these securities, by a person who is
22 not the issuer of the security subject to the right, if the transaction,
23 had it involved an offer or sale of the security subject to the right
24 by the person, would not have violated Section 25110 or 25130.

25 (m) Any offer or sale of a stock to a pension, profit-sharing,
26 stock bonus, or employee stock ownership plan, provided that (1)
27 the plan meets the requirements for qualification under Section
28 401 of the Internal Revenue Code, and (2) the employees are not
29 required or permitted individually to make any contributions to
30 the plan. The exemption provided by this subdivision shall not be
31 affected by whether the stock is contributed to the plan, purchased
32 from the issuer with contributions by the issuer or an affiliate of
33 the issuer, or purchased from the issuer with funds borrowed from
34 the issuer, an affiliate of the issuer, or any other lender.

35 (n) Any offer or sale of any security in a transaction, other than
36 an offer or sale of a security in a rollup transaction, that meets all
37 of the following criteria:

38 (1) The issuer is (A) a California corporation or foreign
39 corporation that, at the time of the filing of the notice required
40 under this subdivision, is subject to Section 2115, or (B) any other

1 form of business entity, including without limitation a partnership
2 or trust organized under the laws of this state. The exemption
3 provided by this subdivision is not available to a “blind pool”
4 issuer, as that term is defined by the commissioner, or to an
5 investment company subject to the Investment Company Act of
6 1940.

7 (2) Sales of securities are made only to qualified purchasers or
8 other persons the issuer reasonably believes, after reasonable
9 inquiry, to be qualified purchasers. A corporation, partnership, or
10 other organization specifically formed for the purpose of acquiring
11 the securities offered by the issuer in reliance upon this exemption
12 may be a qualified purchaser if each of the equity owners of the
13 corporation, partnership, or other organization is a qualified
14 purchaser. Qualified purchasers include the following:

15 (A) A person designated in Section 260.102.13 of Title 10 of
16 the California Code of Regulations.

17 (B) A person designated in subdivision (i) or any rule of the
18 commissioner adopted thereunder.

19 (C) A pension or profit-sharing trust of the issuer, a
20 self-employed individual retirement plan, or an individual
21 retirement account, if the investment decisions made on behalf of
22 the trust, plan, or account are made solely by persons who are
23 qualified purchasers.

24 (D) An organization described in Section 501(c)(3) of the
25 Internal Revenue Code, corporation, Massachusetts or similar
26 business trust, or partnership, each with total assets in excess of
27 five million dollars (\$5,000,000) according to its most recent
28 audited financial statements.

29 (E) With respect to the offer and sale of one class of voting
30 common stock of an issuer or of preferred stock of an issuer
31 entitling the holder thereof to at least the same voting rights as the
32 issuer’s one class of voting common stock, provided that the issuer
33 has only one-class voting common stock outstanding upon
34 consummation of the offer and sale, a natural person who, either
35 individually or jointly with the person’s spouse, (i) has a minimum
36 net worth of two hundred fifty thousand dollars (\$250,000) and
37 had, during the immediately preceding tax year, gross income in
38 excess of one hundred thousand dollars (\$100,000) and reasonably
39 expects gross income in excess of one hundred thousand dollars
40 (\$100,000) during the current tax year or (ii) has a minimum net

1 worth of five hundred thousand dollars (\$500,000). “Net worth”
2 shall be determined exclusive of home, home furnishings, and
3 automobiles. Other assets included in the computation of net worth
4 may be valued at fair market value.

5 Each natural person specified above, by reason of his or her
6 business or financial experience, or the business or financial
7 experience of his or her professional adviser, who is unaffiliated
8 with and who is not compensated, directly or indirectly, by the
9 issuer or any affiliate or selling agent of the issuer, can be
10 reasonably assumed to have the capacity to protect his or her
11 interests in connection with the transaction. The amount of the
12 investment of each natural person shall not exceed 10 percent of
13 the net worth, as determined by this subparagraph, of that natural
14 person.

15 (F) Any other purchaser designated as qualified by rule of the
16 commissioner.

17 (3) Each purchaser represents that the purchaser is purchasing
18 for the purchaser’s own account (or trust account, if the purchaser
19 is a trustee) and not with a view to or for sale in connection with
20 a distribution of the security.

21 (4) Each natural person purchaser, including a corporation,
22 partnership, or other organization specifically formed by natural
23 persons for the purpose of acquiring the securities offered by the
24 issuer, receives, at least five business days before securities are
25 sold to, or a commitment to purchase is accepted from, the
26 purchaser, a written offering disclosure statement that shall meet
27 the disclosure requirements of Regulation D (17 C.F.R. 230.501
28 et seq.), and any other information as may be prescribed by rule
29 of the commissioner, provided that the issuer shall not be obligated
30 pursuant to this paragraph to provide this disclosure statement to
31 a natural person qualified under Section 260.102.13 of Title 10 of
32 the California Code of Regulations. The offer or sale of securities
33 pursuant to a disclosure statement required by this paragraph that
34 is in violation of Section 25401, or that fails to meet the disclosure
35 requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall
36 not render unavailable to the issuer the claim of an exemption from
37 Section 25110 afforded by this subdivision. This paragraph does
38 not impose, directly or indirectly, any additional disclosure
39 obligation with respect to any other exemption from qualification
40 available under any other provision of this section.

1 (5) (A) A general announcement of proposed offering may be
2 published by written document only, provided that the general
3 announcement of proposed offering sets forth the following
4 required information:

- 5 (i) The name of the issuer of the securities.
- 6 (ii) The full title of the security to be issued.
- 7 (iii) The anticipated suitability standards for prospective
8 purchasers.
- 9 (iv) A statement that (I) no money or other consideration is
10 being solicited or will be accepted, (II) an indication of interest
11 made by a prospective purchaser involves no obligation or
12 commitment of any kind, and, if the issuer is required by paragraph
13 (4) to deliver a disclosure statement to prospective purchasers,
14 (III) no sales will be made or commitment to purchase accepted
15 until five business days after delivery of a disclosure statement
16 and subscription information to the prospective purchaser in
17 accordance with the requirements of this subdivision.
- 18 (v) Any other information required by rule of the commissioner.
- 19 (vi) The following legend: “For more complete information
20 about (Name of Issuer) and (Full Title of Security), send for
21 additional information from (Name and Address) by sending this
22 coupon or calling (Telephone Number).”

23 (B) The general announcement of proposed offering referred
24 to in subparagraph (A) may also set forth the following
25 information:

- 26 (i) A brief description of the business of the issuer.
- 27 (ii) The geographic location of the issuer and its business.
- 28 (iii) The price of the security to be issued, or, if the price is not
29 known, the method of its determination or the probable price range
30 as specified by the issuer, and the aggregate offering price.

31 (C) The general announcement of proposed offering shall
32 contain only the information that is set forth in this paragraph.

33 (D) Dissemination of the general announcement of proposed
34 offering to persons who are not qualified purchasers, without more,
35 shall not disqualify the issuer from claiming the exemption under
36 this subdivision.

37 (6) No telephone solicitation shall be permitted until the issuer
38 has determined that the prospective purchaser to be solicited is a
39 qualified purchaser.

1 (7) The issuer files a notice of transaction under this subdivision
2 both (A) concurrent with the publication of a general announcement
3 of proposed offering or at the time of the initial offer of the
4 securities, whichever occurs first, accompanied by a filing fee, and
5 (B) within 10 business days following the close or abandonment
6 of the offering, but in no case more than 210 days from the date
7 of filing the first notice. The first notice of transaction under
8 subparagraph (A) shall contain an undertaking, in a form acceptable
9 to the commissioner, to deliver any disclosure statement required
10 by paragraph (4) to be delivered to prospective purchasers, and
11 any supplement thereto, to the commissioner within 10 days of
12 the commissioner's request for the information. The exemption
13 from qualification afforded by this subdivision is unavailable if
14 an issuer fails to file the first notice required under subparagraph
15 (A) or to pay the filing fee. The commissioner has the authority
16 to assess an administrative penalty of up to one thousand dollars
17 (\$1,000) against an issuer that fails to deliver the disclosure
18 statement required to be delivered to the commissioner upon the
19 commissioner's request within the time period set forth above.
20 Neither the filing of the disclosure statement nor the failure by the
21 commissioner to comment thereon precludes the commissioner
22 from taking any action deemed necessary or appropriate under this
23 division with respect to the offer and sale of the securities.

24 (o) An offer or sale of any security issued by a corporation or
25 limited liability company pursuant to a purchase plan or agreement,
26 or issued pursuant to an option plan or agreement, where the
27 security at the time of issuance or grant is exempt from registration
28 under the Securities Act of 1933, as amended, pursuant to Rule
29 701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions
30 of which are hereby incorporated by reference into this section,
31 provided that (1) the terms of any purchase plan or agreement shall
32 comply with Sections 260.140.42, 260.140.45, and 260.140.46 of
33 Title 10 of the California Code of Regulations, (2) the terms of
34 any option plan or agreement shall comply with Sections
35 260.140.41, 260.140.45, and 260.140.46 of Title 10 of the
36 California Code of Regulations, and (3) the issuer files a notice of
37 transaction in accordance with rules adopted by the commissioner
38 no later than 30 days after the initial issuance of any security under
39 that plan, accompanied by a filing fee as prescribed by subdivision
40 (y) of Section 25608. The failure to file the notice of transaction

1 within the time specified in this subdivision shall not affect the
2 availability of this exemption. An issuer that fails to file the notice
3 shall, within 15 business days after discovery of the failure to file
4 the notice or after demand by the commissioner, whichever occurs
5 first, file the notice and pay the commissioner a fee equal to the
6 maximum aggregate fee payable had the transaction been qualified
7 under Section 25110.

8 Offers and sales exempt pursuant to this subdivision shall be
9 deemed to be part of a single, discrete offering and are not subject
10 to integration with any other offering or sale, whether qualified
11 under Chapter 2 (commencing with Section 25110), or otherwise
12 exempt, or not subject to qualification.

13 (p) An offer or sale of nonredeemable securities to accredited
14 investors (Section 28031) by a person licensed under the Capital
15 Access Company Law (Division 3 (commencing with Section
16 28000) of Title 4), provided that all purchasers either (1) have a
17 preexisting personal or business relationship with the offeror or
18 any of its partners, officers, directors, controlling persons, or
19 managers (as appointed or elected by the members), or (2) by
20 reason of their business or financial experience or the business or
21 financial experience of their professional advisers who are
22 unaffiliated with and who are not compensated by the issuer or
23 any affiliate or selling agent of the issuer, directly or indirectly,
24 could be reasonably assumed to have the capacity to protect their
25 own interests in connection with the transaction. All nonredeemable
26 securities shall be evidenced by certificates that shall have stamped
27 or printed prominently on their face a legend in a form to be
28 prescribed by rule or order of the commissioner restricting transfer
29 of the securities in the manner as the rule or order provides. The
30 exemption under this subdivision shall not be available for any
31 offering that is exempt or asserted to be exempt pursuant to Section
32 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Sec. 77c(a)(11))
33 or Rule 147 (17 C.F.R. 230.147) thereunder or otherwise is
34 conducted by means of any form of general solicitation or general
35 advertising.

36 (q) Any offer or sale of any viatical or life settlement contract
37 or fractionalized or pooled interest therein in a transaction that
38 meets all of the following criteria:

39 (1) Sales of securities described in this subdivision are made
40 only to qualified purchasers or other persons the issuer reasonably

1 believes, after reasonable inquiry, to be qualified purchasers. A
2 corporation, partnership, or other organization specifically formed
3 for the purpose of acquiring the securities offered by the issuer in
4 reliance upon this exemption may be a qualified purchaser only if
5 each of the equity owners of the corporation, partnership, or other
6 organization is a qualified purchaser. Qualified purchasers include
7 the following:

8 (A) A person designated in Section 260.102.13 of Title 10 of
9 the California Code of Regulations.

10 (B) A person designated in subdivision (i) or any rule of the
11 commissioner adopted thereunder.

12 (C) A pension or profit-sharing trust of the issuer, a
13 self-employed individual retirement plan, or an individual
14 retirement account, if the investment decisions made on behalf of
15 the trust, plan, or account are made solely by persons who are
16 qualified purchasers.

17 (D) An organization described in Section 501(c)(3) of the
18 Internal Revenue Code, corporation, Massachusetts or similar
19 business trust, or partnership, each with total assets in excess of
20 five million dollars (\$5,000,000) according to its most recent
21 audited financial statements.

22 (E) A natural person who, either individually or jointly with the
23 person's spouse, (i) has a minimum net worth of one hundred fifty
24 thousand dollars (\$150,000) and had, during the immediately
25 preceding tax year, gross income in excess of one hundred thousand
26 dollars (\$100,000) and reasonably expects gross income in excess
27 of one hundred thousand dollars (\$100,000) during the current tax
28 year or (ii) has a minimum net worth of two hundred fifty thousand
29 dollars (\$250,000). "Net worth" shall be determined exclusive of
30 home, home furnishings, and automobiles. Other assets included
31 in the computation of net worth may be valued at fair market value.

32 Each natural person specified above, by reason of his or her
33 business or financial experience, or the business or financial
34 experience of his or her professional adviser, who is unaffiliated
35 with and who is not compensated, directly or indirectly, by the
36 issuer or any affiliate or selling agent of the issuer, can be
37 reasonably assumed to have the capacity to protect his or her
38 interests in connection with the transaction.

1 The amount of the investment of each natural person shall not
2 exceed 10 percent of the net worth, as determined by this
3 subdivision, of that natural person.

4 (F) Any other purchaser designated as qualified by rule of the
5 commissioner.

6 (2) Each purchaser represents that the purchaser is purchasing
7 for the purchaser's own account (or trust account, if the purchaser
8 is a trustee) and not with a view to or for sale in connection with
9 a distribution of the security.

10 (3) Each natural person purchaser, including a corporation,
11 partnership, or other organization specifically formed by natural
12 persons for the purpose of acquiring the securities offered by the
13 issuer, receives, at least five business days before securities
14 described in this subdivision are sold to, or a commitment to
15 purchase is accepted from, the purchaser, the following information
16 in writing:

17 (A) The name, principal business and mailing address, and
18 telephone number of the issuer.

19 (B) The suitability standards for prospective purchasers as set
20 forth in paragraph (1) of this subdivision.

21 (C) A description of the issuer's type of business organization
22 and the state in which the issuer is organized or incorporated.

23 (D) A brief description of the business of the issuer.

24 (E) If the issuer retains ownership or becomes the beneficiary
25 of the insurance policy, an audit report of an independent certified
26 public accountant together with a balance sheet and related
27 statements of income, retained earnings, and cashflows that reflect
28 the issuer's financial position, the results of the issuer's operations,
29 and the issuer's cashflows as of a date within 15 months before
30 the date of the initial issuance of the securities described in this
31 subdivision. The financial statements listed in this subparagraph
32 shall be prepared in conformity with generally accepted accounting
33 principles. If the date of the audit report is more than 120 days
34 before the date of the initial issuance of the securities described
35 in this subdivision, the issuer shall provide unaudited interim
36 financial statements.

37 (F) The names of all directors, officers, partners, members, or
38 trustees of the issuer.

39 (G) A description of any order, judgment, or decree that is final
40 as to the issuing entity of any state, federal, or foreign country

1 governmental agency or administrator, or of any state, federal, or
2 foreign country court of competent jurisdiction (i) revoking,
3 suspending, denying, or censuring for cause any license, permit,
4 or other authority of the issuer or of any director, officer, partner,
5 member, trustee, or person owning or controlling, directly or
6 indirectly, 10 percent or more of the outstanding interest or equity
7 securities of the issuer, to engage in the securities, commodities,
8 franchise, insurance, real estate, or lending business or in the offer
9 or sale of securities, commodities, franchises, insurance, real estate,
10 or loans, (ii) permanently restraining, enjoining, barring,
11 suspending, or censuring any such person from engaging in or
12 continuing any conduct, practice, or employment in connection
13 with the offer or sale of securities, commodities, franchises,
14 insurance, real estate, or loans, (iii) convicting any such person
15 of, or pleading nolo contendere by any such person to, any felony
16 or misdemeanor involving a security, commodity, franchise,
17 insurance, real estate, or loan, or any aspect of the securities,
18 commodities, franchise, insurance, real estate, or lending business,
19 or involving dishonesty, fraud, deceit, embezzlement, fraudulent
20 conversion, or misappropriation of property, or (iv) holding any
21 such person liable in a civil action involving breach of a fiduciary
22 duty, fraud, deceit, embezzlement, fraudulent conversion, or
23 misappropriation of property. This subparagraph does not apply
24 to any order, judgment, or decree that has been vacated, overturned,
25 or is more than 10 years old.

26 (H) Notice of the purchaser's right to rescind or cancel the
27 investment and receive a refund pursuant to Section 25508.5.

28 (I) The name, address, and telephone number of the issuing
29 insurance company, and the name, address, and telephone number
30 of the state or foreign country regulator of the insurance company.

31 (J) The total face value of the insurance policy and the
32 percentage of the insurance policy the purchaser will own.

33 (K) The insurance policy number, issue date, and type.

34 (L) If a group insurance policy, the name, address, and telephone
35 number of the group, and, if applicable, the material terms and
36 conditions of converting the policy to an individual policy,
37 including the amount of increased premiums.

38 (M) If a term insurance policy, the term and the name, address,
39 and telephone number of the person who will be responsible for
40 renewing the policy if necessary.

1 (N) That the insurance policy is beyond the state statute for
2 contestability and the reason therefor.

3 (O) The insurance policy premiums and terms of premium
4 payments.

5 (P) The amount of the purchaser's moneys that will be set aside
6 to pay premiums.

7 (Q) The name, address, and telephone number of the person
8 who will be the insurance policy owner and the person who will
9 be responsible for paying premiums.

10 (R) The date on which the purchaser will be required to pay
11 premiums and the amount of the premium, if known.

12 (S) A statement to the effect that any projected rate of return to
13 the purchaser from the purchase of a viatical or life settlement
14 contract or a fractionalized or pooled interest therein is based on
15 an estimated life expectancy for the person insured under the life
16 insurance policy; that the return on the purchase may vary
17 substantially from the expected rate of return based upon the actual
18 life expectancy of the insured that may be less than, equal to, or
19 may greatly exceed the estimated life expectancy; and that the rate
20 of return would be higher if the actual life expectancy were less
21 than, and lower if the actual life expectancy were greater than the
22 estimated life expectancy of the insured at the time the viatical or
23 life settlement contract was closed.

24 (T) A statement that the purchaser should consult with his or
25 her tax adviser regarding the tax consequences of the purchase of
26 the viatical or life settlement contract or fractionalized or pooled
27 interest therein and, if the purchaser is using retirement funds or
28 accounts for that purchase, whether or not any adverse tax
29 consequences might result from the use of those funds for the
30 purchase of that investment.

31 (U) Any other information as may be prescribed by rule of the
32 commissioner.

33 SEC. 2. Section 25104 of the Corporations Code is amended
34 to read:

35 25104. The following transactions are exempted from the
36 provisions of Section 25130:

37 (a) Any offer or sale of a security by the bona fide owner thereof
38 for his or her own account if the sale (1) is not accompanied by
39 the publication of any advertisement and (2) is not effected by or
40 through a broker-dealer in a public offering.

1 (b) Any offer or sale effected by or through a licensed
2 broker-dealer pursuant to an unsolicited order or offer to buy. For
3 the purpose of this subdivision, an inquiry regarding a written bid
4 for a security or a written solicitation of an offer to sell a security
5 made by another broker-dealer within the previous 60 days shall
6 not be considered the solicitation of an order or offer to buy.

7 (c) Any offer or sale to a bank, savings and loan association,
8 trust company, insurance company, investment company registered
9 under the Investment Company Act of 1940, pension or
10 profit-sharing trust (other than a pension or profit-sharing trust of
11 the issuer, a self-employed individual retirement plan, or individual
12 retirement account), or such other institutional investor or
13 governmental agency or instrumentality as the commissioner may
14 designate by rule, whether the purchaser is acting for itself or as
15 trustee; provided the purchaser represents that it is purchasing for
16 its own account (or for the trust account) for investment and not
17 with a view to or for sale in connection with any distribution of
18 the security.

19 (d) Any transaction or agreement between a person on whose
20 behalf an offering is made and an underwriter or among
21 underwriters, if the sale of the securities is exempt from
22 qualification at the time of or qualified prior to distribution in this
23 state, if any.

24 (e) Any offer or sale of any security by or for the account of a
25 bona fide secured party selling the security in the ordinary course
26 of business to liquidate a bona fide debt.

27 (f) Any transaction by an executor, administrator, sheriff,
28 marshal, receiver, trustee in bankruptcy, guardian, or conservator.

29 (g) Any offer (but not a sale) of a security for which (1) (A) a
30 registration statement has been filed under the Securities Act of
31 1933 but has not yet become effective, or for which an offering
32 statement under Regulation A has been filed but has not yet been
33 qualified, if no stop order or refusal order is in effect and no public
34 proceeding or examination looking toward such an order is pending
35 under Section 8 of that act *or* (B) *an application for qualification*
36 *under Section 25113.1 has been filed with the commissioner but*
37 *has not yet become effective; and (2) no order under Section 25140*
38 *or subdivision (a) of Section 25143 is in effect under this division.*

39 (h) Any offer or sale of a security if a qualification under
40 Chapter 2 (commencing with Section 25110) of this part for any

1 securities of the same class has become effective within 18 months,
2 or longer period as the commissioner may order provided that each
3 consecutive order shall be for no more than six months, prior to
4 the offer or sale or if a qualification under Chapter 3 (commencing
5 with Section 25120) or Chapter 4 (commencing with Section
6 25130) of this part for any securities of the same class has become
7 effective within 12 months prior to that offer or sale, provided no
8 order under Section 25140 or subdivision (a) of Section 25143 is
9 in effect under this division with respect to the qualification, and,
10 provided further, that this exemption does not apply to securities
11 offered pursuant to a registration under the Securities Act of 1933
12 or pursuant to an exemption under Regulation A under that act if
13 the aggregate offering price of the securities offered under such
14 exemption exceeds fifty thousand dollars (\$50,000). The
15 commissioner may, by rule or order, withhold this exemption with
16 respect to securities qualified only pursuant to a limited offering
17 qualification.

18 SEC. 3. Section 25110 of the Corporations Code is amended
19 to read:

20 25110. It is unlawful for any person to offer or sell in this state
21 any security in an issuer transaction (other than in a transaction
22 subject to Section 25120), whether or not by or through
23 underwriters, unless such sale has been qualified under Section
24 25111, 25112 ~~or 25113~~, 25113, or 25113.1 (and no order under
25 Section 25140 or subdivision (a) of Section 25143 is in effect with
26 respect to such qualification) or unless such security or transaction
27 is exempted or not subject to qualification under Chapter 1
28 (commencing with Section 25100) of this part. The offer or sale
29 of such a security in a manner that varies or differs from, exceeds
30 the scope of, or fails to conform with either a material term or
31 material condition of qualification of the offering as set forth in
32 the permit or qualification order, or a material representation as
33 to the manner of offering which is set forth in the application for
34 qualification, shall be an unqualified offer or sale.

35 SEC. 4. Section 25113.1 is added to the Corporations Code,
36 to read:

37 25113.1. (a) Any offer or sale of any security that meets all
38 of the conditions in subdivision (b) may be qualified by permit
39 under this section.

1 (b) (1) An application for a crowdfunding permit under this
2 section shall contain any information and be accompanied by any
3 documents as shall be required by rule of the commissioner, in
4 addition to the information specified in Section 25160 and the
5 consent to service of process required by Section 25165. For this
6 purpose, the commissioner may classify issuers and types of
7 securities.

8 (2) An applicant may file an application for a crowdfunding
9 permit under this section if it meets all of the following conditions:

10 (A) The applicant is: (i) a California corporation or a foreign
11 corporation, which at the time of filing an application under this
12 subdivision is subject to Section 2115, and neither corporation is
13 a “blind pool” company, as that term is defined by the
14 commissioner; (ii) not issuing fractional undivided interests in oil
15 or gas rights, or a similar interest in other mineral rights; (iii) not
16 an investment company subject to the Investment Company Act
17 of 1940; and (iv) not subject to the reporting requirements of
18 Section 13 or 15(d) of the Securities Exchange Act of 1934.

19 (B) The total offering of securities by the applicant to be sold
20 in a 12-month period, within or outside this state, is limited to one
21 million dollars (\$1,000,000), less the aggregate offering price for
22 all securities sold (within the 12 months before the start, and during
23 the offering, of the securities) under Rule 504 (17 C.F.R. 230.504)
24 under the Securities Act of 1933 or in violation of subdivision (a)
25 of Section 5 of that act.

26 (C) Offers and sales made in reliance on this section will not
27 be integrated with: (i) prior offers or sales of securities; or (ii)
28 subsequent offers or sales of securities that are (I) registered under
29 the Securities Act of 1933; (II) made pursuant to Rule 701 (17
30 C.F.R. 230.701) under that act; (III) made pursuant to an employee
31 benefit plan; (IV) made pursuant to Regulation S (17 C.F.R.
32 230.901-905) under that act; (V) made in reliance on a federal rule
33 in substantially the same form as the rule proposed by the Securities
34 Exchange Commission to govern the offer and sale of securities
35 under Section 4 (a)(6) of the Securities Act of 1933, referred to as
36 Regulation Crowdfunding, proposed 17 CFR Parts 200, 227, 232,
37 239, 240, and 249 [Release Nos. 33-9470; 34-70741; File Nos.
38 7-09-13]; or (VI) made more than six months after the completion
39 of the offering in reliance on this section.

1 (D) The aggregate amount of securities sold to any investor in
2 reliance on this section, including any amount sold during the
3 12-month period preceding the date of the transaction, does not
4 exceed the lesser of five thousand dollars (\$5,000) or 10 percent
5 of the net worth of that natural person, or such amount as the
6 commissioner may provide by rule or order. “Net worth” shall be
7 determined exclusive of home, home furnishings, and automobiles.
8 Other assets included in the computation of net worth may be
9 valued at fair market value.

10 (E) The issuer has taken reasonable steps to ensure that each
11 investor who is a natural person who is not an accredited investor
12 as defined in Rule 501 (17 C.F.R. 230.501) under the Securities
13 Act of 1933 either alone or with his or her purchaser representative
14 or representatives has such knowledge and experience in financial
15 and business matters that he or she is capable of evaluating the
16 merits and risks of the prospective investment.

17 (F) The issuer files with the commissioner, provides to investors,
18 and makes available to potential investors a Small Company
19 Offering Registration disclosure document on Form U-7, as
20 adopted by the North American Securities Administrators
21 Association, prior to the commencement of the offering of
22 securities.

23 (G) The issuer sets aside in a separate third-party escrow account
24 all funds raised as part of the offering, to be held in escrow until
25 the time that the minimum offering amount is reached. If the
26 minimum offering amount is not reached within one year of the
27 effective date of the offering, the issuer shall return all funds to
28 investors.

29 (H) The issuer shall not, directly or indirectly, conduct any
30 unsolicited telephone solicitation of the securities offered by this
31 section.

32 (I) The issuer, a predecessor of the issuer, an affiliated issuer,
33 a director, executive officer, or other officer participating in the
34 offering, a general partner or managing member of the issuer, a
35 beneficial owner of 20 percent or more of the issuer’s outstanding
36 voting equity securities, calculated on the basis of voting power,
37 a promoter connected with the issuer in any capacity at the time
38 of the sale, an investment manager of an issuer that is a pooled
39 investment fund, a person that has been or will be paid, directly
40 or indirectly, remuneration for solicitation of purchasers in

1 connection with the sale of securities, a general partner or managing
2 member of the investment manager or solicitor, or any director,
3 executive officer, or other officer participating in the offering of
4 the investment manager or solicitor or general partner or managing
5 member of the investment manager or solicitor shall not be
6 disqualified as a “bad actor” under Rule 506(d) (17 C.F.R.
7 230.506(d)) under the Securities Act of 1933.

8 (J) Any other requirement set forth by rule adopted by the
9 commissioner.

10 (c) If no stop order or order under subdivision (a) of Section
11 25143 is in effect under this law, qualification of the sale of the
12 securities under this section automatically becomes effective (and
13 the securities may be offered and sold in accordance with the terms
14 of the application as amended) at 12 o’clock noon California time
15 of the 60th calendar day after the filing of the application or at
16 such earlier time as the commissioner determines.

17 SEC. 5. Section 25501 of the Corporations Code is amended
18 to read:

19 25501. Any person who violates Section 25401 shall be liable
20 to the person who purchases a security from him *or her* or sells a
21 security to him *or her*, who may sue either for rescission or for
22 damages (if the plaintiff or the defendant, as the case may be, no
23 longer owns the security), unless the defendant proves that the
24 plaintiff knew the facts concerning the untruth or omission or that
25 the defendant exercised reasonable care and did not know (or if
26 he had exercised reasonable care would not have known) of the
27 untruth or omission. *The plaintiff shall not be required to plead*
28 *or prove that the defendant acted with scienter.* Upon rescission,
29 a purchaser may recover the consideration paid for the security,
30 plus interest at the legal rate, less the amount of any income
31 received on the security, upon tender of the security. Upon
32 rescission, a seller may recover the security, upon tender of the
33 consideration paid for the security plus interest at the legal rate,
34 less the amount of any income received by the defendant on the
35 security. Damages recoverable under this section by a purchaser
36 shall be an amount equal to the difference between (a) the price
37 at which the security was bought plus interest at the legal rate from
38 the date of purchase and (b) the value of the security at the time it
39 was disposed of by the plaintiff plus the amount of any income
40 received on the security by the plaintiff. Damages recoverable

1 under this section by a seller shall be an amount equal to the
2 difference between (1) the value of the security at the time of the
3 filing of the complaint plus the amount of any income received by
4 the defendant on the security and (2) the price at which the security
5 was sold plus interest at the legal rate from the date of sale. Any
6 tender specified in this section may be made at any time before
7 entry of judgment.

8 SEC. 6. Section 25503 of the Corporations Code is amended
9 to read:

10 25503. Any person who violates Section 25110, 25130 or
11 25133, or a condition of qualification under Chapter 2
12 (commencing with Section 25110) of this part, imposed pursuant
13 to Section 25141, or an order suspending trading issued pursuant
14 to Section 25219, shall be liable to any person acquiring from him
15 the security sold in violation of such section, who may sue to
16 recover the consideration he paid for such security with interest
17 thereon at the legal rate, less the amount of any income received
18 therefrom, upon the tender of such security, or for damages, if he
19 no longer owns the security, or if the consideration given for the
20 security is not capable of being returned. Damages, if the plaintiff
21 no longer owns the security, shall be equal to the difference
22 between (a) his purchase price plus interest at the legal rate from
23 the date of purchase and (b) the value of the security at the time it
24 was disposed of by the plaintiff plus the amount of any income
25 received therefrom by the plaintiff.

26 Damages, if the consideration given for the security is not
27 capable of being returned, shall be equal to the value of that
28 consideration plus interest at the legal rate from the date of
29 purchase, provided the security is tendered; and if the plaintiff no
30 longer owns the security, damages in such case shall be equal to
31 the difference between (a) the value of the consideration given for
32 the security plus interest at the legal rate from the date of purchase
33 and (b) the value of the security at the time it was disposed of by
34 the plaintiff plus the amount of any income received therefrom by
35 the plaintiff. Any person who violates Section 25120 or a condition
36 of qualification under Chapter 3 (commencing with Section 25120)
37 of this part imposed pursuant to Section 25141, shall be liable to
38 any person acquiring from him the security sold in violation of
39 such section who may sue to recover the difference between (a)
40 the value of the consideration received by the seller and (b) the

1 value of the security at the time it was received by the buyer, with
2 interest thereon at the legal rate from the date of purchase. Any
3 person on whose behalf an offering is made and any underwriter
4 of the offering, whether on a best efforts or a firm commitment
5 basis, shall be jointly and severally liable under this section, but
6 in no event shall any underwriter (unless such underwriter shall
7 have knowingly received from the issuer for acting as an
8 underwriter some benefit, directly or indirectly, in which all other
9 underwriters similarly situated did not share in proportion to their
10 respective interest in the underwriting) be liable in any suit or suits
11 authorized under this section for damages in excess of the total
12 price at which the securities underwritten by him and distributed
13 to the public were offered to the public. Any tender specified in
14 this section may be made at any time before entry of judgment.
15 No person shall be liable under this section for violation of Section
16 25110, 25120 or 25130 if the sale of the security is qualified prior
17 to the payment or receipt of any part of the consideration for the
18 security sold, even though an offer to sell or a contract of sale may
19 have been made or entered into without qualification. *The court*
20 *shall award reasonable attorney's fees and costs, and, in its*
21 *discretion, may award treble and punitive damages, to a prevailing*
22 *purchaser in an action brought against any person who violates*
23 *Section 25110 in any offering qualified under Section 25113.1.*

24 SEC. 7. Section 25608 of the Corporations Code is amended
25 to read:

26 25608. (a) The commissioner shall charge and collect the fees
27 fixed in this section and Section 25608.1. All fees charged and
28 collected under this section and Section 25608.1 shall be
29 transmitted to the Treasurer at least weekly, accompanied by a
30 detailed statement thereof and shall be credited to the State
31 Corporations Fund.

32 (b) The fee for filing an application for a negotiating permit
33 under subdivision (c) of Section 25102 is fifty dollars (\$50).

34 (c) The fee for filing a notice pursuant to paragraph (5) of
35 subdivision (h) of Section 25102 and the fee for filing a notice
36 pursuant to paragraph (4) of subdivision (f) of Section 25102, in
37 addition to the fee prescribed in those paragraphs, if applicable,
38 shall be determined based on the value of the securities proposed
39 to be sold in the transaction for which the notice is filed and in
40 accordance with subdivision (g), and shall be as follows:

1	Value of Securities	
2	Proposed to be Sold	Filing Fee
3	\$25,000 or less	\$ 25
4	\$25,001 to \$100,000	\$ 35
5	\$100,001 to \$500,000	\$ 50
6	\$500,001 to \$1,000,000	\$150
7	Over \$1,000,000	\$300

8

9 (d) The fee for filing an application for designation of an issuer
10 pursuant to subdivision (k) of Section 25100 is fifty dollars (\$50).

11 (e) The fee for filing an application for qualification of the sale
12 of securities by notification under Section 25112 or by permit
13 under paragraph (1) of subdivision (b) of Section 25113 (except
14 applications for qualification by permit of the sale of any guarantee
15 of any security, the fees for which applications are fixed in
16 subdivision (k)) is two hundred dollars (\$200) plus one-fifth of 1
17 percent of the aggregate value of the securities sought to be sold
18 in this state up to a maximum aggregate fee of two thousand five
19 hundred dollars (\$2,500).

20 The fee for filing a small company application for qualification
21 of the sale of securities by permit under paragraph (2) of
22 subdivision (b) of Section 25113 is two thousand five hundred
23 dollars (\$2,500). In the case where the costs of processing a small
24 company application exceed the filing fee, an additional fee shall
25 be charged, not to exceed one thousand dollars (\$1,000), over and
26 above the filing fee based on the costs of the salary or other
27 compensation paid to persons processing the application plus
28 overhead costs reasonably incurred in the performance of the work.
29 In determining the costs, the commissioner may use the estimated
30 average hourly cost for all persons processing applications for the
31 fiscal year.

32 *The fee for filing a crowdfunding application for qualification*
33 *of the sale of securities by permit under Section 25113.1 is two*
34 *hundred dollars (\$200) plus one-fifth of 2 percent of the aggregate*
35 *value of the securities sought to be sold in this state.*

36 (f) The fee for filing an application for qualification of the sale
37 of securities by coordination under Section 25111 or a notice of
38 intention to sell under subdivision (t) of Section 25100 is two
39 hundred dollars (\$200) plus one-fifth of 1 percent of the aggregate
40 value of the securities sought to be sold in this state up to a

1 maximum aggregate fee of two thousand five hundred dollars
2 (\$2,500).

3 (g) For the purpose of determining the fees fixed in subdivisions
4 (e) and (f):

5 (1) The value of the securities shall be the price at which the
6 company proposes to sell the securities, or the value, as alleged in
7 the application, or the actual value, as determined by the
8 commissioner, of the consideration (if other than money) to be
9 received in exchange therefor, or of the securities when sold,
10 whichever is greater.

11 (2) Interim or voting trust certificates shall have a value equal
12 to the aggregate value of the securities to be represented by the
13 interim or voting trust certificates.

14 (3) The value of a warrant or right to purchase or subscribe to
15 another security of the same or another issuer shall be an amount
16 equal to the consideration to be paid for that warrant or right plus
17 an amount equal to the consideration to be paid upon purchase of
18 the additional securities, provided that if the latter amount is not
19 determinable at the time of qualification, that amount shall then
20 be the value of the additional securities as determined by the
21 commissioner.

22 (4) In the case of a share dividend where the shareholders are
23 given an option to accept either cash or additional shares of
24 common stock, the value of the securities to be sold shall be the
25 maximum amount of cash that would be payable in the event that
26 all shareholders elected to accept cash.

27 (h) The fee for filing an application for qualification of the sale
28 of securities by permit under Section 25121 is:

29 (1) Two hundred dollars (\$200) in connection with any change
30 (including any stock split or reverse stock split or stock dividend,
31 except a stock dividend where the shareholders are given an option
32 to accept either cash or additional shares of common stock) in the
33 rights, preferences, privileges, or restrictions of or on outstanding
34 securities.

35 (2) Two hundred dollars (\$200) plus one-fifth of 1 percent of
36 the value, as alleged in the application, or the actual value, as
37 determined by the commissioner, of the consideration to be
38 received in exchange therefor, up to a maximum aggregate fee of
39 two thousand five hundred dollars (\$2,500), in any exchange of
40 securities by the issuer with its existing security holders

1 exclusively, or in any exchange in connection with any merger or
2 consolidation or purchase of corporate assets in consideration of
3 the issuance of securities, or any entity conversion transaction.

4 (i) The fee for filing an application for qualification of the sale
5 of securities by notification under Section 25131 shall be one
6 hundred dollars (\$100).

7 (j) The fee for an application for the removal of any condition
8 under Section 25141 is fifty dollars (\$50).

9 (k) The fee for filing any application for a permit to execute or
10 issue any guarantee of any security is fifty dollars (\$50).

11 (l) The fee for acting as escrowholder for securities under
12 Section 25149 is fifty dollars (\$50). In addition, a fee of two dollars
13 and fifty cents (\$2.50) shall be paid for the deposit with the
14 commissioner of each new certificate or other document resulting
15 from a transfer in escrow.

16 (m) The fee for filing an application for an order (1) consenting
17 to the transfer in escrow of securities or (2) consenting to the
18 transfer of securities subject to any condition imposed by the
19 commissioner requiring the commissioner's consent to the transfer
20 is twenty dollars (\$20) for each transfer.

21 (n) The filing fee for an amendment to an application filed after
22 the effective date of the qualification of the sale of securities is
23 fifty dollars (\$50) plus any additional fee that would have been
24 required to be paid with the original application for qualification
25 of the sale of securities under this section if the matters set forth
26 in the amendment had been included in the original application.

27 (o) (1) The fee for filing an application for a broker-dealer
28 certificate under Section 25211 is three hundred dollars (\$300).

29 (2) Each broker-dealer shall pay to the commissioner its pro
30 rata share of all costs and expenses, reasonably incurred in the
31 administration of the broker-dealer program under this division,
32 as estimated by the commissioner for the ensuing year and any
33 deficit actually incurred or anticipated in the administration of the
34 program in the year in which the assessment is made. The pro rata
35 share shall be the proportion that the broker-dealer and the number
36 of its agents in this state bears to the aggregate number of
37 broker-dealers and agents in this state as shown by records
38 maintained by or on behalf of the commissioner. The pro rata share
39 may include the costs of any examinations, audit, or investigation
40 provided for in subdivision (r).

1 (3) Every broker-dealer who has secured from the commissioner
2 a certificate shall, in order to keep the certificate in effect for an
3 additional period, pay a minimum assessment of seventy-five
4 dollars (\$75) on or before the 31st of December in each year.

5 (4) The commissioner may assess and levy against each
6 broker-dealer any additional amount above the minimum
7 assessment amount of seventy-five dollars (\$75) that is reasonable
8 and necessary to support the broker-dealer program under this
9 division. If an additional amount is assessed, the commissioner
10 shall notify each broker-dealer by mail of any additional amount
11 assessed and levied against it on or before the 30th day of May in
12 each year, and that amount shall be paid within 20 days thereafter.
13 If payment is not made within 20 days, the commissioner shall
14 assess and collect a penalty in addition to the assessment of 1
15 percent of the assessment for each month or part of a month that
16 the payment is delayed or withheld.

17 (5) If a broker-dealer fails to pay any assessment on or before
18 the 30th day of the month following the day upon which payment
19 is due, the commissioner may by order summarily suspend or
20 revoke the certificate issued to the broker-dealer. If, after that order
21 is made, a request for hearing is filed in writing and a hearing is
22 not held within 60 days thereafter, the order is deemed rescinded
23 as of its effective date. During any period when its certificate is
24 revoked or suspended, a broker-dealer shall not conduct business
25 pursuant to this division except as may be permitted by order of
26 the commissioner; provided, however, that the revocation,
27 suspension, or surrender of a certificate shall not affect the powers
28 of the commissioner as provided under this division.

29 (6) In determining the amount assessed, the commissioner shall
30 consider all appropriations from the State Corporations Fund for
31 the support of the broker-dealer program under this division and
32 all reimbursements applicable to the administration of the
33 broker-dealer program under this division.

34 (p) (1) The commissioner shall charge a fee of twenty-five
35 dollars (\$25) for the filing of a notice or report required by rules
36 adopted pursuant to subdivision (b) of Section 25210 or subdivision
37 (b) of Section 25230.

38 (2) The commissioner may charge a fee up to thirty-five dollars
39 (\$35) to keep in effect for the following year any notice or report

1 required by rules adopted pursuant to subdivision (b) of Section
2 25210 or subdivision (b) of Section 25230.

3 (3) No person shall, on behalf of a broker-dealer licensed
4 pursuant to Section 25211, effect any transaction in, or induce or
5 attempt to induce the purchase or sale of, any security in this state
6 unless the broker-dealer pays the annual fee required by paragraph
7 (2) of this subdivision on or before the day upon which payment
8 is due.

9 (4) No person may, in this state, on behalf of an investment
10 adviser licensed pursuant to Section 25231, offer or negotiate for
11 the sale of investment advisory services of the investment adviser,
12 determine which recommendations shall be made to, make
13 recommendations to, or manage the accounts of, clients of the
14 investment adviser, or determine the reports or analyses concerning
15 securities to be published by the investment adviser, unless the
16 investment adviser pays the annual fee required by paragraph (2)
17 on or before the day upon which payment is due.

18 (5) The commissioner may by order summarily enjoin an
19 individual from performing any activity under paragraph (3) or
20 (4) if the annual fee in paragraph (2) is not paid on or before the
21 day upon which payment is due. An order under this paragraph
22 may not be made before 10 days after notice by the commissioner
23 that the fee is due and unpaid.

24 (q) (1) Except as provided for in paragraph (2), the fee for filing
25 an application for an investment adviser under Section 25231 is
26 one hundred twenty-five dollars (\$125), and payment of this
27 amount shall keep the certificate, if granted, in effect during the
28 calendar year during which it is granted. Every investment adviser
29 who has secured from the commissioner a certificate shall, in order
30 to keep the certificate in effect for an additional period, pay a
31 renewal fee of one hundred twenty-five dollars (\$125) on or before
32 the 31st day of December.

33 (2) Paragraph (1) shall not apply to a broker-dealer licensed
34 under Section 25210.

35 (r) (1) Except as provided for in paragraph (2), the fee for any
36 routine or nonroutine regulatory examination, audit, or
37 investigation is the amount of the salary or other compensation
38 paid to the persons making the examination, audit, or investigation
39 plus the amount of expenses including overhead reasonably
40 incurred in the performance of the work. In determining the costs

1 associated with an examination, audit, or investigation, the
2 commissioner may use the estimated average hourly cost for all
3 persons performing examinations, audits, or investigations for the
4 fiscal year.

5 (2) An investment adviser licensed under Section 25230 pursuant
6 to the Investment Adviser Registration Depository shall not be
7 subject to paragraph (1) only in regard to the fee for a routine
8 regulatory examination of its investment advisory services for
9 which it is licensed under Section 25230.

10 (s) The fee for any hearing held by the commissioner pursuant
11 to Section 25142 shall be the sum determined by the commissioner
12 to cover the actual expense of noticing and holding the hearing.

13 (t) The commissioner may fix by rule a reasonable charge for
14 any publications issued under his or her authority. The charges
15 shall not apply to reports of the commissioner in the ordinary
16 course of distribution.

17 (u) The fee for filing an offer under subdivision (b) of Section
18 25507 shall be the amount of filing fee payable under subdivision
19 (e), (f), (h), or (i) of this section if an application had been filed to
20 qualify the transaction in which the securities upon which the offer
21 is to be made were sold in violation of the qualification provisions
22 of this law.

23 (v) The fee for filing an application for exemption pursuant to
24 subdivision (l) of Section 25100 is two hundred fifty dollars (\$250).

25 (w) The commissioner may by rule require payment of a fee
26 for filing a notice or report required by a rule adopted pursuant to
27 Section 25105. The fee required in connection with a transaction
28 as defined by that rule shall not exceed the fees specified in
29 subdivision (c) based on the value of the securities sold, but the
30 commissioner may permit a single notice for more than one
31 transaction.

32 (x) The fee for filing the first notice of transaction under
33 subdivision (n) of Section 25102 is six hundred dollars (\$600).

34 (y) The fee for filing a notice of transaction under subdivision
35 (o) of Section 25102 shall be the fee for filing an application for
36 qualification of the sale of securities by permit under paragraph
37 (1) of subdivision (b) of Section 25113 as set forth in subdivision
38 (e) of this section.

- 1 (z) The fee for filing a notice of transaction under subdivision
- 2 (h) of Section 25103 shall be six hundred dollars (\$600).

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