



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

UPDATING THE ALASKA SECURITIES ACT HB 194

House Labor and Commerce Committee

Division of Banking and Securities
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Why Update the Securities Act?

- Recognize and incorporate current industry terms and standards
- Synthesize with other states' laws to make it easier for businesses, entrepreneurs and investors to understand their rights, responsibilities and opportunities in Alaska
- Open equity crowdfunding opportunities to Alaskans
- Deter investment scams using Alaska entities or harming Alaskans
- Enhance penalties against those who harm older Alaskans
- Separate securities statutes from Alaska Native Claims Settlement Act (ANCSA) related statutes to reduce confusion and improve understanding of both Acts



What Does the Alaska Securities Act Do Now?

Provides the legal framework for offering or selling securities within Alaska or to Alaskans, including requirements for:

- Alaska state registration of the stock/bond/ownership and investment interests
 - Business plan and other disclosure to potential or current investors
 - Exemption from registration requirements
 - ANCSA
- Alaska state registration of the salesforce
 - Broker-dealers (stock brokerages)
 - Investment advisers
 - Salespersons
- Enforcement



Alaska Native Claims Settlement Act Provisions

ANCSA provisions remain in AS 45.55, including:

- References to exempt ANCSA securities transactions are at AS 45.56.210 (27)
- Enforcement and administration of the chapter



New, Logical, Topical Format

- Outlines securities registration requirements generally
- Covers exemptions from the registration requirement
- Also includes
 - Securities registration and filing
 - Licensing of firms and salespersons
 - Results of violating the Securities Act
 - Definitions



Highlights

- Improved organization – now by topic
- Eliminates filings for all exemptions from registration, *except* rescission offers and crowdfunding
- Updates entity and law references (i.e., no longer includes notice by telegram)
- Includes 'bad actor' disqualifiers
- Improves enforcement and investor education provisions



HB 194 Section 1

- Article 1. General Provisions - pg. 1**
- Article 2. Exemptions from the Registration of Securities – pg. 1**
- Article 3. Registration of Securities and Notice Filing of Federal Covered Securities – pg. 17**
- Article 4. Broker-dealers, Agents, Investment Advisers, Investment Adviser Representatives and Federal Covered Investment Advisers – pg. 29**
- Article 5. Fraud and Liabilities – pg. 54**
- Article 6. Administration and Judicial Review – pg. 56**
- Article 7. Miscellaneous and Additional General Provisions (includes definitions) –pg. 78**



Article 1. General Provisions

Sec. 45.56.105. Securities registration requirement. A person may not offer or sell a security in the state unless

- 1) the security is a federal covered security;
- 2) is registered under this chapter; or
- 3) the security or transaction is exempted from registration under AS 45.56.205 - 45.56.250.



Article 2. Securities Exempt from Registration

Generally includes the same Registration and Transactional exemptions as the current Act:

AS 45.56.205/210 et seq

And adds:

Sec. 45.56.220. Small intrastate securities offerings. “Crowdfunding Exemption.”



Intrastate Equity or Debt Crowdfunding

AS 45.56.220

- Issuer must be AK business
- Purchasers must be AK residents, and issuer must have some evidence proving residency
- Total offering is capped at \$1 million
- Issuers can collect no more than \$5,000 per purchaser
- No commissions may be paid in connection with the sale of these securities unless salespeople are licensed in AK
- Notice filing required (10 days before general solicitation or within 15 days of first sale if no general solicitation)
- Notice filing must include information on the issuer, control persons, salespersons, and the bank where the funds will be deposited
- Issuer must disclose that securities are not able to be resold unless exempt or registered (are illiquid)
- Purchaser must acknowledge risk of investment
- Bad actor disqualifier from 45.56.230 applies



Article 4. Licensing

Broker-dealers, Agents, Investment Advisers, Investment Adviser Representatives, and Federal Covered Investment Advisers

- Licensing provisions
- New registration exemption for Mergers & Acquisition brokers and “snow birds”



Article 6. Administration

Investor Education

- Administrator is permitted to develop and implement investor education initiatives through collaboration and accept grants or donation for that specific purpose

Investor Education Fund

- 1/3 of money received in civil penalties is deposited into the fund
- Legislature may appropriate the funds for investor education and training

Variable Annuity Transactions with Investors

- Subject to applicable provisions of the Securities Act



Enforcement

Administrative, Civil and Criminal Enforcement

- Basic provisions are carried over
- Significantly reorganized and expanded from current law



Administrative Enforcement

Significant changes:

- Civil penalties increased to \$100,000 per violation with no maximum limit per case
- Treble damages when victim is an “Older Alaskan”
- Restitution may be ordered by the administrator
- Superior Court can hold a person in violation of a final administrative order in civil contempt, subject to potential \$100,000 fine per violation



Civil Enforcement

Significant changes:

Provides guidance regarding types of remedies available including:

- Injunctions
- Asset freezes and receivership
- Additional penalties where victim is "Older Alaskan"
- Order of rescission or disgorgement
- Restitution
- Ordering repayment of prejudgment or post judgment interest



Civil Liability

- Civil liability is separated from rescission
- Describes circumstances and remedies where
 - the *seller/issuer* is liable to the *purchaser*
 - the *purchaser* is liable to the *seller/issuer*
- Salespeople who violate the act are liable to their clients, who may recover damages
- Statute of limitations is generally three years from the date of sale, unless there is fraud



Rescission Offers

Generally the same as 45.55

Significant changes:

- Aggrieved party has 30 days to accept rescission offer
- Offeror must demonstrate ability to pay
- Rescission offer must be delivered in a way that ensures receipt
- Offeror must actually pay as promised



Criminal Enforcement

Similar to current AS 45.55.925

- Five year statute of limitations
- For certain provisions, “willful violation” is changed to “knowing violation”
 - Knowing violations
 - Class C felony under AS 12.55.125
 - Fine increased from \$5,000 to \$100,000
 - Unknowing violations
 - Class A misdemeanor
- Altering or destroying evidence is a Class C felony



HB 194

Questions?

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