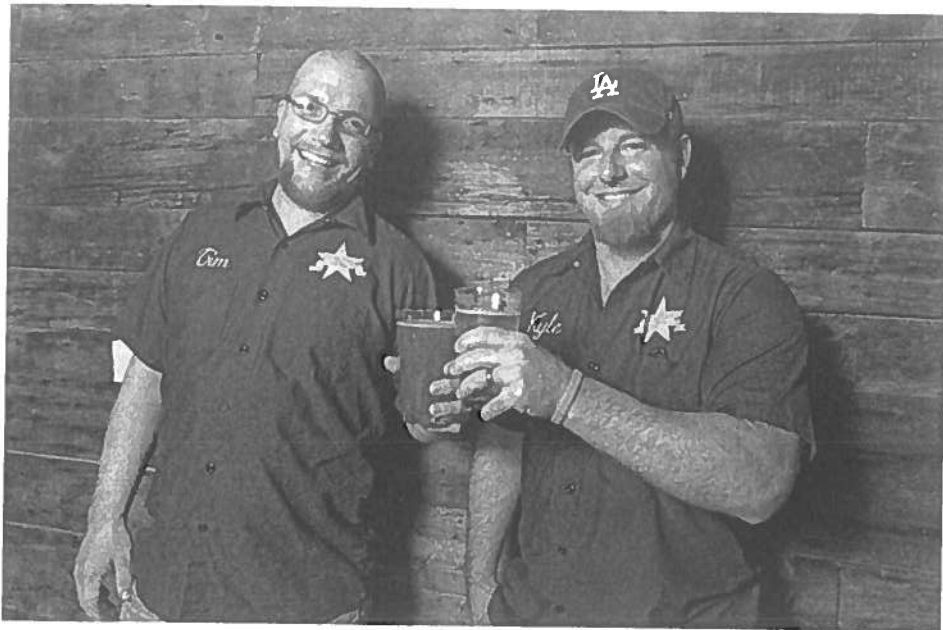


As feds drag feet on investment 'crowdfunding' rules, states — including Oregon — fill void



Tim Schmidt, left, and Kyle DeWitt, the founders of Tecumseh Brewing Co. in Tecumseh, Michigan. Schmidt and DeWitt raised \$175,000 for the business through a revenue-sharing crowdfunding campaign. Seven percent of the brewery's gross sales will be distributed among the investors until they receive one and half times their original investment. The brewery is expected to open in February. (Tecumseh Brewing Co.)

By **Elliot Njus** | The Oregonian/OregonLive



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on December 12, 2014 at 5:30 AM, updated December 12, 2014 at 3:19 PM

It's a made-for-Oregon story: A couple of employees at an award-winning craft brewery decide to take an entrepreneurial leap and open their own brewpub.

But Tim Schmidt and Kyle DeWitt were looking to set up shop in Tecumseh, Michigan, a community of about 8,500 an hour southwest of Detroit. They had \$155,000 borrowed from friends and family and the deed to a shuttered restaurant, but no bank would lend the rest of the money they needed to start brewing.

"We were running out of money and running out of time pretty fast," DeWitt said.

Their venture turned out to be a timely one. A year ago, Michigan passed a **bill that would let businesses crowd fund startup or expansion costs** through small investments from a large number of investors, and **Tecumseh Brewing Co.** was ready to be a test case.

BUSINESS EDITOR'S PICKS

The rest of the brewery's capital — \$175,000 — ended up coming from 21 Michigan investors, most of whom Schmidt and DeWitt had never met.

Oregon investigates Hannah the Pet Society after dog killings

Despite **approval from the U.S. Congress in 2012**, federal regulators have been slow to implement nationwide investment-crowdfunding rules. So individual states are filling the vacuum, **passing their own laws and rules** under what had been a little-used federal exemption.

Follow along as Miss Oregon brings local produce to Japan

Oregon, it appears, is next in line. The state Department of Consumer and Business Services **has already drafted rules** that could be implemented as soon as January.

Evrax will close Portland pipe mill in April, lay off 230

There is a catch: the so-called intrastate exemption to federal securities law only allows offerings made within a state's borders, so Oregon businesses could only seek investments from Oregon residents.

More

The United States of crowdfunding: Rules for crowdsourcing investment, state by state (maps)

PERS: Oregon pension deficit up 20 percent, putting pressure on costs

Is that really lobster on your plate? Restaurants found using cheaper fish instead

And with no finalized rules from the SEC, each state is coming up with its own playbook. Fourteen states and the District of Columbia have come up with crowdfunding rules, and no two are the same. More are on the way. Like Oregon, New Mexico is still in the middle of a rulemaking process.

Under the proposed rules in Oregon, businesses could raise up to \$250,000, a lower cap than in most states that have adopted crowdfunding rules. Individuals could invest up to \$2,500 apiece, even if they aren't "accredited investors" — a regulatory term meaning those who meet certain wealth or income thresholds and are therefore permitted to participate in higher-risk investments.

"You can now accept investment from the 99 percent," said Amy Pearl, a co-founder of **Portland business incubator Hatch** and a supporter of the Oregon initiative. "This is extremely significant, not only for the raising of capital ... but also it lets investors become actual stakeholders in their own community economy, and potentially make some money."

The Michigan brewers raised \$53,000 before a single large investor came forward with the remaining \$122,000. The offering closed several weeks early.

Some investments were as small as \$250, Dewitt said, and none of the investors live more than 25 miles away. Many attended tasting nights for prospective investors.

"Crowdfunding opened it up to people who were super excited about it, couldn't wait to get the brewery open," he said. "They knew the town, they got to meet us and they knew the brewery concept."

When the brewery opens — in February, if all goes according to plan — 7 percent of its gross sales will be distributed among the investors until they make back one and a half times their investment.

Congress opened the door to equity crowdfunding with the JOBS Act of 2012, which unwound restrictions on the advertising of securities that had been in place since the Great Depression. Lawmakers decided the rules, put in place to protect small investors from losing their savings on bad deals, were out of date — and a hindrance to small businesses.

But the Securities and Exchange Commission has been slow to finalize rules that would implement crowdfunding. It proposed rules in October 2013, but the supposed 90-day comment period has dragged on for more than a year.

The agency declined to comment on the delay, but Chairwoman Mary Jo White told Congress in May that implementing crowdfunding was among the agency's priorities. When it might actually happen, however, remains a mystery to those following the issue.

"We just don't know," said Anya Coverman, deputy director of policy for the **North American Securities Administrators Association**, a state and provincial regulator's group. "They don't have a deadline on finishing any rulemaking. Where you're seeing the action and the innovation now is at the state level."

The result is **a patchwork of rules and laws that vary wildly from place to place**. Washington state's crowdfunding law took effect in November and allows companies to raise up to \$1 million, though it has yet to be used by a single company.

Oregon's rules are comparatively conservative. Among the states that have rules in place, only Maryland has a lower cap on the amount a business can raise.

Offerings would not be registered with the federal government, and the state's oversight would be limited. That's by design, said David Tatman, administrator of the state's Division of Finance and Corporate Securities.

"Our goal was to try and keep this simple and streamlined, rather than create a more complex process," Tatman said. "We've put the dollar amount where we're not as concerned as we would be otherwise."

The businesses would also be required to make detailed disclosures to potential investors, as well as periodic updates throughout the life of the investment.

But the program does away with restrictions that for decades were thought to provide protection to unsophisticated investors, and some say it goes too far.

Alex Pawlowski spent 35 years as a banker and now works in economic development in southern Oregon. He saw capital for small business dry up in the recession, so he knows there's a need.

But he's also seen entrepreneurs struggle with even basic financial documents. And he's watched businesses collapse quickly.

"The first business that fails, there's going to be fingerpointing," Pawlowski said. "People are going to say, 'Who approved this?' 'Who looked at this plan?' I think that's where you're going to see things unravel."

-- Elliot Njus

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Alabama governor signs crowd funding law

By PHILLIP RAWLS - Associated Press - Tuesday, April 8, 2014

MONTGOMERY, Ala. (AP) - Alabamians are being given a new way to raise money to start small businesses.

Gov. Robert Bentley's press secretary, Yasamie August, said he signed legislation Tuesday that was sponsored by Republican Sen. Arthur Orr of Decatur and supported by the Alabama Securities Commission.

The new law allows someone trying to start a small business in Alabama to use social media and advertising to find small investors who live in the state. The "crowd funding" is limited to raising \$1 million, and it is restricted to Alabama businesses and investors because of federal regulations. The investments are capped at \$5,000 for most people to limit risk. The process comes with less cost and less regulation than larger business investments, but the Securities Commission still plays a role.

Orr said entrepreneurs trying to start small businesses face a tough credit market, but the law allows them to use social media and other modern technology to attract small investors.

"This legislation should serve as a vehicle to enhance the ability of small businesses to succeed in Alabama," he said Tuesday.

Orr's bill won final approval in the Legislature on April 1 and cleared both the House and Senate without a negative vote.

When the Legislature passed the bill, Securities Commission Director Joe Borg said, "While investment in startup businesses has risk, the potential rewards in promoting new businesses and job formation in our local communities are invaluable."

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Following the crowd: state seeks to ease funding rules



Laura Foslire, Statesman Journal 7:21 a.m. PST December 4, 2014



(Photo: VANDERLEI ALMEIDA, AFP/Getty Images)

Oregon businesses could soon have access to a new source of money to finance start-ups or expand their ventures, as state officials hope to tweak the rules by the end of the year in favor of crowdfunding.

It's not a new idea, nor is it unique to Oregon. President Obama signed the Jumpstart Our Business Start-ups Act in 2012, which includes an exemption in securities registration that would let businesses attract a higher number of investors through crowdfunding — purportedly leading to more funds, more start-up businesses and more jobs.

But as the federal Securities Exchange Commission drags its feet in finalizing the rules, Oregon hopes to move things along with a state-level exemption that could be in place by the end of the year.

Oregon's not alone. At least 13 other states have already enacted their own crowdfunding rules.

Crowdfunding is the practice of funding a venture through financial contributions from a large number of people, was popularized online and through social media with websites like Kickstarter and GoFundMe.

But the exemption targets what's known as equity crowdfunding — where financial contributors get a stake in the company, somewhat like shares of stock.

On Wednesday, the state Department of Consumer and Business Services opened up comment on the proposed rule change with a public hearing. The public can continue to submit comments until 5 p.m. on Dec. 10.

The change would shake out as follows: Currently, an Oregon-based business or entrepreneur looking to sell securities must register with the state, so that officials can ensure the offering is financially fair and legitimate.

Oregon is now seeking to add an exemption to that rule that would allow businesses to bypass registration — provided they meet certain standards put in place for continued protection against fraud and for the investors' protection.

Those standards include a \$250,000 cap on total funds raised through crowdfunding, as well as an individual limit of \$2,500 from each crowdfunding investor.

"That's why we have the caps," said David Tatman, administrator of the Finance and Corporate Securities Division. "We're saying, 'Okay, we'll let you do this without the review.' But the caps are in there to make sure no one person could be subject to too much financial harm should it not work out."

The rule change is meant to benefit what state officials are calling small businesses, although there is no exact definition of eligibility aside from the \$250,000 cap.

"We think with the cap, most businesses that have a net worth of more than \$1 million probably aren't going to be pursuing that," he said.

Business owners or start-up hopefuls will be obligated to meet other criteria for the exemption. For one thing, they'll be required to disclose how the money will be used and what a potential investor's ownership will look like, in terms of stock or financial return. And of course, crowd investors can only come from within the state.

What is unique to Oregon is an additional proposed educational component.

"Companies going forward, before they could use this exemption, would meet with someone like a small business development center," Tatman explained. "And they could review what the undertaking involves and how the business goes about raising funds and corporate governance, things like that. That's a little bit different than any other states. We'll see how it works out."

Officials are hopeful the relaxed rules will encourage economic development from businesses looking to expand their ventures or the next great idea seeking money for a start-up.

"This basically was designed to encourage small businesses in particular to get started and expand and grow," Tatman said. "One of the concepts was this notion of crowdfunding."

So what happens now? After the window for public input closes, all of the feedback will be compiled into a report to be submitted to the department for Tatman to review and issue a final rule.

"Our goal is to get the rule done by the end of the year," he said. "We've been working on this for four months, so I don't expect any major surprises."

lfosmire@StatesmanJournal.com, (503) 399-6709 or follow on Twitter at @fosmirel

Public comment on the rule change

The public can continue to submit comments on the rule until 5 p.m. on Wednesday, Dec. 10. To do so, email Shelley.A.Greiner@state.or.us

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BANGOR DAILY NEWS [\(http://bangordailynews.com/\)](http://bangordailynews.com/)

Maine House approves bill that would let entrepreneurs raise capital through crowdfunding (<http://bangordailynews.com/2014/02/13/politics/maine-house-approves-bill-that-would-let-entrepreneurs-raise-capital-through-crowdfunding/>)

By Whit Richardson (<http://bangordailynews.com/author/wrichardson/>), BDN Staff
Posted Feb. 13, 2014, at 4:21 p.m.

AUGUSTA, Maine — The Maine House of Representatives on Thursday approved a bill that would give Maine entrepreneurs more leeway in how they raise capital to grow their businesses.

The bill, “An Act To Increase Funding for Start-ups,” (http://www.mainelegislature.org/legis/bills/display_ps.asp?ld=1512&PID=1456&snum=126) would make it possible for Maine businesses to raise capital by selling small amounts of equity to individual investors. It essentially allows Maine entrepreneurs to participate in a fundraising model popularized by crowdfunding websites like Kickstarter.

Businesses interested in participating in crowdfunding would be required to register with the Maine Office of Securities and set a target amount to raise no more than \$1 million. The business would also need to set a deadline by which it would need to hit its fundraising goal. If it is unsuccessful in hitting its goal by the deadline, all investors up to that point would have their money returned. No individual investor would be allowed to invest more than \$5,000.

Senate President Justin Alford, D-Portland, sponsored the bill, which he said would support Maine entrepreneurs and make the state “a national leader in turning ideas into jobs.”

“By allowing and encouraging small-scale investment in companies, Mainers tell the world, ‘If you have a vision and a plan, we want to support you and help your business grow,’” he said.

Jess Knox, the statewide innovation hub leader for Blackstone Accelerates Growth, which works to support entrepreneurship in the state, applauded the House’s approval of the bill.

“This is exactly the type of support that elected officials in Maine should focus on,” he wrote in an email. “This law could provide Maine’s entrepreneurs and micro-businesses a leg up toward success and growth over their competitors in other areas.”

The Senate, which voted on Feb. 6 to approve the bill, now needs to enact it, which it is scheduled to consider on Tuesday. If enacted, the bill will be sent to Gov. Paul LePage for his signature. He would have 10 days to sign the bill into law, veto it, or allow it to go into law without his signature.

The measure passed without a roll call in its initial Senate vote. The House supported it by a vote of 129-1, with Rep. Ricky Long, R-Sherman, casting the lone dissenting vote.

Adrienne Bennett, LePage’s press secretary, on Thursday wouldn’t comment on the governor’s intentions with regard to the bill.

“When it gets down here, we’ll take a look at the merits of the bill,” she wrote in an email.

<http://bangordailynews.com/2014/02/13/politics/maine-house-approves-bill-that-would-let-entrepreneurs-raise-capital-through-crowdfunding/> (<http://bangordailynews.com/2014/02/13/politics/maine-house-approves-bill-that-would-let-entrepreneurs-raise-capital-through-crowdfunding/>) printed on February 11, 2016



journalmediagroup



MobCraft Beer becomes first to use state's crowdfunding law

By Rick Romell of the Journal Sentinel
Sept. 24, 2014

Equity crowdfunding got off the ground in Wisconsin Wednesday, as Madison's MobCraft Beer announced an agreement with a bank to help with the state's first deal using the new investment vehicle.

MobCraft is teaming with Monona State Bank, which will handle money the craft brewer will seek to raise under a recently enacted law that lets private companies sell stock over the Internet to people of modest means.

In the past, such stock sales generally have been limited to "accredited" investors with high income or net worth.

Advocates of equity crowdfunding view the mechanism as a way to democratize investment — giving small businesses a new means of raising capital, and allowing non-wealthy people to put relatively small amounts of money into private firms.

Critics fear that crowdfunding will be used to defraud unsophisticated investors.

Crowdfunding also raises questions of how easily people will be able to cash out of investments that are far less liquid than publicly traded stock. Wisconsin's law, which took effect June 1, allows businesses to sell up to \$1 million in stock to state residents, with non-accredited investors putting in as much as \$10,000 each. Firms can raise up to \$2million if they make a financial audit available.

The law also requires that while the money is being raised it must be held in escrow by a state-chartered financial institution.

The 11 other states that have authorized crowdfunding also allow nationally chartered banks to hold the money, and the Wisconsin restriction has been criticized by some as an impediment to getting deals done.

But an arm of the Wisconsin Bankers Association has developed a model escrow agreement for use in crowdfunding transactions.

"Since then we have seen a lot more interest from banks," said David Dupee, a Milwaukee lawyer who registered the state's first website for crowdfunding initiatives to use, a food-and-drink-oriented platform called CraftFund.

Monona State Bank President and CEO Paul Hoffmann called crowdfunding "an exciting development

for our state."

"We see the potential as really great for helping small, local businesses be able to either start or to expand," he said.

Crowdfunding activity so far has been modest in the dozen states that allow it.

Nationwide crowdfunding campaigns, authorized by Congress two years ago, are on hold awaiting regulations by the U.S. Securities and Exchange Commission.

Find this article at:

<http://www.jsonline.com/business/mobcraft-beer-becomes-first-to-use-states-crowdfunding-law-b99358411z1-276938661.html>

☐ Check the box to include the list of links referenced in the article.

Commentary: District's equity crowdfunding proposal would be good for small businesses

By William Michael Cunningham August 17, 2014

In a bold move, the District of Columbia recently proposed new rules to permit equity crowdfunding in the city. Equity crowdfunding is a business financing method that allows companies to sell equity or ownership stakes to a large number of people using online platforms.

With this move, the District becomes the latest locality to allow start-ups and small businesses to use this new business funding tool. Twelve states, including Maryland, currently allow equity crowdfunding. Maryland firms can raise up to \$100,000 through such schemes. D.C.'s proposal goes well beyond this limit, placing the city at the forefront of efforts to develop locally based, self sustaining, independent business financing methods.

For small-business owners and others, this new D.C. equity crowdfunding proposal means the stranglehold venture capitalists and banks have had on access to business start-up capital will loosen a bit.

D.C. proposes to allow the creation of a process through which new and existing companies will be able to obtain funding from a large number of small investors. These small-scale investors might purchase shares for as little as \$10 in, say, the next Google or Apple. More likely, the process will be used to raise start-up capital for the coffee shop down the street or for the day-care center up the block. This is a wonderful option, currently absent from the small-business funding tool kit.

D.C.'s proposal contains a number safeguards: a company can raise up to \$500,000 if it has financial statements (balance sheet, income statement, cash flow statements) that have been certified as accurate by the company's chief executive. Companies that have undergone a financial statement review conducted using standard accounting procedures can raise up to \$1 million. Finally, companies that have undergone a full-scale external audit conducted by a certified public accounting firm can raise up to \$2 million.

For small businesses currently shut out of the capital markets, this is a major advance. If your fan or customer base is strong enough, you may be able to raise enough capital to pursue a dream. For example, Kugler Cycles, owners of Bikespace DC, wants to manufacture bikes in the city. They have started a donations-based (not equity) crowdfunding campaign on Indiegogo. A donations-based crowdfunding campaign allows supporters to support a company by donating money in exchange for some reward, such as first dibs on a new product. With a donation, or reward-based campaign, you are not actually purchasing an ownership stake in the company you are supporting. In

Kugler’s case, imagine being able to actually buy an ownership stake, or equity, in a D.C.-based bike manufacturing company. This alone might be enough to trigger a D.C. manufacturing renaissance. (Full disclosure: I helped create the Kugler Cycles donation-based Indiegogo crowdfunding campaign).

The D.C. proposal applies only to companies located in the city, and all investors must be D.C. residents as well. While these rules limit both the number of potential firms and the number of investors, we believe the amount of good this may have on the local small-business community outweighs any drawbacks.

William Michael Cunningham is an economist, D.C. native and author. He is managing partner at National Crowdfunding Services, which has partnered with the D.C. government to provide donations-based crowdfunding services.

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Albuquerque Journal

State proposes new rules for crowdfunding

By Winthrop Quigley / Journal Staff Writer

Wednesday, September 24th, 2014 at 3:51pm

ALBUQUERQUE, N.M. — The state's chief securities regulator on Wednesday released proposed rules designed to help small New Mexico businesses raise unlimited capital through on-line crowdfunding from any state resident, regardless of the investor's wealth or income.

Securities Division Director Alan R. Wilson said that "archaic regulatory limitations" make fund-raising expensive for small businesses, limit the amount of money that they can raise and restrict investment opportunities to investors "who make very high incomes or have high net worth."

In a letter to the Economic Development Department's Office of Business Advocacy, Wilson proposed the state supervise and regulate websites designed to help New Mexico businesses raise capital from New Mexico residents. He said the state should allow businesses to raise "any amount that can be justified" and should let any state resident invest.

"This new (on-line) platform for raising capital will be an important tool in a business owner's belt," Wilson wrote. "Given New Mexico's substantial small-business presence, having a way for residents to become invested in their community and to support their neighbors is long overdue."

The regulations "recognize and embrace the ubiquity of technology so that New Mexico businesses can tap into new investment pools," the letter says.

Wilson said in an interview that fund-raising in New Mexico generally follows federal requirements. Those federal rules allow small businesses to skirt some of the more expensive requirements that large, publicly-traded companies must meet, but in return the rules limit the amount of money that can be raised, generally, to \$1 million to \$5 million, depending on a variety of regulations. The rules allow only an individual with a net worth of \$1 million or an income of \$200,000 a year to invest.

New Mexico can establish its own investment rules so long as investors and businesses are based in New Mexico, Wilson said.

Wilson proposed the state create "a mechanism for all intrastate offerings to raise money from the entirety of the state's population via officially recognized interactive websites, known as portals."

Such websites, including Kickstarter, possibly the best known, allow a business or a charity to explain to any potential donors and investors who visit the website how the money will be used. The sites give funders a mechanism to commit money to the fund-raiser.

The proposed regulations would require portals to register with the Securities Division. The regulations would spell out the information the website must contain, how the portal will operate and how it will maintain records.

"The regulations are intended to give structure and safeguards to the investors who will use the portal," Wilson letter says.

Businesses can now seek local investors

Carly Omenhiser

Business Reporter | Posted: Wednesday, December 3, 2014 5:22 pm

Dothan resident Precious Freeman left the chamber of commerce Wednesday afternoon more knowledgeable about how to take advantage of Alabama's new crowdfunding law.

The Dothan Area Chamber of Commerce welcomed the bill's creator, Sen. Arthur Orr of Decatur, and Alabama Securities Commission attorney Ed Reed to host a seminar for those interested in learning about the new way Alabamians can raise money from Alabamians to start a small business.

Freeman said she's always looking to learn new information and what she learned Wednesday she plans to use down the line for a project she has in mind.

"I thought it was pretty thorough," she said of the seminar.

Freeman said she also appreciated that the senator and the ACS attorney who would be handling the applications took the time to come to Dothan and explain the process.

"We planned that when the bill passed that we would try to go around the state and hold public forums for people to get their questions answered by a securities commission lawyer," Orr said.

The bill, which was signed in April, allows Alabama residents to use social media and advertising to raise up to \$1 million from small investors who live within the state.

The bill is different than other Internet crowdfunding sites such as Kickstarter or Indiegogo, in that this bill allows a person to sell equity or shares in the business.

Orr said this form of crowdfunding differs in that a person isn't donating or buying an incentive for supporting a project. The investors are actually investing in hopes of a return.

In order to do that, the person seeking investors must register with the state and apply for an exemption.

In today's financial market, Orr said it's become difficult for small start-ups and small businesses looking to expand to raise the capital they need and the bill is intended to be a low cost, simple solution.

"We wanted it simple and easy to use. We didn't want a 50-page bill with a lot of hoop jumping and we wanted it to be low cost for the small business in that we didn't have to require a broker/dealer or go through a middle man," Orr said. "The ability for small businesses to be able to raise capital was the primary motivating factor for putting the bill together."

Alabama is one of the first states to pass a bill of this nature, along with Kansas and Georgia.

After the bill passed, Orr said he was surprised to get phone calls from the Wall Street Journal and other national publications interested in the law and how Alabama has taken a leading role in the crowdfunding movement. About a dozen other states have passed similar laws.

To read the bill or learn more about crowdfunding, visit acs.alabama.gov.