



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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Representative Kurt Olson
Chairman
Committee on Labor & Commerce
Alaska House of Representatives
State Capitol, 120 4th St.
Juneau, AK 99801

Representative Shelley Hughes
Vice-Chairman
Committee on Labor & Commerce
Alaska House of Representatives
State Capitol, 120 4th St.
Juneau, AK 99801

Re: S.B. 108 and H.B. 194 (29th Legislature)

Dear Mr. Chairman and Madam Vice-Chairman:

On behalf of the North American Securities Administrators Association (“NASAA”),¹ I write to express support for S.B. 108 / H.B. 194, which would enact a number of changes to the Alaska Securities Act. If enacted, these bills would modernize Alaska’s securities laws in important ways, benefitting Alaskan investors and businesses.

S.B. 108 and H.B. 194 (hereafter, “the bills” or “the legislation”) would amend the Alaska Securities Act (“ASA”)² to enact elements of the Uniform Securities Act of 2002 (“Uniform Act”), updating Alaska’s securities laws to incorporate provisions that have proven successful in many other states. The bills would also make operational and technical improvements to Alaska’s securities laws – reorganizing the ASA by topic; updating it to reflect technological advances such as the internet; and revising the law to eliminate redundant and outdated statutory references, such as references to communications by telegraph and to stock exchanges that no longer exist. The cumulative impact of these changes would be to streamline securities regulation in Alaska, making its laws more consistent with those of other states, and therefore helping Alaska’s securities marketplace become more efficient and accessible to issuers, investors, and other participants.

Beyond the general efficiency that Alaska and its residents will realize from the updating of the ASA to reflect elements of the Uniform Act, Alaskans stand to benefit from a variety of specific and innovative provisions in the legislation that strengthen protections for Alaskan investors. In short, the legislation will modernize existing provisions of the state’s securities laws and strengthen protection for investors.

¹ The oldest international organization devoted to investor protection, the North American Securities Administrators, Inc. was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico and the U.S. Virgin Islands. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

² The Alaska Securities Act provides the legal framework for offering or selling of securities within Alaska.

In order to help streamline capital formation for Alaskan businesses, S.B. 108 and H.B. 194 would eliminate state filing requirements for all exemptions from registration, save for rescission offers and crowdfunding. The bills would also codify a recent NASAA model registration exemption for persons acting as “brokers” in mergers and acquisitions (“M&A”) transactions, thereby making it easier and less costly for certain Alaskan businesses to grow and expand.³ In addition, the bills would establish a new exemption in Alaska’s securities laws for certain small intrastate investment opportunities, commonly referred to as “crowdfunding,” that would permit Alaska residents to invest up to \$5,000 per person, per offering, in Alaska businesses.⁴ Crowdfunding is a relatively recent form of capital raising that utilizes the internet to solicit small dollar investments. While intrastate crowdfunding⁵ is not suitable for every business venture or securities investor, it has the potential to be an important tool for some small businesses and “start-ups” in Alaska to raise investment capital and get their businesses off the ground.⁶

While S.B. 108 and H.B. 194 contain provisions that will aid Alaska businesses and innovators, these measures would also take significant steps to strengthen protections for Alaska’s retail investors.

The legislation would permit the Alaska Securities Division (“Division”) to impose a bar upon registration, which is currently not allowed under the ASA, even for the most egregious conduct. In addition, the bills would increase the maximum civil penalty for registrants from its current \$2,500-\$10,000 per violation to up to \$100,000 per violation, and the maximum administrative penalty from \$25,000 to \$100,000 per violation, and allow for even greater sanctions in cases where the victim is an “older Alaskan” (a person over 60 years old). Further, the bills would allow the Division to impose restitution costs, and assessments to recover the actual costs of an investigation, and would authorize the Division to deny the use of securities exemptions under Article 2 and registration (licensing) exemptions under Article 4 if a person violates the Act. Finally, the bills would establish a fund for investor education and training, which would be financed using a portion of civil penalties received by the state.

In conclusion, NASAA supports S.B. 108 and H.B. 194. We appreciate the opportunity to comment on the bills, and would be pleased to assist the Committee in any way possible.

Sincerely,



Judith M. Shaw
NASAA President and Maine Securities Administrator

³ The NASAA Model Rule Exempting Certain Merger and Acquisition Brokers From Registration Pursuant to State Securities Acts was adopted on September 29, 2015 by the NASAA membership.

⁴ Crowdfunding exemptions are tied to the federal intrastate offering exemption, or Rule 504 of Regulation D; last year, the U.S. Securities and Exchange Commission proposed amendments to Rule 504 as well as Securities Act Rule 147. The proposed rules will make it easier for states to adopt successful intrastate crowdfunding policies.

⁵ Intrastate crowdfunding is a separate and distinct funding mechanism from the federal crowdfunding rules, which were adopted on October 30, 2015. As of January 27, 2016, intrastate crowdfunding exemptions have been adopted in thirty states.

⁶ The Crowdfunding exemption incorporates a simple notice filing requirement and other features designed to balance the potential as a capital raising tool with the need to maintain investor protection. These investor protections include limiting offerings to no more than \$1 million annually; requiring that purchaser acknowledge investment risk; prohibiting bad actors from relying on the exemption; and prohibiting the payment of commissions in connection with the sale of any securities offered under the exemption to a salesperson not licensed in Alaska.