

Date of Hearing: April 20, 2015

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 722 (Perea) – As Introduced February 25, 2015

**SUBJECT:** Securities transactions: qualifications by permit: liability

**SUMMARY:** Creates a new qualification by permit under California's Corporate Securities Law of 1968. Specifically, **this bill:**

- 1) Provides that any offer or sale of any security that meets the following criteria may be qualified by permit:
  - a) An applicant may file an application for a "crowdfunding" permit if it meets the following conditions:
    - i) The applicant is a California corporation or a foreign corporation, as specified; the applicant is not issuing fractional undivided interests in oil and gas rights, or a similar interest in other mineral rights; the applicant is not an investment company subject to the Investment Company Act of 1940; and the applicant is not subject to the reporting requirements of as specified in the Securities Exchange Act of 1934.
    - ii) Provides 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 the aggregate offering price for all securities sold within the 12 months before the start, and during the offering of the securities.
    - iii) Offers and sales cannot be integrated with prior offers or sales of securities or subsequent offers or sale of securities, as specified.
    - iv) Prohibits the securities sold during a 12-month period to any investor from exceeding the lesser of \$5,000 or 10% of the net worth of that natural person or such amount as the commissioner of the Department of Business Oversight (DBO) may provide by rule or order.
      - (1) States "net worth" shall be determined exclusive of home, home furnishings, and automobiles. Other assets includes in the computation of net worth may be valued at the fair market value.
    - v) Requires the issuer to take reasonable steps to ensure that each investor who is a natural person who is not an accredited investor has knowledge and experience in financial business matters that he or she is capable of evaluating the merits and risks of the prospective investment.
    - vi) Requires the issuer to file with the commissioner and provide to investors a Small Company Offering Registration (SCOR) disclosure document on Form U-7, prior to the commencement of the offering of securities.
    - vii) Requires the issuer to set aside in a separate third-party escrow account all funds raised as part of the offering to be held in escrow until that time of minimum offering

amount is reached. The issuer shall return all funds if the minimum offering amount is not reached within one year.

- viii) Prohibits an issuer from conducting unsolicited telephone calls.
  - ix) Prohibits an issuer and others as specified from being disqualified as a "bad actor" under federal regulations.
  - x) Any other requirement set forth by rule adopted by the commissioner of DBO.
- b) Provides that if the commissioner does not issue a stop order then the qualification of the sale of the securities become effective at noon of the 60<sup>th</sup> day after the filing of the application.
- 2) Imposes a filing fee of \$200 plus 1/5<sup>th</sup> of 2% of the aggregate value of the securities sought to be sold in California for qualification of the sale of securities by permit.
  - 3) Allows an issuer to offer securities once an application has been filed with the commissioner of DBO but has not yet become approved.
  - 4) Requires the court to award reasonable attorney's fees and costs, and authorizes the award of treble and punitive damages, to a prevailing purchaser in an action brought against any person who violates conditions of qualification by permit.
  - 5) Provides that a plaintiff is not required to plead or prove that the defendant acted with scienter.

#### **EXISTING FEDERAL LAW:**

- 1) Provide for the Securities Act of 1933, which establishes a framework for regulating the offer and sale of securities and ensuring the protection of investors that purchase those securities. Generally speaking, the Securities Act of 1933 requires the offer or sale of all securities to be registered with the Securities and Exchange Commission (SEC) and to be structured as prescribed in federal law and regulation, unless the offer or sale is covered by an exemption. This federal act also require those who offer (i.e., market) and sell securities to be licensed as investment advisers or broker-dealers, unless either the transaction or the activity being undertaken is exempt.
- 2) Provides for Regulation D, one of the regulations promulgated by the SEC to implement the Securities Act of 1933. Regulation D authorizes a series of exemptions from the registration requirements of the Securities Act of 1933 and includes eight rules, denoted Rules 501 through 508, which are codified as 17 CFR 230.501 through 230.508.
  - a) Rule 501 of Regulation D defines accredited investors as, among other things, financial institutions, securities broker-dealers, large pension plans, corporate entities with assets in excess of \$5 million, and other large, financially sophisticated entities. An accredited investor also includes:
    - i) Any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds \$1 million at the time of their purchase of securities, exclusive of their primary

residence; or,

- ii) Any natural person with an individual income in excess of \$200,000 in each of the two most recent years, or joint income with that person's spouse in excess of \$300,000 in each of those years, together with a reasonable expectation of reaching the same income level in the current year.
- b) Rule 504 of Regulation D authorizes the offer and sale of up to \$1 million in securities by an issuer, as long as the offer and sale are made:
- i) Exclusively in one or more states that provide for the registration of the securities, and require the public filing and delivery to investors of a substantive disclosure document before the sale of the securities (this is the provision of Rule 504 applicable to this bill);
    - (1) In one or more states that have no provision for the registration of the securities or the public filing or delivery of a disclosure document before sale, if the securities have been registered in at least one state that does provide for such registration, public filing and delivery before sale, as specified; or,
    - (2) Exclusively according to state law exemptions from registration that permit general solicitation and general advertising, as long as sales are made only to accredited investors (this is the provision of Rule 504 that was applicable to prior bills sponsored by this bill's sponsor).
- 3) Pursuant to the Jumpstart Our Business Startups (JOBS) Act (Public Law 112-106), authorizes the use of general solicitation and general advertising in certain circumstances not previously authorized. Title II of the JOBS Act, operative September 23, 2013, lifted the restriction against use of general solicitation and general advertising, when sales are made only to accredited investors and other requirements are met. Title III of the JOBS Act, otherwise known as the CROWDFUND Act, will lift the restriction against use of general solicitation and general advertising to both accredited and non-accredited investors, once the SEC promulgates final regulations implementing that title.

#### **EXISTING STATE LAW:**

- 1) Provides that it is unlawful for any person to offer or sell any security in this state, unless such offering or sale has been qualified by the commissioner, as specified, or unless the offering or sale is covered by an express exemption (Corporations Code Section 25110).
- 2) Authorizes the qualification by notification of any security issued by a person that is the issuer of a security registered under Section 12 of the Securities Exchange Act of 1934 or issued by an investment company registered under the Investment Company Act of 1940 (Section 25112).
  - a) Requires an application for qualification by notification to contain the maximum amount of securities proposed to be offered in California; consent to service of process; information about any adverse order, judgment, or decree entered in connection with the offering by another state regulator, the SEC, or a court (if applicable); and any additional

information required by rule of the commissioner.

- b) Provides that if no stop order or other order postponing or suspending the effectiveness of any qualification is in effect, qualification of the sale of the securities automatically becomes effective, and the securities may be offered and sold in accordance with the application, on the 10<sup>th</sup> business day after the application is filed or last amended, or at an earlier time specified by the commissioner.
- 3) Establishes "qualification by permit" which states all securities, whether or not eligible for qualification by coordination under Section 25111 or qualification by notification under Section 25112, may be qualified by permit under this section. An application for a permit under this section shall contain any information and be accompanied by any documents as shall be required by rule of the commissioner, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165. For this purpose, the commissioner may classify issuers and types of securities. [Corporations Code, Section 25113]
- 4) Contains several exemptions from the requirement immediately above. While the number of exemptions is too numerous to list, two of the most relevant exemptions for purposes of this bill include Corporations Code Sections 25102(f) and 25102(n).
  - a) 25102(f) provides an exemption for any offer or sale of any security in a transaction that meets all of the following criteria: i) sales of the security are made to an unlimited number of accredited investors and up to 35 other persons, who are not accredited investors; ii) all purchasers either have a pre-existing personal or business relationship with the offeror, or can reasonably be assumed to have the capacity to protect their own interests in connection with the transaction, by reason of their business or financial experience, or the business or financial experience of their professional advisers; iii) each purchaser represents that he or she is purchasing for his or her own account, and not with a view to or for sale in connection with any distribution of the security; and iv) the offer and sale of the security is not accomplished through the publication of any advertisement.

According to the Department of Business Oversight (DBO), between 20,000 and 35,000 people file forms with DBO annually, claiming exemptions pursuant to Section 25102(f). In 2013, approximately 18,000 exemption filings were made in connection with securities offerings of \$1 million or less.

- b) 25102(n) provides an exemption for any offer or sale of any security in a transaction that meets all of the following criteria: i) the issuer is not a blind pool issuer, as that term is defined by the commissioner; ii) sales of securities are made only to qualified purchasers or other persons the issuer reasonably believes to be qualified purchasers; iii) each purchaser represents that he or she is purchasing for his or her own account, and not with a view to or for sale in connection with any distribution of the security; iv) each natural person purchaser is provided with a disclosure statement that meets the disclosure requirements of federal Regulation D, at least five business days before they purchase or commit to purchase the security; v) the offer and sale of the security is made by way of a general announcement, whose content is strictly limited; and vi) telephone solicitation by the issuer is not permitted, until and unless the issuer determines that the prospective purchaser being solicited is a qualified purchaser.

Qualified purchasers are those who meet one or more of several criteria listed in subdivision (n). Generally speaking, these criteria describe persons with some degree of financial sophistication, though the qualified purchaser bar is lower than the accredited investor bar. As an example, an individual is a qualified purchaser if that person individually, or jointly with their spouse, has a minimum net worth of \$250,000 and had, during the immediately preceding tax year, gross income in excess of \$100,000, and reasonably expects gross income in excess of \$100,000 during the current tax year. Alternately, the term applies to individuals who have a minimum net worth of \$500,000, exclusive of their home, home furnishings, and automobiles. Natural persons are limited to investing no more than 10% of their net worth in any 25012(n) investment.

According to DBO, between 20 and 50 people file forms with DBO annually, claiming exemptions pursuant to Section 25102(n).

- 5) Provides a fee of \$2,500 for filing an application for qualification of the sale of securities by permit. [Corporations Code, Section 25608]

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

This bill is sponsored by Small Business California, to allow small businesses and start-ups to more readily access capital.

AB 722 is substantially similar to previous bills advanced by the same sponsors but takes a different approach. In previous years, the sponsors attempted to secure an exemption from state securities laws to authorize general solicitation and general advertising to accredited investors. Last year, the sponsors attempted to secure a qualification by notification, under which issuers can use general solicitation and general advertising to attract both accredited and non-accredited investors. This year, through AB 722 the sponsors are attempting "qualification by permit" under which issuers can use general solicitation and general advertising (excluding unsolicited telephone calls) to attract both accredited and non-accredited investors. In addition, AB 722 attempts to use the term "crowdfunding" in the measure. Whether or not AB 722 is actually crowdfunding is debatable.

Under existing law, there are only three ways to qualify a securities offering, all of which require significant review of the offering by either the SEC or DBO. Those three ways include coordination (Corporations Code Section 25211; involves offerings registered under the Federal Securities Act of 1933); notification (Section 25212; involves securities registered under Section 12 of the Securities Exchange Act of 1934 or investment companies registered under the Investment Company Act of 1940); and permitting (a rigorous and often costly process in which applicants apply to DBO for a permit that is good for one year; Section 25213; according to DBO, only 130 permit applications were filed with the DBO in 2013).

AB 722 takes the third approach of permitting. An applicant turns in a permit application to offer securities. According to AB 722 once the application is filed, the issuer may begin to offer. The DBO has 60 days to approve the application, should the review process take longer than 60 days, the offers automatically become effective on the 60<sup>th</sup> day.

***Crowdfunding:***

Crowdfunding is a collective cooperation of people who network and pool their money and resources together, usually via the internet, to support efforts initiated by other organizations. Crowdfunding literally attracts a “crowd” of people, each of whom takes a small stake in a business idea by contributing towards an online funding target. Crowdfunding has become a popular and alternative method of raising finance for a business, real estate investments, projects or ideas and has become popularized online by sites such as Kickstarter, Wefunder, Crowdfunder and RockthePost.

Crowdfunding is a means to raise money by attracting relatively small individual contributions from a large number of people. In recent years, crowdfunding websites have proliferated to raise funds for charities, artistic endeavors and businesses. These sites did not offer securities, such as an ownership interest or share of profits in a business; rather, money was contributed in the form of donations, or in return for the product being made.

While the goal of this measure is admirable, providing increased access to capital for small businesses, the risks associated with the measure could be at the expense of those most vulnerable, un-sophisticated non-accredited and accredited investors. AB 722 does have a cap of \$5,000 which weakens the ability for an issuer to take an investors lifesavings but small business investments have even greater risk than normal. About 50 % of all small businesses fail within the first five years according to a crowdfunding warning document issued by the North American Securities Administrators Association (NASAA).

AB 722 does not provide for a platform or portal to solicit accredited and non-accredited investors. AB 722 does require issuers to place the investment in a third-party escrow account instead but the measure is vague on who the escrow holder would be, what protections would exist and what disclosures would be required by the escrow holder. Since a platform is not used it is not clear what method an issuer would use as far as general solicitation and general advertising under AB 722. Title III of the JOBS Act along with AB 722 expands securities to equity-based crowdfunding. The public most often views crowdfunding as donation based.

***Chart below lays out important pieces of both Title III of the Jobs Act and AB 722***

	<b>Title III of JOBS Act</b>	<b>AB 722</b>
Nature of Authorization	Exemption from registration requirements of the Securities Act of 1933	Qualification by Permit
Maximum Total Value of Securities That May Be Sold In Reliance on the Authorization	\$1 million per 12-month period	\$1 million per 12-month period
Maximum Aggregate Value of Securities That May Be Sold to a Single Investor	Investors with annual income or net worth <\$100K: greater of \$2K or 5% of annual income or net worth.  Investors with annual income or net worth of	Non-accredited investors: \$5,000 or a greater amount as determined by the commissioner.  Accredited investors: No limit other than the \$1 million cap.

	\$100K or more: 10% of annual income or net worth, not to exceed \$100K.	
Is An Intermediary Required?	Yes. Transactions must be conducted through a registered broker or a registered funding portal.	No
Requirements Applicable to Intermediaries (these requirements will be clarified and may be augmented by the SEC when it finalizes its crowdfunding regulations)	Broker or portal must register with the SEC and FINRA; provide specified disclosures to investors; ensure that each investor reviews specified education information that will be established by the SEC by regulation and affirms that they understand the risks of the investment they are about to undertake; perform background checks on persons with key management roles in the issuer's organization; make key information provided by the issuer available to investors; ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than a target offering amount, and allow investors to cancel their commitments to invest in accordance with rules to be promulgated by the SEC; undertake efforts to ensure that no individual investor exceeds the maximum allowable purchase of crowdfunding offerings; protect the privacy of information collected from investors; refrain from compensating promoters, finders, or lead generators for providing the broker or funding portal with personal identifying information	N/A

	<p>about any potential investors; and prohibit its directors, officers, or partners from having any financial interest in an issuer using its services.</p>	
<p>Requirements Applicable to Issuers</p>	<p>Issuers must file with the SEC and provide to investors and the broker or funding portal all of the following: key information about the identity of the issuer, its key owners and management personnel, its business plan, a description of the financial condition of the issuer (see detail below); a description of the stated purpose and intended use of the proceeds of the offering; the target offering amount, deadline to reach the target offering amount, and regular updates regarding the progress of the issuer in meeting the target offering; the price to the public of the securities being offered; a description of the ownership and capital structure of the issuer, and including a description of specified risks to purchasers.</p> <p>Issuers are prohibited from advertising the terms of the offering, except through notices that direct investors to the broker or funding portal. Direct solicitation of investors is not allowed.</p> <p>Issuers are prohibited from compensating or committing to compensate, directly or indirectly, any person to promote its offerings through communication channels provided by a</p>	<p>Issuers must file with the commissioner and provide to investors a Small Company Offering Registration Form U-7. The U-7 is a 37-page document (not including attachments) that includes information about the issuer, its management, and its business plan, and about the offering, including a description of the purpose and intended use of the proceeds of the offering. According to this bill's sponsor, the two key requirements of the U-7 that are not required by Title III of the JOBS Act are the requirement that the issuer describe what it must do to meet key milestones and describe how it will use the offering proceeds if only the minimum offering amount is raised.</p> <p>Issuers must return all money raised from investors, if they do not raise enough to meet their minimum offering amount.</p>



	broker or funding portal, without taking steps to ensure that the person clearly discloses receipt, past or prospective, of such compensation.	
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***General Solicitation & General Advertising:***

As their names imply, general solicitation and general advertising are not targeted. They reach an audience that includes both accredited and non-accredited investors. According to the SEC, general solicitation includes advertisements published in newspapers and magazines, public websites, communications broadcasted over television and radio, and seminars where attendees have been invited by general solicitation or general advertising. Use of an unrestricted, and therefore publicly available, website also constitutes general solicitation. General advertising is general solicitation made by means of an advertisement.

***SCOR:***

California, under existing law, already has the SCOR program which was established through legislation in 1986. California requires that SCOR offerings (\$1 million or less) must be qualified by the commissioner of DBO. Applicants that satisfy SCOR conditions can use the Form U-7 disclosure document from the NASAA. However, SCOR applicants must provide the financial information required by the DBO rather than those required by Form U-7. The current SCOR program is perceived as time consuming and burdensome and is looked upon as unsuccessful. Over the years, DBO has received very few applications on an annual basis.

AB 722, instead of working within the SCOR program and improving the existing qualification by permit, AB 722 layers a new permit application process on top of the SCOR program. The SCOR program also only applies intrastate while AB 722 states "within or outside the state."

***Background:***

On April 5, 2012, President Obama signed landmark legislation, H.R. 3606, the Jumpstart Our Business Startups Act (the "JOBS Act"). The JOBS Act makes it easier for startups and small businesses to raise funds. This legislation passed Congress through a 73-26 Senate vote and a 380-41 House vote. As far as, AB 722 is concerned, Title III of the JOBS Act requires the SEC to develop new rules permitting capital raising by "crowdfunding." SEC is still in the rule-making process and is due to publish final regulations before non-SEC accredited investors can start financing small businesses.

In October of 2013, the SEC issued the proposed crowdfunding rules in a 585 page document. The JOBS Act creates an exemption from the registration requirements of the Securities Act of 1933 that provides for a form of securities crowdfunding. The SEC has not taken lightly the role of establishing a brand new type of financial intermediary and a whole new regulatory process which is why it is estimated the final rules will not be released until October, 2015. The SEC has struggled to create a set of rules that respected the flexible and democratic nature of crowdfunding (which makes it so appealing to very small and early stage start-up companies)

while also implementing sufficient regulation to satisfy consumer and investor protection critics who fear that investment crowdfunding is far too open to abuse and fraud.

Key features of the SEC's proposed rules:

- A company will only be able to raise a maximum aggregate amount of \$1 million through crowdfunding offerings per 12-month period.
- Companies raising less than \$500,000 through crowdfunding within any 12-month period will need to share financial statements and income-tax returns with their investors and those raising more than \$500,000 will be obligated to provide audited financial statements to investors.
- Investors with an annual income or net worth of less than \$100,000 will be permitted to invest a maximum of \$2,000 or 5% of their annual income or net worth (whichever is greater) per 12-month period.
- Investors with an annual income or net worth equal to or greater than \$100,000 will be permitted to invest up to 10% of their annual income or net worth (whichever is greater) per 12-month period up to a total maximum of \$100,000 in securities.
- Companies conducting a crowdfunding offering will need to file certain information with the SEC, the relevant intermediary facilitating the crowdfunding offering and potential investors.
- Private crowdfunding offerings will be conducted exclusively online through a registered broker or funding platform (portal). Funding platforms will be required to register with the SEC. Non-US crowdfunding platforms will be able to register with the SEC, subject to an on-site examination.
- Registration rules for crowdfunding platforms, which were developed in partnership with the Financial Industry Regulatory Authority (FINRA). FINRA released its set of proposed rules, the Funding Portal Rules.

According to the Small Business Administration, "The SEC released the notice of proposed rulemaking for Title III of the JOBS Act on November 5, 2013. The proposal requested comments on title definitions, investment limits, how income and net worth are calculated for individuals, intermediaries, and many other topics. The comment period closed February 3, 2014 after receiving nearly 500 comments from individuals and organizations. The SEC has not finalized the equity-based crowdfunding rule yet, but has set a date of October 2015 to take final action. This will provide prospective platforms, investors, and small business entrepreneurs with the assurances they need to go forward in planning for a future with equity-based crowdfunding."

## **NASAA**

AB 722 requires an issuer to file with the administrator (commissioner of DBO) a small company offering registration disclosure document on Form U-7. The form is found at the NASAA website: <http://www.nasaa.org/industry-resources/corporation-finance/scor->

overview/scor-forms/. The form goes into detail, among other things, the type of investment, potential risks to the investor, the offering amount, and the deadline to reach the offering.

***Other States:***

A number of other states have enacted crowdfunding in a variety of forms all only apply intrastate. These states include: Georgia, Kansas, Michigan, Idaho, Washington, Wisconsin and Maine.

***Federal Regulation A+:***

On March 24, 2015, the SEC adopted final rules to implement the rulemaking mandate of Title IV of the JOBS Act by adopting amendments to Regulation A. In December 2013, the SEC had released a proposed rule that essentially retained the current framework of Regulation A and expanded it for larger exempt offerings. Existing Regulation A provided an exemption from the registration requirement of Section 5 for certain smaller securities offering by private companies. The securities sold in Regulation A offering are not considered "restricted securities" and are freely transferable. The "New" Regulation A provides an exemption for U.S. companies to raise up to \$50,000,000 in a 12-month period. The final rules create two tiers: Tier 1 for smaller offerings raising up to \$20,000,000 in any 12 month period and Tier 2 for offerings raising up to \$50,000,000. Tier 1 will be subject to both SEC and state blue sky pre-sale review.

The finalized rules of Regulation A+ will be very appealing to small businesses.

***Questions & Concerns:***

- 1) Should California enact intrastate crowdfunding or should the Legislature wait until after the SEC finalizes the federal crowdfunding rules in October, 2015? The SEC proposed rules have been touted as being too stringent which may hinder those who actually use it. Some would say this is intentional to deter fraud and scams under this new framework. Ultimately, the question is whether or not California needs to establish its own crowdfunding framework which may be more lax and/or conflict and if so, is that good? AB 722 if enacted would allow and promote "regulation shopping." Issuers can determine whether to register to adhere to federal regulations or state securities regulations.
- 2) The economy is recovering, the unemployment rate is down, the federal government acted, is there still a need to act on a statewide level to produce more ways to raise capital? In addition, the U.S. Treasury just gave the California State Treasurer \$55,218,250 in federal funds from the JOBS Act to provide access to capital to small businesses through the California Pollution Control Financing Authority and the California Infrastructure and Economic Development Bank. This is the second of three disbursements. Are small businesses capitalizing on these funds?
- 3) As noted above in "other states," the states that have adopted a crowdfunding framework are states that are desperately trying to attract and lure in new businesses. California is known as the start-up epicenter. According to a recent study by Radius, a San Francisco technology company that collects small business data in the U.S. of the top 12 places to establish a start-up in 2014, California had three cities which included: San Diego as number 1, San Francisco as number 6 and San Jose as number 12. Are small businesses really struggling to

establish themselves in California? The small businesses that would need to use crowdfunding may be the types of businesses that have exhausted all other options and if so, are these the type of businesses we want established in California soliciting to potentially vulnerable unsophisticated investors?

- 4) AB 722 makes clear that the securities sold could be "within or outside California." Wouldn't anything outside California conflict with federal rules? Other states who have enacted state crowdfunding proposals only apply intrastate. How will DBO be able to enforce?

***Previous Legislation:***

AB 2096 (Muratsuchi) (2014 Legislative Session) would have created a new way in which a person seeking to offer or sell securities could qualify their offering, by authorizing the "qualification by notification" of offers or sales of securities advertised by means of general solicitation and general advertising, as specified. Died in the Senate Appropriations Committee.

AB 783 (Daly) (2013 Legislative Session) provides that an issuer can offer or sell securities using any form of general solicitation or general advertising. Died in the Assembly Banking and Finance Committee.

AB 2081 (Allen) (2012 Legislative Session) provides that an issuer can offer or sell securities using any form of general solicitation or general advertising. Died on the Senate Floor.

SB 875 (Price) (2010 Legislative Session) would have exempted from qualification offerings or sales of securities using a general solicitation or general advertising, provided the transaction meets specified requirements, including a requirement that the sales are made to accredited investors. Died in Senate Banking and Financial Institutions.

AB 1644 (Campbell & Briggs) (2001 Legislative Session) would have exempted from qualification offerings or sales of securities using a general solicitation or general advertising, provided the transaction meets specified requirements, including a requirement that the sales are made to accredited investors. Failed passage in Assembly Banking and Finance Committee.

***Double Referral***

This measure is double referred to the Assembly Judiciary Committee.

***Recommended Amendments:***

The committee recommends that the author delete the "test the water" provisions in the measure which allows an issuer to offer securities prior to approval from DBO.

On page 3, delete , " or (B) an application for qualification under Section 25113.1 has been filed with the commissioner but has not yet become effective; "

On page 18, delete, "or (B) an application for qualification under Section 25113.1 has been filed with the commissioner but has not yet become effective; "

***Technical Amendments:***

Delete all references to "issuer" and insert "applicant"

On page 21, line 10, line 17, line 23, line 27, line 29, line 32, line 34, line 35, line 38

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Asian Pacific Chamber of Commerce  
California Association of Competitive Telecommunications Companies (CALTEL)  
California Association of Micro-economic Opportunity (CAMEO)  
California Black Chamber of Commerce  
California Disabled Veteran Business Alliance  
California Fence Contractors Association  
California Hispanic Chamber of Commerce  
California Metals Coalition (CMC)  
Coleman & Horowitz LLP  
Flasher Barricade Association  
Golden Gate Business Association  
Greater Geary Boulevard Merchants & Property Owners Association  
National Federation of Independent Business (NFIB)  
North East Mission Business Association (NEMBA)  
Northern California Independent Booksellers Association (NCIBA)  
Plumbing Heating Cooling Contractors of California (PHCC)  
San Francisco Builders Exchange  
San Francisco Chamber of Commerce  
San Francisco Council of District Merchants Association (SFCDMA)  
San Francisco Locally Owned Merchants Alliance  
San Francisco Small Business Network  
Small Business California (SB-Cal)  
Small Business Majority  
South Bay Entrepreneurial Center (SBEC)  
SpanishOne Translations, Inc.

**Concerns**

Consumers Attorneys of California

**Opposition**

AARP  
Public Investors Arbitration Bar Association

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