**Indiana Code Excerpt – Crowdfunding Exemption**

**(26)** Any offer or sale of securities after June 30, 2014, by an issuer that meets the requirements of the federal exemption for intrastate offerings in Section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. 77c(a)(11), and Securities and Exchange Commission Rule 147, 17 CFR 230.147. However, all the following apply:

(A) The issuer must make a notice filing with the division on a form prescribed by the commissioner within thirty (30) days after the first sale in Indiana.

(B) Any commission, discount, or other remuneration for sales of securities in Indiana must be paid or given only to dealers or salespersons licensed under this article.

(C) The issuer must pay the fee established by the commissioner. However, no filing fee is required to file amendments to Form D of the Securities and Exchange Commission.

(D) Within ten (10) days of receiving the form required by this subdivision, the commissioner may require the issuer to furnish any additional information considered necessary by the commissioner to determine the issuer's qualifications.

**(27)** An offer or sale of a security made after June 30, 2014, by an issuer if the offer or sale is conducted in accordance with all the following requirements:

(A) The issuer of the security is a business entity organized under the laws of Indiana and authorized to do business in Indiana.

(B) The transaction meets the requirements of the federal exemption for intrastate offerings in Section 3(a)(11) of the Securities Act of 1933 (15 U.S.C. 77c(a)(11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147).

(C) Except as provided in clause (E), the sum of all cash and other consideration to be received for all sales of the security in reliance on the exemption under this subdivision, excluding sales to any accredited investor or institutional investor, does not exceed the following amount: (i) If the issuer has not undergone and made available to each prospective investor and the commissioner the documentation resulting from a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, one million dollars ($1,000,000), less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer or sale made in reliance on the exemption under this subdivision. (ii) If the issuer has undergone and made available to each prospective investor and the commissioner the documentation resulting from a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, two million dollars ($2,000,000), less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer or sale made in reliance on the exemption under this subdivision.

(D) An offer or sale to an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer does not count toward the monetary limitations in clause (C).

(E) The issuer does not accept more than five thousand dollars ($5,000) from any single purchaser unless the purchaser is an accredited investor.

(F) Unless waived by written consent by the commissioner, not less than ten (10) days before the commencement of an offering of securities in reliance on the exemption under this subdivision, the issuer must do all the following:

(i) Make a notice filing with the division on Form D of the

Securities and Exchange Commission.

(ii) Pay the fee established by the commissioner. However, no filing fee is required to file amendments to Form D of the Securities and Exchange Commission.

(iii) Provide the commissioner a copy of the disclosure document to be provided to prospective investors under clause (L).

(iv) Provide the commissioner a copy of an escrow agreement with a bank, regulated trust company or corporate fiduciary, savings bank, savings and loan association, or credit union authorized to do business in Indiana in which the issuer will deposit the investor funds or cause the investor funds to be deposited. The bank, regulated trust company or corporate fiduciary, savings bank, savings and loan association, or credit union in which the investor funds are deposited is only responsible to act at the direction of the party establishing the escrow agreement and does not have any duty or liability, contractual or otherwise, to any investor or other person.

(v) The issuer shall not access the escrow funds until the aggregate funds raised from all investors equals or exceeds the minimum amount specified in the escrow agreement.

(vi) An investor may cancel the investor's commitment to invest if the target offering amount is not raised before the time stated in the escrow agreement.

(G) The issuer is not, either before or as a result of the offering, an investment company, as defined in Section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), an entity that would be an investment company but for the exclusions provided in Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)), or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 15 U.S.C. 78o(d)).

(H) The issuer informs all prospective purchasers of securities offered under an exemption under this subdivision that the securities have not been registered under federal or state securities law and that the securities are subject to limitations on resale. The issuer shall display the following legend conspicuously on the cover page of the disclosure document:

"IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR DIVISION OR OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES

HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF SEC RULE 147 (17 CFR 230.147(e)) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.".

(I) The issuer requires each purchaser to certify in writing or electronically as follows: "I UNDERSTAND AND ACKNOWLEDGE THAT I am investing in a high-risk, speculative business venture. I may lose all of my investment, or under some circumstances more than my investment, and I can afford this loss. This offering has not been reviewed or approved by any state or federal securities commission or division or other regulatory authority and no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering. The securities I am acquiring in this offering are illiquid, there is no ready market for the sale of such securities, it may be difficult or impossible for me to sell or otherwise dispose of this investment, and, accordingly, I may be required to hold this investment indefinitely. I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.".

(J) The issuer obtains from each purchaser of a security offered under an exemption under this subdivision evidence that the purchaser is a resident of Indiana and, if applicable, is an accredited investor.

(K) All payments for purchase of securities offered under an exemption under this subdivision are directed to and held by the financial institution specified in clause (F)(iv). The commissioner may request from the financial institutions information necessary to ensure compliance with this section. This information is not a public record and is not available for public inspection.

(L) The issuer of securities offered under an exemption under this subdivision provides a disclosure document to each prospective investor at the time the offer of securities is

made to the prospective investor that contains all the following:

1. A description of the company, its type of entity, the address and telephone number of its principal office, its history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer.
2. (ii) The identity of all persons owning more than twenty percent (20%) of the ownership interests of any class of securities of the company.
3. (iii) The identity of the executive officers, directors, managing members, and other persons occupying a similar status or performing similar functions in the name of and on behalf of the issuer, including their titles and their prior experience.
4. (iv) The terms and conditions of the securities being offered and of any outstanding securities of the company; the minimum and maximum amount of securities being offered, if any; either the percentage ownership of the company represented by the offered securities or the valuation of the company implied by the price of the offered securities; the price per share, unit, or interest of the securities being offered; any restrictions on transfer of the securities being offered; and a disclosure of any anticipated future issuance of securities that might dilute the value of securities being offered.
5. (v) The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any Internet web site operator but excluding persons acting solely as accountants or attorneys and employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital.
6. (vi) For each person identified as required in this clause, a description of the consideration being paid to the person for such assistance.
7. (vii) A description of any litigation, legal proceedings, or pending regulatory action involving the company or its management.
8. (viii) The names and addresses, including the Uniform Resource Locator, of each Internet web site that will be used by the issuer to offer or sell securities under an exemption under this subdivision.
9. (ix) Any additional information material to the offering, including, if appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion must be concise and organized logically and may not be limited to risks that could apply to any issuer or any offering.

(M) The exemption under this subdivision may not be used in conjunction with any other exemption under this article, except for offers and sales to individuals identified in the disclosure document, during the immediately preceding twelve (12) month period.

(N) The exemption described in this subdivision does not apply if an issuer or person affiliated with the issuer or offering is subject to disqualification established by the commissioner by rule or contained in the Securities Act of 1933 (15 U.S.C. 77c(a)(11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.262). However, this clause does not apply if both of the following are met:

1. On a showing of good cause and without prejudice to any other action by the commissioner, the commissioner determines that it is not necessary under the circumstances that an exemption is denied.
2. The issuer establishes that it made a factual inquiry into whether any disqualification existed under this subdivision but did not know, and in the exercise of reasonable care, could not have known that a disqualification existed under this subdivision. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(O) The offering exempted under this subdivision is made exclusively through one (1) or more Internet web sites and each Internet web site is subject to the following:

1. Before any offer or sale of securities, the issuer must provide to the Internet web site operator evidence that the issuer is organized under the laws of Indiana and is authorized to do business in Indiana.
2. (ii) Subject to items (iii) and (v), the Internet web site operator must register with the division by filing a statement, accompanied by the filing fee established by the commissioner, that includes all the information described in section 2.3(b) of this chapter.
3. The Internet web site operator is not required to register as a broker-dealer if all the conditions in section 2.3(c) of this chapter apply with respect to the Internet web site and its operator.
4. If any change occurs that affects the Internet web site's registration exemption, the Internet web site operator must notify the division within thirty (30) days after the change occurs.
5. The Internet web site operator is not required to register as a broker-dealer under item (ii) if the Internet web site operator is registered as a broker-dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78o) or is a funding portal registered under the Securities Act of 1933 (15 U.S.C. 77d-1) and the Securities and Exchange Commission has adopted rules under authority of Section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(h)) and P.L.112-106, Section 304, governing funding portals. This item does not require an Internet web site operator to register as a broker-dealer under the Securities Exchange Act of 1934 or as a funding portal under the Securities Act of 1933.
6. (vi) The issuer and the Internet web site operator must maintain records of all offers and sales of securities effected through the Internet web site and must provide ready access to the records to the division, upon request. The records of an Internet web site operator under this clause are subject to the reasonable periodic, special, or other audits or inspections by a representative of the commissioner, in or outside Indiana, as the commissioner considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The commissioner may copy, and remove for audit or inspection copies of, all records the commissioner reasonably considers necessary or appropriate to conduct the audit or inspection. The commissioner may assess a reasonable charge for conducting an audit or inspection under this item.
7. (vii) The Internet web site operator shall limit web site access to the offer or sale of securities to only Indiana residents.
8. (viii) The Internet web site operator shall not hold, manage, possess, or handle investor funds or securities. (ix) The Internet web site operator may not be an investor in any Indiana offering under this subdivision or subdivision (26).

(P) An issuer of a security, the offer and sale of which is exempt under this subdivision, shall provide, free of charge, a quarterly report to the issuer's investors until no securities issued under an exemption under this subdivision are outstanding. An issuer may satisfy the reporting requirement of this clause by making the information available on an Internet web site if the information is made available within forty-five (45) days after the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer shall file each quarterly report under this clause with the division and, if the quarterly report is made available on an Internet web site, the issuer shall also provide a written copy of the report to any investor upon request. The report must contain all the following:

1. Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received.
2. An analysis by management of the issuer of the business operations and financial condition of the issuer.

(Q) In 2019 and every fifth year thereafter, the commissioner shall cumulatively adjust the dollar limitations provided in clause (C) to reflect the change in the Consumer Price Index for all Urban Consumers published by the federal Bureau of Labor Statistics rounding each dollar limitation to the nearest fifty thousand dollars ($50,000).

**As added by P.L.27-2007, SEC.23. Amended by P.L.106-2014, SEC.3. IC 23-19-2-2.3 Internet web site operators Sec. 2.3.**

(a) This section applies to an offering under section 2(27)(O) of this chapter that is made exclusively through one (1) or more Internet web sites and each Internet web site.

(b) As required by section 2(27)(O)(ii) of this chapter, the Internet web site operator shall register with the division by filing a statement, accompanied by the filing fee established by the commissioner, that includes all the following:

(1) That the Internet web site operator is a business entity organized under the laws of Indiana and authorized to do business in Indiana.

(2) That the Internet web site is being used to offer and sell securities pursuant to the exemption under section 2(27) of this chapter.

(3) The identity and location of, and contact information for, the Internet web site operator.

(4) Except as provided in subsection (c), that the Internet web site operator is registered as a broker-dealer under IC 23-19-4. (c) The Internet web site operator is not required to register as a broker-dealer if all the following apply with respect to the Internet web site and its operator: (1) It does not offer investment advice or recommendations. (2) It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet web site. (3) It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet web site.

(4) It is not compensated based on the amount of securities sold, and it does not hold, manage, possess, or otherwise handle investor funds or securities.

(5) The fee it charges an issuer for an offering of securities on the Internet web site is a fixed amount for each offering, a variable amount based on the length of time that the securities are offered on the Internet web site, or a combination of the fixed and variable amounts.

(6) It does not identify, promote, or otherwise refer to any individual security offered on the Internet web site in any advertising for the Internet web site.

(7) It does not engage in any other activities that the division, by rule, determines are prohibited of the Internet web site.

(8) Neither the Internet web site operator, nor any director, executive officer, general partner, managing member, or other person with management authority over the Internet web site operator, has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 CFR 230.506(d)(1)) that would disqualify an issuer under Rule 506(d) adopted under the Securities Act of 1933 (17 CFR 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 CFR 230.506(a) to 17 CFR 230.506(c)).

As added by P.L.106-2014,

**SEC.4. IC 23-19-2-2.4 Exempt transaction; conditions Sec. 2.4.**

(a) As used in this section, "person associated with the issuer" includes the following:

(1) A predecessor of an issuer.

(2) An issuer affiliated with the issuer.

(3) A director, an officer, or a general partner of the issuer.

(4) A beneficial owner of at least ten percent (10%) of any class of the issuer's equity securities.

(5) A promoter presently connected with the issuer in any capacity.

(6) An underwriter of the securities of the issuer that are to be offered.

(7) A partner, a director, or an officer of an underwriter described in subdivision (6).

(b) A transaction described in section 2(26) of this chapter is not exempt under section 2(26) of this chapter if:

(1) the issuer of the security or a person associated with the issuer:

(A) has, within the past five (5) years, filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the Securities and Exchange Commission;

(B) has, within the past five (5) years, been convicted of any criminal offense: (i) in connection with the offer, purchase, or sale of any security; or (ii) involving fraud or deceit;

(C) is currently subject to any state or federal administrative enforcement order or judgment, entered within the past five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or

(D) is currently subject to any order, judgment, or decree of any court with jurisdiction, entered within the past five (5) years, temporarily, preliminarily, or permanently restraining or enjoining the issuer or a person associated with the issuer from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security; and

(2) one (1) or more of the following do not apply:

(A) The issuer of the security or a person associated with the issuer described in subdivision (1) is licensed or registered to conduct securities related business in the state in which the order, judgment, or decree creating the disqualification of the exemption was entered against the issuer of the security or a person associated with the issuer.

(B) Before the first offer of a security in reliance on the exemption in section 2(26) of this chapter, the: (i) state securities administrator; or (ii) court or regulatory authority that entered the order, judgment, or decree waived; the disqualification of the exemption.

(C) The issuer establishes that the issuer did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification of the exemption existed under this subsection.

(c) A transaction described in section 2(26) of this chapter is not exempt under section 2(26) of this chapter if the issuer of the security is in the development stage of the issuer's business and:

(1) does not have a specific business plan or purpose; or

(2) has indicated that the issuer's business plan is to engage in a merger or acquisition with an unidentified company, companies, entity, or other person.

**As added by P.L.71-2014, SEC.2. IC 23-19-2-2.6 Exemption transaction; requirements;** general announcement; additional information; filing Sec. 2.6.

(a) This section applies only to the sale of or offer to sell a security in reliance on the exemption under section 2(26) of this chapter.

(b) A general announcement of a proposed offering of securities may be made by any means.

(c) Except as provided in subsection (d), a general announcement described in subsection (b) may include only the following information unless additional information is specifically permitted by the commissioner:

(1) The name, address, and telephone number of the issuer of the securities.

(2) The name and a brief description and price, if known, of any security to be issued.

(3) A brief description of the business of the issuer in less than twenty-six (26) words.

(4) The type, number, and aggregate amount of securities being offered.

(5) The name, address, and telephone number of the person to contact for additional information.

(6) A statement that:

(A) sales will be made only to accredited investors;

(B) no money or other consideration is being solicited or will be accepted by way of the general announcement; and

(C) the securities: (i) have not been registered with or approved by any state securities agency or the Securities and Exchange Commission; and (ii) are being offered and sold pursuant to an exemption from registration.

(d) An issuer, in connection with an offer to sell a security in reliance on the exemption under section 2(26) of this chapter, may provide information in addition to the general announcement described in subsection (c) if one (1) or more of the following apply:

(1) The information is delivered through an electronic data base that is restricted to persons who have been prequalified as accredited investors.

(2) The information is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(e) The issuer may not make solicitations by telephone for the sale of or offer to sell securities in reliance on the exemption under section 2(26) of this chapter unless before placing the telephone call the issuer reasonably believes that the prospective purchaser the issuer will be soliciting is an accredited investor.

(f) Any dissemination of the general announcement of the proposed offering described in this section does not disqualify the issuer from claiming the exemption under section 2(26) of this chapter.

(g) The issuer shall file with the securities division a: (1) Model Accredited Investor Exemption Uniform Notice of Transaction, along with a consent to service of process; and (2) copy of the general announcement; not later than fifteen (15) days after the first sale of the security in Indiana. As added by P.L.71-2014, SEC.3. IC 23-19-2-3 Additional exemptions; waivers Sec. 3. A rule adopted or order issued under this article may exempt a security, transaction, or offer; a rule under this article may exempt a class of securities, transactions, or offers from any or all of the requirements of IC 23-19-3-1 through IC 23-19-3-6 and IC 23-19-5-4; and an order under this article may waive, in whole or in part, any or all of the conditions for an exemption or offer under sections 1 and 2 of this chapter.

**As added by P.L.27-2007, SEC.23. IC 23-19-2-4 Denial, suspension, revocation, condition, or limitation of exemptions; knowledge of order Sec. 4.**

(a) Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this article may deny, suspend application of, condition, limit, or revoke an exemption created under section 1(3)(C), (1)(7), 1(8), or 2 of this chapter or an exemption or waiver created under section 3 of this chapter with respect to a specific security, transaction, or offer. An order under this section may be issued only under the procedures in IC 23-19-3-6(d) or IC 23-19-6-4 and only prospectively.

(b) A person does not violate IC 23-19-3-1, IC 23-19-3-3 through IC 23-19-3-6, IC 23-19-5-4, or IC 23-19-5-10 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order. As added by P.L.27-2007, SEC.23. IC 23-19-2-5 Emergency rules Sec. 5. The commissioner may adopt emergency rules in the manner provided under IC 4-22-2-37.1 to implement this chapter. As added by P.L.106-2014, SEC.5