

Intrastate Offering Exemption

PLEASE NOTE: This exemption became available for use on June 26, 2015. The regulation can be found in the South Carolina Code of Regulations as Rule 13-206. Issuers may use the “Notice Filing: Intrastate Offering Exemption” form found on this website to deliver notice to the Securities Commissioner.

A. The offer or sale of a security by an issuer, conducted solely in this state to residents of this state, shall be exempt from the requirements of Sections 35-1-301 through 35-1-306 and 35-1-504 of the Act, if the offer or sale is conducted in accordance with each of the following requirements:

(1) The issuer of the security shall be a for-profit business entity formed under the laws of the state of South Carolina and registered with the Secretary of State.

(2) The transaction shall meet the requirements of the federal exemption for intrastate offerings in Section 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Section 77c(a)(11)), and SEC Rule 147 (17 C.F.R. 230.147). As such, prior to any offer or sale pursuant to this exemption, the seller shall obtain, from each prospective purchaser, documentary evidence that provides the seller with a reasonable basis to believe that such investor is a resident of the state of South Carolina.

(3) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this exemption shall not exceed one million (\$1,000,000) dollars, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption.

(4) The issuer shall not accept more than five thousand (\$5,000) dollars from any single purchaser unless the purchaser is an accredited investor as defined by Rule 501 of SEC Regulation D (17 C.F.R. 230.501).

(5) The issuer must reasonably believe that all purchasers of securities are purchasing for investment purposes.

(6) A commission or other remuneration shall not be paid or given, directly or indirectly, for any person’s participation in the offer or sale of securities unless the person is registered as a broker-dealer or agent under the Act.

(7) All funds received from investors shall be deposited into a bank or depository institution authorized to do business in South Carolina, and all of the funds shall be used in accordance with representations made to investors.

(8) Not less than five days prior to the use of any general solicitation, or within fifteen days after the first sale of the security pursuant to this exemption (provided no general solicitation has been used prior to such sale), whichever occurs first, the issuer shall provide a notice to the Securities Commissioner in writing. The notice shall specify that the issuer is conducting an offering in reliance upon this exemption and shall contain the names and addresses of the following persons:

(a) The issuer;

(b) Officers, directors, and any control person of the issuer;

(c) All persons who will be involved in the offer or sale of securities on behalf of the issuer; and

(d) The bank or other depository institution in which investor funds will be deposited.

(9) The issuer shall not be, 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. Section 80a-3), or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78m and 78o(d)).

(10) The issuer shall inform all purchasers that the securities have not been registered under the Act and, therefore, cannot be resold unless the securities are registered or qualify for an exemption from

registration under the Act, subject to the provisions of Subsection (e) of SEC Rule 147 (17 C.F.R. 230.147(e)). In addition, the issuer shall make the disclosures required by R.13-204E.

(11) This exemption shall not be used in conjunction with any other exemption under these Rules or the Act, except for offers and sales to officers, directors, partners, or similar controlling persons of the issuer. Sales to such controlling persons shall not count toward the limitation in subsection A(3) above.

(12) Disqualifications. This exemption shall not be available if the issuer, or any of its officers, controlling persons, or promoters is subject to a disqualifying event specified in Subsection (d) of Rule 506 of SEC Regulation D (17 C.F.R. 230.506(d)).

(13) Nothing in this exemption is intended to relieve or should be construed as in any way relieving the issuers or persons acting on behalf of issuers from the anti-fraud provisions of the Act.

(14) Every notice of exemption provided for in Subsection A(8) above is effective for one year from the date of its filing with the Securities Commissioner and shall be accompanied by a non-refundable filing fee of three hundred (\$300.00) dollars.