

CHAPTER 1074

SECURITIES, VIATICAL SETTLEMENTS, AND CEMETERY AND FUNERAL MERCHANDISE AND SERVICES

H.F. 2239

AN ACT relating to noninsurance business transactions regulated by the insurance division of the department of commerce, by providing for regulated securities and exchanges, and financial records associated with the sale of cemetery and funeral merchandise and services.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I IOWA UNIFORM SECURITIES ACT

Section 1. [Section 502.202, subsection 2](#), paragraph e, subparagraph (1), Code 2018, is amended to read as follows:

(1) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 ~~or designated for trading on the national association of securities dealers automated quotation system.~~

Sec. 2. [Section 502.202, subsection 24](#), paragraph a, Code 2018, is amended to read as follows:

a. *Definitions.* As used in [this subsection](#), unless the context otherwise requires:

(1) *“Intermediary”* means a any of the following:

(a) A broker-dealer that is subject to the registration requirements of [section 502.401](#) and that facilitates the offer and sale of securities by issuers to investors through an internet-based system that is open to and accessible by the general public.

~~(b) “Intermediary” also means an entity registered with the administrator as an Iowa crowdfunding portal. A business entity that is all of the following:~~

(i) A funding portal that is registered with the securities and exchange commission pursuant to the Securities Act of 1933, including as provided in 15 U.S.C. §77d-1.

(ii) A member of the financial industry regulatory authority, inc. pursuant to the Securities Exchange Act of 1934, including as provided in 15 U.S.C. §§78c and 78o-3, and [17 C.F.R. §227.400](#).

(c) A business entity that qualifies as an Iowa crowdfunding portal by meeting all of the following requirements:

(i) Is registered with the administrator as required by the administrator.

(ii) Is engaged in intrastate crowdfunding offers and sales of exempt securities in this state through an internet site.

(iii) Does not operate or facilitate a secondary market in securities.

~~(2) “Intrastate crowdfunding” means the offer or sale of a security by an issuer in a transaction that is available for purchase only by an Iowa residents and by resident or a business organizations located in, and organized and registered under the laws of, entity having its principal place of business in this state.~~

~~(3) “Iowa crowdfunding portal” means an entity incorporated or organized under the laws of this state, authorized to do business in this state, and engaged exclusively in intrastate crowdfunding offers and sales of exempt securities in this state through an internet site and which does not operate or facilitate a secondary market in securities.~~

Sec. 3. [Section 502.202, subsection 24](#), paragraph c, Code 2018, is amended to read as follows:

c. *Aggregate sales limit.* The aggregate amount of securities sold to all investors by the issuer during the twelve-month period preceding the date of the offer or sale, including any amount sold in reliance upon the exemption in [this subsection](#), shall not exceed ~~one~~ five million dollars other than either of the following:

(1) Securities sold to Iowa resident institutional investors.

(2) Securities sold to the Iowa resident issuer's management.

Sec. 4. [Section 502.302, subsection 3](#), Code 2018, is amended to read as follows:

3. *Notice filings for federal covered securities under section ~~18(b)(4)(D)~~ [18\(b\)\(4\)\(F\)](#)*. With respect to a security that is a federal covered security under section ~~18(b)(4)(D)~~ [18\(b\)\(4\)\(F\)](#) of the Securities Act of 1933, 15 U.S.C. ~~§77r(b)(4)(D)~~ [§77r\(b\)\(4\)\(F\)](#), a rule under [this chapter](#) may require a notice filing by or on behalf of an issuer to include a copy of form D, including the appendix, as promulgated by the securities and exchange commission, and a consent to service of process complying with [section 502.611](#) signed by the issuer not later than fifteen days after the first sale of the federal covered security in this state and the payment of a fee of one hundred dollars; and the payment of a fee of two hundred fifty dollars for any late filing.

Sec. 5. [Section 502.406, subsection 5](#), Code 2018, is amended to read as follows:

5. *Additional conditions or waivers*. A rule adopted or order issued under [this chapter](#) may impose such other conditions, not inconsistent with the National Securities Markets Improvement Act of 1996. An order or rule issued under [this chapter](#) may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

DIVISION II VIATICAL SETTLEMENT ACT

Sec. 6. [Section 508E.15, subsection 4](#), paragraph a, subparagraph (4), Code 2018, is amended to read as follows:

(4) The national association of insurance commissioners; ~~the national association of securities dealers~~ the financial industry regulatory authority, inc.; the North American securities administrators association; their employees, agents, or representatives; or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud.

DIVISION III IOWA CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES ACT

Sec. 7. [Section 523A.207](#), Code 2018, is amended to read as follows:

523A.207 Audits Report by certified public accountants — ~~penalty penalties — waiver — confidentiality.~~

1. A purchase agreement shall not be sold or transferred, as part of the sale of a business or the assets of a business, until ~~an audit has been performed by a certified public accountant has completed an agreed-upon procedures engagement in accordance with the attestation standards established by the American institute of certified public accountants and a report is filed with the commissioner that expresses the auditor's opinion of factual findings and results of applying the agreed-upon procedures that verifies the adequacy or inadequacy of funding related to the purchase agreements to be sold or transferred.~~

2. If the buyer of a purchase agreement sold or transferred as part of the sale of a business or the assets of a business, fails to file ~~such an audit~~ a report described in [subsection 1](#), the commissioner ~~shall~~ may suspend the preneed seller's license of the buyer and the preneed sales license of any sales agent in the employ of the buyer until the audit report is filed. In addition, the commissioner ~~shall~~ may assess a penalty against the buyer in an amount up to one hundred dollars for each day that the audit report remains unfiled. The commissioner shall allow a thirty-day grace period after the date that a purchase agreement is sold or transferred before suspension of a license or assessment of a penalty for failure to file ~~an audit pursuant to [this subsection](#)~~ the report. Upon good cause, the commissioner may issue an order waiving the report requirements.

3. All records maintained by the commissioner under [this section](#) shall be confidential pursuant to [section 22.7, subsection 58](#), and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general, or except when sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- a.* An action commenced by the commissioner.
- b.* An administrative proceeding brought by the insurance division.
- c.* An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.
- d.* An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Approved April 4, 2018