

ASSEMBLY BILL NO. 75—ASSEMBLYMAN YEAGER

PREFILED JANUARY 30, 2023

Referred to Committee on Judiciary

SUMMARY—Exempts certain offers or sales of securities from registration requirements for securities. (BDR 7-145)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to securities; defining “Nevada certified investor”; authorizing the Administrator of the Securities Division of the Office of the Secretary of State, who is the Deputy of Securities, to adopt certain regulations in consultation with the Office of Economic Development; providing for an exemption from certain requirements concerning the registration of securities for certain transactions involving an offer to sell or sale of a security by certain issuers who are residents of this State to a Nevada certified investor; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing federal law, with certain exceptions, prohibits a person from engaging  
2 in certain activities relating to offering to sell or selling a security unless the  
3 security is registered with the Securities and Exchange Commission. (15 U.S.C. §  
4 77e) Existing federal law creates an exemption from this requirement for a security  
5 which is part of an issue offered or sold only to persons who are residents of the  
6 same state of which the issuer is also a resident and doing business within or, if the  
7 issuer is a corporation, incorporated by and doing business within. (15 U.S.C. §  
8 77c(a)(11)) Existing federal regulations set forth: (1) requirements that an issuer  
9 must meet to be deemed to be a resident of and doing business within a state where  
10 the issuer offers and sells securities; and (2) various other requirements for  
11 transactions involving intrastate offers or sales of securities for the transaction to  
12 qualify for the exemption from the federal registration requirements. (17 C.F.R. §§  
13 230.147, 230.147A)

14 Existing state law prohibits a person from offering to sell or selling any security  
15 in this State unless the security meets certain registration requirements or the  
16 security transaction is exempt from the registration requirements. (NRS 90.460)  
17 **Section 5** of this bill creates an exemption from those state registration



18 requirements for certain transactions involving an offer to sell or sale of a security  
19 to a Nevada certified investor. **Section 2** of this bill defines “Nevada certified  
20 investor” to mean, in general, a natural person who is, or a married couple who  
21 each are, a resident of this State and who meets certain financial qualifications.  
22 Under **section 5**, a transaction involving an offer to sell or sale of a security to a  
23 Nevada certified investor is exempt from the registration requirements provided  
24 under existing state law if: (1) the transaction meets the requirements for the federal  
25 exemption for intrastate offers and sales of securities; (2) the transaction meets any  
26 other requirements established by regulations adopted by the Administrator of the  
27 Securities Division of the Office of the Secretary of State, who is the Deputy of  
28 Securities, pursuant to **section 3** of this bill; and (3) the transaction involves certain  
29 types of Nevada certified investors, the total amount paid by the Nevada certified  
30 investor for all of the securities involved in the transaction does not exceed 10  
31 percent of the net worth of the investor, subject to certain requirements concerning  
32 the net worth of the investor.

33 **Section 3** authorizes the Administrator, in consultation with the Office of  
34 Economic Development within the Office of the Governor, to adopt regulations  
35 establishing additional requirements for transactions involving an offer to sell or  
36 sale of a security to a Nevada certified investor to qualify for an exemption from  
37 the registration requirements pursuant to **section 5**.

38 **Section 4** of this bill makes a conforming change to indicate the proper  
39 placement of **section 2** in the Nevada Revised Statutes.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 90 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Nevada certified investor” means a natural person*  
4 *who is, or a married couple who each are, a resident of this State*  
5 *and who, at the time an offer to sell or sale of a security is made to*  
6 *the person or couple:*

7 *1. Holds an ownership interest of more than 50 percent in a*  
8 *business that has reported a gross revenue of more than \$200,000*  
9 *on each federal income tax return filed for the 2 immediately*  
10 *preceding calendar years; or*

11 *2. Has reported an income on the federal income tax return*  
12 *of the person or couple filed for the immediately preceding*  
13 *calendar year that exceeds the median household income in this*  
14 *State, as identified in the most recent data from the American*  
15 *Community Survey published by the Bureau of the Census of the*  
16 *United States Department of Commerce or as determined by the*  
17 *Administrator based on another source of data specified by*  
18 *the Administrator by regulation.*

19 **Sec. 3.** *The Administrator may, in consultation with the*  
20 *Office of Economic Development, adopt regulations that set forth*  
21 *additional requirements for transactions involving an offer to sell*  
22 *or sale of a security to a Nevada certified investor that must be met*



1 *for the transaction to qualify for an exemption pursuant to*  
2 *subsection 22 of NRS 90.530. Such regulations may include,*  
3 *without limitation, provisions establishing minimum qualifications*  
4 *for an issuer who engages in such a transaction.*

5 **Sec. 4.** NRS 90.211 is hereby amended to read as follows:

6 90.211 As used in this chapter, unless the context otherwise  
7 requires, the words and terms defined in NRS 90.215 to 90.309,  
8 inclusive, *and section 2 of this act* have the meanings ascribed to  
9 them in those sections.

10 **Sec. 5.** NRS 90.530 is hereby amended to read as follows:

11 90.530 The following transactions are exempt from NRS  
12 90.460 and 90.560:

13 1. An isolated nonissuer transaction, whether or not effected  
14 through a broker-dealer.

15 2. A nonissuer transaction in an outstanding security if the  
16 issuer of the security has a class of securities subject to registration  
17 under section 12 of the Securities Exchange Act of 1934, 15 U.S.C.  
18 § 78l, and has been subject to the reporting requirements of section  
19 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§  
20 78m and 78o(d), for not less than 90 days next preceding the  
21 transaction, or has filed and maintained with the Administrator for  
22 not less than 90 days preceding the transaction information, in such  
23 form as the Administrator, by regulation, specifies, substantially  
24 comparable to the information the issuer would be required to file  
25 under section 12(b) or 12(g) of the Securities Exchange Act of 1934,  
26 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its  
27 securities registered under section 12 of the Securities Exchange Act  
28 of 1934, 15 U.S.C. § 78l, and paid a fee of \$300 with the filing.

29 3. A nonissuer transaction by a sales representative licensed in  
30 this State, in an outstanding security if:

31 (a) The security is sold at a price reasonably related to the  
32 current market price of the security at the time of the transaction;

33 (b) The security does not constitute all or part of an unsold  
34 allotment to, or subscription or participation by, a broker-dealer as  
35 an underwriter of the security;

36 (c) At the time of the transaction, a recognized securities manual  
37 designated by the Administrator by regulation or order contains the  
38 names of the issuer's officers and directors, a statement of the  
39 financial condition of the issuer as of a date within the preceding 18  
40 months, and a statement of income or operations for each of the last  
41 2 years next preceding the date of the statement of financial  
42 condition, or for the period as of the date of the statement of  
43 financial condition if the period of existence is less than 2 years;

44 (d) The issuer of the security has not undergone a major  
45 reorganization, merger or acquisition within the preceding 30 days



1 which is not reflected in the information contained in the manual;  
2 and

3 (e) At the time of the transaction, the issuer of the security has a  
4 class of equity security listed on the New York Stock Exchange,  
5 American Stock Exchange or other exchange designated by the  
6 Administrator, or on the National Market System of the National  
7 Association of Securities Dealers Automated Quotation System. The  
8 requirements of this paragraph do not apply if:

9 (1) The security has been outstanding for at least 180 days;

10 (2) The issuer of the security is actually engaged in business  
11 and is not developing the issuer's business, in bankruptcy or in  
12 receivership; and

13 (3) The issuer of the security has been in continuous  
14 operation for at least 5 years.

15 4. A nonissuer transaction in a security that has a fixed  
16 maturity or a fixed interest or dividend provision if there has been  
17 no default during the current fiscal year or within the 3 preceding  
18 years, or during the existence of the issuer, and any predecessors if  
19 less than 3 years, in the payment of principal, interest or dividends  
20 on the security.

21 5. A nonissuer transaction effected by or through a registered  
22 broker-dealer pursuant to an unsolicited order or offer to purchase.

23 6. A transaction between the issuer or other person on whose  
24 behalf the offering of a security is made and an underwriter, or a  
25 transaction among underwriters.

26 7. A transaction in a bond or other evidence of indebtedness  
27 secured by a real estate mortgage, deed of trust, personal property  
28 security agreement, or by an agreement for the sale of real estate or  
29 personal property, if the entire mortgage, deed of trust or agreement,  
30 together with all the bonds or other evidences of indebtedness  
31 secured thereby, is offered and sold as a unit.

32 8. A transaction by an executor, administrator, sheriff, marshal,  
33 receiver, trustee in bankruptcy, guardian or conservator.

34 9. A transaction executed by a bona fide secured party without  
35 the purpose of evading this chapter.

36 10. An offer to sell or the sale of a security to a financial or  
37 institutional investor or to a broker-dealer.

38 11. Except as otherwise provided in this subsection, a sale or  
39 an offer to sell securities of an issuer if:

40 (a) The transaction is part of an issue in which there are not  
41 more than 35 purchasers in this State, other than those designated in  
42 subsection 10, during any 12 consecutive months;

43 (b) No general solicitation or general advertising is used in  
44 connection with the offer to sell or sale of the securities;



1 (c) No commission or other similar compensation is paid or  
2 given, directly or indirectly, to a person, other than a broker-dealer  
3 licensed or not required to be licensed under this chapter, for  
4 soliciting a prospective purchaser in this State; and

5 (d) One of the following conditions is satisfied:

6 (1) The seller reasonably believes that all the purchasers in  
7 this State, other than those designated in subsection 10, are  
8 purchasing for investment; or

9 (2) Immediately before and immediately after the  
10 transaction, the issuer reasonably believes that the securities of the  
11 issuer are held by 50 or fewer beneficial owners, other than those  
12 designated in subsection 10, and the transaction is part of an  
13 aggregate offering that does not exceed \$500,000 during any 12  
14 consecutive months.

15 ➔ The Administrator by rule or order as to a security or transaction  
16 or a type of security or transaction may withdraw or further  
17 condition the exemption set forth in this subsection or waive one or  
18 more of the conditions of the exemption.

19 12. An offer to sell or sale of a preorganization certificate or  
20 subscription if:

21 (a) No commission or other similar compensation is paid or  
22 given, directly or indirectly, for soliciting a prospective subscriber;

23 (b) No public advertising or general solicitation is used in  
24 connection with the offer to sell or sale;

25 (c) The number of offers does not exceed 50;

26 (d) The number of subscribers does not exceed 10; and

27 (e) No payment is made by a subscriber.

28 13. An offer to sell or sale of a preorganization certificate or  
29 subscription issued in connection with the organization of a  
30 depository institution if that organization is under the supervision of  
31 an official or agency of a state or of the United States which has and  
32 exercises the authority to regulate and supervise the organization of  
33 the depository institution. For the purpose of this subsection, "under  
34 the supervision of an official or agency" means that the official or  
35 agency by law has authority to require disclosures to prospective  
36 investors similar to those required under NRS 90.490, impound  
37 proceeds from the sale of a preorganization certificate or  
38 subscription until organization of the depository institution is  
39 completed, and require refund to investors if the depository  
40 institution does not obtain a grant of authority from the appropriate  
41 official or agency.

42 14. A transaction pursuant to an offer to sell to existing  
43 security holders of the issuer, including persons who at the time of  
44 the transaction are holders of transferable warrants exercisable



1 within not more than 90 days after their issuance, convertible  
2 securities or nontransferable warrants, if:

3 (a) No commission or other similar compensation, other than a  
4 standby commission, is paid or given, directly or indirectly, for  
5 soliciting a security holder in this State; or

6 (b) The issuer first files a notice specifying the terms of the offer  
7 to sell, together with a nonrefundable fee of \$300, and the  
8 Administrator does not by order disallow the exemption within the  
9 next 5 full business days.

10 15. A transaction involving an offer to sell, but not a sale, of a  
11 security not exempt from registration under the Securities Act of  
12 1933, 15 U.S.C. §§ 77a et seq., if:

13 (a) A registration or offering statement or similar record as  
14 required under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.,  
15 has been filed, but is not effective;

16 (b) A registration statement, if required, has been filed under  
17 this chapter, but is not effective; and

18 (c) No order denying, suspending or revoking the effectiveness  
19 of registration, of which the offeror is aware, has been entered by  
20 the Administrator or the Securities and Exchange Commission, and  
21 no examination or public proceeding that may culminate in that kind  
22 of order is known by the offeror to be pending.

23 16. A transaction involving an offer to sell, but not a sale, of a  
24 security exempt from registration under the Securities Act of 1933,  
25 15 U.S.C. §§ 77a et seq., if:

26 (a) A registration statement has been filed under this chapter, but  
27 is not effective; and

28 (b) No order denying, suspending or revoking the effectiveness  
29 of registration, of which the offeror is aware, has been entered by  
30 the Administrator and no examination or public proceeding that may  
31 culminate in that kind of order is known by the offeror to be  
32 pending.

33 17. A transaction involving the distribution of the securities of  
34 an issuer to the security holders of another person in connection  
35 with a merger, consolidation, exchange of securities, sale of assets  
36 or other reorganization to which the issuer, or its parent or  
37 subsidiary, and the other person, or its parent or subsidiary, are  
38 parties, if:

39 (a) The securities to be distributed are registered under the  
40 Securities Act of 1933, 15 U.S.C. §§ 77a et seq., before the  
41 consummation of the transaction; or

42 (b) The securities to be distributed are not required to be  
43 registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et  
44 seq., written notice of the transaction and a copy of the materials, if  
45 any, by which approval of the transaction will be solicited, together



1 with a nonrefundable fee of \$300, are given to the Administrator at  
2 least 10 days before the consummation of the transaction and the  
3 Administrator does not, by order, disallow the exemption within the  
4 next 10 days.

5 18. A transaction involving the offer to sell or sale of one or  
6 more promissory notes each of which is directly secured by a first  
7 lien on a single parcel of real estate, or a transaction involving the  
8 offer to sell or sale of participation interests in the notes if the notes  
9 and participation interests are originated by a depository institution  
10 and are offered and sold subject to the following conditions:

11 (a) The minimum aggregate sales price paid by each purchaser  
12 may not be less than \$250,000;

13 (b) Each purchaser must pay cash either at the time of the sale or  
14 within 60 days after the sale; and

15 (c) Each purchaser may buy for the purchaser's own account  
16 only.

17 19. A transaction involving the offer to sell or sale of one or  
18 more promissory notes directly secured by a first lien on a single  
19 parcel of real estate or participating interests in the notes, if the  
20 notes and interests are originated by a mortgagee approved by the  
21 Secretary of Housing and Urban Development under sections 203  
22 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b,  
23 and are offered or sold, subject to the conditions specified in  
24 subsection 18, to a depository institution or insurance company, the  
25 Federal Home Loan Mortgage Corporation, the Federal National  
26 Mortgage Association or the Government National Mortgage  
27 Association.

28 20. A transaction between any of the persons described in  
29 subsection 19 involving a nonassignable contract to buy or sell the  
30 securities described in subsection 18 if the contract is to be  
31 completed within 2 years and if:

32 (a) The seller of the securities pursuant to the contract is one of  
33 the parties described in subsection 18 or 19 who may originate  
34 securities;

35 (b) The purchaser of securities pursuant to a contract is any  
36 other person described in subsection 19; and

37 (c) The conditions described in subsection 18 are fulfilled.

38 21. A transaction involving one or more promissory notes  
39 secured by a lien on real estate, or participating interests in those  
40 notes, by a mortgage company licensed pursuant to chapter 645B of  
41 NRS to engage in those transactions.

42 *22. A transaction involving an offer to sell or sale of a*  
43 *security to a Nevada certified investor if all of the following*  
44 *conditions are satisfied:*



1 (a) *The transaction satisfies the requirements for exemption*  
2 *under section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. §*  
3 *77c(a)(11) and Rule 147 or 147A of the Securities and Exchange*  
4 *Commission, 17 C.F.R. § 230.147 or 230.147A.*

5 (b) *The transaction satisfies any requirements established by*  
6 *the Administrator by regulation pursuant to section 3 of this act.*

7 (c) *For a transaction involving the sale of a security to a*  
8 *Nevada certified investor described in subsection 2 of section 2 of*  
9 *this act, the total amount paid by the Nevada certified investor for*  
10 *all of the securities involved in the transaction does not exceed 10*  
11 *percent of the net worth of the investor. For the purposes of*  
12 *meeting the requirements of this paragraph, the equity the Nevada*  
13 *certified investor holds in a primary residence must not account*  
14 *for more than 50 percent of the net worth of the Nevada certified*  
15 *investor.*

16 **Sec. 6.** 1. This section becomes effective upon passage and  
17 approval.

18 2. Sections 1 to 5, inclusive, of this act become effective:

19 (a) Upon passage and approval for the purpose of adopting any  
20 regulations and performing any other preparatory administrative  
21 tasks that are necessary to carry out the provisions of this act; and

22 (b) On October 1, 2023, for all other purposes.

