An act to amend Sections 25102, 25104, 25110, 25501, 25503, and 25608 of, and to add Section 25113.1 to, the Corporations Code, relating to securities.

LEGISLATIVE COUNSEL’S DIGEST


Existing law, the Corporate Securities Law of 1968, requires securities offered or sold in this state in an issuer or nonissuer transaction to be qualified through an application filed with the Commissioner of Business Oversight, unless exempt from the qualification requirements. That law makes it unlawful, for a person in connection with the offer, sale, or purchase of a security, to engage in fraudulent or misleading acts or omissions.

This bill would authorize an applicant to file an application for qualification of the offer or sale of a security by crowdfunding permit if certain conditions are met, including 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 a specified amount; the aggregate amount of securities sold to any investor, including any amount sold during the 12-month period preceding the date of the transaction, does not exceed the lesser of $5,000 or 10% of the net worth of that natural
person; and the issuer will not, directly or indirectly, conduct any unsolicited telephone solicitation of the securities offered. This bill would impose a filing fee of $200 plus \( \frac{1}{5} \) of 2% of the aggregate value of the securities sought to be sold in this state.

Existing law provides that any person who violates a condition of qualification of the offer or sale of a security is liable to any person acquiring the security sold in violation, who may sue to recover the consideration paid for such security with interest thereon at the legal rate or for damages, as specified.

This bill would extend that provision to a violation of a condition of qualification by permit authorized by this bill. This bill would also require a court to award reasonable attorney’s fees and costs, and authorize the award of treble and punitive damages, to a prevailing purchaser in an action brought against any person who violates those conditions of qualification by permit authorized by this bill.

Existing law imposes liability on any person who engages in specified unlawful activity to the person who purchases a security from him or sells a security to him, and authorizes the purchaser or seller to sue either for rescission or for damages.

This bill would provide that the plaintiff is not required to plead or prove that the defendant acted with scienter.


The people of the State of California do enact as follows:

1. SECTION 1. Section 25102 of the Corporations Code is amended to read:
2. 25102. The following transactions are exempted from the provisions of Section 25110:
3. (a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to the offer if (1) the agreement contains substantially the following provision: “The sale of the securities that are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of the securities or the payment or receipt of any part of the consideration therefor prior to the qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations
Code. The rights of all parties to this agreement are expressly conditioned upon the qualification being obtained, unless the sale is so exempt”; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of the securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100, or 25105.

(b) Any offer (but not a sale) of a security for which (1) a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, or for which an offering statement under Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and (2) no public proceeding or examination looking towards an order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to the offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of the securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) that meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or managers (as appointed or elected by the members) if the offeror is a limited liability company, or by reason of their business or financial experience or
the business or financial experience of their professional advisers
who are unaffiliated with and who are not compensated by the
issuer or any affiliate or selling agent of the issuer, directly or
indirectly, could be reasonably assumed to have the capacity to
protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing
for the purchaser’s own account (or a trust account if the purchaser
is a trustee) and not with a view to or for sale in connection with
any distribution of the security.

(4) The offer and sale of the security is not accomplished by
the publication of any advertisement. The number of purchasers
referred to above is exclusive of any described in subdivision (i),
any officer, director, or affiliate of the issuer, or manager (as
appointed or elected by the members) if the issuer is a limited
liability company, and any other purchaser who the commissioner
designates by rule. For purposes of this section, a husband and
wife (together with any custodian or trustee acting for the account
of their minor children) are counted as one person and a
partnership, corporation, or other organization that was not
specifically formed for the purpose of purchasing the security
offered in reliance upon this exemption, is counted as one person.
The commissioner shall by rule require the issuer to file a notice
of transactions under this subdivision.

The failure to file the notice or the failure to file the notice within
the time specified by the rule of the commissioner shall not affect
the availability of the exemption. Any issuer that fails to file the
notice as provided by rule of the commissioner shall, within 15
business days after discovery of the failure to file the notice or
after demand by the commissioner, whichever occurs first, file the
notice and pay to the commissioner a fee equal to the fee payable
had the transaction been qualified under Section 25110. Neither
the filing of the notice nor the failure by the commissioner to
comment thereon precludes the commissioner from taking any
action that the commissioner deems necessary or appropriate under
this division with respect to the offer and sale of the securities.

(g) Any offer or sale of conditional sale agreements, equipment
trust certificates, or certificates of interest or participation therein
or partial assignments thereof, covering the purchase of railroad
rolling stock or equipment or the purchase of motor vehicles,
aircraft, or parts thereof, in a transaction not involving any public
offering.

(h) Any offer or sale of voting common stock by a corporation
incorporated in any state if, immediately after the proposed sale
and issuance, there will be only one class of stock of the
corporation outstanding that is owned beneficially by no more than
35 persons, provided all of the following requirements have been
met:

1. The offer and sale of the stock is not accompanied by the
publication of any advertisement, and no selling expenses have
been given, paid, or incurred in connection therewith.

2. The consideration to be received by the issuer for the stock
to be issued consists of any of the following:

   A. Only assets (which may include cash) of an existing business
      enterprise transferred to the issuer upon its initial organization, of
      which all of the persons who are to receive the stock to be issued
      pursuant to this exemption were owners during, and the enterprise
      was operated for, a period of not less than one year immediately
      preceding the proposed issuance, and the ownership of the
      enterprise immediately prior to the proposed issuance was in the
      same proportions as the shares of stock are to be issued.

   B. Only cash or cancellation of indebtedness for money
      borrowed, or both, upon the initial organization of the issuer,
      provided all of the stock is issued for the same price per share.

   C. Only cash, provided the sale is approved in writing by each
      of the existing shareholders and the purchaser or purchasers are
      existing shareholders.

   D. In a case where after the proposed issuance there will be
      only one owner of the stock of the issuer, only any legal
      consideration.

3. No promotional consideration has been given, paid, or
   incurred in connection with the issuance. Promotional considera-
   tion means any consideration paid directly or indirectly to a person
   who, acting alone or in conjunction with one or more other persons,
   takes the initiative in founding and organizing the business or
   enterprise of an issuer for services rendered in connection with the
   founding or organizing.

4. A notice in a form prescribed by rule of the commissioner,
   signed by an active member of the State Bar of California, is filed
   with or mailed for filing to the commissioner not later than 10
business days after receipt of consideration for the securities by
the issuer. That notice shall contain an opinion of the member of
the State Bar of California that the exemption provided by this
subdivision is available for the offer and sale of the securities. The
failure to file the notice as required by this subdivision and the
rules of the commissioner shall not affect the availability of this
exemption. An issuer who fails to file the notice within the time
specifed by this subdivision shall, within 15 business days after
discovery of the failure to file the notice or after demand by the
commissioner, whichever occurs first, file the notice and pay to
the commissioner a fee equal to the fee payable had the transaction
been qualified under Section 25110. The notice, except when filed
on behalf of a California corporation, shall be accompanied by an
irrevocable consent, in the form that the commissioner by rule
prescribes, appointing the commissioner or his or her successor in
office to be the issuer’s attorney to receive service of any lawful
process in any noncriminal suit, action, or proceeding against it
or its successor that arises under this law or any rule or order
hereunder after the consent has been filed, with the same force and
validity as if served personally on the issuer. An issuer on whose
behalf a consent has been filed in connection with a previous
qualification or exemption from qualification under this law (or
application for a permit under any prior law if the application or
notice under this law states that the consent is still effective) need
not file another. Service may be made by leaving a copy of the
process in the office of the commissioner, but it is not effective
unless (A) the plaintiff, who may be the commissioner in a suit,
action, or proceeding instituted by him or her, forthwith sends
notice of the service and a copy of the process by registered or
certified mail to the defendant or respondent at its last address on
file with the commissioner, and (B) the plaintiff’s affidavit of
compliance with this section is filed in the case on or before the
return day of the process, if any, or within the further time as the
court allows.

(5) Each purchaser represents that the purchaser is purchasing
for the purchaser’s own account, or a trust account if the purchaser
is a trustee, and not with a view to or for sale in connection with
any distribution of the stock.

For the purposes of this subdivision, all securities held by a
husband and wife, whether or not jointly, shall be considered to
be owned by one person, and all securities held by a corporation
that has issued stock pursuant to this exemption shall be considered
to be held by the shareholders to whom it has issued the stock.

All stock issued by a corporation pursuant to this subdivision as
it existed prior to the effective date of the amendments to this
section made during the 1996 portion of the 1995–96 Regular
Session that required the issuer to have stamped or printed
prominently on the face of the stock certificate a legend in a form
prescribed by rule of the commissioner restricting transfer of the
stock in a manner provided for by that rule shall not be subject to
the transfer restriction legend requirement and, by operation of
law, the corporation is authorized to remove that transfer restriction
legend from the certificates of those shares of stock issued by the
corporation pursuant to this subdivision as it existed prior to the
effective date of the amendments to this section made during the

(i) Any offer or sale (1) to a bank, savings and loan association,
trust company, insurance company, investment company registered
under the Investment Company Act of 1940, pension or
profit-sharing trust (other than a pension or profit-sharing trust of
the issuer, a self-employed individual retirement plan, or individual
retirement account), or other institutional investor or governmental
agency or instrumentality that the commissioner may designate
by rule, whether the purchaser is acting for itself or as trustee, or
(2) to any corporation with outstanding securities registered under
Section 12 of the Securities Exchange Act of 1934 or any wholly
owned subsidiary of the corporation that after the offer and sale
will own directly or indirectly 100 percent of the outstanding
capital stock of the issuer, provided the purchaser represents that
it is purchasing for its own account (or for the trust account) for
investment and not with a view to or for sale in connection with
any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation
in an oil or gas title or lease (including subsurface gas storage and
payments out of production) if either of the following apply:
(1) All of the purchasers meet one of the following requirements:
(A) Are and have been during the preceding two years engaged
primarily in the business of drilling for, producing, or refining oil
or gas (or whose corporate predecessor, in the case of a corporation,
has been so engaged).
(B) Are persons described in paragraph (1) of subdivision (i).

(C) Have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing, or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded).

(2) The security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by the bank, provided that each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law that has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(l) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to the right, if the transaction, had it involved an offer or sale of the security subject to the right by the person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus, or employee stock ownership plan, provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer, or any other lender.

(n) Any offer or sale of any security in a transaction, other than an offer or sale of a security in a rollup transaction, that meets all of the following criteria:

(1) The issuer is (A) a California corporation or foreign corporation that, at the time of the filing of the notice required under this subdivision, is subject to Section 2115, or (B) any other form of business entity, including without limitation a partnership or trust organized under the laws of this state. The exemption provided by this subdivision is not available to a “blind pool” issuer, as that term is defined by the commissioner, or to an
investment company subject to the Investment Company Act of 1940. 

(2) Sales of securities are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser if each of the equity owners of the corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars ($5,000,000) according to its most recent audited financial statements.

(E) With respect to the offer and sale of one class of voting common stock of an issuer or of preferred stock of an issuer entitling the holder thereof to at least the same voting rights as the issuer’s one class of voting common stock, provided that the issuer has only one-class voting common stock outstanding upon consummation of the offer and sale, a natural person who, either individually or jointly with the person’s spouse, (i) has a minimum net worth of two hundred fifty thousand dollars ($250,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars ($100,000) and reasonably expects gross income in excess of one hundred thousand dollars ($100,000) during the current tax year or (ii) has a minimum net worth of five hundred thousand dollars ($500,000). “Net worth” shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.
Each natural person specified above, by reason of his or her business or financial experience, or the business or financial experience of his or her professional adviser, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction. The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this subparagraph, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser’s own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(4) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities are sold to, or a commitment to purchase is accepted from, the purchaser, a written offering disclosure statement that shall meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), and any other information as may be prescribed by rule of the commissioner, provided that the issuer shall not be obligated pursuant to this paragraph to provide this disclosure statement to a natural person qualified under Section 260.102.13 of Title 10 of the California Code of Regulations. The offer or sale of securities pursuant to a disclosure statement required by this paragraph that is in violation of Section 25401, or that fails to meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall not render unavailable to the issuer the claim of an exemption from Section 25110 afforded by this subdivision. This paragraph does not impose, directly or indirectly, any additional disclosure obligation with respect to any other exemption from qualification available under any other provision of this section.

(5) (A) A general announcement of proposed offering may be published by written document only, provided that the general announcement of proposed offering sets forth the following required information:
(i) The name of the issuer of the securities.
(ii) The full title of the security to be issued.
(iii) The anticipated suitability standards for prospective purchasers.
(iv) A statement that (I) no money or other consideration is being solicited or will be accepted, (II) an indication of interest made by a prospective purchaser involves no obligation or commitment of any kind, and, if the issuer is required by paragraph (4) to deliver a disclosure statement to prospective purchasers, (III) no sales will be made or commitment to purchase accepted until five business days after delivery of a disclosure statement and subscription information to the prospective purchaser in accordance with the requirements of this subdivision.
(v) Any other information required by rule of the commissioner.
(vi) The following legend: “For more complete information about (Name of Issuer) and (Full Title of Security), send for additional information from (Name and Address) by sending this coupon or calling (Telephone Number).”

(B) The general announcement of proposed offering referred to in subparagraph (A) may also set forth the following information:

(i) A brief description of the business of the issuer.
(ii) The geographic location of the issuer and its business.
(iii) The price of the security to be issued, or, if the price is not known, the method of its determination or the probable price range as specified by the issuer, and the aggregate offering price.

(C) The general announcement of proposed offering shall contain only the information that is set forth in this paragraph.

(D) Dissemination of the general announcement of proposed offering to persons who are not qualified purchasers, without more, shall not disqualify the issuer from claiming the exemption under this subdivision.

(6) No telephone solicitation shall be permitted until the issuer has determined that the prospective purchaser to be solicited is a qualified purchaser.

(7) The issuer files a notice of transaction under this subdivision both (A) concurrent with the publication of a general announcement of proposed offering or at the time of the initial offer of the securities, whichever occurs first, accompanied by a filing fee, and (B) within 10 business days following the close or abandonment
of the offering, but in no case more than 210 days from the date
of filing the first notice. The first notice of transaction under
subparagraph (A) shall contain an undertaking, in a form acceptable
to the commissioner, to deliver any disclosure statement required
by paragraph (4) to be delivered to prospective purchasers, and
any supplement thereto, to the commissioner within 10 days of
the commissioner’s request for the information. The exemption
from qualification afforded by this subdivision is unavailable if
an issuer fails to file the first notice required under subparagraph
(A) or to pay the filing fee. The commissioner has the authority
to assess an administrative penalty of up to one thousand dollars
($1,000) against an issuer that fails to deliver the disclosure
statement required to be delivered to the commissioner upon the
commissioner’s request within the time period set forth above.
Neither the filing of the disclosure statement nor the failure by the
commissioner to comment thereon precludes the commissioner
from taking any action deemed necessary or appropriate under this
division with respect to the offer and sale of the securities.

(o) An offer or sale of any security issued by a corporation or
limited liability company pursuant to a purchase plan or agreement,
or issued pursuant to an option plan or agreement, where the
security at the time of issuance or grant is exempt from registration
under the Securities Act of 1933, as amended, pursuant to Rule
701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions
of which are hereby incorporated by reference into this section,
provided that (1) the terms of any purchase plan or agreement shall
comply with Sections 260.140.42, 260.140.45, and 260.140.46 of
Title 10 of the California Code of Regulations, (2) the terms of
any option plan or agreement shall comply with Sections
260.140.41, 260.140.45, and 260.140.46 of Title 10 of the
California Code of Regulations, and (3) the issuer files a notice of
transaction in accordance with rules adopted by the commissioner
no later than 30 days after the initial issuance of any security under
that plan, accompanied by a filing fee as prescribed by subdivision
(y) of Section 25608. The failure to file the notice of transaction
within the time specified in this subdivision shall not affect the
availability of this exemption. An issuer that fails to file the notice
shall, within 15 business days after discovery of the failure to file
the notice or after demand by the commissioner, whichever occurs
first, file the notice and pay the commissioner a fee equal to the
maximum aggregate fee payable had the transaction been qualified under Section 25110.

Offers and sales exempt pursuant to this subdivision shall be deemed to be part of a single, discrete offering and are not subject to integration with any other offering or sale, whether qualified under Chapter 2 (commencing with Section 25110), or otherwise exempt, or not subject to qualification.

(p) An offer or sale of nonredeemable securities to accredited investors (Section 28031) by a person licensed under the Capital Access Company Law (Division 3 (commencing with Section 28000) of Title 4), provided that all purchasers either (1) have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors, controlling persons, or managers (as appointed or elected by the members), or (2) by reason of their business or financial experience or the business or financial experience of their professional advisers who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction. All nonredeemable securities shall be evidenced by certificates that shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule or order of the commissioner restricting transfer of the securities in the manner as the rule or order provides. The exemption under this subdivision shall not be available for any offering that is exempt or asserted to be exempt pursuant to Section 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Sec. 77c(a)(11)) or Rule 147 (17 C.F.R. 230.147) thereunder or otherwise is conducted by means of any form of general solicitation or general advertising.

(q) Any offer or sale of any viatical or life settlement contract or fractionalized or pooled interest therein in a transaction that meets all of the following criteria:

(1) Sales of securities described in this subdivision are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser only if each of the equity owners of the corporation, partnership, or other
organization is a qualified purchaser. Qualified purchasers include
the following:
(A) A person designated in Section 260.102.13 of Title 10 of
the California Code of Regulations.
(B) A person designated in subdivision (i) or any rule of the
commissioner adopted thereunder.
(C) A pension or profit-sharing trust of the issuer, a
self-employed individual retirement plan, or an individual
retirement account, if the investment decisions made on behalf of
the trust, plan, or account are made solely by persons who are
qualified purchasers.
(D) An organization described in Section 501(c)(3) of the
Internal Revenue Code, corporation, Massachusetts or similar
business trust, or partnership, each with total assets in excess of
five million dollars ($5,000,000) according to its most recent
audited financial statements.
(E) A natural person who, either individually or jointly with the
person’s spouse, (i) has a minimum net worth of one hundred fifty
thousand dollars ($150,000) and had, during the immediately
preceding tax year, gross income in excess of one hundred thousand
dollars ($100,000) and reasonably expects gross income in excess
of one hundred thousand dollars ($100,000) during the current tax
year or (ii) has a minimum net worth of two hundred fifty thousand
dollars ($250,000). “Net worth” shall be determined exclusive of
home, home furnishings, and automobiles. Other assets included
in the computation of net worth may be valued at fair market value.
Each natural person specified above, by reason of his or her
business or financial experience, or the business or financial
experience of his or her professional adviser, who is unaffiliated
with and who is not compensated, directly or indirectly, by the
issuer or any affiliate or selling agent of the issuer, can be
reasonably assumed to have the capacity to protect his or her
interests in connection with the transaction.
The amount of the investment of each natural person shall not
exceed 10 percent of the net worth, as determined by this
subdivision, of that natural person.
(F) Any other purchaser designated as qualified by rule of the
commissioner.
(2) Each purchaser represents that the purchaser is purchasing
for the purchaser’s own account (or trust account, if the purchaser
is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(3) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities described in this subdivision are sold to, or a commitment to purchase is accepted from, the purchaser, the following information in writing:

(A) The name, principal business and mailing address, and telephone number of the issuer.

(B) The suitability standards for prospective purchasers as set forth in paragraph (1) of this subdivision.

(C) A description of the issuer’s type of business organization and the state in which the issuer is organized or incorporated.

(D) A brief description of the business of the issuer.

(E) If the issuer retains ownership or becomes the beneficiary of the insurance policy, an audit report of an independent certified public accountant together with a balance sheet and related statements of income, retained earnings, and cashflows that reflect the issuer’s financial position, the results of the issuer’s operations, and the issuer’s cashflows as of a date within 15 months before the date of the initial issuance of the securities described in this subdivision. The financial statements listed in this subparagraph shall be prepared in conformity with generally accepted accounting principles. If the date of the audit report is more than 120 days before the date of the initial issuance of the securities described in this subdivision, the issuer shall provide unaudited interim financial statements.

(F) The names of all directors, officers, partners, members, or trustees of the issuer.

(G) A description of any order, judgment, or decree that is final as to the issuing entity of any state, federal, or foreign country governmental agency or administrator, or of any state, federal, or foreign country court of competent jurisdiction (i) revoking, suspending, denying, or censuring for cause any license, permit, or other authority of the issuer or of any director, officer, partner, member, trustee, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interest or equity securities of the issuer, to engage in the securities, commodities,
franchise, insurance, real estate, or lending business or in the offer
or sale of securities, commodities, franchises, insurance, real estate,
or loans, (ii) permanently restraining, enjoining, barring,
suspending, or censuring any such person from engaging in or
continuing any conduct, practice, or employment in connection
with the offer or sale of securities, commodities, franchises,
insurance, real estate, or loans, (iii) convicting any such person
of, or pleading nolo contendere by any such person to, any felony
or misdemeanor involving a security, commodity, franchise,
insurance, real estate, or loan, or any aspect of the securities,
commodities, franchise, insurance, real estate, or lending business,
or involving dishonesty, fraud, deceit, embezzlement, fraudulent
conversion, or misappropriation of property, or (iv) holding any
such person liable in a civil action involving breach of a fiduciary
duty, fraud, deceit, embezzlement, fraudulent conversion, or
misappropriation of property. This subparagraph does not apply
to any order, judgment, or decree that has been vacated, overturned,
or is more than 10 years old.
(H) Notice of the purchaser’s right to rescind or cancel the
investment and receive a refund pursuant to Section 25508.5.
(I) The name, address, and telephone number of the issuing
insurance company, and the name, address, and telephone number
of the state or foreign country regulator of the insurance company.
(J) The total face value of the insurance policy and the
percentage of the insurance policy the purchaser will own.
(K) The insurance policy number, issue date, and type.
(L) If a group insurance policy, the name, address, and telephone
number of the group, and, if applicable, the material terms and
conditions of converting the policy to an individual policy,
including the amount of increased premiums.
(M) If a term insurance policy, the term and the name, address,
and telephone number of the person who will be responsible for
renewing the policy if necessary.
(N) That the insurance policy is beyond the state statute for
contestability and the reason therefor.
(O) The insurance policy premiums and terms of premium
payments.
(P) The amount of the purchaser’s moneys that will be set aside
to pay premiums.
(Q) The name, address, and telephone number of the person who will be the insurance policy owner and the person who will be responsible for paying premiums.

(R) The date on which the purchaser will be required to pay premiums and the amount of the premium, if known.

(S) A statement to the effect that any projected rate of return to the purchaser from the purchase of a viatical or life settlement contract or a fractionalized or pooled interest therein is based on an estimated life expectancy for the person insured under the life insurance policy; that the return on the purchase may vary substantially from the expected rate of return based upon the actual life expectancy of the insured that may be less than, equal to, or may greatly exceed the estimated life expectancy; and that the rate of return would be higher if the actual life expectancy were less than, and lower if the actual life expectancy were greater than the estimated life expectancy of the insured at the time the viatical or life settlement contract was closed.

(T) A statement that the purchaser should consult with his or her tax adviser regarding the tax consequences of the purchase of the viatical or life settlement contract or fractionalized or pooled interest therein and, if the purchaser is using retirement funds or accounts for that purchase, whether or not any adverse tax consequences might result from the use of those funds for the purchase of that investment.

(U) Any other information as may be prescribed by rule of the commissioner.

SEC. 2. Section 25104 of the Corporations Code is amended to read:

25104. The following transactions are exempted from the provisions of Section 25130:

(a) Any offer or sale of a security by the bona fide owner thereof for his or her own account if the sale (1) is not accompanied by the publication of any advertisement and (2) is not effected by or through a broker-dealer in a public offering.

(b) Any offer or sale effected by or through a licensed broker-dealer pursuant to an unsolicited order or offer to buy. For the purpose of this subdivision, an inquiry regarding a written bid for a security or a written solicitation of an offer to sell a security made by another broker-dealer within the previous 60 days shall not be considered the solicitation of an order or offer to buy.
(c) Any offer or sale to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee; provided the purchaser represents that it is purchasing for its own account (or for the trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(d) Any transaction or agreement between a person on whose behalf an offering is made and an underwriter or among underwriters, if the sale of the securities is exempt from qualification at the time of or qualified prior to distribution in this state, if any.

(e) Any offer or sale of any security by or for the account of a bona fide secured party selling the security in the ordinary course of business to liquidate a bona fide debt.

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(g) Any offer (but not a sale) of a security for which (1) a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, or for which an offering statement under Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of that act and (2) no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this division.

(h) Any offer or sale of a security if a qualification under Chapter 2 (commencing with Section 25110) of this part for any securities of the same class has become effective within 18 months, or longer period as the commissioner may order provided that each consecutive order shall be for no more than six months, prior to the offer or sale or if a qualification under Chapter 3 (commencing with Section 25120) or Chapter 4 (commencing with Section 25130) of this part for any securities of the same class has become effective within 12 months prior to that offer or sale, provided no order under Section 25140 or subdivision (a) of Section 25143 is
in effect under this division with respect to the qualification, and,
provided further, that this exemption does not apply to securities
offered pursuant to a registration under the Securities Act of 1933
or pursuant to an exemption under Regulation A under that act if
the aggregate offering price of the securities offered under such
exemption exceeds fifty thousand dollars ($50,000). The
commissioner may, by rule or order, withhold this exemption with
respect to securities qualified only pursuant to a limited offering
qualification.
SEC. 3. Section 25110 of the Corporations Code is amended
to read:
25110. It is unlawful for any person to offer or sell in this state
any security in an issuer transaction (other than in a transaction
subject to Section 25120), whether or not by or through
underwriters, unless such sale has been qualified under Section
25111, 25112, 25113, or 25113.1 (and no order under Section
25140 or subdivision (a) of Section 25143 is in effect with respect
to such qualification) or unless such security or transaction is
exempted or not subject to qualification under Chapter 1
(commencing with Section 25100) of this part. The offer or sale
of such a security in a manner that varies or differs from, exceeds
the scope of, or fails to conform with either a material term or
material condition of qualification of the offering as set forth in
the permit or qualification order, or a material representation as
to the manner of offering which is set forth in the application for
qualification, shall be an unqualified offer or sale.
SEC. 4. Section 25113.1 is added to the Corporations Code,
to read:
25113.1. (a) Any offer or sale of any security that meets all
of the conditions in subdivision (b) may be qualified by permit
under this section.
(b) (1) An application for a crowdfunding 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.
(2) An applicant may file an application for a crowdfunding
permit under this section if it meets all of the following conditions:
(A) The applicant is: (i) a California corporation or a foreign corporation, which at the time of filing an application under this subdivision is subject to Section 2115, and neither corporation is a “blind pool” company, as that term is defined by the commissioner; (ii) not issuing fractional undivided interests in oil or gas rights, or a similar interest in other mineral rights; (iii) not an investment company subject to the Investment Company Act of 1940; and (iv) not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934.

(B) The total offering of securities by the applicant to be sold in a 12-month period, within or outside this state, is limited to one million dollars ($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) under Rule 504 (17 C.F.R. 230.504) under the Securities Act of 1933 or in violation of subdivision (a) of Section 5 of that act.

(C) Offers and sales made in reliance on this section will not be integrated with: (i) prior offers or sales of securities or (ii) subsequent offers or sales of securities that are (I) registered under the Securities Act of 1933; (II) made pursuant to Rule 701 (17 C.F.R. 230.701) under that act; (III) made pursuant to an employee benefit plan; (IV) made pursuant to Regulation S (17 C.F.R. 230.901-905) under that act; (V) made in reliance on a federal rule in substantially the same form as the rule proposed by the Securities Exchange Commission to govern the offer and sale of securities under Section 4 (a)(6) of the Securities Act of 1933, referred to as Regulation Crowdfunding, proposed 17 C.F.R. Parts 200, 227, 232, 239, 240, and 249 [Release Nos. 33-9470; 34-70741; File Nos. 7-09-13]; or (VI) made more than six months after the completion of the offering in reliance on this section.

(D) The aggregate amount of securities sold to any investor in reliance on this section, including any amount sold during the 12-month period preceding the date of the transaction, does not exceed the lesser of five thousand dollars ($5,000) or 10 percent of the net worth of that natural person, or such amount as the commissioner may provide by rule or order. “Net worth” shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.
(E) The applicant has taken reasonable steps to ensure that each investor who is a natural person who is not an accredited investor as defined in Rule 501 (17 C.F.R. 230.501) under the Securities Act of 1933 either alone or with his or her purchaser representative or representatives has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment.

(F) The applicant files with the commissioner, provides to investors, and makes available to potential investors: (i) a disclosure document meeting the requirements of Section 260.113.1 of Title 10 of the California Code of Regulations; and (ii) a Small Company Offering Registration disclosure document on Form U-7, as adopted by the North American Securities Administrators Association, no less than 10 business days prior to the commencement of the offering of securities.

(G) The offering is made pursuant to this section, a disclosure document meeting the requirements of Section 260.113.1 of Title 10 of the California Code of Regulations, a permit application disclosure documents based on the Form U-7, as adopted by the North American Security Administrators Association, and any additional requirements as the commissioner shall prescribe, that may include, but not be limited to, investor suitability and due diligence investigation requirements.

(H) The investor shall have a three-day right to rescind any investment made in any security offered under this section. The three-day period shall end at 11:59 p.m. Pacific standard time on the third business day after the date on which the issuer’s confirmation of its acceptance of the investor’s investment is communicated in writing and received by the investor.

(I) The applicant sets aside in a separate third-party escrow account all funds raised as part of the offering, to be held in escrow until the time that the minimum offering amount is reached. If the minimum offering amount is not reached within one year of the effective date of the offering, the applicant shall return all funds to investors.

(J) The applicant shall not, directly or indirectly, conduct any direct solicitation of the securities offered by this section. For purposes of this subparagraph, “direct solicitation” means and includes the following: any in-person or face-to-face conversation
between the applicant or any of its founders, promoters, officers, directors, controlling persons, agents, or other persons acting directly or indirectly on behalf of the applicant and any investor or prospective investor or any person acting directly or indirectly on behalf of, or in regular communication with, the investor.

(K) The applicant shall not, directly or indirectly, conduct any unsolicited telephone solicitation of the securities offered by this section.

(L) The applicant or any person or entity selling an investment to an investor pursuant to this section, including without limitation, any issuer, securities broker-dealer, agent, or officer, director, founder, promoter, controlling person, or other persons acting directly or indirectly on behalf of the applicant shall have a fiduciary obligation to any investor or prospective investor.

(M) The applicant, a predecessor of the applicant, an affiliated applicant, a director, executive officer, or other officer participating in the offering, a general partner or managing member of the applicant, a beneficial owner of 20 percent or more of the applicant’s outstanding voting equity securities, calculated on the basis of voting power, a promoter connected with the issuer in any capacity at the time of the sale, an investment manager of an applicant that is a pooled investment fund, a person that has been or will be paid, directly or indirectly, remuneration for solicitation of purchasers in connection with the sale of securities, a general partner or managing member of the investment manager or solicitor, or any director, executive officer, or other officer participating in the offering of the investment manager or solicitor or general partner or managing member of the investment manager or solicitor shall not be disqualified as a “bad actor” under Rule 506(d) (17 C.F.R. 230.506(d)) under the Securities Act of 1933.

(N) The applicant undertakes that there will be no stock splits, stock dividends, spinoffs, or mergers for a period of two years from the close of the offering.

(O) Any other requirement set forth by rule adopted by the commissioner.

(e) If no stop order or order under subdivision (a) of Section 25143 is in effect under this law, qualification of the sale of the
securities under this section automatically becomes effective (and
the securities may be offered and sold in accordance with the terms
of the application as amended) at 12 o’clock noon California time
of the 60th calendar day after the filing of the application or at
such earlier time as the commissioner determines.

(c) The Department of Business Oversight shall either issue or
deny the permit within 60 days of the receipt of the application. If
the Department of Business Oversight fails to either issue or deny
the permit within 60 days, the applicant may demand a hearing
with the Department of Business Oversight to explain why the
permit has not been granted.

SEC. 5. Section 25501 of the Corporations Code is amended
to read:

25501. Any person who violates Section 25401 shall be liable
to the person who purchases a security from him or her or sells a
security to him or her, who may sue either for rescission or for
damages (if the plaintiff or the defendant, as the case may be, no
longer owns the security), unless the defendant proves that the
plaintiff knew the facts concerning the untruth or omission or that
the defendant exercised reasonable care and did not know (or if
he had exercised reasonable care would not have known) of the
untruth or omission. The plaintiff shall not be required to plead or
prove that the defendant acted with scienter. Upon rescission, a
purchaser may recover the consideration paid for the security, plus
interest at the legal rate, less the amount of any income received
on the security, upon tender of the security. Upon rescission, a
seller may recover the security, upon tender of the consideration
paid for the security plus interest at the legal rate, less the amount
of any income received by the defendant on the security. Damages
recoverable under this section by a purchaser shall be an amount
equal to the difference between (a) the price at which the security
was bought plus interest at the legal rate from the date of purchase
and (b) the value of the security at the time it was disposed of by
the plaintiff plus the amount of any income received on the security
by the plaintiff. Damages recoverable under this section by a seller
shall be an amount equal to the difference between (1) the value
of the security at the time of the filing of the complaint plus the
amount of any income received by the defendant on the security
and (2) the price at which the security was sold plus interest at the
legal rate from the date of sale. Any tender specified in this section may be made at any time before entry of judgment.

SEC. 6. Section 25503 of the Corporations Code is amended to read:

25503. Any person who violates Section 25110, 25130 or 25133, or a condition of qualification under Chapter 2 (commencing with Section 25110) of this part, imposed pursuant to Section 25141, or an order suspending trading issued pursuant to Section 25219, shall be liable to any person acquiring from him the security sold in violation of such section, who may sue to recover the consideration he paid for such security with interest thereon at the legal rate, less the amount of any income received therefrom, upon the tender of such security, or for damages, if he no longer owns the security, or if the consideration given for the security is not capable of being returned. Damages, if the plaintiff no longer owns the security, shall be equal to the difference between (a) his purchase price plus interest at the legal rate from the date of purchase and (b) the value of the security at the time it was disposed of by the plaintiff plus the amount of any income received therefrom by the plaintiff.

Damages, if the consideration given for the security is not capable of being returned, shall be equal to the value of that consideration plus interest at the legal rate from the date of purchase, provided the security is tendered; and if the plaintiff no longer owns the security, damages in such case shall be equal to the difference between (a) the value of the consideration given for the security plus interest at the legal rate from the date of purchase and (b) the value of the security at the time it was disposed of by the plaintiff plus the amount of any income received therefrom by the plaintiff. Any person who violates Section 25120 or a condition of qualification under Chapter 3 (commencing with Section 25120) of this part imposed pursuant to Section 25141, shall be liable to any person acquiring from him the security sold in violation of such section who may sue to recover the difference between (a) the value of the consideration received by the seller and (b) the value of the security at the time it was received by the buyer, with interest thereon at the legal rate from the date of purchase. Any person on whose behalf an offering is made and any underwriter of the offering, whether on a best efforts or a firm commitment basis, shall be jointly and severally liable under this section, but
in no event shall any underwriter (unless such underwriter shall
have knowingly received from the issuer for acting as an
underwriter some benefit, directly or indirectly, in which all other
underwriters similarly situated did not share in proportion to their
respective interest in the underwriting) be liable in any suit or suits
authorized under this section for damages in excess of the total
price at which the securities underwritten by him and distributed
to the public were offered to the public. Any tender specified in
this section may be made at any time before entry of judgment.
No person shall be liable under this section for violation of Section
25110, 25120, or 25130 if the sale of the security is qualified prior
to the payment or receipt of any part of the consideration for the
security sold, even though an offer to sell or a contract of sale may
have been made or entered into without qualification. The court
shall award reasonable attorney’s fees and costs, and, in its
discretion, may award treble and punitive damages, to a prevailing
purchaser in an action brought against any person who violates
Section 25110 in any offering qualified under Section 25113.1.
SEC. 7. Section 25608 of the Corporations Code is amended
to read:
25608. (a) The commissioner shall charge and collect the fees
fixed in this section and Section 25608.1. All fees charged and
collected under this section and Section 25608.1 shall be
transmitted to the Treasurer at least weekly, accompanied by a
detailed statement thereof and shall be credited to the State
Corporations Fund.
(b) The fee for filing an application for a negotiating permit
under subdivision (c) of Section 25102 is fifty dollars ($50).
(c) The fee for filing a notice pursuant to paragraph (5) of
subdivision (h) of Section 25102 and the fee for filing a notice
pursuant to paragraph (4) of subdivision (f) of Section 25102, in
addition to the fee prescribed in those paragraphs, if applicable,
shall be determined based on the value of the securities proposed
to be sold in the transaction for which the notice is filed and in
accordance with subdivision (g), and shall be as follows:

<table>
<thead>
<tr>
<th>Value of Securities Proposed to be Sold</th>
<th>Filing Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$25,000 or less</td>
<td>$25</td>
</tr>
<tr>
<td>$25,001 to $100,000</td>
<td>$35</td>
</tr>
</tbody>
</table>
(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under paragraph (1) of subdivision (b) of Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k)) is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

The fee for filing a small company application for qualification of the sale of securities by permit under paragraph (2) of subdivision (b) of Section 25113 is two thousand five hundred dollars ($2,500). In the case where the costs of processing a small company application exceed the filing fee, an additional fee shall be charged, not to exceed one thousand dollars ($1,000), over and above the filing fee based on the costs of the salary or other compensation paid to persons processing the application plus overhead costs reasonably incurred in the performance of the work. In determining the costs, the commissioner may use the estimated average hourly cost for all persons processing applications for the fiscal year.

The fee for filing a crowdfunding application for qualification of the sale of securities by permit under Section 25113.1 is two hundred dollars ($200) plus one-fifth of 2 percent of the aggregate value of the securities sought to be sold in this state.

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 or a notice of intention to sell under subdivision (t) of Section 25100 is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):
(1) The value of the securities shall be the price at which the
comp company proposes to sell the securities, or the value, as alleged in
the application, or the actual value, as determined by the
commissioner, of the consideration (if other than money) to be
received in exchange therefor, or of the securities when sold,
whichever is greater.

(2) Interim or voting trust certificates shall have a value equal
to the aggregate value of the securities to be represented by the
interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to
another security of the same or another issuer shall be an amount
equal to the consideration to be paid for that warrant or right plus
an amount equal to the consideration to be paid upon purchase of
the additional securities, provided that if the latter amount is not
determinable at the time of qualification, that amount shall then
be the value of the additional securities as determined by the
commissioner.

(4) In the case of a share dividend where the shareholders are
given an option to accept either cash or additional shares of
common stock, the value of the securities to be sold shall be the
maximum amount of cash that would be payable in the event that
all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale
of securities by permit under Section 25121 is:

(1) Two hundred dollars ($200) in connection with any change
(including any stock split or reverse stock split or stock dividend,
except a stock dividend where the shareholders are given an option
to accept either cash or additional shares of common stock) in the
rights, preferences, privileges, or restrictions of or on outstanding
securities.

(2) Two hundred dollars ($200) plus one-fifth of 1 percent of
the value, as alleged in the application, or the actual value, as
determined by the commissioner, of the consideration to be
received in exchange therefor, up to a maximum aggregate fee of
two thousand five hundred dollars ($2,500), in any exchange of
securities by the issuer with its existing security holders
exclusively, or in any exchange in connection with any merger or
consolidation or purchase of corporate assets in consideration of
the issuance of securities, or any entity conversion transaction.
(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be one hundred dollars ($100).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(l) The fee for acting as escrowholder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities or (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner’s consent to the transfer is twenty dollars ($20) for each transfer.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee that would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion that the broker-dealer and the number of its agents in this state bears to the aggregate number of broker-dealers and agents in this state as shown by records maintained by or on behalf of the commissioner. The pro rata share may include the costs of any examinations, audit, or investigation provided for in subdivision (r).

(3) Every broker-dealer who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an
additional period, pay a minimum assessment of seventy-five
dollars ($75) on or before the 31st of December in each year.

(4) The commissioner may assess and levy against each
broker-dealer any additional amount above the minimum
assessment amount of seventy-five dollars ($75) that is reasonable
and necessary to support the broker-dealer program under this
division. If an additional amount is assessed, the commissioner
shall notify each broker-dealer by mail of any additional amount
assessed and levied against it on or before the 30th day of May in
each year, and that amount shall be paid within 20 days thereafter.
If payment is not made within 20 days, the commissioner shall
assess and collect a penalty in addition to the assessment of 1
percent of the assessment for each month or part of a month that
the payment is delayed or withheld.

(5) If a broker-dealer fails to pay any assessment on or before
the 30th day of the month following the day upon which payment
is due, the commissioner may by order summarily suspend or
revoke the certificate issued to the broker-dealer. If, after that order
is made, a request for hearing is filed in writing and a hearing is
not held within 60 days thereafter, the order is deemed rescinded
as of its effective date. During any period when its certificate is
revoked or suspended, a broker-dealer shall not conduct business
pursuant to this division except as may be permitted by order of
the commissioner; provided, however, that the revocation,
suspension, or surrender of a certificate shall not affect the powers
of the commissioner as provided under this division.

(6) In determining the amount assessed, the commissioner shall
consider all appropriations from the State Corporations Fund for
the support of the broker-dealer program under this division and
all reimbursements applicable to the administration of the
broker-dealer program under this division.

(p) (1) The commissioner shall charge a fee of twenty-five
dollars ($25) for the filing of a notice or report required by rules
adopted pursuant to subdivision (b) of Section 25210 or subdivision
(b) of Section 25230.

(2) The commissioner may charge a fee up to thirty-five dollars
($35) to keep in effect for the following year any notice or report
required by rules adopted pursuant to subdivision (b) of Section
25210 or subdivision (b) of Section 25230.
(3) No person shall, on behalf of a broker-dealer licensed pursuant to Section 25211, effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state unless the broker-dealer pays the annual fee required by paragraph (2) of this subdivision on or before the day upon which payment is due.

(4) No person may, in this state, on behalf of an investment adviser licensed pursuant to Section 25231, offer or negotiate for the sale of investment advisory services of the investment adviser, determine which recommendations shall be made to, make recommendations to, or manage the accounts of, clients of the investment adviser, or determine the reports or analyses concerning securities to be published by the investment adviser, unless the investment adviser pays the annual fee required by paragraph (2) on or before the day upon which payment is due.

(5) The commissioner may by order summarily enjoin an individual from performing any activity under paragraph (3) or (4) if the annual fee in paragraph (2) is not paid on or before the day upon which payment is due. An order under this paragraph may not be made before 10 days after notice by the commissioner that the fee is due and unpaid.

(q) (1) Except as provided for in paragraph (2), the fee for filing an application for an investment adviser under Section 25231 is one hundred twenty-five dollars ($125), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an additional period, pay a renewal fee of one hundred twenty-five dollars ($125) on or before the 31st day of December.

(2) Paragraph (1) shall not apply to a broker-dealer licensed under Section 25210.

(r) (1) Except as provided for in paragraph (2), the fee for any routine or nonroutine regulatory examination, audit, or investigation is the amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the amount of expenses including overhead reasonably incurred in the performance of the work. In determining the costs associated with an examination, audit, or investigation, the commissioner may use the estimated average hourly cost for all
persons performing examinations, audits, or investigations for the fiscal year.

(2) An investment adviser licensed under Section 25230 pursuant to the Investment Adviser Registration Depository shall not be subject to paragraph (1) only in regard to the fee for a routine regulatory examination of its investment advisory services for which it is licensed under Section 25230.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h), or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (l) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by that rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

(x) The fee for filing the first notice of transaction under subdivision (n) of Section 25102 is six hundred dollars ($600).

(y) The fee for filing a notice of transaction under subdivision (o) of Section 25102 shall be the fee for filing an application for qualification of the sale of securities by permit under paragraph (1) of subdivision (b) of Section 25113 as set forth in subdivision (e) of this section.

(z) The fee for filing a notice of transaction under subdivision (h) of Section 25103 shall be six hundred dollars ($600).