

*Colorado Legislative Council Staff Fiscal Note*

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 15-0494  
**Prime Sponsor(s):** Rep. Lee; Pabon

**Date:** March 11, 2015  
**Bill Status:** House Business, Affairs and Labor  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** CROWDFUND INTRASTATE SECURITIES ON-LINE

| <b>Fiscal Impact Summary*</b>        | <b>FY 2015-2016</b>                                   | <b>FY 2016-2017</b>  |
|--------------------------------------|---|----------------------|
| <b>State Revenue</b>                 | <b>\$300 - \$500</b>                                  | <b>\$300 - \$500</b> |
| Cash Funds                           | 300 - 500   | 300 - 500            |
| <b>State Expenditures</b>            | Workload increase.<br>See State Expenditures section. |                      |
| <b>TABOR Set Aside</b>               | \$300 - \$500   | \$300 - \$500        |
| <b>FTE Position Change</b>           |   |                      |
| <b>Appropriation Required:</b> None. |   |                      |

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

This bill creates the Colorado Crowdfunding Act which allows Colorado residents to invest in Colorado companies through online intermediaries under a simplified regulatory regime. Crowdfunding cannot begin until the Securities Commissioner in the Department of Regulatory Agencies (DORA) adopts rules to implement the bill.

To be eligible to crowdfund an intrastate equity offering, a security issuer must be a business entity organized under Colorado law that meets certain requirements. These requirements include:

- the issuer must obtain documentation from a purchaser verifying Colorado residency;
- the sum of investments received by an issuer must not exceed \$1 million during a 12-month period; \$2 million if the issuer submits audited financial statements to the Securities Commissioner;
- non-accredited investors are limited to \$5,000 in investments in a 12-month period;
- the issuer must make filings and provide fees and documentation to the Securities Commissioner;
- the issuer must inform all prospective purchasers of the risks involved in the investment;
- purchasers must certify their understanding of the risks; and
- the issuer must comply with rules promulgated by the Securities Commissioner.

The bill establishes regulatory requirements for on-line intermediaries, including how they will be compensated. They cannot offer investment advice and must maintain records of securities transactions that are subject to regulatory inspection.

## **Background**

An accredited investor, as defined under federal guidelines, must have earned income that exceeded \$200,000 (or \$300,000 with a spouse) for three years, or have a net worth over \$1 million individually or with a spouse.

The federal Jumpstart Our Business Startups (JOBS) Act, allows companies to use online crowdfunding to raise up to \$1 million by selling equity in their company to accredited investors. Prior to passage of the JOBS Act crowdfunding sites like Kickstarter, Gofundme, and Indiegogo were only able to offer rewards to contributors. Many crowdfunding campaigns are efforts to collect donations and do not offer rewards.

Crowdfunding provisions in the JOBS Act require rulemaking by the Federal Securities and Exchange Commission to take effect but rules have not yet been adopted. Outside the scope of federal oversight, states may enact rules regarding intrastate equity crowdfunding. Intrastate equity crowdfunding is allowed in 14 states and the District of Columbia, with crowdfunding legislation pending in a number of other states.

## **State Revenue**

This bill will increase cash fund revenue to the Division of Securities in the DORA by an estimated \$300 to \$500 annually beginning in FY 2015-16.

The fiscal note assumes that the division will receive 3 to 5 filings for exempt securities annually. Applying the existing \$100 filing fee for securities, annual revenue will be \$300 to \$500 per year.

## **TABOR Impact**

This bill increases state revenue from fees, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

## **State Expenditures**

This bill will increase workload in the Division of Securities in the DORA beginning in FY 2015-16 to promulgate rules, review filings and issue stop orders if a crowdfunding filing does not qualify under the bill. The fiscal note assumes that the division will receive 3 to 5 filings per year, which will not create a significant increase in workload and will not require additional appropriations.

To the extent that this new type of investment offering results in enforcement actions, the DORA and Department of Law will have an increase in workload. If this increase is significant, the agencies may request additional appropriations through the annual budget process.

**Effective Date**

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Regulatory Agencies      Law