

590-4-2-.08 Invest Georgia Exemption.

(1) The offer or sale of a security by an issuer shall be exempt from the requirements of Article 3 and Section 10-5-53 of the Act, and each individual who represents an issuer in an offer or sale shall be exempt from the requirements of Section 10-5-30, if the offer or sale is conducted in accordance with each of the following requirements:

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

(b) The transaction shall meet the requirements of the federal exemption for intrastate offerings in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(11), and SEC rule 147, 17 C.F.R. 230.147.

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

(d) The issuer shall not accept more than \$10,000 from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. 230.501.

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

(f) Before the use of any general solicitation or the twenty-fifth sale of the security, whichever occurs first, the issuer shall file a notice with the Commissioner in writing or in electronic form. The notice shall specify that the issuer is conducting an offering in reliance upon this exemption and shall contain the names and addresses of the following persons:

1. The issuer;
2. All persons who will be involved in the offer or sale of securities on behalf of the issuer; and
3. The bank or other depository institution in which investor funds will be deposited.

(g) The issuer shall not be, either before or as a result of the offering, an investment company as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. § 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m and 78o(d).

(h) The issuer shall inform all purchasers that the securities have not been registered under the Act and that the securities are subject to the limitation on resales contained in subsection (e) of SEC Rule 147, 17 C.F.R. 230.147(e).

(2) Offers and sales to controlling persons. This exemption shall not be used in conjunction with any other exemption under these rules or the Act, except for offers and sales to the following persons, who shall not count toward the limitation in paragraph (1)(c):

(a) An officer, director, partner, or trustee or an individual occupying similar status or performing similar functions; or

(b) A person owning 10 percent or more of the outstanding shares of any class or classes of securities

(3) Disqualifications. This exemption shall not be available if the issuer is subject to a disqualifying event specified in Rule 590-4-2-.06.

(4) The exemption authorized by this section shall be known and may be cited as the “Invest Georgia Exemption.

(5) “Individual,” for the purpose of paragraph (1) of this Rule, means a natural person residing in the State of Georgia, or a corporation, trust, partnership, association, or any other legal entity duly organized under the laws of the State of Georgia, that does not:

(a) offer investment advice or recommendations;

(b) solicit purchases, sales, or offers to purchase the securities exempted by this Rule;

(c) compensate employees, agents, or other persons for the solicitation of purchases, sales, or offers to purchase the securities exempted by this Rule; or

(d) take custody of investor funds or securities.

Authority O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-11, 10-5-12, 10-5-30, 10-5-70. History. Original Rule entitled “Supervision of Salesmen, Limited Salesmen, and Employees” adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980. Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983. Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987. Repealed: New Rule entitled “Criminal History Access” adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005. Repealed: New Rule entitled “Invest Georgia Exemptions” adopted. F. Nov. 18, 2011, Dec. 8, 2011. Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012. Amended: F. Dec. 7, 2012; eff. Dec. 27, 2012.