

Amendment No. 1 to SB1481

Johnson  
Signature of Sponsor

**AMEND Senate Bill No. 1481\***

**House Bill No. 1684**

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 48-1-103(a), is amended by deleting the period at the end of subdivision (12) and substituting instead a semi-colon and the word "and"; and by adding the following language as a new subdivision to be designated as follows:

(13)

(A) Any security issued by a person that meets the following requirements:

(i) The sale of the security shall meet the requirements of the federal exemption for intrastate offerings in section 3(a)(11), Securities Act of 1933 (15 U.S.C. § 77c(a)(11)), and 17 C.F.R. § 230.147;

(ii) The sum of all cash and other consideration to be received for all sales of the security in reliance upon subdivision (a)(13)(A) shall not exceed one million dollars (\$1,000,000) less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer;

(iii) The issuer shall not accept more than ten thousand dollars (\$10,000) from an investor unless the investor is an accredited investor pursuant to 17 C.F.R. § 230.501;

(iv) All funds received from the sale of a security in reliance upon subdivision (a)(13)(A) shall be deposited in a bank or depository institution authorized to do business in this state, and all funds received from buyers of a security in reliance upon subdivision (a)(13)(A) shall be used consistent with written representations made by the issuer to investors;

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(v) A commission or other remuneration shall not be paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is registered as an agent or broker-dealer pursuant to § 48-1-109;

(vi) Before offering to sell the security to the general public or the twenty-fifth sale of the security, whichever occurs first, the issuer shall provide a notice to the commissioner in writing or in electronic form; the notice shall specify that the issuer will offer or has sold the security in reliance upon subdivision (a)(13)(A) and shall include the names and addresses of the following:

(a) The issuer:

(b) All persons who will sell or offer to sell the security on behalf of the issuer; and

(c) The bank or depository institution in which proceeds from the sale of the security will be deposited;

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

(viii) The issuer shall inform all buyers prior to the sale of a security that falls within subdivision (a)(13)(A) that the security has not been registered under

this part and the security is subject to the limitation on resales contained in 17 C.F.R. § 230.147(e);

(B)

(i) Subdivision (a)(13)(A) shall not be used with any other exemption under this part unless the offer or sale is to any of the following:

(a) An officer, director, partner, or trustee of the entity offering the sale of the security, or an individual occupying similar status or performing similar functions for the entity offering the sale of the security; or

(b) A person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities issued by the entity offering the sale of the security; and

(ii) Offers or sales to persons listed in subdivisions (a)(13)(B)(i)(a) and (b) shall not count toward the monetary limit of sales set out in subdivision (a)(13)(A)(ii); and

(C) Subdivision (a)(13)(A) shall not be available to the issuer:

(i) If the person selling or offering to sell the security is subject to a disqualifying event specified in § 48-1-112(a)(2)(A)-(H);

(ii) If the offering does not qualify for the exemption provided in 17 C.F.R. § 230.147. The burden of proof of qualification for the exemption is on the issuer claiming the exemption. Failure to qualify for the exemption will result in any offers or sales of the security to be unregistered offers to sell or sales in violation of § 48-1-104; or

(iii) If the issuer, any of the issuer's predecessors, any affiliate of the issuer, any of the issuer's directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities, any of

the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

(a) Within the past five (5) years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the securities and exchange commission;

(b) Within the past five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;

(c) Is currently subject to any state or federal administrative enforcement order or judgment, entered within the past five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or

(d) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the past five (5) years, that temporarily, preliminarily, or permanently restrains or enjoins the party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

SECTION 2. The exemption created by § 48-1-103(a)(13) shall be known and may be cited as the "Invest Tennessee Exemption."

SECTION 3. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2015, the public welfare requiring it.