

Senate Appropriations Committee Is Next Stop For California Finders Bill

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AB 667 (Wagner) continues to wend its way through the California legislature. The bill, which was sponsored by the Corporations Committee of the Business Law Section of the California State Bar, defines a finder as a natural person who, for direct or indirect compensation, introduces or refers one or more accredited investors, as that term is defined in Rule 501(a) of Regulation D under the Securities Act of 1933 (17 C.F.R. 230.501(a)), to an issuer or an issuer to one or more accredited investors, solely for the purpose of a potential offer or sale of securities of the issuer in an issuer transaction in this state.

An Apophatic Definition?

A person will not qualify as a finder if she engages in any of eight specified activities. For example, a person will not be a finder if she participates in negotiating the terms of the offering or conducts due diligence. Please read the [bill](#) for the complete list of “thou shall nots”.

Filing, Fees and Consent

The new exemption will require a finder to file a notice with the Department of Business Oversight and pay a fee. The finder must also obtain the informed, written consent of each person introduced or referred and maintain specified records. Again, please see the bill for the details.

Remedies

Issuers will still need to proceed very carefully. If a natural person doesn’t meet the statutory definition of a “finder” or fails to meet the conditions, then any person introduced or referred by that natural person to an issuer, who purchases securities of that issuer in an issuer transaction following that introduction or referral, shall have the right to pursue any applicable remedy afforded under state law, including, without limitation, any applicable remedies pursuant to Corporations Code Section 25501.5.

Praepenultimate Stop?

The bill passed out of the Assembly on a 76-0 vote and out of the Senate Banking and Financial Institutions Committee on a 7-0 vote. It is scheduled to be heard by the Senate Appropriations Committee on August 17, 2015.

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