



Department of Commerce

Division of Securities
77 South High Street, 22nd Floor
Columbus, Ohio 43215-6131
Telephone (614) 644-7381

Frequently Asked Questions Regarding Ohio Statutory Requirements and Administrative Rules for Offerings under Rule 506 of Regulation D

Filing Requirements: A copy or printout of the Form D electronically filed with the SEC must be filed with the Division within fifteen days of the date of first sale in Ohio. A check for \$100.00 payable to the *Ohio Treasurer of State* must be included with the Form D. The filing should be sent to the Division's address listed on this letterhead. Only issuers relying on Rule 506 of Regulation D may file the Form D with the Division – the Form D is not acceptable for claims of exemption under federal Rules 504 or 505. *See* R.C. 1707.03(X).

No Consent to Service of Process: As of September 28, 2011, issuers are *no longer required* to submit a consent to service of process with Form D filings. *See* R.C. 1707.11.

Items Not Required: The Division interprets section 18(b)(4)(D) of the Securities Act of 1933 as prohibiting any state specific requirements other than submission of the Form D and a filing fee. Accordingly, an original, or "manual," signature is not required. The Division does not require any state specific legend on the Form D. Sales reports and notices of termination of the offering may be submitted but are not required. Cover letters are customary but not required.

Late Filings: For filings made more than fifteen days after the date of first sale in Ohio, an additional \$100.00 penalty fee must be included with the \$100 filing fee and the late Form D. *See* R.C. 1707.391 and Ohio Administrative Code 1301:6-3-391(F).

Amendments/Renewals: Amendments to an issuer's initial Form D filing should be filed with the Division anytime they are filed with the SEC. Annual renewals are considered amendments and should also be filed with the Division. No additional fees are required to file amendments. *See* R.C. 1707.03(X)(3).

Commissions: Commissions or other compensation for the sale of securities in the State of Ohio may be paid only to dealers and salespersons licensed by the Division, or a bank. Finder's fees may *not* be paid to unlicensed persons. *See* R.C. 1707.01(E), 1707.01(O), 1707.14 and 1707.44(A).

Issuer Licensing Exception: An issuer (including its officers, directors, managers, partners, trustees, or employees) selling its own securities may not be required to be licensed by the Division if no commissions or other compensation based on the sale of securities are paid. *See* R.C. 1707.01(E)(1)(a).

Burden of Proof: In any litigation, the burden of proving compliance with an exemption is on the party claiming the benefit of the exemption. *See* R.C. 1707.45.

The Ohio Securities Act and related administrative rules are available on the Division's website, <http://www.com.ohio.gov/secu/>, under "Securities," then "Laws & Rules." The Form D is available at <http://www.sec.gov/info/smallbus/cfformd.htm>.

For additional questions, you may call the Registration Section at (614) 466-2494.

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77 South High Street
22nd Floor
Columbus, Ohio 43215-6131 U.S.A.

614 | 644 7381
Fax 614 | 466 3316
TTY/TDD 800 | 750 0750
www.com.ohio.gov

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