

## Ga. Comp. R. & Regs. r. 590-4-2-.08 Invest Georgia Exemption

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### Georgia Administrative Code

### Department 590. RULES OF OFFICE OF SECRETARY OF STATE

### Chapter 590-4. COMMISSIONER OF SECURITIES

### Subject 590-4-2. EXEMPTIONS

*Current through Rules files through August 16, 2017*

## Rule 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 registered with the Secretary of State.
  - (b) The transaction shall meet the requirements of the federal exemption for intrastate offerings in either:
    1. Section 3(a)(11) of the Securities Act of 1933, [15 U.S.C. § 77 c\(a\)\(11\)](#), and SEC Rule 147, [17 C.F.R. 230.147](#); or
    2. Rule 147A, [17 C.F.R. 230.147\(A\)](#).
  - (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 \$5,000,000, 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 an offer is made in reliance on this exemption, 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.

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- (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. § 78 m 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 either:
1. subsection (e) of SEC Rule 147, [17 C.F.R. 230.147\(e\)](#), in the manner described in subsection (f) of SEC Rule 147, [17 C.F.R. 230.147\(f\)](#); or
  2. (ii) subsection (e) of SEC Rule 147A, 17 C.F.R. 230.147A(e), in the manner described in subsection (f) of SEC Rule 147A, 17 C.F.R. 230.147A(f).
- (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, or a corporation, trust, partnership, association, or any other legal entity authorized to do business under the laws of the state of Georgia, that does not:
- (a) offer investment advice or recommendations;
  - (b) compensate employees, agents, or other persons for this solicitation of purchases, sales, or offers to purchase the securities exempted by this Rule; or
  - (c) take custody of investor funds or securities.
- (6) If the information contained on the notice filed with the Commissioner becomes inaccurate for any reason, the issuer shall file an amendment in writing with the Commissioner within 30 (thirty) days. Said amendment shall be made on a form prescribed by the Commissioner.

**Cite as Ga. Comp. R. & Regs. R. 590-4-2-.08**

**Authority:** O.C.G.A. §§ [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 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. Sep. 24, 2015; eff. Oct. 15, 2015.

**Amended:** F. June 21, 2017; eff. July 11, 2017.