

SECURITIES ACT INTERPRETIVE STATEMENT-07

RE: RCW 21.20.310(11) - NONPROFIT ORGANIZATION EXEMPTION DISCLOSURE REQUIREMENTS

Question presented:

What type of disclosure must be made by an issuer utilizing the exemption found in RCW 21.20.310(11)?

Statute:

RCW 21.20.310(11) exempts "any security issued. . . by a nonprofit organization. . . if such nonprofit organization first files a notice specifying the terms of the offering. . . . The notice shall consist of. . . (f) A statement that the issuer shall provide to the prospective purchaser written information regarding the securities offered prior to the consummation of any sale. . ." (emphasis added)

Discussion:

Issuers wishing to utilize this exemption are required to file a notice on a Division supplied form by which they agree to supply "written information" to prospective purchasers and specifically agree to incorporate certain legends in that disclosure. Some issuers have misunderstood the statute to require no disclosure beyond a recitation of the legends. The above-emphasized portion of the statute indicates that additional written information must be provided. Furthermore, RCW 21.20.010 makes the failure to disclose material facts regarding an offering unlawful, regardless of whether the security is exempt. The Division recommends that issuers follow the disclosure guidelines contained in the North American Securities Administrators Association's (NASAA) "Statement of Policy for Church Bond Offerings," CCH NASAA Reports, ¶1001.

Conclusion:

Issuers relying upon RCW 21.20.310(11) must comply with RCW 21.20.010 and provide written disclosures of all material facts to every prospective purchaser regarding the securities being offered.

Adopted: January 1, 1991

Replaces: Statement of Policy 83-46

Jack L. Beyers, Securities Administrator

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