

UNIFORM SECURITIES ACT (2002) (EXCERPT)
Act 551 of 2008

***** 451.2102c.new THIS NEW SECTION IS EFFECTIVE OCTOBER 1, 2009 *****

451.2102c.new Definitions; S.

Sec. 102c. As used in this act, unless the context otherwise requires:

(a) "Sale" includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value. Both terms include any of the following:

(i) A security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing constituting part of the subject of the purchase and having been offered and sold for value.

(ii) A gift of assessable stock involving an offer and sale.

(iii) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, including an offer of the other security.

(b) "Securities and exchange commission" means the United States securities and exchange commission.

(c) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest in or based on the value of that put, call, straddle, option, or privilege on that security, certificate of deposit, or group or index of securities; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; an investment in a viatical or life settlement agreement; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. All of the following apply to the term security:

(i) The term includes a contractual or quasi-contractual arrangement that meets all of the following:

(A) A person furnishes capital, other than services, to an issuer under the arrangement.

(B) A portion of the capital furnished under sub-subparagraph (A) is subjected to the risks of the issuer's enterprise.

(C) The furnishing of capital under sub-subparagraph (A) is induced by representations made by an issuer, promoter, or the issuer's or promoter's affiliates which give rise to a reasonable understanding that a valuable tangible benefit will accrue to the person furnishing the capital as a result of the operation of the enterprise.

(D) The person furnishing the capital under sub-subparagraph (A) does not intend to be actively involved in the management of the enterprise in a meaningful way.

(E) At the time the capital is furnished, a promoter or its affiliates anticipate that financial gain may be realized as a result of the furnishing.

(ii) The term includes both a certificated and an uncertificated security.

(iii) The term does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or other specified period.

(iv) The term does not include an interest in a contributory or noncontributory pension or welfare plan subject to the employee retirement income security act of 1974.

(v) The term includes an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor. As used in this subparagraph, a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors.

(vi) The term may include, as an investment contract, an interest in a limited partnership, a limited liability company, or a limited liability partnership.

(d) "Self-regulatory organization" means a national securities exchange registered under the securities exchange act of 1934, a national securities association of broker-dealers registered under the securities exchange act of 1934, a clearing agency registered under the securities exchange act of 1934, or the municipal securities rule-making board established under the securities exchange act of 1934.

(e) "Sign" means, with present intent to authenticate or adopt a record, either of the following:

(i) To execute or adopt a tangible symbol.

(ii) To attach or logically associate with the record an electronic symbol, sound, or process.

(f) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

History: 2008, Act 551, Eff. Oct. 1, 2009.