

FEDERAL MANDATE ANALYSIS COMPARISON

808 KAR 10:501

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(1) Federal statute or regulation constituting the federal mandate. None

(2) State compliance standards. None

(3) Minimum or uniform standards contained in the federal mandate. N/a

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/a

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/a

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

808 KAR 10:501

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(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation provides for required forms, fees, filing procedures, and recordkeeping requirements for persons operating pursuant to KRS 292.411 and KRS 292.412, the Kentucky Intrastate Crowdfunding Exemption; and Notice filing requirements for federal crowdfunding offerings.

(b) The necessity of this administrative regulation:

This administrative regulation is needed to establish the required forms, fees, filing procedures, and recordkeeping requirements for persons operating pursuant to KRS 292.411 and KRS 292.412, the Kentucky Intrastate Crowdfunding Exemption.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 292.500(3) authorizes the commissioner of the Department of Financial Institutions to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.411(1)(f) and (s) require the commissioner to prescribe the notice filing form to be used, the filing fee to be paid, and the records to be kept by an issuer. KRS 292.412(2) requires the commissioner to prescribe the filing procedure and form to be used by registered broker-dealers operating an Internet Web site pursuant KRS 292.411(1)(r). KRS 292.412(3), (5), (6), (7), and (8) require the commissioner to prescribe filing procedures and forms for applications and renewal applications, the filing fees to be paid, the records to be kept, and the examination fees for Internet Web site operators.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation establishes the required forms, fees, filing procedures, and recordkeeping requirements for persons operating pursuant to KRS 292.411 and KRS 292.412, the Kentucky Intrastate Crowdfunding Exemption.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

N/A

(b) The necessity of the amendment to this administrative regulation:

N/A

(c) How the amendment conforms to the content of the authorizing statutes:

N/A

(d) How the amendment will assist in the effective administration of the statutes:

N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All business entities engaged in crowdfunding activities that require registration, or a qualified exemption from registration, under KRS Chapter 292. The number of entities engaged in this activity is undetermined at this time but is anticipated to be minimal.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The entity engaged in a crowdfunding offering will need to file the required applicable notice form with the Department along with a filing fee, as referenced in the statute and set by this regulation, of \$300. The entity will need to notice file with the department every twelve months for renewal of the exemption of the active crowdfunding registration.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The entities will be required to file an annual notice filing fee of \$300.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The entities will be exempt for registration with the Department upon qualified notice filing with the Department.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Costs to implement this regulation amendment will be incorporated into the current budget and will be minimal.

(b) On a continuing basis:

Costs for subsequent years will be incorporated into the Department's budget and will be minimal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current Department resources.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The Department does not anticipate a need to increase fees or funding to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There is a \$300 filing fee for notice filing the exemption with the Department. The controlling statute indicates a fee would be assessed and determined by the commissioner.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied. The regulation did not require tiering to be applied to implement.

FISCAL NOTE

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(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Department of Financial Institutions

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 292.500(3), KRS 292.410, KRS 292.411(1), and KRS 292.412

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

The amended regulation should have no financial impact on state or local government agencies.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The effect on overall revenue for the Department will be minimal and will not have a substantial impact on the Department's budget.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The amount of revenue generated in subsequent years is expected to be minimal to the Department.

(c) How much will it cost to administer this program for the first year?

The Department does not anticipate additional cost to implement this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years?

The Department does not anticipate additional costs to implement this regulatory change in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There will be minimal fiscal impact on the Department in terms of implementation or revenue based on the relatively small amount of the fee.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

Cost savings for the industry and the Department will be achieved by timely filing of the notice. Therefore, costs savings to the entities will be determined by internal controls of the regulated entity.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

Cost savings will be achieved by timely filing of the notice. Therefore, costs savings to the entities in subsequent years will be determined by internal controls of the regulated entity.

(c) How much will it cost the regulated entities for the first year?

The cost to the entity claiming the exemption will be dependent upon the timely filing of the notice forms and submission of the \$300 filing fee.

(d) How much will it cost the regulated entities for subsequent years?

There will be a \$300 fee for renewals of the exemption notice.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation: The costs incurred to the regulated entity are directly related to their internal controls and filing of the exemption notice and filing fee.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

The new regulation will not have a major economic impact on the regulated entities or the Department.