

NJ Joins the Crowd...Funding Race

[By Donald Scarinci](#)

The race is on between the New Jersey Legislature and the Securities and Exchange Commission (SEC). Both are considering legislation to permit entrepreneurs to raise funds through equity crowdfunding.

Crowdfunding, which gained the attention of the public through websites like Kickstarter and Indiegogo, allows budding entrepreneurs to raise money from a large pool of ordinary investors. While companies and individuals are allowed to provide investors with free products, special access and other small tokens in exchange for their funds, they were not allowed to sell shares of their business to everyday investors until Congress passed the Jumpstart Our Businesses Act in 2012. The law created an exemption to existing securities laws that allows companies to raise up to \$1 million in any 12-month period from an unlimited number of “unaccredited” investors.

While the JOBS Act’s [crowdfunding](#) provisions were championed as a job creator and potential game changer, concerns about protecting investors from fraud have bogged down the SEC’s rulemaking process. After months of delays, the agency announced its proposed rules on October 23, more than a year and a half after the bill was signed.

In the meantime, several states have passed their own equity crowdfunding laws after getting tired of waiting for the SEC to act. New Jersey is the latest to enter the mix. Earlier this month, Senators Joseph Kyrillos and Raymond Lesniak introduced a bill that would authorize equity crowdfunding at the state level. Georgia, North Carolina, Kansas and Wisconsin have already done the same.

“At a time when conventional sources of financing are scarce, this legislation will help New Jersey’s innovators seek private capital from the investing public to develop their products or services right here in our state,” Kyrillos said in a [press statement](#).

The proposed bill would specifically allow New Jersey-based start-ups and entrepreneurs to solicit up to \$1 million in private investment from unaccredited investors — meaning they do not have to meet any income and net worth requirements. The investors would have to reside in the Garden State and investments would be limited to \$5,000 per company. Like the JOBS Act, the bill also allows Internet solicitations. However, it would not require the use of a broker or crowdfunding portal as an intermediary.

If New Jersey wants to be the first to the crowdfunding party, it must act quickly. The SEC’s rules will be open for comment for the next three months. Of course, with its history of delays, the timeline for finalization remains uncertain.

Donald Scarinci is a managing partner at Lyndhurst, N.J. based law firm [Scarinci Hollenbeck](#). He is also the editor of the [Constitutional Law Reporter](#) and [Government and Law](#) blogs.

Read more at <http://www.politickernj.com/dscarinci/69219/nj-joins-crowd-funding-race#ixzz2jEAlhzqo>
or sign up for a free trial of State Street Wire at <http://www.politickernj.com/freetrial>