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# MR. CROWDFUNDING GOES TO WASHINGTON

## UNCLE SAM GIVES A BOOST TO INDIES, COURTESY OF THE CROWDFUNDING BILL

Last year, my wife Tiffany and I decided to try our hand at crowdfunding to raise part of the budget for *Tiny Dancer*, our film about a legendary ballerina who attempts a career comeback after the birth of her child. It took countless hours of work and thousands of e-mails, but we managed to meet—and exceed—the \$9,000 goal we set for our IndieGoGo campaign.

There's still more money to be raised, but luckily the two of us will be at Sundance with Michael Walker's *Price Check*. We plan to take advantage of our trip to the epicenter of the indie film universe by setting up as many meetings as we can in the hopes of raising at least \$75,000 more for *Tiny Dancer*. In between sending out e-mails asking agents, sales agents and producers if they'd like to grab some coffee and talk about funding our film, I discovered that crowdfunding—the little financing engine that could—has gone legit.

It took me quite a few reads to make sense of what is going on out there, but here are the basics: In a recent address about the economy, President Obama expressed his support of crowdfunding by citing the method as an ideal way to inject life into small businesses by means of small investments from unaccredited investors (read: You and me).

All of this springs from the Entrepre-

neur Access to Capital Act (a.k.a H.R. 2930), which was introduced by North Carolina Congressman Patrick McHenry and passed in the House of Representatives on November 3rd.

The act, which as of this writing has yet to be approved by the Senate, will create an SEC registration exemption for small businesses using crowdfunding to raise low levels of investment. It seems that Republicans, Democrats and grassroots alike want to see crowdfunding succeed. To quote IndieGoGo CEO Slava Rubin, the legislation “would really open up the funder base.”

What does this mean for moviemakers? In a nutshell:

- You can crowdfund up to \$2 million from investors without having to register with the SEC. You can raise those funds from unaccredited investors, but you have to provide audited financial statements to qualify for the \$2 million cap and file the “raise” with the SEC. Otherwise, the cap is \$1 million.

- The maximum investment from an individual is capped at \$10,000 or 10 percent of his or her net worth, whichever is less.

- You can use a third party intermediary (a.k.a. a crowdfunding platform like IndieGoGo or Kickstarter) to handle cash management. (In the Senate version of the bill, use of an intermediary is required.) As a precaution against fraud, if you're using an intermediary, you'll have to raise at least 60 percent of your target in order to take possession of the money raised. That way, investors are protected against their money being used to fund someone's rent instead of an actual film.

These are just a few of the highlights in what could be a huge step forward in the crowdfunding movement. The big

change for crowdfunders like us is that this is not considered “free money.” These are actual investment securities that grant ownership interest to the investor.

I'm not clear on what the small fish like Tiffany and I will do from here on out about getting straightforward donations. Will we have to give shares to our backers? A year from now, will we be besieged with questions like, “Hey, I get a piece of your movie, right? I mean, I gave you \$100.” But there are registration exemptions for certain crowd-funded securities (outlined in Section 4A of the Securities Act) that spell out what our recourse might be.

Overall, I think the bill is great, because now we can *really* try to raise a significant budget for our projects in a completely legitimate way by offering our investors the comfort of knowing the SEC has created guidelines and encouragements. When sitting down with potential investors at Sundance, I can say, “Give me \$10,000 for a share!”

Of course, some are fearful that an increase in small businesses soliciting investments via crowdfunding will also mean an increase in scam artists getting money from investors for startups that will never deliver. Personally, I can't foresee any behavior more fraudulent than what we've already seen in “traditional” investing. I mean, if the big banks can make such big mistakes, maybe it's time to put some of our trust into the hands of individual investors and small business ventures—like independent film. **MM**

Follow Jayce Bartok's *Tiny Dancer* progress on Twitter @jaycebartok, and be sure to check out his blog, “Just Crowdfund the \$&\*\$ Movie!,” on [MovieMaker.com](http://MovieMaker.com).