

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Business Brokers Act of 1995 is  
5 amended by changing Section 10-80 as follows:

6 (815 ILCS 307/10-80)

7 Sec. 10-80. Persons exempt from registration and other  
8 duties under law; burden of proof thereof.

9 (a) The following persons are exempt from the requirements  
10 of this Act:

11 (1) Any attorney who is licensed to practice in this  
12 State, while engaged in the practice of law and whose  
13 service in relation to the business broker transaction is  
14 incidental to the attorney's practice.

15 (2) Any person licensed as a real estate broker or  
16 salesperson under the Illinois Real Estate License Act of  
17 2000 who is primarily engaged in business activities for  
18 which a license is required under that Act and who, on an  
19 incidental basis, acts as a business broker.

20 (3) Any dealer, salesperson, or investment adviser  
21 registered pursuant to the Illinois Securities Law of 1953  
22 or any investment adviser representative, or any person who  
23 is regularly engaged in the business of offering or selling

1 securities in a transaction exempted under subsection C, H,  
2 M, R, Q, or S of Section 4 of the Illinois Securities Law  
3 of 1953 or subsection G of Section 4 of the Illinois  
4 Securities Law of 1953 provided that such person is  
5 registered pursuant to federal securities law.

6 (4) An associated person described in subdivision  
7 (h) (2) of Section 15 of the Federal 1934 Act.

8 (5) An investment adviser registered pursuant to  
9 Section 203 of the Federal 1940 Investment Advisors Act.

10 (6) A person described in subdivision (a) (11) of  
11 Section 202 of the Federal 1940 Investment Advisors Act.

12 (7) Any person who is selling a business owned or  
13 operated (in whole or in part) by that person in a one time  
14 transaction.

15 (b) This Act shall not be deemed to apply in any manner,  
16 directly or indirectly, to: (i) a State bank or national bank,  
17 as those terms are defined in the Illinois Banking Act, or any  
18 subsidiary of a State bank or national bank; (ii) a bank  
19 holding company, as that term is defined in the Illinois Bank  
20 Holding Company Act of 1957, or any subsidiary of a bank  
21 holding company; (iii) a foreign banking corporation, as that  
22 term is defined in the Foreign Banking Office Act, or any  
23 subsidiary of a foreign banking corporation; (iv) a  
24 representative office, as that term is defined in the Foreign  
25 Bank Representative Office Act; (v) a corporate fiduciary, as  
26 that term is defined in the Corporate Fiduciary Act, or any

1 subsidiary of a corporate fiduciary; (vi) a savings bank  
2 organized under the Savings Bank Act, or a federal savings bank  
3 organized under federal law, or any subsidiary of a savings  
4 bank or federal savings bank; (vii) a savings bank holding  
5 company organized under the Savings Bank Act, or any subsidiary  
6 of a savings bank holding company; (viii) an association or  
7 federal association, as those terms are defined in the Illinois  
8 Savings and Loan Act of 1985, or any subsidiary of an  
9 association or federal association; (ix) a foreign savings and  
10 loan association or foreign savings bank subject to the  
11 Illinois Savings and Loan Act of 1985, or any subsidiary of a  
12 foreign savings and loan association or foreign savings bank;  
13 or (x) a savings and loan association holding company, as that  
14 term is defined in the Illinois Savings and Loan Act of 1985,  
15 or any subsidiary of a savings and loan association holding  
16 company.

17 (b-1) Any franchise seller as defined in the Federal Trade  
18 Commission rule entitled Disclosure Requirements and  
19 Prohibitions Concerning Franchising, 16 C.F.R. Part 436, as it  
20 may be amended, is exempt from the requirements of this Act.  
21 ~~Persons registered under the Illinois Franchise Disclosure Act~~  
22 ~~of 1987 (and their employees) are exempt from the requirements~~  
23 ~~of this Act as to: offers and sales in connection with~~  
24 ~~franchising activities; or assisting any of their franchisees~~  
25 ~~in the offer or sale of a franchise by any such franchisee for~~  
26 ~~the franchisee's own account regardless of whether the sale is~~

1 ~~effected by or through the registered persons.~~

2 (b-2) Any certified public accountant licensed to practice  
3 in Illinois, while engaged in the practice as a certified  
4 public accountant and whose service in relation to the business  
5 broker transaction is incidental to his or her practice, is  
6 exempt from the requirements of this Act.

7 (b-3) Any publisher, or regular employee of such publisher,  
8 of a bona fide newspaper or news magazine of regular and  
9 established paid circulation who, in the routine course of  
10 selling advertising, advertises businesses for sale and in  
11 which no other related services are provided is exempt from the  
12 requirements of this Act.

13 (c) The burden of proof of any exemption or classification  
14 provided in this Act shall be on the party claiming the  
15 exemption or classification.

16 (Source: P.A. 90-70, eff. 7-8-97; 91-245, eff. 12-31-99.)

17 Section 10. The Business Opportunity Sales Law of 1995 is  
18 amended by changing Sections 5-10, 5-30 and 5-35 as follows:

19 (815 ILCS 602/5-10)

20 Sec. 5-10. Exemptions. Registration pursuant to Section  
21 5-30 shall not apply to any of the following:

22 (a) Any offer or sale of a business opportunity for which  
23 the immediate cash payment made by the purchaser for any  
24 business opportunity is at least \$25,000 if the immediate cash

1 payment does not exceed 20% of the purchaser's net worth as  
2 determined exclusive of principal residence, furnishings  
3 therein, and automobiles; provided, however, the Secretary of  
4 State may by rule or regulation withdraw or further condition  
5 the availability of this exemption.

6 (b) Any offer or sale of a business opportunity which the  
7 seller does not advertise, solicit, or sell for an initial  
8 payment to the seller or a person recommended by the seller  
9 exceeding \$500.

10 (c) Any offer or sale of a business opportunity where the  
11 seller has a net worth of not less than \$1,000,000 as  
12 determined on the basis of the seller's most recent audited  
13 financial statement, prepared within 13 months of the first  
14 offer in this State. Net worth may be determined on a  
15 consolidated basis where the seller is at least 80% owned by  
16 one person and that person expressly guarantees the obligations  
17 of the seller with regard to the offer or sale of any business  
18 opportunity claimed to be exempt under this subsection. The  
19 Secretary of State may by rule or regulation withdraw or  
20 further condition the availability of this exemption.

21 (d) Any offer or sale of a business opportunity where the  
22 purchaser has a net worth of not less than \$250,000. Net worth  
23 shall be determined exclusive of principal residence,  
24 furnishings therein, and automobiles. The Secretary of State  
25 may by rule or regulation withdraw or further condition the  
26 availability of this exemption.

1 (e) Any offer or sale of a business opportunity where the  
2 purchaser is a bank, savings and loan association, trust  
3 company, insurance company, credit union, or investment  
4 company as defined by the federal Investment Company Act of  
5 1940, pension or profit sharing trust, or other financial  
6 institution or institutional buyer, or a dealer registered  
7 under the Illinois Securities Law of 1953, where the purchaser  
8 is acting for itself or in a fiduciary capacity.

9 (f) Any offer or sale of a business opportunity which is  
10 defined as a franchise under the Franchise Disclosure Act of  
11 1987 provided that the seller delivers to each purchaser 14 ~~at~~  
12 ~~the earlier of the first personal meeting, or 10 business~~ days  
13 prior to the earlier of the execution by a purchaser of any  
14 contract or agreement imposing a binding legal obligation on  
15 the purchaser or the payment by a purchaser of any  
16 consideration in connection with the offer or sale of the  
17 business opportunity, a disclosure document prepared in  
18 accordance with the requirements of Section 16 of the Illinois  
19 Franchise Disclosure Act of 1987, as it may be amended. ~~one of~~  
20 ~~the following disclosure documents:~~

21 ~~(1) The Franchise Offering Circular provided for under~~  
22 ~~the Franchise Disclosure Act of 1987 which the Secretary of~~  
23 ~~State may adopt by rule or regulation; or~~

24 ~~(2) A disclosure document prepared pursuant to the~~  
25 ~~Federal Trade Commission rule entitled Disclosure~~  
26 ~~Requirements and Prohibitions Concerning Franchising and~~

~~Business Opportunity Ventures, 16 C.F.R. Sec. 436 (1979).  
For the purposes of this subsection, a personal meeting  
shall mean a face-to-face meeting between the purchaser and  
the seller or their representatives, which is held for the  
purpose of discussing the offer or sale of a business  
opportunity.~~

(g) Any offer or sale of a business opportunity for which the cash payment required to be made by a purchaser for any business opportunity does not exceed \$500 and the payment is made for the not-for-profit sale of sales demonstration equipment, material, or samples or the payment is made for product inventory sold to the purchaser at a bona fide wholesale price.

(h) Any offer or sale of a business opportunity which the Secretary of State exempts by order or a class of business opportunities which the Secretary of State exempts by rule or regulation upon the finding that such exemption would not be contrary to public interest and that registration would not be necessary or appropriate for the protection of purchasers.

(Source: P.A. 91-809, eff. 1-1-01.)

(815 ILCS 602/5-30)

Sec. 5-30. Registration.

(a) In order to register a business opportunity, the seller shall file with the Secretary of State one of the following disclosure documents with the appropriate cover sheet as

1 required by subsection (b) of Section 5-35 of this Law, a  
2 consent to service of process as specified in subsection (b) of  
3 this Section, and the appropriate fee as required by subsection  
4 (c) of this Section which is not returnable in any event:

5 (1) The Business Opportunity Disclosure Document  
6 ~~Franchise Offering Circular~~ which the Secretary of State  
7 may prescribe by rule or regulation; or

8 (2) A disclosure document prepared pursuant to the  
9 Federal Trade Commission rule entitled Disclosure  
10 Requirements and Prohibitions Concerning Franchising, 16  
11 C.F.R. Part 436, or the Federal Trade Commission rule  
12 entitled Disclosure Requirements and Prohibitions  
13 Concerning Business Opportunities, 16 C.F.R. Part 437, as  
14 they may be amended and ~~Business Opportunity Venture, 16~~  
15 ~~C.F.R. Sec. 436 (1979)~~. ~~The Secretary of State may by rule~~  
16 ~~or regulation adopt any amendment to the disclosure~~  
17 ~~document prepared pursuant to 16 C.F.R. Sec. 436 (1979),~~  
18 ~~that has been adopted by the Federal Trade Commission; or~~

19 (3) A disclosure document prepared pursuant to  
20 subsection (b) of Section 5-35 of this Law.

21 (b) Every seller shall file, in the form as the Secretary  
22 of State may prescribe, an irrevocable consent appointing the  
23 Secretary of State or the successor in office to be the  
24 seller's attorney to receive service of any lawful process in  
25 any noncriminal suit, action or proceeding against the seller  
26 or the seller's successor, executor or administrator which



1 arises under this Law after the consent has been filed, with  
2 the same force and validity as if served personally on the  
3 person filing the consent. Service may be made by delivering a  
4 copy of the process in the office of the Secretary of State,  
5 but is not effective unless the plaintiff or petitioner in a  
6 suit, action or proceeding, forthwith sends notice of the  
7 service and a copy of the process by registered or certified  
8 mail, return receipt requested, to the defendant's or  
9 respondent's most current address on file with the Secretary of  
10 State, and the plaintiff's affidavit of compliance with this  
11 subsection is filed in the case on or before the return date of  
12 the process, if any, or within such further time as the court  
13 allows.

14 (c) (1) The Secretary of State shall by rule or regulation  
15 impose and shall collect fees necessary for the  
16 administration of this Law including, but not limited to,  
17 fees for the following purposes:

18 (A) filing a disclosure document and renewal fee;

19 (B) interpretive opinion fee;

20 (C) acceptance of service of process pursuant to  
21 subsection (b) of Section 5-145;

22 (D) issuance of certification pursuant to Section  
23 5-20; or

24 (E) late registration fee pursuant to Section  
25 5-30(g).

26 (2) The Secretary of State may, by rule or regulation,

1 raise or lower any fee imposed by, and which he or she is  
2 authorized by law to collect under this Law.

3 (d) A registration automatically becomes effective upon  
4 the expiration of the 10th full business day after a complete  
5 filing, provided that no order has been issued or proceeding  
6 pending under Section 5-45 of this Law. The Secretary of State  
7 may by order waive or reduce the time period prior to  
8 effectiveness, provided that a complete filing has been made.  
9 The Secretary of State may by order defer the effective date  
10 until the expiration of the 10th full business day after the  
11 filing of any amendment.

12 (e) The registration is effective for one year commencing  
13 on the date of effectiveness and may be renewed annually upon  
14 the filing of a current disclosure document accompanied by any  
15 documents or information that the Secretary of State may by  
16 rule or regulation or order require. The annual renewal fee  
17 shall be in the same amount as the initial registration fee as  
18 established under subsection (c) of Section 5-30 of this Law  
19 which shall not be returnable in any event. Failure to renew  
20 upon the close of the one year period of effectiveness will  
21 result in expiration of the registration. The Secretary of  
22 State may by rule or regulation or order require the filing of  
23 a sales report.

24 (f) The Secretary of State may by rule or regulation or  
25 order require the filing of all proposed literature or  
26 advertising prior to its use.

1           (g) Notwithstanding the foregoing, applications for  
2 renewal of registration of business opportunities may be filed  
3 within 30 days following the expiration of the registration  
4 provided that the applicant pays the annual registration fee  
5 together with an additional amount equal to the annual  
6 registration fee and files any other information or documents  
7 that the Secretary of State may prescribe by rule or order. Any  
8 application filed within 30 days following the expiration of  
9 the registration shall be automatically effective as of the  
10 time of the earlier expiration provided that the proper fee has  
11 been paid to the Secretary of State.

12       (Source: P.A. 92-308, eff. 1-1-02.)

13           (815 ILCS 602/5-35)

14       Sec. 5-35. Disclosure requirements.

15           (a) It shall be unlawful for any person to offer or, sell  
16 any business opportunity required to be registered under this  
17 Law unless a written disclosure document as filed under  
18 subsection (a) of Section 5-30 of this Law is delivered to each  
19 purchaser at least 14 ~~10-business~~ days prior to the execution  
20 by a purchaser of any contract or agreement imposing a binding  
21 legal obligation on the purchaser or the payment by a purchaser  
22 of any consideration in connection with the offer or sale of  
23 the business opportunity.

24           (b) The disclosure document shall have a cover sheet which  
25 is entitled, in at least 10-point bold type, "DISCLOSURE

1 REQUIRED BY THE STATE OF ILLINOIS." Under the title shall  
2 appear the statement in at least 10-point bold type that "THE  
3 REGISTRATION OF THIS BUSINESS OPPORTUNITY DOES NOT CONSTITUTE  
4 APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE STATE OF  
5 ILLINOIS. THE INFORMATION CONTAINED IN THIS DISCLOSURE  
6 DOCUMENT HAS NOT BEEN VERIFIED BY THIS STATE. IF YOU HAVE ANY  
7 QUESTIONS OR CONCERNS ABOUT THIS INVESTMENT, SEEK PROFESSIONAL  
8 ADVICE BEFORE YOU SIGN A CONTRACT OR MAKE ANY PAYMENT. YOU ARE  
9 TO BE PROVIDED 10 BUSINESS DAYS TO REVIEW THIS DOCUMENT BEFORE  
10 SIGNING ANY CONTRACT OR AGREEMENT OR MAKING ANY PAYMENT TO THE  
11 SELLER OR THE SELLER'S REPRESENTATIVE". The seller's name and  
12 principal business address, along with the date of the  
13 disclosure document shall also be provided on the cover sheet.  
14 No other information shall appear on the cover sheet. The  
15 disclosure document shall contain the following information  
16 unless the seller uses a disclosure document as provided in  
17 paragraph (1) or (2) of subsection (a) of Section 5-30 of this  
18 Law:

19 (1) The names and residential addresses of those  
20 salespersons who will engage in the offer or sale of the  
21 business opportunity in this State.

22 (2) The name of the seller, whether the seller is doing  
23 business as an individual, partnership or corporation; the  
24 names under which the seller has conducted, is conducting  
25 or intends to conduct business; and the name of any parent  
26 or affiliated company that will engage in business

1 transactions with purchasers or which will take  
2 responsibility for statements made by the seller.

3 (3) The names, addresses and titles of the seller's  
4 officers, directors, trustees, general managers, principal  
5 executives, agents, and any other persons charged with  
6 responsibility for the seller's business activities  
7 relating to the sale of the business opportunity.

8 (4) Prior business experience of the seller relating to  
9 business opportunities including:

10 (A) The name, address, and a description of any  
11 business opportunity previously offered by the seller;

12 (B) The length of time the seller has offered each  
13 such business opportunity; and

14 (C) The length of time the seller has conducted the  
15 business opportunity currently being offered to the  
16 purchaser.

17 (5) With respect to persons identified in item (3) of  
18 this subsection:

19 (A) A description of the persons' business  
20 experience for the 10 year period preceding the filing  
21 date of this disclosure document. The description of  
22 business experience shall list principal occupations  
23 and employers; and

24 (B) A listing of the persons' educational and  
25 professional backgrounds including, the names of  
26 schools attended and degrees received, and any other

1 information that will demonstrate sufficient knowledge  
2 and experience to perform the services proposed.

3 (6) Whether the seller or any person identified in item  
4 (3) of this subsection:

5 (A) Has been convicted of any felony, or pleaded  
6 nolo contendere to a felony charge, or has been the  
7 subject of any criminal, civil or administrative  
8 proceedings alleging the violation of any business  
9 opportunity law, securities law, commodities law,  
10 franchise law, fraud or deceit, embezzlement,  
11 fraudulent conversion, restraint of trade, unfair or  
12 deceptive practices, misappropriation of property or  
13 comparable allegations;

14 (B) Has filed in bankruptcy, been adjudged  
15 bankrupt, been reorganized due to insolvency, or was an  
16 owner, principal officer or general partner or any  
17 other person that has so filed or was so adjudged or  
18 reorganized during or within the last 7 years.

19 (7) The name of the person identified in item (6) of  
20 this subsection, nature of and parties to the action or  
21 proceeding, court or other forum, date of the institution  
22 of the action, docket references to the action, current  
23 status of the action or proceeding, terms and conditions or  
24 any order or decree, the penalties or damages assessed and  
25 terms of settlement.

26 (8) The initial payment required, or when the exact

1 amount cannot be determined, a detailed estimate of the  
2 amount of the initial payment to be made to the seller.

3 (9) A detailed description of the actual services the  
4 seller agrees to perform for the purchaser.

5 (10) A detailed description of any training the seller  
6 agrees to provide for the purchaser.

7 (11) A detailed description of services the seller  
8 agrees to perform in connection with the placement of  
9 equipment, products or supplies at a location, as well as  
10 any agreement necessary in order to locate or operate  
11 equipment, products or supplies on a premises neither owned  
12 nor leased by the purchaser or seller.

13 (12) A detailed description of any license or permit  
14 that will be necessary in order for the purchaser to engage  
15 in or operate the business opportunity.

16 (13) The business opportunity seller that is required  
17 to secure a bond under Section 5-50 of this Law, shall  
18 state in the disclosure document "As required by the State  
19 of Illinois, the seller has secured a bond issued by  
20 (insert name and address of surety company), a surety  
21 company, authorized to do business in this State. Before  
22 signing a contract or agreement to purchase this business  
23 opportunity, you should check with the surety company to  
24 determine the bond's current status."

25 (14) Any representations made by the seller to the  
26 purchaser concerning sales or earnings that may be made

1 from this business opportunity, including, but not limited  
2 to:

3 (A) The bases or assumptions for any actual,  
4 average, projected or forecasted sales, profits,  
5 income or earnings;

6 (B) The total number of purchasers who, within a  
7 period of 3 years of the date of the disclosure  
8 document, purchased a business opportunity involving  
9 the product, equipment, supplies or services being  
10 offered to the purchaser; and

11 (C) The total number of purchasers who, within 3  
12 years of the date of the disclosure document, purchased  
13 a business opportunity involving the product,  
14 equipment, supplies or services being offered to the  
15 purchaser who, to the seller's knowledge, have  
16 actually received earnings in the amount or range  
17 specified.

18 (15) Any seller who makes a guarantee to a purchaser  
19 shall give a detailed description of the elements of the  
20 guarantee. Such description shall include, but shall not be  
21 limited to, the duration, terms, scope, conditions and  
22 limitations of the guarantee.

23 (16) A statement of:

24 (A) The total number of business opportunities  
25 that are the same or similar in nature to those that  
26 have been sold or organized by the seller;



1           (B) The names and addresses of purchasers who have  
2           requested a refund or rescission from the seller within  
3           the last 12 months and the number of those who have  
4           received the refund or rescission; and

5           (C) The total number of business opportunities the  
6           seller intends to sell in this State within the next 12  
7           months.

8           (17) A statement describing any contractual  
9           restrictions, prohibitions or limitations on the  
10          purchaser's conduct. Attach a copy of all business  
11          opportunity and other contracts or agreements proposed for  
12          use or in use in this State including, without limitation,  
13          all lease agreements, option agreements, and purchase  
14          agreements.

15          (18) The rights and obligations of the seller and the  
16          purchaser regarding termination of the business  
17          opportunity contract or agreement.

18          (19) A statement accurately describing the grounds  
19          upon which the purchaser may initiate legal action to  
20          terminate the business opportunity contract or agreement.

21          (20) A copy of the most recent audited financial  
22          statement of the seller, prepared within 13 months of the  
23          first offer in this State, together with a statement of any  
24          material changes in the financial condition of the seller  
25          from that date. The Secretary of State may accept the  
26          filing of a reviewed financial statement in lieu of an

1 audited financial statement.

2 (21) A list of the states in which this business  
3 opportunity is registered.

4 (22) A list of the states in which this disclosure  
5 document is on file.

6 (23) A list of the states which have denied, suspended  
7 or revoked the registration of this business opportunity.

8 (24) A section entitled "Risk Factors" containing a  
9 series of short concise statements summarizing the  
10 principal factors which make this business opportunity a  
11 high risk or one of a speculative nature. Each statement  
12 shall include a cross-reference to the page on which  
13 further information regarding that risk factor can be found  
14 in the disclosure document.

15 (25) Any additional information as the Secretary of  
16 State may require by rule, regulation, or order.

17 (Source: P.A. 92-308, eff. 1-1-02.)

18 Section 15. The Franchise Disclosure Act of 1987 is amended  
19 by changing Sections 3, 7, 8, 10, 11, 15, 16, 20, 21, 22, 26,  
20 29, 31, and 40 as follows:

21 (815 ILCS 705/3) (from Ch. 121 1/2, par. 1703)

22 Sec. 3. Definitions. As used in this Act:

23 (1) "Franchise" means a contract or agreement, either  
24 expressed or implied, whether oral or written, between two or

1 more persons by which:

2 (a) a franchisee is granted the right to engage in the  
3 business of offering, selling, or distributing goods or  
4 services, under a marketing plan or system prescribed or  
5 suggested in substantial part by a franchisor; and

6 (b) the operation of the franchisee's business  
7 pursuant to such plan or system is substantially associated  
8 with the franchisor's trademark, service mark, trade name,  
9 logotype, advertising, or other commercial symbol  
10 designating the franchisor or its affiliate; and

11 (c) the person granted the right to engage in such  
12 business is required to pay to the franchisor or an  
13 affiliate of the franchisor, directly or indirectly, a  
14 franchise fee of \$500 or more;

15 Provided that this Act shall not apply to any of the  
16 following persons, entities or relationships which may involve  
17 or acquire a franchise or any interest in a franchise:

18 (i) any franchised business which is operated by  
19 the franchisee on the premises of the franchisor or  
20 subfranchisor as long as such franchised business is  
21 incidental to the business conducted by the franchisor  
22 or subfranchisor at such premises, including, without  
23 limitation, leased departments and concessions; or

24 (ii) a fractional franchise. A "fractional  
25 franchise" means any relationship in which the person  
26 described therein as a franchisee, or any of the

1 current directors or executive officers thereof, has  
2 been in the type of business represented by the  
3 franchise relationship for more than 2 years and the  
4 parties anticipated, or should have anticipated, at  
5 the time the agreement establishing the franchise  
6 relationship was reached, that the sales arising from  
7 the relationship would represent no more than 20% of  
8 the sales in dollar volume of the franchisee for a  
9 period of at least one year after the franchisee begins  
10 selling the goods or services involved in the  
11 franchise; or

12 (iii) a franchise agreement for the use of a  
13 trademark, service mark, trade name, logotype,  
14 advertising, or other commercial symbol designating a  
15 person who offers on a general basis, for a fee or  
16 otherwise, a bona fide service for the evaluation,  
17 testing, or certification of goods, commodities, or  
18 services; or-

19 (iv) a franchise relationship covered by the  
20 Petroleum Marketing Practices Act, 15 U.S.C. 2801.

21 (2) "Franchisee" means a person to whom a franchise is  
22 granted and includes, unless stated otherwise in this Act: (a)  
23 a subfranchisor with regard to its relationship with a  
24 franchisor and (b) a subfranchisee with regard to its  
25 relationship with a subfranchisor.

26 (3) "Franchisor" means a person who grants a franchise and

1 includes a subfranchisor with regard to its relationship with a  
2 franchisee, unless stated otherwise in this Act.

3 (4) "Subfranchise" means any contract or agreement between  
4 a franchisor and a subfranchisor whereby the subfranchisor is  
5 granted the right, in consideration of the payment of a  
6 franchise fee in whole or in part for such right, to ~~service~~  
7 ~~franchises or to~~ sell or negotiate the sale of franchises.  
8 Where used in this Act, unless specifically stated otherwise,  
9 "franchise" includes "subfranchise."

10 (5) "Subfranchisor" means a person to whom the right to  
11 sell or negotiate the sale of subfranchises is granted.

12 (6) "Order" means a consent, authorization, approval,  
13 prohibition, or requirement applicable to a specific case  
14 issued by the Attorney General Administrator.

15 (7) "Person" means an individual, a corporation, a  
16 partnership, a joint venture, an association, a joint stock  
17 company, a trust, or an unincorporated organization.

18 (8) "Rule" means any published regulation or standard of  
19 general application issued by the Administrator.

20 (9) "Sale" or "sell" includes every contract or agreement  
21 of sale of, contract to sell, or disposition of, a franchise or  
22 interest in a franchise for value.

23 (10) "State" means the State of Illinois.

24 (11) "Fraud" and "deceit" are not limited to common law  
25 fraud or deceit.

26 (12) "Offer" or "offer to sell" includes every attempt to

1 offer to dispose of, or solicitation of an offer to buy, a  
2 franchise, any interest in a franchise or an option to acquire  
3 a franchise for value.

4 (13) "Publish" means publicly to issue or circulate by  
5 newspaper, mail, radio, or television, or otherwise to  
6 disseminate to the public.

7 (14) "Franchise fee" means any fee or charge that a  
8 franchisee is required to pay directly or indirectly for the  
9 right to enter into a business or sell, resell, or distribute  
10 goods, services or franchises under an agreement, including,  
11 but not limited to, any such payment for goods or services,  
12 provided that the Administrator may by rule define what  
13 constitutes an indirect franchise fee, and provided further  
14 that the following shall not be considered the payment of a  
15 franchise fee: (a) the payment of a reasonable service charge  
16 to the issuer of a credit card by an establishment accepting or  
17 honoring such credit card; (b) amounts paid to a trading stamp  
18 company by a person issuing trading stamps in connection with  
19 the retail sale of merchandise or services; (c) the purchase or  
20 agreement to purchase goods for which there is an established  
21 market at a bona fide wholesale price; (d) the payment for  
22 fixtures necessary to operate the business; (e) the payment of  
23 rent which reflects payment for the economic value of the  
24 property; or (f) the purchase or agreement to purchase goods  
25 for which there is an established market at a bona fide retail  
26 price subject to a bona fide commission or compensation plan.

1 The Administrator may by rule define what shall constitute an  
2 established market.

3 (15) "Disclosure statement" means the document provided  
4 for in Section 16 of this Act and all amendments to such  
5 document.

6 (16) "Write" or "written" shall include printed,  
7 lithographed or any other means of graphic communication.

8 (17) (Blank).

9 (18) "Marketing plan or system" means a plan or system  
10 relating to some aspect of the conduct of a party to a contract  
11 in conducting business, including but not limited to (a)  
12 specification of price, or special pricing systems or discount  
13 plans, (b) use of particular sales or display equipment or  
14 merchandising devices, (c) use of specific sales techniques,  
15 (d) use of advertising or promotional materials or cooperation  
16 in advertising efforts; provided that an agreement is not a  
17 marketing plan or system solely because a manufacturer or  
18 distributor of goods reserves the right to occasionally require  
19 sale at a special reduced price which is advertised on the  
20 container or packaging material in which the product is  
21 regularly sold, if the reduced price is absorbed by the  
22 manufacturer or distributor.

23 (19) "Administrator" means the Illinois Attorney General.

24 (20) (a) An offer to sell a franchise is made in this State  
25 when the offer either originates from this State or is  
26 directed by the offeror to this State and received at the

1 place to which it is directed. An offer to sell is accepted  
2 in this State when acceptance is communicated to the  
3 offeror in this State; and acceptance is communicated to  
4 the offeror in this State when the offeree directs it to  
5 the offeror in this State reasonably believing the offeror  
6 to be in this State and it is received at the place to  
7 which it is directed.

8 (b) An offer to sell a franchise is not made in this  
9 State merely because the franchisor circulates or there is  
10 circulated in this State an advertisement in (i) a bona  
11 fide newspaper or other publication of general, regular and  
12 paid circulation which has had more than 2/3 of its  
13 circulation outside this State during the past 12 months,  
14 or (ii) a radio or television program originating outside  
15 this State which is received in this State.

16 (21) "Franchise broker" means any person engaged in the  
17 business of representing a franchisor in offering for sale or  
18 selling a franchise and is not a franchisor, an affiliate of a  
19 franchisor or an officer, director or employee of a franchisor  
20 or an affiliate of a franchisor with respect to such franchise.  
21 A franchisee shall not be a franchise broker merely because it  
22 receives a payment from the franchisor in consideration of the  
23 referral of a prospective franchisee to the franchisor, if the  
24 franchisee does not otherwise participate in the sale of a  
25 franchise to the prospective franchisee. A franchisee shall not  
26 be deemed to participate in a sale merely because he responds



1 to an inquiry from a prospective franchisee.

2 (22) "Salesperson" means any person employed by or  
3 representing a franchise broker, a franchisor or an affiliate  
4 of the franchisor in effecting or attempting to effect the  
5 offer or sale of a franchise.

6 (Source: P.A. 90-642, eff. 7-24-98.)

7 (815 ILCS 705/7) (from Ch. 121 1/2, par. 1707)

8 Sec. 7. Sale by franchisee and extension or renewal of  
9 existing franchise. There shall be exempted from the provisions  
10 of Sections 5, 10, 11, 13 and 15 of this Act the offer or sale  
11 of a franchise by a franchisee for its own account if the sale  
12 is not effected by or through a franchisor. A sale is not  
13 effected by or through a franchisor merely because a franchisor  
14 has a right to approve or disapprove a different franchisee or  
15 requires payment of a reasonable transfer fee or requires the  
16 new franchisee to execute a franchise agreement on terms not  
17 materially different from the existing franchise agreement.

18 There shall be exempted from the provisions of Sections 5,  
19 10, 11, 13 and 15 of this Act the extension or renewal of an  
20 existing franchise or the exchange or substitution of a  
21 modified or amended franchise agreement where there is no  
22 interruption in the operation of the franchise business by the  
23 franchisee.

24 (Source: P.A. 85-551.)

1 (815 ILCS 705/8) (from Ch. 121 1/2, par. 1708)

2 Sec. 8. Exemptions.

3 (a) There shall be exempted, from the registration  
4 requirements of Section 10 of this Act, the offer and sale of a  
5 franchise if:

6 (1) the franchisor has a net worth on a consolidated  
7 basis, according to its most recent audited financial  
8 statement, of not less than \$15,000,000; or the franchisor  
9 has a net worth, according to its most recent unaudited  
10 financial statement, of not less than \$1,000,000 and is at  
11 least 80% owned by a corporation which has a net worth on a  
12 consolidated basis, according to its most recent audited  
13 financial statement, of not less than \$15,000,000;

14 (2) the franchisee (or its parent or any affiliates) is  
15 an entity that has been in business for at least 5 years  
16 and has a net worth of at least \$5,000,000; or

17 (3) one or more purchasers of at least 50% ownership  
18 interest in the franchise within 60 days of the sale, has  
19 been, for at least 2 years, an officer, director, general  
20 partner, individual with management responsibility for the  
21 offer and sale of the franchisor's franchises or the  
22 administrator of the franchised network; or within 60 days  
23 of the sale, has been, for at least 2 years, an owner of at  
24 least a 25% interest in the franchisor.

25 Provided, unless exempted by order or rule of the  
26 Administrator, the franchisor shall deliver to the prospective

1 franchisee a disclosure statement in accordance with the  
2 requirements of Section 5(2) of this Act in connection with any  
3 transaction exempted under this Section 8(a).

4 (b) There shall be exempted from the provisions of Sections  
5 5, 10, 11, ~~13~~ and 15 of this Act the offer and sale of a  
6 franchise if the prospective franchisee qualifies as one of the  
7 following:

8 any bank as defined in Section 3(a)(2) of the Securities  
9 Act of 1933 whether acting in its individual or fiduciary  
10 capacity or as an insurance company as defined in Section 2(13)  
11 of that Act.

12 (Source: P.A. 85-551.)

13 (815 ILCS 705/10) (from Ch. 121 1/2, par. 1710)

14 Sec. 10. Registration and Annual Report. No franchisor may  
15 sell or offer to sell a franchise in this State if (1) the  
16 franchisee is domiciled in this State or (2) the offer of the  
17 franchise is made or accepted in this State and the franchise  
18 business is or will be located in this State, unless the  
19 franchisor has registered the franchise with the Administrator  
20 by filing such form of notification and disclosure statement as  
21 required under Section 16.

22 The registration of a franchise shall become effective on  
23 the 21st day after the date of the filing of the required  
24 materials, unless the Administrator has denied registration  
25 under subdivision (a)(3) of Section 22.

1       The registration of a franchise shall expire 120 days after  
2       the franchisor's fiscal year end. Annually, but not later than  
3       one business day before the ~~anniversary date of the~~  
4       registration expires, the franchisor shall file the disclosure  
5       statement updated as of the date of the franchisor's prior  
6       fiscal year end ~~a date within 120 days of the anniversary date~~  
7       ~~of the registration.~~

8       (Source: P.A. 90-642, eff. 7-24-98.)

9       (815 ILCS 705/11) (from Ch. 121 1/2, par. 1711)

10       Sec. 11. Amendments. Within 30 days after the close of each  
11       quarter of its fiscal year, the franchisor shall prepare  
12       revisions to be attached to its disclosure statement to reflect  
13       any material changes to disclosures included, or required to be  
14       included, in the ~~90 days of the occurrence of any material~~  
15       ~~change in any facts required to be disclosed, a franchisor~~  
16       ~~whose franchise is registered under this Act shall amend its~~  
17       disclosure statement. The franchisor ~~and~~ shall deliver the  
18       amended disclosure statement in accordance with the  
19       requirements of subsection (2) of Section 5 and Section 16 of  
20       this Act to any prospective franchisee, including prospective  
21       franchisees to whom a disclosure statement was previously  
22       delivered if the material change relates to or affects the  
23       ~~franchisor or the~~ franchise offered to such prospective  
24       franchisees. The amended disclosure statement shall be filed  
25       with the Administrator. An amendment shall not be required if

1 the terms of the franchise agreement merely reflect changes  
2 from the franchisor's registered franchise made pursuant to  
3 negotiations between the franchisee and the franchisor.

4 The fact that the franchise is considered to be registered  
5 is not a finding that the amended disclosure statement complies  
6 with the standard of disclosure required by this Act.

7 (Source: P.A. 90-642, eff. 7-24-98.)

8 (815 ILCS 705/15) (from Ch. 121 1/2, par. 1715)

9 Sec. 15. Escrow of franchise fees; surety bonds; franchisee  
10 fee deferrals. If the Administrator finds that a franchisor has  
11 failed to demonstrate that adequate financial arrangements  
12 have been made to fulfill obligations to provide real estate,  
13 improvements, equipment, inventory, training, or other items  
14 to be included in the establishment and opening of the  
15 franchise business being offered, the Administrator may by rule  
16 or order require the escrow or impoundment of franchise fees  
17 and other funds paid by the franchisee until such obligations  
18 have been fulfilled, or, at the option of the franchisor, the  
19 furnishing of a surety bond as provided by rule of the  
20 Administrator, if he finds that such requirement is necessary  
21 and appropriate to protect prospective franchisees, or, at the  
22 option of the franchisor, the deferral of payment of the  
23 initial fee until the opening of the franchise business.

24 (Source: P.A. 85-551.)

1 (815 ILCS 705/16) (from Ch. 121 1/2, par. 1716)

2 Sec. 16. Form and contents of disclosure statements. The  
3 disclosure statement required under this Act shall be prepared  
4 in accordance with the Federal Trade Commission rule entitled  
5 Disclosure Requirements and Prohibitions Concerning  
6 Franchising, 16 C.F.R. Part 436, as it may be ~~Uniform Franchise~~  
7 ~~Offering Circular Guidelines as adopted and amended,~~ the  
8 Guidelines promulgated by the North American Securities  
9 Administrators Association, Inc., as they may be amended, and  
10 the rules adopted by the Administrator pursuant to Section 32  
11 of this Act. Incorporated.

12 All statements in the disclosure statement shall be free  
13 from any false or misleading statement of a material fact,  
14 shall not omit to state any material fact required to be stated  
15 or necessary to make the statements not misleading, and shall  
16 be accurate and complete as of the effective date thereof.

17 (Source: P.A. 90-642, eff. 7-24-98.)

18 (815 ILCS 705/20) (from Ch. 121 1/2, par. 1720)

19 Sec. 20. Nonrenewal of a franchise. It shall be a violation  
20 of this Act for a franchisor to refuse to renew a franchise of  
21 a franchised business located in this State without  
22 compensating the franchisee either by repurchase or by other  
23 means for the diminution in the value of the franchised  
24 business caused by the expiration of the franchise where:

25 (a) the franchisee is barred by the franchise agreement

1 (or by the refusal of the franchisor at least 6 months  
2 prior to the expiration date of the franchise to waive any  
3 portion of the franchise agreement which prohibits the  
4 franchisee) from continuing to conduct substantially the  
5 same business under another trademark, service mark, trade  
6 name or commercial symbol in the same area subsequent to  
7 the expiration of the franchise; or

8 (b) the franchisee has not been sent notice of the  
9 franchisor's intent not to renew the franchise at least 6  
10 months prior to the expiration date or any extension  
11 thereof of the franchise.

12 (Source: P.A. 85-551.)

13 (815 ILCS 705/21) (from Ch. 121 1/2, par. 1721)

14 Sec. 21. Franchise Advisory Board. There is created in the  
15 Office of the Administrator a Franchise Advisory Board. The  
16 Franchise Advisory Board shall consist of such members as the  
17 Administrator deems appropriate to advise him on franchising  
18 and franchise related matters. The members shall be persons who  
19 have knowledge and experience in franchising. The members of  
20 the Franchise Advisory Board shall serve at the pleasure of the  
21 Administrator. The Franchise Advisory Board from time to time  
22 shall make recommendations concerning the administration and  
23 enforcement of this Act. Members of the Franchise Advisory  
24 Board shall serve without compensation ~~but shall be reimbursed~~  
25 ~~for actual and necessary expenses incurred in their official~~

1 ~~capacities~~. The Board shall select its own chairman, establish  
2 rules and procedures, and keep a record of matters transpiring  
3 at all meetings.

4 (Source: P.A. 85-551.)

5 (815 ILCS 705/22) (from Ch. 121 1/2, par. 1722)

6 Sec. 22. Enforcement.

7 (a) The Administrator may suspend, terminate, prohibit or  
8 deny the sale of any franchise or registration of any  
9 franchise, ~~or franchise broker or salesperson~~ if it appears to  
10 him that: (1) there has been a failure to comply with any of  
11 the provisions of this Act or the rules or orders of the  
12 Administrator pertaining thereto; or (2) that the disclosure  
13 statement or any amendment thereto includes any false or  
14 misleading statement of a material fact or omits to state any  
15 material fact required to be stated therein or necessary to  
16 make the statements therein not misleading; or (3) that the  
17 disclosure statement filed in conjunction with an initial  
18 registration under Section 10 is materially deficient. A  
19 disclosure statement is "materially deficient" if it fails to  
20 comply with the requirements of ~~the Uniform Franchise Offering~~  
21 ~~Circular Guidelines referred to in~~ Section 16; or (4) that the  
22 sale of the franchise would constitute a misrepresentation,  
23 deceit or fraud upon prospective franchisees; or (5) that any  
24 person in this State is engaging in or about to engage in  
25 false, fraudulent or deceptive practices or any device, scheme,



1 or artifice to defraud in connection with the offer or sale of  
2 the franchise; or (6) that any person identified in the  
3 disclosure statement or any person engaged in the offer or sale  
4 of the franchise in this State has been convicted of an  
5 offense, is subject to an order or civil judgment or is a  
6 defendant in a proceeding required to be described in the  
7 disclosure statement and the involvement of such person creates  
8 an unreasonable risk to prospective franchisees; or (7)  
9 (blank); or (8) (blank); or (9) that the franchisor's  
10 enterprise or method of business includes or would include  
11 activities which are illegal where performed; or (10) (blank);  
12 or (11) (blank).

13 In no case shall the Administrator, or any person  
14 designated by him, in the administration of this Act, incur any  
15 official or personal liability by issuing an order or other  
16 proceeding or by suspending, denying, prohibiting or  
17 terminating the registration of a franchise broker or  
18 salesperson, or by denying, suspending, terminating or  
19 prohibiting the registration of franchises, or prohibiting the  
20 sale of franchises, or by suspending or prohibiting any person  
21 from acting as a franchise broker or salesperson.

22 The Administrator may exercise any of the powers specified  
23 in Section 31 of this Act.

24 (b) The Administrator, with such assistance as he may from  
25 time to time request of the state's attorneys in the several  
26 counties, may institute proceedings in the circuit court to

1 prevent and restrain violations of this Act or of any rule or  
2 order prescribed or issued under this Act. In such a  
3 proceeding, the court shall determine whether a violation has  
4 been committed, and shall enter such judgment or decree as it  
5 considers necessary to remove the effects of any violation and  
6 to prevent such violation from continuing or from being renewed  
7 in the future. The court, in its discretion, may exercise all  
8 powers necessary for this purpose, including, but not limited  
9 to, injunction, revocation, forfeiture or suspension of the  
10 charter, franchise, certificate of authority or privileges of  
11 any corporation, association, limited partnership or other  
12 business organization operating under the laws of this State,  
13 dissolution of domestic corporations or associations,  
14 suspension or termination of the right of foreign corporations  
15 or associations to do business in this State, or restitution or  
16 payment of damages by a franchisor to persons injured by  
17 violations of this Act, including without limitation an award  
18 of reasonable attorneys fees and costs.

19 (Source: P.A. 90-642, eff. 7-24-98.)

20 (815 ILCS 705/26) (from Ch. 121 1/2, par. 1726)

21 Sec. 26. Private civil actions. Any person who offers,  
22 sells, terminates, or fails to renew a franchise in violation  
23 of this Act shall be liable to the franchisee who may sue for  
24 damages caused thereby. This amendatory Act of 1992 is intended  
25 to clarify the existence of a private right of action under

1 existing law with respect to the termination or nonrenewal of a  
2 franchise in violation of this Act. In the case of a violation  
3 of Section 5, 6, 10, 11, or 15 of the Act, the franchisee may  
4 also sue for rescission.

5 No franchisee may sue for rescission under this Section 26  
6 who shall fail, within 30 days from the date of receipt  
7 thereof, to accept an offer to return the consideration paid or  
8 to repurchase the franchise purchased by such person. Every  
9 offer provided for in this Section shall be in writing, shall  
10 be delivered to the franchisee or sent by certified mail  
11 addressed to the franchisee at such person's last known  
12 address, shall offer to return any consideration paid or to  
13 repurchase the franchise for a price equal to the full amount  
14 paid less any net income received by the franchisee, plus the  
15 legal rate of interest thereon, and may require the franchisee  
16 to return to the person making such offer all unsold goods,  
17 equipment, fixtures, leases and similar items received from  
18 such person. Such offer shall continue in force for 30 days  
19 from the date on which it was received by the franchisee and  
20 shall advise the franchisee of such rights and the period of  
21 time limited for acceptance thereof. Any agreement not to  
22 accept or refusing or waiving any such offer made during or  
23 prior to the expiration of said 30 days shall be void.

24 The term "franchisee" as used in this Section shall include  
25 the personal representative or representatives of the  
26 franchisee.

1           Every person who directly or indirectly controls a person  
2 liable under this Section 26, every partner in a firm so  
3 liable, every principal executive officer or director of a  
4 corporation so liable, every manager of a limited liability  
5 company so liable, every person occupying a similar status or  
6 performing similar functions, and every employee of a person so  
7 liable, who materially aids in the act or transaction  
8 constituting the violation, is also liable jointly and  
9 severally with and to the same extent as such person, unless  
10 said person who otherwise is liable had no knowledge or  
11 reasonable basis to have knowledge of the facts, acts or  
12 transactions constituting the alleged violation.

13           Every franchisee in whose favor judgment is entered in an  
14 action brought under this Section shall be entitled to the  
15 costs of the action including, without limitation, reasonable  
16 attorney's fees.

17           (Source: P.A. 87-1143.)

18           (815 ILCS 705/29) (from Ch. 121 1/2, par. 1729)

19           Sec. 29. Certificate of registration or filing of annual  
20 report; admissibility in evidence. In any civil or criminal  
21 action brought under this Act, a Certificate under the seal of  
22 this State, signed by the Administrator, stating whether or not  
23 a franchise is registered, or whether or not an annual report  
24 of a franchisor has been filed under Section 10 of this Act, ~~or~~  
25 ~~whether or not a person has registered as a franchise broker~~

1 ~~under Section 13 of this Act,~~ shall constitute prima facie  
2 evidence of such matter, and shall be admissible into evidence  
3 at trial without proof of foundation or additional  
4 authenticity.

5 (Source: P.A. 85-551.)

6 (815 ILCS 705/31) (from Ch. 121 1/2, par. 1731)

7 Sec. 31. Powers of the Administrator. (a) Investigations.  
8 The Administrator may in his discretion: (1) make such public  
9 or private investigations inside or outside this State as he  
10 deems necessary (i) to determine whether any person has  
11 violated, is violating, or is about to violate any provision of  
12 this Act or any rule or order prescribed or issued under this  
13 Act or (ii) to aid in the enforcement of this Act or in the  
14 prescribing of rules under this Act; and (2) publish  
15 information concerning the violation of this Act or any rule or  
16 order prescribed or issued under this Act. No actions taken or  
17 orders issued by the Administrator shall be binding on, nor in  
18 any way preclude the Administrator from conducting any  
19 investigation or commencing any action authorized under this  
20 Act. The Administrator or any of his assistants may participate  
21 in any hearings conducted by the Administrator under this Act  
22 and the Administrator may provide such assistance as the  
23 Administrator believes necessary to effectively fulfill the  
24 purposes of this Act.

25 (b) Subpoenas. For the purpose of any investigation or

1 proceeding under this Act and prior to the commencement of any  
2 civil or criminal action as provided for in this Act, the  
3 Administrator has the authority to subpoena witnesses, compel  
4 their attendance, examine them under oath, or require the  
5 production of any books, documents, records or tangible things,  
6 hereafter referred to as "documentary material", which the  
7 Administrator deems relevant or material to his investigation,  
8 for inspection, reproducing or copying under such terms and  
9 conditions as are hereafter set forth. Any subpoena issued by  
10 the Administrator shall contain the following information: (1)  
11 the statute and section thereof, the alleged violation of which  
12 is under investigation; (2) the date, place and time at which  
13 the person is required to appear or produce documentary  
14 material in his possession, custody or control at a designated  
15 office of the Administrator, which date shall not be less than  
16 10 days from date of service of the subpoena; and (3) where  
17 documentary material is required to be produced, the same shall  
18 be prescribed by class so as to clearly indicate the material  
19 demanded.

20 (c) Production of documentary material. The Administrator  
21 is hereby authorized, and may so elect to require the  
22 production, pursuant to this Section of documentary material  
23 prior to the taking of any testimony of the person subpoenaed,  
24 in which event such documentary material shall be made  
25 available for inspection and copying during normal business  
26 hours at the principal place of business of the person served,

1 or at such other time and place as may be agreed upon by the  
2 person served and the Administrator. When documentary material  
3 is demanded by subpoena, said subpoena shall not (1) contain  
4 any requirement which would be unreasonable or improper if  
5 contained in a subpoena duces tecum issued by a court of this  
6 State; or (2) require the disclosure of any documentary  
7 material which would be privileged, or which for any other  
8 reason would not be required by a subpoena duces tecum issued  
9 by a court of this State.

10 (d) Service of subpoenas. Service of a subpoena of the  
11 Administrator as provided herein may be made by (1) delivery of  
12 a duly executed copy thereof to the person served or if a  
13 person is not a natural person, to the principal place of  
14 business of the person to be served, or (2) mailing by  
15 certified mail, return receipt requested, a duly executed copy  
16 thereof addressed to the person to be served at his principal  
17 place of business in this State, or, if said person has no  
18 place of business in this State, to his principal office.

19 (e) Examination of witnesses. The examination of all  
20 witnesses under this Section shall be conducted by the  
21 Administrator, or by his deputy designated by him, before an  
22 officer authorized to administer oaths in this State. The  
23 testimony shall be taken stenographically or by a sound  
24 recording device and shall be transcribed.

25 (f) Fees. All persons served with a subpoena by the  
26 Administrator under this Act shall be paid the same fees and

1 mileage as are paid to witnesses in the courts of this State.

2 (g) Judicial enforcement of subpoenas. In the event a  
3 witness served with a subpoena by the Administrator under this  
4 Act fails or refuses to obey same or to produce documentary  
5 material as provided herein or to give testimony relevant or  
6 material to the investigation being conducted, the  
7 Administrator may petition any circuit court for an order  
8 requiring said witness to attend and testify or produce the  
9 documentary material demanded. Thereafter, any failure or  
10 refusal on the part of the witness to obey such order of court  
11 may be punishable by the court as a contempt thereof.

12 (h) Immunity from prosecution. No person is excused from  
13 attending and testifying or from producing any document or  
14 records before the Administrator in obedience to the subpoena  
15 of the Administrator, in any proceeding instituted by the  
16 Administrator and authorized by this Act, on the ground that  
17 the testimony or evidence, documentary or otherwise, required  
18 of him may tend to incriminate him or subject him to a penalty  
19 or forfeiture. No individual may be prosecuted or subjected to  
20 any penalty or forfeiture for or on account of any transaction,  
21 matter, or thing concerning which he is compelled, after  
22 validly claiming his privilege against self-incrimination, to  
23 testify or produce evidence, documentary or otherwise, except  
24 that the individual testifying is not exempt from prosecution  
25 and punishment for perjury or contempt committed in testifying.

26 (i) Administrator entitled to recover costs. In any action



1 brought under the provisions of this Act, the Administrator is  
2 entitled to recover costs for the use of this State.

3 (j) In the administration of this Act, the Attorney General  
4 may accept an Assurance of Voluntary Compliance with respect to  
5 any method, act, or practice deemed to be violative of the Act  
6 from any person who has engaged in, is engaging in, or was  
7 about to engage in such method, act, or practice. Evidence of a  
8 violation of an Assurance Voluntary Compliance shall be prima  
9 facie evidence of a violation of this Act in any subsequent  
10 proceeding brought by the Attorney General against the alleged  
11 violation. The Administrator may require that an Assurance of  
12 Voluntary Compliance be disclosed in the disclosure statement.

13 (Source: P.A. 85-551.)

14 (815 ILCS 705/40) (from Ch. 121 1/2, par. 1740)

15 Sec. 40. Fees.

16 (a) The Administrator shall charge and collect the fees  
17 fixed by this Section, or as prescribed by rule of the  
18 Administrator. All fees and charges collected under this  
19 Section shall be transmitted to the State Treasurer at least  
20 weekly, accompanied by a detailed statement thereof. Such fees  
21 and charges shall be refundable at the discretion of the  
22 Administrator.

23 (b) The fee for the initial registration of a franchise  
24 shall be \$500.

25 (c) The fee for filing an amended disclosure statement

1 shall be \$100 if the amendment pertains to a material change,  
2 otherwise \$25.

3 (d) The fee for an interpretive opinion shall be \$50.

4 (e) The fee for filing an initial large franchisor  
5 exemption under Section 200.202 of Title 14 of the Illinois  
6 Administrative Code shall be \$500 and the fee for renewals of  
7 this exemption shall be \$100 ~~registration of a franchise broker~~  
8 ~~shall be \$100 with a renewal fee of \$100.~~

9 (f) The fee for filing an annual report shall be \$100.

10 (Source: P.A. 85-551.)

11 (815 ILCS 705/13 rep.)

12 Section 20. The Franchise Disclosure Act of 1987 is  
13 amended by repealing Section 13.

14 Section 99. Effective date. This Act takes effect October  
15 1, 2009.