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1 AMENDMENT TO SENATE BILL 1285

2 AMENDMENT NO. _____. Amend Senate Bill 1285 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The General Not For Profit Corporation Act of
5 1986 is amended by changing Section 107.50 as follows:

6 (805 ILCS 105/107.50) (from Ch. 32, par. 107.50)

7 Sec. 107.50. Proxies. A member entitled to vote may vote in
8 person or, unless the articles of incorporation or the bylaws
9 otherwise provide, by proxy executed in writing by the member
10 or by that member's duly authorized attorney-in-fact. No proxy
11 shall be valid after 11 months from the date of its execution,
12 unless otherwise provided in the proxy. Where directors, ~~or~~
13 officers, or representatives are to be elected by members, the
14 bylaws may provide that such elections may be conducted by
15 mail, email, or other electronic means.

16 (Source: P.A. 84-1423.)

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

3 (815 ILCS 307/10-80)

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

6 (a) The following persons are exempt from the requirements
7 of this Act:

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

12 (2) Any person licensed as a real estate broker or
13 salesperson under the Illinois Real Estate License Act of
14 2000 who is primarily engaged in business activities for
15 which a license is required under that Act and who, on an
16 incidental basis, acts as a business broker.

17 (3) Any dealer, salesperson, or investment adviser
18 registered pursuant to the Illinois Securities Law of 1953
19 or any investment adviser representative, or any person who
20 is regularly engaged in the business of offering or selling
21 securities in a transaction exempted under subsection C, H,
22 M, R, Q, or S of Section 4 of the Illinois Securities Law
23 of 1953 or subsection G of Section 4 of the Illinois
24 Securities Law of 1953 provided that such person is

1 registered pursuant to federal securities law.

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

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

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

8 (7) Any person who is selling a business owned or
9 operated (in whole or in part) by that person in a one time
10 transaction.

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

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

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

24 (b-2) Any certified public accountant licensed to practice
25 in Illinois, while engaged in the practice as a certified
26 public accountant and whose service in relation to the business

1 broker transaction is incidental to his or her practice, is
2 exempt from the requirements of this Act.

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

9 (c) The burden of proof of any exemption or classification
10 provided in this Act shall be on the party claiming the
11 exemption or classification.

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

13 Section 15. The Business Opportunity Sales Law of 1995 is
14 amended by changing Sections 5-10, 5-30 and 5-35 as follows:

15 (815 ILCS 602/5-10)

16 Sec. 5-10. Exemptions. Registration pursuant to Section
17 5-30 shall not apply to any of the following:

18 (a) Any offer or sale of a business opportunity for which
19 the immediate cash payment made by the purchaser for any
20 business opportunity is at least \$25,000 if the immediate cash
21 payment does not exceed 20% of the purchaser's net worth as
22 determined exclusive of principal residence, furnishings
23 therein, and automobiles; provided, however, the Secretary of
24 State may by rule or regulation withdraw or further condition

1 the availability of this exemption.

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

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

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

23 (e) Any offer or sale of a business opportunity where the
24 purchaser is a bank, savings and loan association, trust
25 company, insurance company, credit union, or investment
26 company as defined by the federal Investment Company Act of

1 1940, pension or profit sharing trust, or other financial
2 institution or institutional buyer, or a dealer registered
3 under the Illinois Securities Law of 1953, where the purchaser
4 is acting for itself or in a fiduciary capacity.

5 (f) Any offer or sale of a business opportunity which is
6 defined as a franchise under the Franchise Disclosure Act of
7 1987 provided that the seller delivers to each purchaser 14 at
8 ~~the earlier of the first personal meeting, or 10 business~~ days
9 prior to the earlier of the execution by a purchaser of any
10 contract or agreement imposing a binding legal obligation on
11 the purchaser or the payment by a purchaser of any
12 consideration in connection with the offer or sale of the
13 business opportunity, a disclosure document prepared in
14 accordance with the requirements of Section 16 of the Illinois
15 Franchise Disclosure Act of 1987, as it may be amended. ~~one of~~
16 ~~the following disclosure documents:~~

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

20 ~~(2) A disclosure document prepared pursuant to the~~
21 ~~Federal Trade Commission rule entitled Disclosure~~
22 ~~Requirements and Prohibitions Concerning Franchising and~~
23 ~~Business Opportunity Ventures, 16 C.F.R. Sec. 436 (1979).~~
24 ~~For the purposes of this subsection, a personal meeting~~
25 ~~shall mean a face to face meeting between the purchaser and~~
26 ~~the seller or their representatives, which is held for the~~

1 ~~purpose of discussing the offer or sale of a business~~
2 ~~opportunity.~~

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

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

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

17 (815 ILCS 602/5-30)

18 Sec. 5-30. Registration.

19 (a) In order to register a business opportunity, the seller
20 shall file with the Secretary of State one of the following
21 disclosure documents with the appropriate cover sheet as
22 required by subsection (b) of Section 5-35 of this Law, a
23 consent to service of process as specified in subsection (b) of
24 this Section, and the appropriate fee as required by subsection
25 (c) of this Section which is not returnable in any event:

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

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

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

17 (b) Every seller shall file, in the form as the Secretary
18 of State may prescribe, an irrevocable consent appointing the
19 Secretary of State or the successor in office to be the
20 seller's attorney to receive service of any lawful process in
21 any noncriminal suit, action or proceeding against the seller
22 or the seller's successor, executor or administrator which
23 arises under this Law after the consent has been filed, with
24 the same force and validity as if served personally on the
25 person filing the consent. Service may be made by delivering a
26 copy of the process in the office of the Secretary of State,

1 but is not effective unless the plaintiff or petitioner in a
2 suit, action or proceeding, forthwith sends notice of the
3 service and a copy of the process by registered or certified
4 mail, return receipt requested, to the defendant's or
5 respondent's most current address on file with the Secretary of
6 State, and the plaintiff's affidavit of compliance with this
7 subsection is filed in the case on or before the return date of
8 the process, if any, or within such further time as the court
9 allows.

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

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

15 (B) interpretive opinion fee;

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

18 (D) issuance of certification pursuant to Section
19 5-20; or

20 (E) late registration fee pursuant to Section
21 5-30(g).

22 (2) The Secretary of State may, by rule or regulation,
23 raise or lower any fee imposed by, and which he or she is
24 authorized by law to collect under this Law.

25 (d) A registration automatically becomes effective upon
26 the expiration of the 10th full business day after a complete

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

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

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

23 (g) Notwithstanding the foregoing, applications for
24 renewal of registration of business opportunities may be filed
25 within 30 days following the expiration of the registration
26 provided that the applicant pays the annual registration fee

1 together with an additional amount equal to the annual
2 registration fee and files any other information or documents
3 that the Secretary of State may prescribe by rule or order. Any
4 application filed within 30 days following the expiration of
5 the registration shall be automatically effective as of the
6 time of the earlier expiration provided that the proper fee has
7 been paid to the Secretary of State.

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

9 (815 ILCS 602/5-35)

10 Sec. 5-35. Disclosure requirements.

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

20 (b) The disclosure document shall have a cover sheet which
21 is entitled, in at least 10-point bold type, "DISCLOSURE
22 REQUIRED BY THE STATE OF ILLINOIS." Under the title shall
23 appear the statement in at least 10-point bold type that "THE
24 REGISTRATION OF THIS BUSINESS OPPORTUNITY DOES NOT CONSTITUTE
25 APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE STATE OF

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

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

18 (2) The name of the seller, whether the seller is doing
19 business as an individual, partnership or corporation; the
20 names under which the seller has conducted, is conducting
21 or intends to conduct business; and the name of any parent
22 or affiliated company that will engage in business
23 transactions with purchasers or which will take
24 responsibility for statements made by the seller.

25 (3) The names, addresses and titles of the seller's
26 officers, directors, trustees, general managers, principal

1 executives, agents, and any other persons charged with
2 responsibility for the seller's business activities
3 relating to the sale of the business opportunity.

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

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

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

10 (C) The length of time the seller has conducted the
11 business opportunity currently being offered to the
12 purchaser.

13 (5) With respect to persons identified in item (3) of
14 this subsection:

15 (A) A description of the persons' business
16 experience for the 10 year period preceding the filing
17 date of this disclosure document. The description of
18 business experience shall list principal occupations
19 and employers; and

20 (B) A listing of the persons' educational and
21 professional backgrounds including, the names of
22 schools attended and degrees received, and any other
23 information that will demonstrate sufficient knowledge
24 and experience to perform the services proposed.

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

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

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

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

22 (8) The initial payment required, or when the exact
23 amount cannot be determined, a detailed estimate of the
24 amount of the initial payment to be made to the seller.

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

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

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

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

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

21 (14) Any representations made by the seller to the
22 purchaser concerning sales or earnings that may be made
23 from this business opportunity, including, but not limited
24 to:

25 (A) The bases or assumptions for any actual,
26 average, projected or forecasted sales, profits,

1 income or earnings;

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

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

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

19 (16) A statement of:

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

23 (B) The names and addresses of purchasers who have
24 requested a refund or rescission from the seller within
25 the last 12 months and the number of those who have
26 received the refund or rescission; and

1 (C) The total number of business opportunities the
2 seller intends to sell in this State within the next 12
3 months.

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

11 (18) The rights and obligations of the seller and the
12 purchaser regarding termination of the business
13 opportunity contract or agreement.

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

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

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

26 (22) A list of the states in which this disclosure

1 document is on file.

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

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

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

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

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

17 (815 ILCS 705/3) (from Ch. 121 1/2, par. 1703)

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

19 (1) "Franchise" means a contract or agreement, either
20 expressed or implied, whether oral or written, between two or
21 more persons by which:

22 (a) a franchisee is granted the right to engage in the
23 business of offering, selling, or distributing goods or
24 services, under a marketing plan or system prescribed or

1 suggested in substantial part by a franchisor; and

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

7 (c) the person granted the right to engage in such
8 business is required to pay to the franchisor or an
9 affiliate of the franchisor, directly or indirectly, a
10 franchise fee of \$500 or more;

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

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

20 (ii) a fractional franchise. A "fractional
21 franchise" means any relationship in which the person
22 described therein as a franchisee, or any of the
23 current directors or executive officers thereof, has
24 been in the type of business represented by the
25 franchise relationship for more than 2 years and the
26 parties anticipated, or should have anticipated, at

1 the time the agreement establishing the franchise
2 relationship was reached, that the sales arising from
3 the relationship would represent no more than 20% of
4 the sales in dollar volume of the franchisee for a
5 period of at least one year after the franchisee begins
6 selling the goods or services involved in the
7 franchise; or

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

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

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

22 (3) "Franchisor" means a person who grants a franchise and
23 includes a subfranchisor with regard to its relationship with a
24 franchisee, unless stated otherwise in this Act.

25 (4) "Subfranchise" means any contract or agreement between
26 a franchisor and a subfranchisor whereby the subfranchisor is

1 granted the right, in consideration of the payment of a
2 franchise fee in whole or in part for such right, to ~~service~~
3 ~~franchises or to~~ sell or negotiate the sale of franchises.
4 Where used in this Act, unless specifically stated otherwise,
5 "franchise" includes "subfranchise."

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

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

11 (7) "Person" means an individual, a corporation, a
12 partnership, a joint venture, an association, a joint stock
13 company, a trust, or an unincorporated organization.

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

16 (9) "Sale" or "sell" includes every contract or agreement
17 of sale of, contract to sell, or disposition of, a franchise or
18 interest in a franchise for value.

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

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

22 (12) "Offer" or "offer to sell" includes every attempt to
23 offer to dispose of, or solicitation of an offer to buy, a
24 franchise, any interest in a franchise or an option to acquire
25 a franchise for value.

26 (13) "Publish" means publicly to issue or circulate by

1 newspaper, mail, radio, or television, or otherwise to
2 disseminate to the public.

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

25 (15) "Disclosure statement" means the document provided
26 for in Section 16 of this Act and all amendments to such

1 document.

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

4 (17) (Blank).

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

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

20 (20) (a) An offer to sell a franchise is made in this State
21 when the offer either originates from this State or is
22 directed by the offeror to this State and received at the
23 place to which it is directed. An offer to sell is accepted
24 in this State when acceptance is communicated to the
25 offeror in this State; and acceptance is communicated to
26 the offeror in this State when the offeree directs it to

1 the offeror in this State reasonably believing the offeror
2 to be in this State and it is received at the place to
3 which it is directed.

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

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

24 (22) "Salesperson" means any person employed by or
25 representing a franchise broker, a franchisor or an affiliate
26 of the franchisor in effecting or attempting to effect the

1 offer or sale of a franchise.

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

3 (815 ILCS 705/7) (from Ch. 121 1/2, par. 1707)

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

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

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

21 (815 ILCS 705/8) (from Ch. 121 1/2, par. 1708)

22 Sec. 8. Exemptions.

23 (a) There shall be exempted, from the registration
24 requirements of Section 10 of this Act, the offer and sale of a

1 franchise if:

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

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

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

21 Provided, unless exempted by order or rule of the
22 Administrator, the franchisor shall deliver to the prospective
23 franchisee a disclosure statement in accordance with the
24 requirements of Section 5(2) of this Act in connection with any
25 transaction exempted under this Section 8(a).

26 (b) There shall be exempted from the provisions of Sections

1 5, 10, 11, ~~13~~ and 15 of this Act the offer and sale of a
2 franchise if the prospective franchisee qualifies as one of the
3 following:

4 any bank as defined in Section 3(a)(2) of the Securities
5 Act of 1933 whether acting in its individual or fiduciary
6 capacity or as an insurance company as defined in Section 2(13)
7 of that Act.

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

9 (815 ILCS 705/10) (from Ch. 121 1/2, par. 1710)

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

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

22 The registration of a franchise shall expire 120 days after
23 the franchisor's fiscal year end. Annually, but not later than
24 one business day before the ~~anniversary date of the~~
25 registration expires, the franchisor shall file the disclosure

1 statement updated as of the date of the franchisor's prior
2 fiscal year end ~~a date within 120 days of the anniversary date~~
3 ~~of the registration.~~

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

5 (815 ILCS 705/11) (from Ch. 121 1/2, par. 1711)

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

25 The fact that the franchise is considered to be registered

1 is not a finding that the amended disclosure statement complies
2 with the standard of disclosure required by this Act.

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

4 (815 ILCS 705/15) (from Ch. 121 1/2, par. 1715)

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

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

21 (815 ILCS 705/16) (from Ch. 121 1/2, par. 1716)

22 Sec. 16. Form and contents of disclosure statements. The
23 disclosure statement required under this Act shall be prepared
24 in accordance with the Federal Trade Commission rule entitled

1 Disclosure Requirements and Prohibitions Concerning
2 Franchising, 16 C.F.R. Part 436, as it may be ~~Uniform Franchise~~
3 ~~Offering Circular Guidelines as adopted and~~ amended, the
4 Guidelines promulgated by the North American Securities
5 Administrators Association, Inc., as they may be amended, and
6 the rules adopted by the Administrator pursuant to Section 32
7 of this Act. ~~Incorporated.~~

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

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

14 (815 ILCS 705/21) (from Ch. 121 1/2, par. 1721)

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

1 ~~for actual and necessary expenses incurred in their official~~
2 ~~capacities.~~ The Board shall select its own chairman, establish
3 rules and procedures, and keep a record of matters transpiring
4 at all meetings.

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

6 (815 ILCS 705/22) (from Ch. 121 1/2, par. 1722)

7 Sec. 22. Enforcement.

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

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

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

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

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

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

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

21 (815 ILCS 705/26) (from Ch. 121 1/2, par. 1726)

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

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

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

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

1 franchisee.

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

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

18 (Source: P.A. 87-1143.)

19 (815 ILCS 705/29) (from Ch. 121 1/2, par. 1729)

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

1 ~~whether or not a person has registered as a franchise broker~~
2 ~~under Section 13 of this Act,~~ shall constitute prima facie
3 evidence of such matter, and shall be admissible into evidence
4 at trial without proof of foundation or additional
5 authenticity.

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

7 (815 ILCS 705/31) (from Ch. 121 1/2, par. 1731)

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

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

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

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

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

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

26 (f) Fees. All persons served with a subpoena by the

1 Administrator under this Act shall be paid the same fees and
2 mileage as are paid to witnesses in the courts of this State.

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

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

1 (i) Administrator entitled to recover costs. In any action
2 brought under the provisions of this Act, the Administrator is
3 entitled to recover costs for the use of this State.

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

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

16 (815 ILCS 705/40) (from Ch. 121 1/2, par. 1740)

17 Sec. 40. Fees.

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

25 (b) The fee for the initial registration of a franchise

1 shall be \$500.

2 (c) The fee for filing an amended disclosure statement
3 shall be \$100 if the amendment pertains to a material change,
4 otherwise \$25.

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

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

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

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

13 (815 ILCS 705/13 rep.)

14 Section 25. The Franchise Disclosure Act of 1987 is
15 amended by repealing Section 13.

16 Section 99. Effective date. This Act takes effect October
17 1, 2009."