

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 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.)

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

19 (815 ILCS 307/10-80)

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

1           (a) The following persons are exempt from the requirements  
2 of this Act:

3           (1) Any attorney who is licensed to practice in this  
4 State, while engaged in the practice of law and whose  
5 service in relation to the business broker transaction is  
6 incidental to the attorney's practice.

7           (2) Any person licensed as a real estate broker or  
8 salesperson under the Illinois Real Estate License Act of  
9 2000 who is primarily engaged in business activities for  
10 which a license is required under that Act and who, on an  
11 incidental basis, acts as a business broker.

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

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

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

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

1           (7) Any person who is selling a business owned or  
2           operated (in whole or in part) by that person in a one time  
3           transaction.

4           (b) This Act shall not be deemed to apply in any manner,  
5           directly or indirectly, to: (i) a State bank or national bank,  
6           as those terms are defined in the Illinois Banking Act, or any  
7           subsidiary of a State bank or national bank; (ii) a bank  
8           holding company, as that term is defined in the Illinois Bank  
9           Holding Company Act of 1957, or any subsidiary of a bank  
10          holding company; (iii) a foreign banking corporation, as that  
11          term is defined in the Foreign Banking Office Act, or any  
12          subsidiary of a foreign banking corporation; (iv) a  
13          representative office, as that term is defined in the Foreign  
14          Bank Representative Office Act; (v) a corporate fiduciary, as  
15          that term is defined in the Corporate Fiduciary Act, or any  
16          subsidiary of a corporate fiduciary; (vi) a savings bank  
17          organized under the Savings Bank Act, or a federal savings bank  
18          organized under federal law, or any subsidiary of a savings  
19          bank or federal savings bank; (vii) a savings bank holding  
20          company organized under the Savings Bank Act, or any subsidiary  
21          of a savings bank holding company; (viii) an association or  
22          federal association, as those terms are defined in the Illinois  
23          Savings and Loan Act of 1985, or any subsidiary of an  
24          association or federal association; (ix) a foreign savings and  
25          loan association or foreign savings bank subject to the  
26          Illinois Savings and Loan Act of 1985, or any subsidiary of a

1 foreign savings and loan association or foreign savings bank;  
2 or (x) a savings and loan association holding company, as that  
3 term is defined in the Illinois Savings and Loan Act of 1985,  
4 or any subsidiary of a savings and loan association holding  
5 company.

6 (b-1) Any franchise seller as defined in the Federal Trade  
7 Commission rule entitled Disclosure Requirements and  
8 Prohibitions Concerning Franchising, 16 C.F.R. Part 436, as it  
9 may be amended, is exempt from the requirements of this Act.

10 ~~Persons registered under the Illinois Franchise Disclosure Act~~  
11 ~~of 1987 (and their employees) are exempt from the requirements~~  
12 ~~of this Act as to: offers and sales in connection with~~  
13 ~~franchising activities; or assisting any of their franchisees~~  
14 ~~in the offer or sale of a franchise by any such franchisee for~~  
15 ~~the franchisee's own account regardless of whether the sale is~~  
16 ~~effected by or through the registered persons.~~

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

22 (b-3) Any publisher, or regular employee of such publisher,  
23 of a bona fide newspaper or news magazine of regular and  
24 established paid circulation who, in the routine course of  
25 selling advertising, advertises businesses for sale and in  
26 which no other related services are provided is exempt from the

1 requirements of this Act.

2 (c) The burden of proof of any exemption or classification  
3 provided in this Act shall be on the party claiming the  
4 exemption or classification.

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

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

8 (815 ILCS 602/5-10)

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

11 (a) Any offer or sale of a business opportunity for which  
12 the immediate cash payment made by the purchaser for any  
13 business opportunity is at least \$25,000 if the immediate cash  
14 payment does not exceed 20% of the purchaser's net worth as  
15 determined exclusive of principal residence, furnishings  
16 therein, and automobiles; provided, however, the Secretary of  
17 State may by rule or regulation withdraw or further condition  
18 the availability of this exemption.

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

23 (c) Any offer or sale of a business opportunity where the  
24 seller has a net worth of not less than \$1,000,000 as

1 determined on the basis of the seller's most recent audited  
2 financial statement, prepared within 13 months of the first  
3 offer in this State. Net worth may be determined on a  
4 consolidated basis where the seller is at least 80% owned by  
5 one person and that person expressly guarantees the obligations  
6 of the seller with regard to the offer or sale of any business  
7 opportunity claimed to be exempt under this subsection. The  
8 Secretary of State may by rule or regulation withdraw or  
9 further condition the availability of this exemption.

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

16 (e) Any offer or sale of a business opportunity where the  
17 purchaser is a bank, savings and loan association, trust  
18 company, insurance company, credit union, or investment  
19 company as defined by the federal Investment Company Act of  
20 1940, pension or profit sharing trust, or other financial  
21 institution or institutional buyer, or a dealer registered  
22 under the Illinois Securities Law of 1953, where the purchaser  
23 is acting for itself or in a fiduciary capacity.

24 (f) Any offer or sale of a business opportunity which is  
25 defined as a franchise under the Franchise Disclosure Act of  
26 1987 provided that the seller delivers to each purchaser 14 ~~at~~

1 ~~the earlier of the first personal meeting, or 10 business~~ days  
2 prior to the earlier of the execution by a purchaser of any  
3 contract or agreement imposing a binding legal obligation on  
4 the purchaser or the payment by a purchaser of any  
5 consideration in connection with the offer or sale of the  
6 business opportunity, a disclosure document prepared in  
7 accordance with the requirements of Section 16 of the Illinois  
8 Franchise Disclosure Act of 1987, as it may be amended. ~~one of~~  
9 ~~the following disclosure documents:~~

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

13 ~~(2) A disclosure document prepared pursuant to the~~  
14 ~~Federal Trade Commission rule entitled Disclosure~~  
15 ~~Requirements and Prohibitions Concerning Franchising and~~  
16 ~~Business Opportunity Ventures, 16 C.F.R. Sec. 436 (1979).~~  
17 ~~For the purposes of this subsection, a personal meeting~~  
18 ~~shall mean a face to face meeting between the purchaser and~~  
19 ~~the seller or their representatives, which is held for the~~  
20 ~~purpose of discussing the offer or sale of a business~~  
21 ~~opportunity.~~

22 (g) Any offer or sale of a business opportunity for which  
23 the cash payment required to be made by a purchaser for any  
24 business opportunity does not exceed \$500 and the payment is  
25 made for the not-for-profit sale of sales demonstration  
26 equipment, material, or samples or the payment is made for

1 product inventory sold to the purchaser at a bona fide  
2 wholesale price.

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

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

10 (815 ILCS 602/5-30)

11 Sec. 5-30. Registration.

12 (a) In order to register a business opportunity, the seller  
13 shall file with the Secretary of State one of the following  
14 disclosure documents with the appropriate cover sheet as  
15 required by subsection (b) of Section 5-35 of this Law, a  
16 consent to service of process as specified in subsection (b) of  
17 this Section, and the appropriate fee as required by subsection  
18 (c) of this Section which is not returnable in any event:

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

22 (2) A disclosure document prepared pursuant to the  
23 Federal Trade Commission rule entitled Disclosure  
24 Requirements and Prohibitions Concerning Franchising, 16  
25 C.F.R. Part 436, or the Federal Trade Commission rule



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

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

10          (b) Every seller shall file, in the form as the Secretary  
11          of State may prescribe, an irrevocable consent appointing the  
12          Secretary of State or the successor in office to be the  
13          seller's attorney to receive service of any lawful process in  
14          any noncriminal suit, action or proceeding against the seller  
15          or the seller's successor, executor or administrator which  
16          arises under this Law after the consent has been filed, with  
17          the same force and validity as if served personally on the  
18          person filing the consent. Service may be made by delivering a  
19          copy of the process in the office of the Secretary of State,  
20          but is not effective unless the plaintiff or petitioner in a  
21          suit, action or proceeding, forthwith sends notice of the  
22          service and a copy of the process by registered or certified  
23          mail, return receipt requested, to the defendant's or  
24          respondent's most current address on file with the Secretary of  
25          State, and the plaintiff's affidavit of compliance with this  
26          subsection is filed in the case on or before the return date of

1 the process, if any, or within such further time as the court  
2 allows.

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

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

8 (B) interpretive opinion fee;

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

11 (D) issuance of certification pursuant to Section  
12 5-20; or

13 (E) late registration fee pursuant to Section  
14 5-30(g).

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

18 (d) A registration automatically becomes effective upon  
19 the expiration of the 10th full business day after a complete  
20 filing, provided that no order has been issued or proceeding  
21 pending under Section 5-45 of this Law. The Secretary of State  
22 may by order waive or reduce the time period prior to  
23 effectiveness, provided that a complete filing has been made.  
24 The Secretary of State may by order defer the effective date  
25 until the expiration of the 10th full business day after the  
26 filing of any amendment.

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

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

16           (g) Notwithstanding the foregoing, applications for  
17 renewal of registration of business opportunities may be filed  
18 within 30 days following the expiration of the registration  
19 provided that the applicant pays the annual registration fee  
20 together with an additional amount equal to the annual  
21 registration fee and files any other information or documents  
22 that the Secretary of State may prescribe by rule or order. Any  
23 application filed within 30 days following the expiration of  
24 the registration shall be automatically effective as of the  
25 time of the earlier expiration provided that the proper fee has  
26 been paid to the Secretary of State.

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

2 (815 ILCS 602/5-35)

3 Sec. 5-35. Disclosure requirements.

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

13 (b) The disclosure document shall have a cover sheet which  
14 is entitled, in at least 10-point bold type, "DISCLOSURE  
15 REQUIRED BY THE STATE OF ILLINOIS." Under the title shall  
16 appear the statement in at least 10-point bold type that "THE  
17 REGISTRATION OF THIS BUSINESS OPPORTUNITY DOES NOT CONSTITUTE  
18 APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE STATE OF  
19 ILLINOIS. THE INFORMATION CONTAINED IN THIS DISCLOSURE  
20 DOCUMENT HAS NOT BEEN VERIFIED BY THIS STATE. IF YOU HAVE ANY  
21 QUESTIONS OR CONCERNS ABOUT THIS INVESTMENT, SEEK PROFESSIONAL  
22 ADVICE BEFORE YOU SIGN A CONTRACT OR MAKE ANY PAYMENT. YOU ARE  
23 TO BE PROVIDED 10 BUSINESS DAYS TO REVIEW THIS DOCUMENT BEFORE  
24 SIGNING ANY CONTRACT OR AGREEMENT OR MAKING ANY PAYMENT TO THE  
25 SELLER OR THE SELLER'S REPRESENTATIVE". The seller's name and

1 principal business address, along with the date of the  
2 disclosure document shall also be provided on the cover sheet.  
3 No other information shall appear on the cover sheet. The  
4 disclosure document shall contain the following information  
5 unless the seller uses a disclosure document as provided in  
6 paragraph (1) or (2) of subsection (a) of Section 5-30 of this  
7 Law:

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

11 (2) The name of the seller, whether the seller is doing  
12 business as an individual, partnership or corporation; the  
13 names under which the seller has conducted, is conducting  
14 or intends to conduct business; and the name of any parent  
15 or affiliated company that will engage in business  
16 transactions with purchasers or which will take  
17 responsibility for statements made by the seller.

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

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

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

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

3 (C) The length of time the seller has conducted the  
4 business opportunity currently being offered to the  
5 purchaser.

6 (5) With respect to persons identified in item (3) of  
7 this subsection:

8 (A) A description of the persons' business  
9 experience for the 10 year period preceding the filing  
10 date of this disclosure document. The description of  
11 business experience shall list principal occupations  
12 and employers; and

13 (B) A listing of the persons' educational and  
14 professional backgrounds including, the names of  
15 schools attended and degrees received, and any other  
16 information that will demonstrate sufficient knowledge  
17 and experience to perform the services proposed.

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

20 (A) Has been convicted of any felony, or pleaded  
21 nolo contendere to a felony charge, or has been the  
22 subject of any criminal, civil or administrative  
23 proceedings alleging the violation of any business  
24 opportunity law, securities law, commodities law,  
25 franchise law, fraud or deceit, embezzlement,  
26 fraudulent conversion, restraint of trade, unfair or

1           deceptive practices, misappropriation of property or  
2           comparable allegations;

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

8           (7) The name of the person identified in item (6) of  
9           this subsection, nature of and parties to the action or  
10          proceeding, court or other forum, date of the institution  
11          of the action, docket references to the action, current  
12          status of the action or proceeding, terms and conditions or  
13          any order or decree, the penalties or damages assessed and  
14          terms of settlement.

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

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

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

22          (11) A detailed description of services the seller  
23          agrees to perform in connection with the placement of  
24          equipment, products or supplies at a location, as well as  
25          any agreement necessary in order to locate or operate  
26          equipment, products or supplies on a premises neither owned

1 nor leased by the purchaser or seller.

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

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

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

18 (A) The bases or assumptions for any actual,  
19 average, projected or forecasted sales, profits,  
20 income or earnings;

21 (B) The total number of purchasers who, within a  
22 period of 3 years of the date of the disclosure  
23 document, purchased a business opportunity involving  
24 the product, equipment, supplies or services being  
25 offered to the purchaser; and

26 (C) The total number of purchasers who, within 3



1           years of the date of the disclosure document, purchased  
2           a business opportunity involving the product,  
3           equipment, supplies or services being offered to the  
4           purchaser who, to the seller's knowledge, have  
5           actually received earnings in the amount or range  
6           specified.

7           (15) Any seller who makes a guarantee to a purchaser  
8           shall give a detailed description of the elements of the  
9           guarantee. Such description shall include, but shall not be  
10          limited to, the duration, terms, scope, conditions and  
11          limitations of the guarantee.

12          (16) A statement of:

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

16                (B) The names and addresses of purchasers who have  
17                requested a refund or rescission from the seller within  
18                the last 12 months and the number of those who have  
19                received the refund or rescission; and

20                (C) The total number of business opportunities the  
21                seller intends to sell in this State within the next 12  
22                months.

23          (17) A statement describing any contractual  
24          restrictions, prohibitions or limitations on the  
25          purchaser's conduct. Attach a copy of all business  
26          opportunity and other contracts or agreements proposed for

1 use or in use in this State including, without limitation,  
2 all lease agreements, option agreements, and purchase  
3 agreements.

4 (18) The rights and obligations of the seller and the  
5 purchaser regarding termination of the business  
6 opportunity contract or agreement.

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

10 (20) A copy of the most recent audited financial  
11 statement of the seller, prepared within 13 months of the  
12 first offer in this State, together with a statement of any  
13 material changes in the financial condition of the seller  
14 from that date. The Secretary of State may accept the  
15 filing of a reviewed financial statement in lieu of an  
16 audited financial statement.

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

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

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

23 (24) A section entitled "Risk Factors" containing a  
24 series of short concise statements summarizing the  
25 principal factors which make this business opportunity a  
26 high risk or one of a speculative nature. Each statement

1 shall include a cross-reference to the page on which  
2 further information regarding that risk factor can be found  
3 in the disclosure document.

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

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

7 Section 20. The Franchise Disclosure Act of 1987 is amended  
8 by changing Sections 3, 7, 8, 10, 11, 15, 16, 21, 22, 26, 29,  
9 31, and 40 as follows:

10 (815 ILCS 705/3) (from Ch. 121 1/2, par. 1703)

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

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

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

19 (b) the operation of the franchisee's business  
20 pursuant to such plan or system is substantially associated  
21 with the franchisor's trademark, service mark, trade name,  
22 logotype, advertising, or other commercial symbol  
23 designating the franchisor or its affiliate; and

24 (c) the person granted the right to engage in such

1 business is required to pay to the franchisor or an  
2 affiliate of the franchisor, directly or indirectly, a  
3 franchise fee of \$500 or more;

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

7 (i) any franchised business which is operated by  
8 the franchisee on the premises of the franchisor or  
9 subfranchisor as long as such franchised business is  
10 incidental to the business conducted by the franchisor  
11 or subfranchisor at such premises, including, without  
12 limitation, leased departments and concessions; or

13 (ii) a fractional franchise. A "fractional  
14 franchise" means any relationship in which the person  
15 described therein as a franchisee, or any of the  
16 current directors or executive officers thereof, has  
17 been in the type of business represented by the  
18 franchise relationship for more than 2 years and the  
19 parties anticipated, or should have anticipated, at  
20 the time the agreement establishing the franchise  
21 relationship was reached, that the sales arising from  
22 the relationship would represent no more than 20% of  
23 the sales in dollar volume of the franchisee for a  
24 period of at least one year after the franchisee begins  
25 selling the goods or services involved in the  
26 franchise; or

1 (iii) a franchise agreement for the use of a  
2 trademark, service mark, trade name, logotype,  
3 advertising, or other commercial symbol designating a  
4 person who offers on a general basis, for a fee or  
5 otherwise, a bona fide service for the evaluation,  
6 testing, or certification of goods, commodities, or  
7 services; or-

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

10 (2) "Franchisee" means a person to whom a franchise is  
11 granted and includes, unless stated otherwise in this Act: (a)  
12 a subfranchisor with regard to its relationship with a  
13 franchisor and (b) a subfranchisee with regard to its  
14 relationship with a subfranchisor.

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

18 (4) "Subfranchise" means any contract or agreement between  
19 a franchisor and a subfranchisor whereby the subfranchisor is  
20 granted the right, in consideration of the payment of a  
21 franchise fee in whole or in part for such right, to ~~service~~  
22 ~~franchises or to~~ sell or negotiate the sale of franchises.  
23 Where used in this Act, unless specifically stated otherwise,  
24 "franchise" includes "subfranchise."

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

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

4           (7) "Person" means an individual, a corporation, a  
5 partnership, a joint venture, an association, a joint stock  
6 company, a trust, or an unincorporated organization.

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

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

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

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

15           (12) "Offer" or "offer to sell" includes every attempt to  
16 offer to dispose of, or solicitation of an offer to buy, a  
17 franchise, any interest in a franchise or an option to acquire  
18 a franchise for value.

19           (13) "Publish" means publicly to issue or circulate by  
20 newspaper, mail, radio, or television, or otherwise to  
21 disseminate to the public.

22           (14) "Franchise fee" means any fee or charge that a  
23 franchisee is required to pay directly or indirectly for the  
24 right to enter into a business or sell, resell, or distribute  
25 goods, services or franchises under an agreement, including,  
26 but not limited to, any such payment for goods or services,

1 provided that the Administrator may by rule define what  
2 constitutes an indirect franchise fee, and provided further  
3 that the following shall not be considered the payment of a  
4 franchise fee: (a) the payment of a reasonable service charge  
5 to the issuer of a credit card by an establishment accepting or  
6 honoring such credit card; (b) amounts paid to a trading stamp  
7 company by a person issuing trading stamps in connection with  
8 the retail sale of merchandise or services; (c) the purchase or  
9 agreement to purchase goods for which there is an established  
10 market at a bona fide wholesale price; (d) the payment for  
11 fixtures necessary to operate the business; (e) the payment of  
12 rent which reflects payment for the economic value of the  
13 property; or (f) the purchase or agreement to purchase goods  
14 for which there is an established market at a bona fide retail  
15 price subject to a bona fide commission or compensation plan.  
16 The Administrator may by rule define what shall constitute an  
17 established market.

18 (15) "Disclosure statement" means the document provided  
19 for in Section 16 of this Act and all amendments to such  
20 document.

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

23 (17) (Blank).

24 (18) "Marketing plan or system" means a plan or system  
25 relating to some aspect of the conduct of a party to a contract  
26 in conducting business, including but not limited to (a)

1 specification of price, or special pricing systems or discount  
2 plans, (b) use of particular sales or display equipment or  
3 merchandising devices, (c) use of specific sales techniques,  
4 (d) use of advertising or promotional materials or cooperation  
5 in advertising efforts; provided that an agreement is not a  
6 marketing plan or system solely because a manufacturer or  
7 distributor of goods reserves the right to occasionally require  
8 sale at a special reduced price which is advertised on the  
9 container or packaging material in which the product is  
10 regularly sold, if the reduced price is absorbed by the  
11 manufacturer or distributor.

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

13 (20) (a) An offer to sell a franchise is made in this State  
14 when the offer either originates from this State or is  
15 directed by the offeror to this State and received at the  
16 place to which it is directed. An offer to sell is accepted  
17 in this State when acceptance is communicated to the  
18 offeror in this State; and acceptance is communicated to  
19 the offeror in this State when the offeree directs it to  
20 the offeror in this State reasonably believing the offeror  
21 to be in this State and it is received at the place to  
22 which it is directed.

23 (b) An offer to sell a franchise is not made in this  
24 State merely because the franchisor circulates or there is  
25 circulated in this State an advertisement in (i) a bona  
26 fide newspaper or other publication of general, regular and



1           paid circulation which has had more than 2/3 of its  
2           circulation outside this State during the past 12 months,  
3           or (ii) a radio or television program originating outside  
4           this State which is received in this State.

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

17          (22) "Salesperson" means any person employed by or  
18          representing a franchise broker, a franchisor or an affiliate  
19          of the franchisor in effecting or attempting to effect the  
20          offer or sale of a franchise.

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

22                 (815 ILCS 705/7) (from Ch. 121 1/2, par. 1707)

23                 Sec. 7. Sale by franchisee and extension or renewal of  
24                 existing franchise. There shall be exempted from the provisions  
25                 of Sections 5, 10, 11, 13 and 15 of this Act the offer or sale

1 of a franchise by a franchisee for its own account if the sale  
2 is not effected by or through a franchisor. A sale is not  
3 effected by or through a franchisor merely because a franchisor  
4 has a right to approve or disapprove a different franchisee or  
5 requires payment of a reasonable transfer fee or requires the  
6 new franchisee to execute a franchise agreement on terms not  
7 materially different from the existing franchise agreement.

8 There shall be exempted from the provisions of Sections 5,  
9 10, 11, 13 and 15 of this Act the extension or renewal of an  
10 existing franchise or the exchange or substitution of a  
11 modified or amended franchise agreement where there is no  
12 interruption in the operation of the franchise business by the  
13 franchisee.

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

15 (815 ILCS 705/8) (from Ch. 121 1/2, par. 1708)

16 Sec. 8. Exemptions.

17 (a) There shall be exempted, from the registration  
18 requirements of Section 10 of this Act, the offer and sale of a  
19 franchise if:

20 (1) the franchisor has a net worth on a consolidated  
21 basis, according to its most recent audited financial  
22 statement, of not less than \$15,000,000; or the franchisor  
23 has a net worth, according to its most recent unaudited  
24 financial statement, of not less than \$1,000,000 and is at  
25 least 80% owned by a corporation which has a net worth on a

1 consolidated basis, according to its most recent audited  
2 financial statement, of not less than \$15,000,000;

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

6 (3) one or more purchasers of at least 50% ownership  
7 interest in the franchise within 60 days of the sale, has  
8 been, for at least 2 years, an officer, director, general  
9 partner, individual with management responsibility for the  
10 offer and sale of the franchisor's franchises or the  
11 administrator of the franchised network; or within 60 days  
12 of the sale, has been, for at least 2 years, an owner of at  
13 least a 25% interest in the franchisor.

14 Provided, unless exempted by order or rule of the  
15 Administrator, the franchisor shall deliver to the prospective  
16 franchisee a disclosure statement in accordance with the  
17 requirements of Section 5(2) of this Act in connection with any  
18 transaction exempted under this Section 8(a).

19 (b) There shall be exempted from the provisions of Sections  
20 5, 10, 11, ~~13~~ and 15 of this Act the offer and sale of a  
21 franchise if the prospective franchisee qualifies as one of the  
22 following:

23 any bank as defined in Section 3(a)(2) of the Securities  
24 Act of 1933 whether acting in its individual or fiduciary  
25 capacity or as an insurance company as defined in Section 2(13)  
26 of that Act.

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

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

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

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

15 The registration of a franchise shall expire 120 days after  
16 the franchisor's fiscal year end. Annually, but not later than  
17 one business day before the ~~anniversary date of the~~  
18 registration expires, the franchisor shall file the disclosure  
19 statement updated as of the date of the franchisor's prior  
20 fiscal year end ~~a date within 120 days of the anniversary date~~  
21 ~~of the registration.~~

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

23 (815 ILCS 705/11) (from Ch. 121 1/2, par. 1711)

24 Sec. 11. Amendments. Within 30 days after the close of each

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

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

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

23 (815 ILCS 705/15) (from Ch. 121 1/2, par. 1715)

24 Sec. 15. Escrow of franchise fees; surety bonds; franchise  
25 fee deferrals. If the Administrator finds that a franchisor has

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

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

15 (815 ILCS 705/16) (from Ch. 121 1/2, par. 1716)

16 Sec. 16. Form and contents of disclosure statements. The  
17 disclosure statement required under this Act shall be prepared  
18 in accordance with the Federal Trade Commission rule entitled  
19 Disclosure Requirements and Prohibitions Concerning  
20 Franchising, 16 C.F.R. Part 436, as it may be ~~Uniform Franchise~~  
21 ~~Offering Circular Guidelines as adopted and amended,~~ the  
22 Guidelines promulgated by the North American Securities  
23 Administrators Association, Inc., as they may be amended, and  
24 the rules adopted by the Administrator pursuant to Section 32  
25 of this Act. Incorporated.

1 All statements in the disclosure statement shall be free  
2 from any false or misleading statement of a material fact,  
3 shall not omit to state any material fact required to be stated  
4 or necessary to make the statements not misleading, and shall  
5 be accurate and complete as of the effective date thereof.

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

7 (815 ILCS 705/21) (from Ch. 121 1/2, par. 1721)

8 Sec. 21. Franchise Advisory Board. There is created in the  
9 Office of the Administrator a Franchise Advisory Board. The  
10 Franchise Advisory Board shall consist of such members as the  
11 Administrator deems appropriate to advise him on franchising  
12 and franchise related matters. The members shall be persons who  
13 have knowledge and experience in franchising. The members of  
14 the Franchise Advisory Board shall serve at the pleasure of the  
15 Administrator. The Franchise Advisory Board from time to time  
16 shall make recommendations concerning the administration and  
17 enforcement of this Act. Members of the Franchise Advisory  
18 Board shall serve without compensation ~~but shall be reimbursed~~  
19 ~~for actual and necessary expenses incurred in their official~~  
20 ~~capacities~~. The Board shall select its own chairman, establish  
21 rules and procedures, and keep a record of matters transpiring  
22 at all meetings.

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

24 (815 ILCS 705/22) (from Ch. 121 1/2, par. 1722)

1           Sec. 22. Enforcement.

2           (a) The Administrator may suspend, terminate, prohibit or  
3 deny the sale of any franchise or registration of any  
4 franchise, or ~~franchise broker or~~ salesperson if it appears to  
5 him that: (1) there has been a failure to comply with any of  
6 the provisions of this Act or the rules or orders of the  
7 Administrator pertaining thereto; or (2) that the disclosure  
8 statement or any amendment thereto includes any false or  
9 misleading statement of a material fact or omits to state any  
10 material fact required to be stated therein or necessary to  
11 make the statements therein not misleading; or (3) that the  
12 disclosure statement filed in conjunction with an initial  
13 registration under Section 10 is materially deficient. A  
14 disclosure statement is "materially deficient" if it fails to  
15 comply with the requirements of ~~the Uniform Franchise Offering~~  
16 ~~Circular Guidelines referred to in~~ Section 16; or (4) that the  
17 sale of the franchise would constitute a misrepresentation,  
18 deceit or fraud upon prospective franchisees; or (5) that any  
19 person in this State is engaging in or about to engage in  
20 false, fraudulent or deceptive practices or any device, scheme,  
21 or artifice to defraud in connection with the offer or sale of  
22 the franchise; or (6) that any person identified in the  
23 disclosure statement or any person engaged in the offer or sale  
24 of the franchise in this State has been convicted of an  
25 offense, is subject to an order or civil judgment or is a  
26 defendant in a proceeding required to be described in the



1 disclosure statement and the involvement of such person creates  
2 an unreasonable risk to prospective franchisees; or (7)  
3 (blank); or (8) (blank); or (9) that the franchisor's  
4 enterprise or method of business includes or would include  
5 activities which are illegal where performed; or (10) (blank);  
6 or (11) (blank).

7 In no case shall the Administrator, or any person  
8 designated by him, in the administration of this Act, incur any  
9 official or personal liability by issuing an order or other  
10 proceeding or by suspending, denying, prohibiting or  
11 terminating the registration of a franchise broker or  
12 salesperson, or by denying, suspending, terminating or  
13 prohibiting the registration of franchises, or prohibiting the  
14 sale of franchises, or by suspending or prohibiting any person  
15 from acting as a franchise broker or salesperson.

16 The Administrator may exercise any of the powers specified  
17 in Section 31 of this Act.

18 (b) The Administrator, with such assistance as he may from  
19 time to time request of the state's attorneys in the several  
20 counties, may institute proceedings in the circuit court to  
21 prevent and restrain violations of this Act or of any rule or  
22 order prescribed or issued under this Act. In such a  
23 proceeding, the court shall determine whether a violation has  
24 been committed, and shall enter such judgment or decree as it  
25 considers necessary to remove the effects of any violation and  
26 to prevent such violation from continuing or from being renewed

1 in the future. The court, in its discretion, may exercise all  
2 powers necessary for this purpose, including, but not limited  
3 to, injunction, revocation, forfeiture or suspension of the  
4 charter, franchise, certificate of authority or privileges of  
5 any corporation, association, limited partnership or other  
6 business organization operating under the laws of this State,  
7 dissolution of domestic corporations or associations,  
8 suspension or termination of the right of foreign corporations  
9 or associations to do business in this State, or restitution or  
10 payment of damages by a franchisor to persons injured by  
11 violations of this Act, including without limitation an award  
12 of reasonable attorneys fees and costs.

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

14 (815 ILCS 705/26) (from Ch. 121 1/2, par. 1726)

15 Sec. 26. Private civil actions. Any person who offers,  
16 sells, terminates, or fails to renew a franchise in violation  
17 of this Act shall be liable to the franchisee who may sue for  
18 damages caused thereby. This amendatory Act of 1992 is intended  
19 to clarify the existence of a private right of action under  
20 existing law with respect to the termination or nonrenewal of a  
21 franchise in violation of this Act. In the case of a violation  
22 of Section 5, 6, 10, 11, or 15 of the Act, the franchisee may  
23 also sue for rescission.

24 No franchisee may sue for rescission under this Section 26  
25 who shall fail, within 30 days from the date of receipt

1       thereof, to accept an offer to return the consideration paid or  
2       to repurchase the franchise purchased by such person. Every  
3       offer provided for in this Section shall be in writing, shall  
4       be delivered to the franchisee or sent by certified mail  
5       addressed to the franchisee at such person's last known  
6       address, shall offer to return any consideration paid or to  
7       repurchase the franchise for a price equal to the full amount  
8       paid less any net income received by the franchisee, plus the  
9       legal rate of interest thereon, and may require the franchisee  
10      to return to the person making such offer all unsold goods,  
11      equipment, fixtures, leases and similar items received from  
12      such person. Such offer shall continue in force for 30 days  
13      from the date on which it was received by the franchisee and  
14      shall advise the franchisee of such rights and the period of  
15      time limited for acceptance thereof. Any agreement not to  
16      accept or refusing or waiving any such offer made during or  
17      prior to the expiration of said 30 days shall be void.

18           The term "franchisee" as used in this Section shall include  
19      the personal representative or representatives of the  
20      franchisee.

21           Every person who directly or indirectly controls a person  
22      liable under this Section 26, every partner in a firm so  
23      liable, every principal executive officer or director of a  
24      corporation so liable, every manager of a limited liability  
25      company so liable, every person occupying a similar status or  
26      performing similar functions, and every employee of a person so

1 liable, who materially aids in the act or transaction  
2 constituting the violation, is also liable jointly and  
3 severally with and to the same extent as such person, unless  
4 said person who otherwise is liable had no knowledge or  
5 reasonable basis to have knowledge of the facts, acts or  
6 transactions constituting the alleged violation.

7 Every franchisee in whose favor judgment is entered in an  
8 action brought under this Section shall be entitled to the  
9 costs of the action including, without limitation, reasonable  
10 attorney's fees.

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

12 (815 ILCS 705/29) (from Ch. 121 1/2, par. 1729)

13 Sec. 29. Certificate of registration or filing of annual  
14 report; admissibility in evidence. In any civil or criminal  
15 action brought under this Act, a Certificate under the seal of  
16 this State, signed by the Administrator, stating whether or not  
17 a franchise is registered, or whether or not an annual report  
18 of a franchisor has been filed under Section 10 of this Act, ~~or~~  
19 ~~whether or not a person has registered as a franchise broker~~  
20 ~~under Section 13 of this Act,~~ shall constitute prima facie  
21 evidence of such matter, and shall be admissible into evidence  
22 at trial without proof of foundation or additional  
23 authenticity.

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

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

2 Sec. 31. Powers of the Administrator. (a) Investigations.

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

20 (b) Subpoenas. For the purpose of any investigation or  
21 proceeding under this Act and prior to the commencement of any  
22 civil or criminal action as provided for in this Act, the  
23 Administrator has the authority to subpoena witnesses, compel  
24 their attendance, examine them under oath, or require the  
25 production of any books, documents, records or tangible things,  
26 hereafter referred to as "documentary material", which the

1 Administrator deems relevant or material to his investigation,  
2 for inspection, reproducing or copying under such terms and  
3 conditions as are hereafter set forth. Any subpoena issued by  
4 the Administrator shall contain the following information: (1)  
5 the statute and section thereof, the alleged violation of which  
6 is under investigation; (2) the date, place and time at which  
7 the person is required to appear or produce documentary  
8 material in his possession, custody or control at a designated  
9 office of the Administrator, which date shall not be less than  
10 10 days from date of service of the subpoena; and (3) where  
11 documentary material is required to be produced, the same shall  
12 be prescribed by class so as to clearly indicate the material  
13 demanded.

14 (c) Production of documentary material. The Administrator  
15 is hereby authorized, and may so elect to require the  
16 production, pursuant to this Section of documentary material  
17 prior to the taking of any testimony of the person subpoenaed,  
18 in which event such documentary material shall be made  
19 available for inspection and copying during normal business  
20 hours at the principal place of business of the person served,  
21 or at such other time and place as may be agreed upon by the  
22 person served and the Administrator. When documentary material  
23 is demanded by subpoena, said subpoena shall not (1) contain  
24 any requirement which would be unreasonable or improper if  
25 contained in a subpoena duces tecum issued by a court of this  
26 State; or (2) require the disclosure of any documentary

1 material which would be privileged, or which for any other  
2 reason would not be required by a subpoena duces tecum issued  
3 by a court of this State.

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

13 (e) Examination of witnesses. The examination of all  
14 witnesses under this Section shall be conducted by the  
15 Administrator, or by his deputy designated by him, before an  
16 officer authorized to administer oaths in this State. The  
17 testimony shall be taken stenographically or by a sound  
18 recording device and shall be transcribed.

19 (f) Fees. All persons served with a subpoena by the  
20 Administrator under this Act shall be paid the same fees and  
21 mileage as are paid to witnesses in the courts of this State.

22 (g) Judicial enforcement of subpoenas. In the event a  
23 witness served with a subpoena by the Administrator under this  
24 Act fails or refuses to obey same or to produce documentary  
25 material as provided herein or to give testimony relevant or  
26 material to the investigation being conducted, the

1 Administrator may petition any circuit court for an order  
2 requiring said witness to attend and testify or produce the  
3 documentary material demanded. Thereafter, any failure or  
4 refusal on the part of the witness to obey such order of court  
5 may be punishable by the court as a contempt thereof.

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

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

23 (j) In the administration of this Act, the Attorney General  
24 may accept an Assurance of Voluntary Compliance with respect to  
25 any method, act, or practice deemed to be violative of the Act  
26 from any person who has engaged in, is engaging in, or was



1 about to engage in such method, act, or practice. Evidence of a  
2 violation of an Assurance of Voluntary Compliance shall be  
3 prima facie evidence of a violation of this Act in any  
4 subsequent proceeding brought by the Attorney General against  
5 the alleged violator. The Administrator may require that an  
6 Assurance of Voluntary Compliance be disclosed in the  
7 disclosure statement.

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

9 (815 ILCS 705/40) (from Ch. 121 1/2, par. 1740)

10 Sec. 40. Fees.

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

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

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

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

24 (e) The fee for filing an initial large franchisor  
25 exemption under Section 200.202 of Title 14 of the Illinois

1 Administrative Code shall be \$500 and the fee for renewals of  
2 this exemption shall be \$100 ~~registration of a franchise broker~~  
3 ~~shall be \$100 with a renewal fee of \$100.~~

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

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

6 (815 ILCS 705/13 rep.)

7 Section 25. The Franchise Disclosure Act of 1987 is  
8 amended by repealing Section 13.

9 Section 99. Effective date. This Act takes effect October  
10 1, 2009.