



Rep. Michael J. Zalewski

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1 AMENDMENT TO HOUSE BILL 3977

2 AMENDMENT NO. _____. Amend House Bill 3977 by replacing
3 everything after the enacting clause with the following:

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

6 (815 ILCS 307/10-80)

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

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

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

15 (2) Any person licensed as a real estate broker or
16 salesperson under the Illinois Real Estate License Act of

1 2000 who is primarily engaged in business activities for
2 which a license is required under that Act and who, on an
3 incidental basis, acts as a business broker.

4 (3) Any dealer, salesperson, or investment adviser
5 registered pursuant to the Illinois Securities Law of 1953
6 or any investment adviser representative, or any person who
7 is regularly engaged in the business of offering or selling
8 securities in a transaction exempted under subsection C, H,
9 M, R, Q, or S of Section 4 of the Illinois Securities Law
10 of 1953 or subsection G of Section 4 of the Illinois
11 Securities Law of 1953 provided that such person is
12 registered pursuant to federal securities law.

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

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

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

19 (7) Any person who is selling a business owned or
20 operated (in whole or in part) by that person in a one time
21 transaction.

22 (b) This Act shall not be deemed to apply in any manner,
23 directly or indirectly, to: (i) a State bank or national bank,
24 as those terms are defined in the Illinois Banking Act, or any
25 subsidiary of a State bank or national bank; (ii) a bank
26 holding company, as that term is defined in the Illinois Bank

1 Holding Company Act of 1957, or any subsidiary of a bank
2 holding company; (iii) a foreign banking corporation, as that
3 term is defined in the Foreign Banking Office Act, or any
4 subsidiary of a foreign banking corporation; (iv) a
5 representative office, as that term is defined in the Foreign
6 Bank Representative Office Act; (v) a corporate fiduciary, as
7 that term is defined in the Corporate Fiduciary Act, or any
8 subsidiary of a corporate fiduciary; (vi) a savings bank
9 organized under the Savings Bank Act, or a federal savings bank
10 organized under federal law, or any subsidiary of a savings
11 bank or federal savings bank; (vii) a savings bank holding
12 company organized under the Savings Bank Act, or any subsidiary
13 of a savings bank holding company; (viii) an association or
14 federal association, as those terms are defined in the Illinois
15 Savings and Loan Act of 1985, or any subsidiary of an
16 association or federal association; (ix) a foreign savings and
17 loan association or foreign savings bank subject to the
18 Illinois Savings and Loan Act of 1985, or any subsidiary of a
19 foreign savings and loan association or foreign savings bank;
20 or (x) a savings and loan association holding company, as that
21 term is defined in the Illinois Savings and Loan Act of 1985,
22 or any subsidiary of a savings and loan association holding
23 company.

24 (b-1) Any franchise seller as defined in the Federal Trade
25 Commission rule entitled Disclosure Requirements and
26 Prohibitions Concerning Franchising, 16 C.F.R. Part 436, as it

1 may be amended, is exempt from the requirements of this Act.
2 ~~Persons registered under the Illinois Franchise Disclosure Act~~
3 ~~of 1987 (and their employees) are exempt from the requirements~~
4 ~~of this Act as to: offers and sales in connection with~~
5 ~~franchising activities; or assisting any of their franchisees~~
6 ~~in the offer or sale of a franchise by any such franchisee for~~
7 ~~the franchisee's own account regardless of whether the sale is~~
8 ~~effected by or through the registered persons.~~

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

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

20 (c) The burden of proof of any exemption or classification
21 provided in this Act shall be on the party claiming the
22 exemption or classification.

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

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

1 (815 ILCS 602/5-10)

2 Sec. 5-10. Exemptions. Registration pursuant to Section
3 5-30 shall not apply to any of the following:

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

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

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

1 further condition the availability of this exemption.

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

8 (e) Any offer or sale of a business opportunity where the
9 purchaser is a bank, savings and loan association, trust
10 company, insurance company, credit union, or investment
11 company as defined by the federal Investment Company Act of
12 1940, pension or profit sharing trust, or other financial
13 institution or institutional buyer, or a dealer registered
14 under the Illinois Securities Law of 1953, where the purchaser
15 is acting for itself or in a fiduciary capacity.

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

1 ~~the following disclosure documents:~~

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

5 ~~(2) A disclosure document prepared pursuant to the~~
6 ~~Federal Trade Commission rule entitled Disclosure~~
7 ~~Requirements and Prohibitions Concerning Franchising and~~
8 ~~Business Opportunity Ventures, 16 C.F.R. Sec. 436 (1979).~~
9 ~~For the purposes of this subsection, a personal meeting~~
10 ~~shall mean a face-to-face meeting between the purchaser and~~
11 ~~the seller or their representatives, which is held for the~~
12 ~~purpose of discussing the offer or sale of a business~~
13 ~~opportunity.~~

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

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

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

2 (815 ILCS 602/5-30)

3 Sec. 5-30. Registration.

4 (a) In order to register a business opportunity, the seller
5 shall file with the Secretary of State one of the following
6 disclosure documents with the appropriate cover sheet as
7 required by subsection (b) of Section 5-35 of this Law, a
8 consent to service of process as specified in subsection (b) of
9 this Section, and the appropriate fee as required by subsection
10 (c) of this Section which is not returnable in any event:

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

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

25 (3) A disclosure document prepared pursuant to

1 subsection (b) of Section 5-35 of this Law.

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

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

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

26 (B) interpretive opinion fee;

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

3 (D) issuance of certification pursuant to Section
4 5-20; or

5 (E) late registration fee pursuant to Section
6 5-30(g).

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

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

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

1 upon the close of the one year period of effectiveness will
2 result in expiration of the registration. The Secretary of
3 State may by rule or regulation or order require the filing of
4 a sales report.

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

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

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

20 (815 ILCS 602/5-35)

21 Sec. 5-35. Disclosure requirements.

22 (a) It shall be unlawful for any person to offer or, sell
23 any business opportunity required to be registered under this
24 Law unless a written disclosure document as filed under
25 subsection (a) of Section 5-30 of this Law is delivered to each

1 purchaser at least 14 ~~10 business~~ days prior to the execution
2 by a purchaser of any contract or agreement imposing a binding
3 legal obligation on the purchaser or the payment by a purchaser
4 of any consideration in connection with the offer or sale of
5 the business opportunity.

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

26 (1) The names and residential addresses of those

1 salespersons who will engage in the offer or sale of the
2 business opportunity in this State.

3 (2) The name of the seller, whether the seller is doing
4 business as an individual, partnership or corporation; the
5 names under which the seller has conducted, is conducting
6 or intends to conduct business; and the name of any parent
7 or affiliated company that will engage in business
8 transactions with purchasers or which will take
9 responsibility for statements made by the seller.

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

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

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

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

21 (C) The length of time the seller has conducted the
22 business opportunity currently being offered to the
23 purchaser.

24 (5) With respect to persons identified in item (3) of
25 this subsection:

26 (A) A description of the persons' business

1 experience for the 10 year period preceding the filing
2 date of this disclosure document. The description of
3 business experience shall list principal occupations
4 and employers; and

5 (B) A listing of the persons' educational and
6 professional backgrounds including, the names of
7 schools attended and degrees received, and any other
8 information that will demonstrate sufficient knowledge
9 and experience to perform the services proposed.

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

12 (A) Has been convicted of any felony, or pleaded
13 nolo contendere to a felony charge, or has been the
14 subject of any criminal, civil or administrative
15 proceedings alleging the violation of any business
16 opportunity law, securities law, commodities law,
17 franchise law, fraud or deceit, embezzlement,
18 fraudulent conversion, restraint of trade, unfair or
19 deceptive practices, misappropriation of property or
20 comparable allegations;

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

26 (7) The name of the person identified in item (6) of

1 this subsection, nature of and parties to the action or
2 proceeding, court or other forum, date of the institution
3 of the action, docket references to the action, current
4 status of the action or proceeding, terms and conditions or
5 any order or decree, the penalties or damages assessed and
6 terms of settlement.

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

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

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

14 (11) A detailed description of services the seller
15 agrees to perform in connection with the placement of
16 equipment, products or supplies at a location, as well as
17 any agreement necessary in order to locate or operate
18 equipment, products or supplies on a premises neither owned
19 nor leased by the purchaser or seller.

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

23 (13) The business opportunity seller that is required
24 to secure a bond under Section 5-50 of this Law, shall
25 state in the disclosure document "As required by the State
26 of Illinois, the seller has secured a bond issued by

1 (insert name and address of surety company), a surety
2 company, authorized to do business in this State. Before
3 signing a contract or agreement to purchase this business
4 opportunity, you should check with the surety company to
5 determine the bond's current status.".

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

10 (A) The bases or assumptions for any actual,
11 average, projected or forecasted sales, profits,
12 income or earnings;

13 (B) The total number of purchasers who, within a
14 period of 3 years of the date of the disclosure
15 document, purchased a business opportunity involving
16 the product, equipment, supplies or services being
17 offered to the purchaser; and

18 (C) The total number of purchasers who, within 3
19 years of the date of the disclosure document, purchased
20 a business opportunity involving the product,
21 equipment, supplies or services being offered to the
22 purchaser who, to the seller's knowledge, have
23 actually received earnings in the amount or range
24 specified.

25 (15) Any seller who makes a guarantee to a purchaser
26 shall give a detailed description of the elements of the

1 guarantee. Such description shall include, but shall not be
2 limited to, the duration, terms, scope, conditions and
3 limitations of the guarantee.

4 (16) A statement of:

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

8 (B) The names and addresses of purchasers who have
9 requested a refund or rescission from the seller within
10 the last 12 months and the number of those who have
11 received the refund or rescission; and

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

15 (17) A statement describing any contractual
16 restrictions, prohibitions or limitations on the
17 purchaser's conduct. Attach a copy of all business
18 opportunity and other contracts or agreements proposed for
19 use or in use in this State including, without limitation,
20 all lease agreements, option agreements, and purchase
21 agreements.

22 (18) The rights and obligations of the seller and the
23 purchaser regarding termination of the business
24 opportunity contract or agreement.

25 (19) A statement accurately describing the grounds
26 upon which the purchaser may initiate legal action to

1 terminate the business opportunity contract or agreement.

2 (20) A copy of the most recent audited financial
3 statement of the seller, prepared within 13 months of the
4 first offer in this State, together with a statement of any
5 material changes in the financial condition of the seller
6 from that date. The Secretary of State may accept the
7 filing of a reviewed financial statement in lieu of an
8 audited financial statement.

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

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

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

15 (24) A section entitled "Risk Factors" containing a
16 series of short concise statements summarizing the
17 principal factors which make this business opportunity a
18 high risk or one of a speculative nature. Each statement
19 shall include a cross-reference to the page on which
20 further information regarding that risk factor can be found
21 in the disclosure document.

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

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

25 Section 15. The Franchise Disclosure Act of 1987 is amended

1 by changing Sections 3, 7, 8, 10, 11, 15, 16, 20, 21, 22, 26,
2 29, 31, and 40 as follows:

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

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

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

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

12 (b) the operation of the franchisee's business
13 pursuant to such plan or system is substantially associated
14 with the franchisor's trademark, service mark, trade name,
15 logotype, advertising, or other commercial symbol
16 designating the franchisor or its affiliate; and

17 (c) the person granted the right to engage in such
18 business is required to pay to the franchisor or an
19 affiliate of the franchisor, directly or indirectly, a
20 franchise fee of \$500 or more;

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

24 (i) any franchised business which is operated by
25 the franchisee on the premises of the franchisor or

1 subfranchisor as long as such franchised business is
2 incidental to the business conducted by the franchisor
3 or subfranchisor at such premises, including, without
4 limitation, leased departments and concessions; or

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

19 (iii) a franchise agreement for the use of a
20 trademark, service mark, trade name, logotype,
21 advertising, or other commercial symbol designating a
22 person who offers on a general basis, for a fee or
23 otherwise, a bona fide service for the evaluation,
24 testing, or certification of goods, commodities, or
25 services; or

26 (iv) a franchise relationship covered by the

1 Petroleum Marketing Practices Act, 15 U.S.C. 2801.

2 (2) "Franchisee" means a person to whom a franchise is
3 granted and includes, unless stated otherwise in this Act: (a)
4 a subfranchisor with regard to its relationship with a
5 franchisor and (b) a subfranchisee with regard to its
6 relationship with a subfranchisor.

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

10 (4) "Subfranchise" means any contract or agreement between
11 a franchisor and a subfranchisor whereby the subfranchisor is
12 granted the right, in consideration of the payment of a
13 franchise fee in whole or in part for such right, to ~~service~~
14 ~~franchises or to~~ sell or negotiate the sale of franchises.
15 Where used in this Act, unless specifically stated otherwise,
16 "franchise" includes "subfranchise."

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

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

22 (7) "Person" means an individual, a corporation, a
23 partnership, a joint venture, an association, a joint stock
24 company, a trust, or an unincorporated organization.

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

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

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

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

7 (12) "Offer" or "offer to sell" includes every attempt to
8 offer to dispose of, or solicitation of an offer to buy, a
9 franchise, any interest in a franchise or an option to acquire
10 a franchise for value.

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

14 (14) "Franchise fee" means any fee or charge that a
15 franchisee is required to pay directly or indirectly for the
16 right to enter into a business or sell, resell, or distribute
17 goods, services or franchises under an agreement, including,
18 but not limited to, any such payment for goods or services,
19 provided that the Administrator may by rule define what
20 constitutes an indirect franchise fee, and provided further
21 that the following shall not be considered the payment of a
22 franchise fee: (a) the payment of a reasonable service charge
23 to the issuer of a credit card by an establishment accepting or
24 honoring such credit card; (b) amounts paid to a trading stamp
25 company by a person issuing trading stamps in connection with
26 the retail sale of merchandise or services; (c) the purchase or

1 agreement to purchase goods for which there is an established
2 market at a bona fide wholesale price; (d) the payment for
3 fixtures necessary to operate the business; (e) the payment of
4 rent which reflects payment for the economic value of the
5 property; or (f) the purchase or agreement to purchase goods
6 for which there is an established market at a bona fide retail
7 price subject to a bona fide commission or compensation plan.
8 The Administrator may by rule define what shall constitute an
9 established market.

10 (15) "Disclosure statement" means the document provided
11 for in Section 16 of this Act and all amendments to such
12 document.

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

15 (17) (Blank).

16 (18) "Marketing plan or system" means a plan or system
17 relating to some aspect of the conduct of a party to a contract
18 in conducting business, including but not limited to (a)
19 specification of price, or special pricing systems or discount
20 plans, (b) use of particular sales or display equipment or
21 merchandising devices, (c) use of specific sales techniques,
22 (d) use of advertising or promotional materials or cooperation
23 in advertising efforts; provided that an agreement is not a
24 marketing plan or system solely because a manufacturer or
25 distributor of goods reserves the right to occasionally require
26 sale at a special reduced price which is advertised on the

1 container or packaging material in which the product is
2 regularly sold, if the reduced price is absorbed by the
3 manufacturer or distributor.

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

5 (20) (a) An offer to sell a franchise is made in this State
6 when the offer either originates from this State or is
7 directed by the offeror to this State and received at the
8 place to which it is directed. An offer to sell is accepted
9 in this State when acceptance is communicated to the
10 offeror in this State; and acceptance is communicated to
11 the offeror in this State when the offeree directs it to
12 the offeror in this State reasonably believing the offeror
13 to be in this State and it is received at the place to
14 which it is directed.

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

23 (21) "Franchise broker" means any person engaged in the
24 business of representing a franchisor in offering for sale or
25 selling a franchise and is not a franchisor, an affiliate of a
26 franchisor or an officer, director or employee of a franchisor

1 or an affiliate of a franchisor with respect to such franchise.
2 A franchisee shall not be a franchise broker merely because it
3 receives a payment from the franchisor in consideration of the
4 referral of a prospective franchisee to the franchisor, if the
5 franchisee does not otherwise participate in the sale of a
6 franchise to the prospective franchisee. A franchisee shall not
7 be deemed to participate in a sale merely because he responds
8 to an inquiry from a prospective franchisee.

9 (22) "Salesperson" means any person employed by or
10 representing a franchise broker, a franchisor or an affiliate
11 of the franchisor in effecting or attempting to effect the
12 offer or sale of a franchise.

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

14 (815 ILCS 705/7) (from Ch. 121 1/2, par. 1707)

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

25 There shall be exempted from the provisions of Sections 5,

1 10, 11, 13 and 15 of this Act the extension or renewal of an
2 existing franchise or the exchange or substitution of a
3 modified or amended franchise agreement where there is no
4 interruption in the operation of the franchise business by the
5 franchisee.

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

7 (815 ILCS 705/8) (from Ch. 121 1/2, par. 1708)

8 Sec. 8. Exemptions.

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

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

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

23 (3) one or more purchasers of at least 50% ownership
24 interest in the franchise within 60 days of the sale, has
25 been, for at least 2 years, an officer, director, general

1 partner, individual with management responsibility for the
2 offer and sale of the franchisor's franchises or the
3 administrator of the franchised network; or within 60 days
4 of the sale, has been, for at least 2 years, an owner of at
5 least a 25% interest in the franchisor.

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

11 (b) There shall be exempted from the provisions of Sections
12 5, 10, 11, ~~13~~ and 15 of this Act the offer and sale of a
13 franchise if the prospective franchisee qualifies as one of the
14 following:

15 any bank as defined in Section 3(a)(2) of the Securities
16 Act of 1933 whether acting in its individual or fiduciary
17 capacity or as an insurance company as defined in Section 2(13)
18 of that Act.

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

20 (815 ILCS 705/10) (from Ch. 121 1/2, par. 1710)

21 Sec. 10. Registration and Annual Report. No franchisor may
22 sell or offer to sell a franchise in this State if (1) the
23 franchisee is domiciled in this State or (2) the offer of the
24 franchise is made or accepted in this State and the franchise
25 business is or will be located in this State, unless the

1 franchisor has registered the franchise with the Administrator
2 by filing such form of notification and disclosure statement as
3 required under Section 16.

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

8 The registration of a franchise shall expire 120 days after
9 the franchisor's fiscal year end. Annually, but not later than
10 one business day before the ~~anniversary date of the~~
11 registration expires, the franchisor shall file the disclosure
12 statement updated as of the date of the franchisor's prior
13 fiscal year end ~~a date within 120 days of the anniversary date~~
14 ~~of the registration.~~

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

16 (815 ILCS 705/11) (from Ch. 121 1/2, par. 1711)

17 Sec. 11. Amendments. Within 30 days after the close of each
18 quarter of its fiscal year, the franchisor shall prepare
19 revisions to be attached to its disclosure statement to reflect
20 any material changes to disclosures included, or required to be
21 included, in the ~~90 days of the occurrence of any material~~
22 ~~change in any facts required to be disclosed, a franchisor~~
23 ~~whose franchise is registered under this Act shall amend its~~
24 disclosure statement. The franchisor ~~and~~ shall deliver the
25 amended disclosure statement in accordance with the

1 requirements of subsection (2) of Section 5 and Section 16 of
2 this Act to any prospective franchisee, including prospective
3 franchisees to whom a disclosure statement was previously
4 delivered if the material change relates to or affects the
5 ~~franchisor or the~~ franchise offered to such prospective
6 franchisees. The amended disclosure statement shall be filed
7 with the Administrator. An amendment shall not be required if
8 the terms of the franchise agreement merely reflect changes
9 from the franchisor's registered franchise made pursuant to
10 negotiations between the franchisee and the franchisor.

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

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

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

16 Sec. 15. Escrow of franchise fees; surety bonds; franchisee
17 fee deferrals. If the Administrator finds that a franchisor has
18 failed to demonstrate that adequate financial arrangements
19 have been made to fulfill obligations to provide real estate,
20 improvements, equipment, inventory, training, or other items
21 to be included in the establishment and opening of the
22 franchise business being offered, the Administrator may by rule
23 or order require the escrow or impoundment of franchise fees
24 and other funds paid by the franchisee until such obligations
25 have been fulfilled, or, at the option of the franchisor, the

1 furnishing of a surety bond as provided by rule of the
2 Administrator, if he finds that such requirement is necessary
3 and appropriate to protect prospective franchisees, or, at the
4 option of the franchisor, the deferral of payment of the
5 initial fee until the opening of the franchise business.

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

7 (815 ILCS 705/16) (from Ch. 121 1/2, par. 1716)

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

18 All statements in the disclosure statement shall be free
19 from any false or misleading statement of a material fact,
20 shall not omit to state any material fact required to be stated
21 or necessary to make the statements not misleading, and shall
22 be accurate and complete as of the effective date thereof.

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

24 (815 ILCS 705/20) (from Ch. 121 1/2, par. 1720)

1 Sec. 20. Nonrenewal of a franchise. It shall be a violation
2 of this Act for a franchisor to refuse to renew a franchise of
3 a franchised business located in this State without
4 compensating the franchisee either by repurchase or by other
5 means for the diminution in the value of the franchised
6 business caused by the expiration of the franchise where:

7 (a) the franchisee is barred by the franchise agreement
8 (or by the refusal of the franchisor at least 6 months
9 prior to the expiration date of the franchise to waive any
10 portion of the franchise agreement which prohibits the
11 franchisee) from continuing to conduct substantially the
12 same business under another trademark, service mark, trade
13 name or commercial symbol in the same area subsequent to
14 the expiration of the franchise; or

15 (b) the franchisee has not been sent notice of the
16 franchisor's intent not to renew the franchise at least 6
17 months prior to the expiration date or any extension
18 thereof of the franchise.

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

20 (815 ILCS 705/21) (from Ch. 121 1/2, par. 1721)

21 Sec. 21. Franchise Advisory Board. There is created in the
22 Office of the Administrator a Franchise Advisory Board. The
23 Franchise Advisory Board shall consist of such members as the
24 Administrator deems appropriate to advise him on franchising
25 and franchise related matters. The members shall be persons who

1 have knowledge and experience in franchising. The members of
2 the Franchise Advisory Board shall serve at the pleasure of the
3 Administrator. The Franchise Advisory Board from time to time
4 shall make recommendations concerning the administration and
5 enforcement of this Act. Members of the Franchise Advisory
6 Board shall serve without compensation ~~but shall be reimbursed~~
7 ~~for actual and necessary expenses incurred in their official~~
8 ~~capacities~~. The Board shall select its own chairman, establish
9 rules and procedures, and keep a record of matters transpiring
10 at all meetings.

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

12 (815 ILCS 705/22) (from Ch. 121 1/2, par. 1722)

13 Sec. 22. Enforcement.

14 (a) The Administrator may suspend, terminate, prohibit or
15 deny the sale of any franchise or registration of any
16 franchise, ~~or franchise broker or~~ salesperson if it appears to
17 him that: (1) there has been a failure to comply with any of
18 the provisions of this Act or the rules or orders of the
19 Administrator pertaining thereto; or (2) that the disclosure
20 statement or any amendment thereto includes any false or
21 misleading statement of a material fact or omits to state any
22 material fact required to be stated therein or necessary to
23 make the statements therein not misleading; or (3) that the
24 disclosure statement filed in conjunction with an initial
25 registration under Section 10 is materially deficient. A

1 disclosure statement is "materially deficient" if it fails to
2 comply with the requirements of ~~the Uniform Franchise Offering~~
3 ~~Circular Guidelines referred to in~~ Section 16; or (4) that the
4 sale of the franchise would constitute a misrepresentation,
5 deceit or fraud upon prospective franchisees; or (5) that any
6 person in this State is engaging in or about to engage in
7 false, fraudulent or deceptive practices or any device, scheme,
8 or artifice to defraud in connection with the offer or sale of
9 the franchise; or (6) that any person identified in the
10 disclosure statement or any person engaged in the offer or sale
11 of the franchise in this State has been convicted of an
12 offense, is subject to an order or civil judgment or is a
13 defendant in a proceeding required to be described in the
14 disclosure statement and the involvement of such person creates
15 an unreasonable risk to prospective franchisees; or (7)
16 (blank); or (8) (blank); or (9) that the franchisor's
17 enterprise or method of business includes or would include
18 activities which are illegal where performed; or (10) (blank);
19 or (11) (blank).

20 In no case shall the Administrator, or any person
21 designated by him, in the administration of this Act, incur any
22 official or personal liability by issuing an order or other
23 proceeding or by suspending, denying, prohibiting or
24 terminating the registration of a franchise broker or
25 salesperson, or by denying, suspending, terminating or
26 prohibiting the registration of franchises, or prohibiting the

1 sale of franchises, or by suspending or prohibiting any person
2 from acting as a franchise broker or salesperson.

3 The Administrator may exercise any of the powers specified
4 in Section 31 of this Act.

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

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

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

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

11 No franchisee may sue for rescission under this Section 26
12 who shall fail, within 30 days from the date of receipt
13 thereof, to accept an offer to return the consideration paid or
14 to repurchase the franchise purchased by such person. Every
15 offer provided for in this Section shall be in writing, shall
16 be delivered to the franchisee or sent by certified mail
17 addressed to the franchisee at such person's last known
18 address, shall offer to return any consideration paid or to
19 repurchase the franchise for a price equal to the full amount
20 paid less any net income received by the franchisee, plus the
21 legal rate of interest thereon, and may require the franchisee
22 to return to the person making such offer all unsold goods,
23 equipment, fixtures, leases and similar items received from
24 such person. Such offer shall continue in force for 30 days
25 from the date on which it was received by the franchisee and

1 shall advise the franchisee of such rights and the period of
2 time limited for acceptance thereof. Any agreement not to
3 accept or refusing or waiving any such offer made during or
4 prior to the expiration of said 30 days shall be void.

5 The term "franchisee" as used in this Section shall include
6 the personal representative or representatives of the
7 franchisee.

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

20 Every franchisee in whose favor judgment is entered in an
21 action brought under this Section shall be entitled to the
22 costs of the action including, without limitation, reasonable
23 attorney's fees.

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

25 (815 ILCS 705/29) (from Ch. 121 1/2, par. 1729)

1 Sec. 29. Certificate of registration or filing of annual
2 report; admissibility in evidence. In any civil or criminal
3 action brought under this Act, a Certificate under the seal of
4 this State, signed by the Administrator, stating whether or not
5 a franchise is registered, or whether or not an annual report
6 of a franchisor has been filed under Section 10 of this Act, ~~or~~
7 ~~whether or not a person has registered as a franchise broker~~
8 ~~under Section 13 of this Act,~~ shall constitute prima facie
9 evidence of such matter, and shall be admissible into evidence
10 at trial without proof of foundation or additional
11 authenticity.

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

13 (815 ILCS 705/31) (from Ch. 121 1/2, par. 1731)

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

1 investigation or commencing any action authorized under this
2 Act. The Administrator or any of his assistants may participate
3 in any hearings conducted by the Administrator under this Act
4 and the Administrator may provide such assistance as the
5 Administrator believes necessary to effectively fulfill the
6 purposes of this Act.

7 (b) Subpoenas. For the purpose of any investigation or
8 proceeding under this Act and prior to the commencement of any
9 civil or criminal action as provided for in this Act, the
10 Administrator has the authority to subpoena witnesses, compel
11 their attendance, examine them under oath, or require the
12 production of any books, documents, records or tangible things,
13 hereafter referred to as "documentary material", which the
14 Administrator deems relevant or material to his investigation,
15 for inspection, reproducing or copying under such terms and
16 conditions as are hereafter set forth. Any subpoena issued by
17 the Administrator shall contain the following information: (1)
18 the statute and section thereof, the alleged violation of which
19 is under investigation; (2) the date, place and time at which
20 the person is required to appear or produce documentary
21 material in his possession, custody or control at a designated
22 office of the Administrator, which date shall not be less than
23 10 days from date of service of the subpoena; and (3) where
24 documentary material is required to be produced, the same shall
25 be prescribed by class so as to clearly indicate the material
26 demanded.

1 (c) Production of documentary material. The Administrator
2 is hereby authorized, and may so elect to require the
3 production, pursuant to this Section of documentary material
4 prior to the taking of any testimony of the person subpoenaed,
5 in which event such documentary material shall be made
6 available for inspection and copying during normal business
7 hours at the principal place of business of the person served,
8 or at such other time and place as may be agreed upon by the
9 person served and the Administrator. When documentary material
10 is demanded by subpoena, said subpoena shall not (1) contain
11 any requirement which would be unreasonable or improper if
12 contained in a subpoena duces tecum issued by a court of this
13 State; or (2) require the disclosure of any documentary
14 material which would be privileged, or which for any other
15 reason would not be required by a subpoena duces tecum issued
16 by a court of this State.

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

26 (e) Examination of witnesses. The examination of all

1 witnesses under this Section shall be conducted by the
2 Administrator, or by his deputy designated by him, before an
3 officer authorized to administer oaths in this State. The
4 testimony shall be taken stenographically or by a sound
5 recording device and shall be transcribed.

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

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

19 (h) Immunity from prosecution. No person is excused from
20 attending and testifying or from producing any document or
21 records before the Administrator in obedience to the subpoena
22 of the Administrator, in any proceeding instituted by the
23 Administrator and authorized by this Act, on the ground that
24 the testimony or evidence, documentary or otherwise, required
25 of him may tend to incriminate him or subject him to a penalty
26 or forfeiture. No individual may be prosecuted or subjected to

1 any penalty or forfeiture for or on account of any transaction,
2 matter, or thing concerning which he is compelled, after
3 validly claiming his privilege against self-incrimination, to
4 testify or produce evidence, documentary or otherwise, except
5 that the individual testifying is not exempt from prosecution
6 and punishment for perjury or contempt committed in testifying.

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

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

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

21 (815 ILCS 705/40) (from Ch. 121 1/2, par. 1740)

22 Sec. 40. Fees.

23 (a) The Administrator shall charge and collect the fees
24 fixed by this Section, or as prescribed by rule of the
25 Administrator. All fees and charges collected under this

1 Section shall be transmitted to the State Treasurer at least
2 weekly, accompanied by a detailed statement thereof. Such fees
3 and charges shall be refundable at the discretion of the
4 Administrator.

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

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

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

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

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

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

18 (815 ILCS 705/13 rep.)

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

21 Section 99. Effective date. This Act takes effect October
22 1, 2009."