

FILED MAR 14 2005

SENATE FILE 363
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1226)

Passed Senate, Date 3-23-05 Passed House, Date 4-14-05
Vote: Ayes 50 Nays 0 Vote: Ayes 98 Nays 0
Approved 4-27-05

A BILL FOR

1 An Act providing for the regulation of persons engaged in
2 soliciting business opportunities, including franchises.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 363

1 Section 1. Section 551A.3, subsection 3, paragraphs a and
2 b, Code 2005, are amended to read as follows:

3 a. A uniform franchise offering circular prepared in
4 accordance with the guidelines adopted by the North American
5 securities administrators association, inc. ~~as amended~~
6 ~~through July 17, 2004.~~

7 b. A disclosure document prepared pursuant to the federal
8 trade commission rule relating to disclosure requirements and
9 prohibitions concerning franchising and business opportunity
10 ventures in accordance with 16 C.F.R. § 436 or any successor
11 regulation.

12 Sec. 2. Section 551A.4, subsection 1, paragraph b, Code
13 2005, is amended to read as follows:

14 b. An offer or sale of a business opportunity which is a
15 franchise, provided that the seller delivers to each purchaser
16 at the earlier of the first personal meeting between the
17 seller and the purchaser, or ~~ten-business~~ fourteen days prior
18 to the earlier of the execution by a purchaser of a contract
19 imposing a binding legal obligation on the purchaser or the
20 payment by a purchaser of any consideration in connection with
21 the offer or sale of the business opportunity, one of the
22 following disclosure documents:

23 (1) A uniform franchise-offering circular prepared in
24 accordance with the guidelines adopted by the North American
25 securities administrators association, inc. ~~as amended~~
26 ~~through September 21, 1983.~~

27 (2) A disclosure document prepared pursuant to the federal
28 trade commission rule entitled "Disclosure requirements and
29 prohibitions concerning franchising and business opportunity
30 ventures", 16 C.F.R. § 436 ~~(1979)~~ or any successor regulation.

31 For the purposes of this paragraph "b", a personal meeting
32 means a face-to-face meeting between the purchaser and the
33 seller or their representatives, which is held for the purpose
34 of discussing the offer or sale of a business opportunity.

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EXPLANATION

1 Code chapter 551A regulates the promotion of business
2 opportunities whenever a person (seller) solicits a person
3 (purchaser) to make an initial investment in exchange for
4 products or services which purportedly will enable the
5 purchaser to start a business. These business arrangements
6 are provided under contract and much of the Code chapter
7 regulates how these contracts are prepared and presented to
8 purchasers.

9 Code section 551A.3 requires the seller to make formal
10 disclosures to potential purchasers, including by furnishing a
11 disclosure document to the purchaser 10 days prior to
12 executing a contract or receiving payment. The disclosure
13 document may be in a number of forms, including two standard
14 nonstate forms: (1) a uniform franchise offering circular
15 prepared in accordance with the guidelines adopted by the
16 North American securities administrators association, inc., or
17 (2) a document prepared according to rules adopted by the
18 federal trade commission. The Code section ties these
19 requirements to preexisting forms established on a date
20 certain (July 1, 2004) or according to a federal citation (in
21 the code of federal regulations). The bill eliminates this
22 requirement which ties the forms to a specific date or
23 citation. The effect of the amendment is that state law would
24 adopt by reference a form or a change in a form prepared by
25 the foreign entities.

26 Code section 551A.4 provides that certain transactions are
27 exempt from the disclosure requirements, and one of these
28 exemptions concerns a business opportunity for a franchise
29 under certain conditions. The person offering to sell the
30 franchise must still deliver to the purchaser one of the
31 standard nonstate disclosure forms prior to the execution of
32 the contract or receipt of payment. Again, the bill
33 eliminates the reference to a date certain or a specific legal
34 reference with the same effect as the amendment to Code
35 section 551A.3. In addition, the bill extends the period of

S.F. 363 H.F. _____

1 disclosure from 10 business days to 14 calendar days prior to
2 execution of the contract or receipt of payment.

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LSB 2143SV 81
da:rj/gg/14

Beall co-chair
Larson co-chair
Rielly
McKinley

Succeeded
HF 363

SSB# 1226
Commerce

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CO-CHAIRPERSONS BEHN
and WARNSTADT)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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6 ~~through-July-17-2004-~~

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EXPLANATION

1 Code chapter 554A regulates the promotion of business
2 opportunities whenever a person (seller) solicits a person
3 (purchaser) to make an initial investment in exchange for
4 products or services which purportedly will enable the
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10 disclosures to potential purchasers, including by furnishing a
11 disclosure document to the purchaser 10 days prior to
12 executing a contract or receiving payment. The disclosure
13 document may be in a number of forms, including two standard
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21 the code of federal regulations). The bill eliminates this
22 requirement which ties the forms to a specific date or
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25 the foreign entities.

26 Code section 551A.4 provides that certain transactions are
27 exempt from the disclosure requirements, and one of these
28 exemptions concerns a business opportunity for a franchise
29 under certain conditions. The person offering to sell the
30 franchise must still deliver to the purchaser one of the
31 standard nonstate disclosure forms prior to the execution of
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SENATE FILE 363

AN ACT

PROVIDING FOR THE REGULATION OF PERSONS ENGAGED IN SOLICITING BUSINESS OPPORTUNITIES, INCLUDING FRANCHISES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 551A.3, subsection 3, paragraphs a and b, Code 2005, are amended to read as follows:

a. A uniform franchise offering circular prepared in accordance with the guidelines adopted by the North American securities administrators association, inc. ~~7-as-amended through-July-17-2004~~

b. A disclosure document prepared pursuant to the federal trade commission rule relating to disclosure requirements and prohibitions concerning franchising and business opportunity ventures in accordance with 16 C.F.R. § 436 or any successor regulation.

Sec. 2. Section 551A.4, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. An offer or sale of a business opportunity which is a franchise, provided that the seller delivers to each purchaser at the earlier of the first personal meeting between the seller and the purchaser, or ~~ten-business~~ fourteen days prior to the earlier of the execution by a purchaser of a contract imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity, one of the following disclosure documents:

(1) A uniform franchise-offering circular prepared in accordance with the guidelines adopted by the North American securities administrators association, inc. ~~7-as-amended through-September-21, 1983~~

(2) A disclosure document prepared pursuant to the federal trade commission rule entitled "Disclosure requirements and prohibitions concerning franchising and business opportunity ventures", 16 C.F.R. § 436 ~~(1979)~~ or any successor regulation.

For the purposes of this paragraph "b", a personal meeting means a face-to-face meeting between the purchaser and the seller or their representatives, which is held for the purpose of discussing the offer or sale of a business opportunity.

JOHN P. KIBBIE
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 363, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/27, 2005

THOMAS J. VILSACK
Governor