



Substitute House Bill No. 6232

Public Act No. 09-160

AN ACT CONCERNING THE CONNECTICUT BUSINESS OPPORTUNITY INVESTMENT ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36b-61 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

When used in sections 36b-60 to 36b-80, inclusive, as amended by this act, unless the context otherwise requires:

(1) "Affiliate" means a person that: (A) Directly or indirectly controls, is controlled by, or is under common control with, a seller; (B) directly or indirectly owns, controls or holds with power to vote ten per cent or more of the outstanding voting securities of a seller; or (C) has, in common with a seller, one or more partners, officers, directors, trustees, branch managers or other persons occupying similar status or performing similar functions;

(2) "Business opportunity" means the sale or lease, or offer for sale or lease, of any product, equipment, supply or service which is sold or offered for sale to the purchaser-investor for the purpose of enabling the purchaser-investor to start a business, and in which the seller represents that: (A) The seller will provide locations or assist the purchaser-investor in finding locations for the use or operation of

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vending machines, racks, display cases or other similar devices, or currency-operated amusement machines or devices, or any other devices within the intent of sections 36b-60 to 36b-80, inclusive, as amended by this act, as the commissioner shall by regulation or order determine, on premises neither owned nor leased by the purchaser-investor or seller; or (B) the seller will purchase any or all products made, produced, fabricated, grown, bred or modified by the purchaser-investor using, in whole or in part, the supplies, services or chattels sold to the purchaser-investor; or (C) the seller guarantees, either conditionally or unconditionally, that the purchaser-investor will derive income from the business opportunity, or that the seller will refund all or part of the price paid for the business opportunity or repurchase any of the products, equipment, supplies or chattels supplied by the seller, if the purchaser-investor is unsatisfied with the business opportunity; or (D) the seller will provide a sales program or marketing program to the purchaser-investor, provided sections 36b-60 to 36b-80, inclusive, as amended by this act, shall not apply to the sale of a marketing program made in conjunction with the licensing of a registered trademark or service mark, provided (i) such trademark or service mark has been effectively registered under federal law; and (ii) for such trademark or service mark initially registered under federal law on or after October 1, 1996, the seller files with the commissioner a copy of the trademark or service mark certificate prior to any offer or sale in the state, provided further that failure to file such certificate shall not, in and of itself, preclude reliance on this exclusion. "Business opportunity" does not include the sale of an ongoing business where the owner of that business sells and intends to sell only that one business opportunity, nor does it include the not-for-profit sale of sales demonstration equipment, materials or samples, for a total price of five hundred dollars or less to any one person;

[(1)] (3) "Commissioner" means the Banking Commissioner or any person appointed or designated by the Banking Commissioner to

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administer said sections; [.]

(4) "Not-for-profit sale" means a sale in which the seller recovers only the actual costs of producing and shipping the goods or materials sold. A sale shall not qualify as a not for profit sale if the price to the purchaser-investor includes any commissions, rebates, fees or overrides;

[(2)] (5) "Person" means an individual, corporation, limited liability company, trust, partnership, incorporated or unincorporated association or any other legal entity; [.]

[(3)] (6) "Purchaser-investor" means a person who has purchased or is solicited for the purchase of a business opportunity; [.]

(7) (A) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of a business opportunity or interest in a business opportunity for value; (B) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a business opportunity or interest in a business opportunity for value. Nothing in this subdivision shall limit or diminish the full meaning of the terms "sale", "sell", "offer" or "offer to sell" as construed by the courts of this state;

[(4)] (8) "Seller" means a person who [is engaged in the business of selling or offering for sale] sells or offers to sell a business [opportunities] opportunity or any agent or [representative] person who, directly or indirectly, acts on behalf of such person; and [.]

[(5) (A) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of a business opportunity or interest in a business opportunity for value. (B) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a business opportunity or interest in a business opportunity for value. Nothing in this subdivision shall limit or diminish the full meaning of

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the terms "sale", "sell", "offer" or "offer to sell" as construed by the courts of this state.

(6) "Business opportunity" means the sale or lease, or offer for sale or lease of any products, equipment, supplies or services which are sold or offered for sale to the purchaser-investor for the purpose of enabling the purchaser-investor to start a business, and in which the seller represents (A) that the seller will provide locations or assist the purchaser-investor in finding locations for the use or operation of vending machines, racks, display cases or other similar devices, or currency-operated amusement machines or devices, or any other devices within the intent of sections 36b-60 to 36b-80, inclusive, as the commissioner shall by regulation or order determine, on premises neither owned nor leased by the purchaser-investor or seller; or (B) that the seller will purchase any or all products made, produced, fabricated, grown, bred or modified by the purchaser-investor using in whole or in part, the supplies, services or chattels sold to the purchaser-investor; or (C) that the seller guarantees, either conditionally or unconditionally, that the purchaser-investor will derive income from the business opportunity; or that the seller will refund all or part of the price paid for the business opportunity, or repurchase any of the products, equipment, supplies or chattels supplied by the seller, if the purchaser-investor is unsatisfied with the business opportunity; or (D) that the seller will provide a sales program or marketing program to the purchaser-investor, provided sections 36b-60 to 36b-80, inclusive, shall not apply to the sale of a marketing program made in conjunction with the licensing of a registered trademark or service mark, provided (i) such trademark or service mark has been effectively registered under federal law; and (ii) for such trademark or service mark initially registered under federal law on or after October 1, 1996, the seller files with the commissioner a copy of the trademark or service mark certificate prior to any offer or sale in Connecticut, provided further that failure to file such certificate

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shall not, in and of itself, preclude reliance on this exclusion. "Business opportunity" does not include the sale of an ongoing business where the owner of that business sells and intends to sell only that one business opportunity; nor does it include the not for profit sale of sales demonstration equipment, materials or samples, for a total price of five hundred dollars or less to any one person.

(7) "Not for profit sale" means a sale in which the seller recovers only the actual costs of producing and shipping the goods or materials sold. A sale shall not qualify as a not for profit sale if the price to the purchaser-investor includes any commissions, rebates, fees or overrides.]

[(8)] (9) "Trademark" or "service mark" includes [trademarks, trade names, service marks, logotypes] a trademark, trade name, service mark, logotype, advertising or other commercial [symbols] symbol.

Sec. 2. Section 36b-62 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No person shall sell or offer a business opportunity in this state unless such person is registered under this section or is exempt from registration under section 36b-65, as amended by this act.

[(a)] (b) Prior to the sale or offer for sale of a business opportunity the seller shall register [said] the business opportunity with the commissioner by filing with the commissioner:

(1) [Filing a] A copy of the disclosure [statement] required by section 36b-63, as amended by this act;

(2) [furnishing a] A bond [in accordance with the provisions of] as required by section 36b-64, as amended by this act;

[(3)] providing a sworn to and certified statement containing the

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information required by section 36b-65;]

[(4) providing the commissioner in] (3) In accordance with subsection [(b)] (e) of this section, [with] an irrevocable consent appointing the commissioner [or the commissioner's successor in office] to be such seller's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding which arises under sections 36b-60 to 36b-80, inclusive, as amended by this act, or any regulation or order adopted or issued under the provisions of said sections; [and]

[(5) submitting a nonrefundable registration fee of four hundred dollars.

(b) Every seller proposing to sell or offer for sale a business opportunity in this state or from this state through any person acting on an agency basis as determined by reference to principles of common law shall file with the commissioner, in such form as the commissioner by regulation or order prescribes, an irrevocable consent appointing the commissioner or the commissioner's successor in office to be the seller's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the seller or the seller's successor executor or administrator which arises under sections 36b-60 to 36b-80, inclusive, or any regulation or order adopted or issued under said sections after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the commissioner, but such service shall not be effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last address on file with the commissioner, and (2) the

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plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(c) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 36b-60 to 36b-80, inclusive, or any regulation or order adopted or issued under said sections, and such person has not filed a consent to service of process under subsection (b) of this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner or the commissioner's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or such person's successor executor or administrator which grows out of that conduct and which is brought under said sections or any regulation or order adopted or issued under said sections, with the same force and validity as if served on such person personally. Service may be made by leaving a copy of the process in the office of the commissioner, but such service shall not be effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last known address, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(d) The registration of a business opportunity under this section shall become effective on order of the commissioner.

(e) (1) When any business opportunities have been sold or offered for sale without compliance with the registration provisions of sections

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36b-60 to 36b-80, inclusive, the seller thereof may apply in writing on forms designated by the commissioner for the postsale registration of such business opportunities.

(2) A seller who seeks to register a business opportunity which has been sold or offered for sale without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, shall submit the following to the commissioner:

(A) The documents, information and registration fee required by subsection (a) of this section;

(B) A single document, signed and sworn to by an executive officer of the seller, which contains an explanatory statement and a statement of nonprejudice;

(i) The explanatory statement shall include the following information:

(aa) A statement that business opportunities were sold or offered for sale without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive;

(bb) A statement that, to induce each purchaser-investor to whom a business opportunity has been sold in violation of sections 36b-60 to 36b-80, inclusive, to sign the statement of nonprejudice, the document is being prepared for presentation to that purchaser-investor;

(cc) A full and complete statement of the remedies provided to the purchaser-investor under section 36b-74;

(dd) A statement containing any other material facts relating to the sale or offer for sale of the unregistered business opportunities; and

(ee) The most recent balance sheet and income statement of the seller.

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(ii) The statement of nonprejudice shall provide:

(aa) That the purchaser-investor to whom a business opportunity was sold without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, has read the explanatory statement;

(bb) That the purchaser-investor to whom a business opportunity was sold without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, is satisfied that he or she will not be defrauded, damaged or prejudiced by the postsale registration of the business opportunity; and

(cc) That each purchaser-investor to whom a business opportunity has been sold without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, has not waived any of his or her rights under said sections by signing the statement.

(3) The seller shall file the document containing both the explanatory statement and the statement of nonprejudice with the commissioner for review before the seller mails the document to each purchaser-investor to whom an unregistered business opportunity has been sold. The commissioner may object to the content of the document but shall in no way pass upon its truthfulness. Following review by the commissioner, the seller shall send the document by certified mail, return receipt requested, to each purchaser-investor to whom an unregistered business opportunity has been sold and shall submit copies of all return receipts to the commissioner. The seller shall certify that each purchaser-investor to whom an unregistered business opportunity was sold has signed the document, and shall return the signed documents to the commissioner. The seller shall also furnish the commissioner with a list of the names, addresses and telephone numbers of those purchaser-investors to whom business opportunities have been sold without compliance with the registration

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provisions of sections 36b-60 to 36b-80, inclusive, and the amount of payment furnished by each purchaser-investor for the business opportunity.

(4) If it appears to the commissioner that no person has been defrauded, prejudiced or damaged by such noncompliance or sale and that no persons will be defrauded, prejudiced or damaged by such postsale registration, the commissioner may permit those business opportunities to be registered upon the payment of fifty dollars plus the fees prescribed in section 36b-65. Registration under the provisions of this subsection shall not affect the prosecution of a violation of any provision of sections 36b-60 to 36b-80, inclusive.]

(4) Information and documents in such form as the commissioner may prescribe, including, but not limited to:

(A) The official name, address and principal place of business of the seller and of the parent firm or holding company of such seller, if any;

(B) The biographical data and business experience of each of the seller's directors and officers;

(C) The business experience of the seller, including the length of time such seller has: (i) Conducted a business of the type to be operated by the purchaser-investor, (ii) sold any business opportunity for such business, and (iii) sold any business opportunity in any other line of business;

(D) A copy of any contracts, agreements, brochures or other documents relating to the business opportunity;

(E) A factual description of the business opportunity offered to be sold and of the services, training and assistance that will be provided by the seller to the purchaser-investor;

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(F) A statement describing any services, supplies, products, signs, fixtures or equipment relating to the establishment or the operation of the business opportunity that the purchaser-investor is required to purchase, lease or rent directly or indirectly from the seller;

(G) A copy of the table of contents of any operations manual to be provided to the purchaser-investor;

(H) (i) A balance sheet, income statement and statement of changes in financial condition of the seller as of a date not more than four months prior to the filing under this subsection, which financial statements may be unaudited, provided, if the seller has been in business for less than twelve months from the date of such filing, such financial statements shall be reviewed by an independent certified public accountant and shall include a written opinion from such accountant stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles; (ii) balance sheet of the seller, an income statement and statement of changes in financial position for the most recent fiscal year audited by an independent public accountant or an independent certified public accountant; (iii) balance sheet of the seller, an income statement and statement of changes in financial position for the prior two fiscal years reviewed by an independent certified public accountant who provides an opinion stating that such accountant is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles; or (iv) any material changes in the financial condition of the seller occur after such financial statements are prepared, the seller shall disclose such changes and explain their significance to the operation of the business opportunity. If the seller is controlled by any person who absolutely and unconditionally guarantees to assume the duties and obligations of the

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seller under the business opportunity agreement should the seller become unable to perform, the commissioner may accept consolidated financial statements from the seller and such person;

(I) Any other information that the commissioner in the commissioner's discretion reasonably requires;

(J) A written statement signed and sworn to by the seller before a person qualified to administer oaths that the information contained in the documents filed pursuant to this subsection is true and correct; and

(K) A nonrefundable registration fee of four hundred dollars.

(c) (1) The registration of a business opportunity shall become effective on order of the commissioner and may be renewed in accordance with section 36b-79, as amended by this act.

(2) If the commissioner finds that a seller has failed to demonstrate that adequate financial arrangements have been made to fulfill the obligations set forth in the business opportunity agreement, the commissioner may require the escrow or impoundment of fees and other funds paid by the purchaser-investor or purchaser-investors until such obligations have been fulfilled, or, at the option of the seller, the furnishing of a surety bond as provided by regulation, adopted pursuant to section 36b-77, or order of the commissioner, if the commissioner finds that such requirement is necessary and appropriate to protect purchaser-investors.

(d) The seller shall immediately notify the commissioner of any material change in the information and documents required to be filed under this section, and make appropriate amendments to the disclosure document.

(e) Every seller proposing to sell or offer for sale a business opportunity in this state or from this state directly or through any

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person acting on an agency basis, as determined by reference to the principles of common law, shall file with the commissioner, in such form as the commissioner by regulation, adopted pursuant to section 36b-77, or order prescribes, an irrevocable consent appointing the commissioner to be the seller's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the seller or the seller's successor, executor or administrator that arises under sections 36b-60 to 36b-80, inclusive, as amended by this act, or any regulation or order adopted or issued under said sections after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the commissioner, but such service shall not be effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(f) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 36b-60 to 36b-80, inclusive, as amended by this act, or any regulation or order adopted or issued under said sections, and such person has not filed a consent to service of process under subsection (e) of this section and personal jurisdiction over such person cannot otherwise be obtained in this state, such conduct shall be considered equivalent to such person's appointment of the commissioner to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or such person's successor, executor or administrator that grows out of such conduct and that is brought

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under said sections or any regulation or order adopted or issued under said sections, with the same force and validity as if served on such person personally. Service may be made by leaving a copy of the process in the office of the commissioner, but such service shall not be effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last known address, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(g) When any business opportunity has been sold or offered for sale without compliance with the registration provisions of this section, the seller thereof may apply for the postsale registration of such business opportunity, on forms designated by the commissioner, by filing the following with the commissioner:

(1) The documents, information and registration fee required by subsection (b) of this section; and

(2) A single document, signed and sworn to by an executive officer of the seller, which contains an explanatory statement and a statement of nonprejudice. The explanatory statement shall include the following information: (A) A statement that business opportunities were sold or offered for sale without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act; (B) a statement that, to induce each purchaser-investor to whom a business opportunity has been sold in violation of sections 36b-60 to 36b-80, inclusive, as amended by this act, to sign the statement of nonprejudice, the document is being prepared for presentation to that purchaser-investor; (C) a full and complete statement of the remedies

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provided to the purchaser-investor under section 36b-74; (D) a statement containing any other material facts relating to the sale or offer for sale of the unregistered business opportunity; and (E) the most recent balance sheet and income statement of the seller. The statement of nonprejudice shall provide that: (i) The purchaser-investor to whom a business opportunity was sold without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act, has read the explanatory statement; (ii) the purchaser-investor to whom a business opportunity was sold without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act, is satisfied that he or she will not be defrauded, damaged or prejudiced by the postsale registration of the business opportunity; and (iii) each purchaser-investor to whom a business opportunity has been sold without compliance with the registration provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act, has not waived any of his or her rights under said sections by signing the statement.

(h) The seller shall mail the document containing both the explanatory statement and the statement of nonprejudice to each purchaser-investor to whom an unregistered business opportunity has been sold after such document has been reviewed by the commissioner. The commissioner may object to the content of the document but shall in no way pass upon its truthfulness. Following review by the commissioner, the seller shall send the document by certified mail, return receipt requested, to each such purchaser-investor and shall submit copies of all return receipts to the commissioner. The seller shall certify that each such purchaser-investor has signed the document and shall return the signed documents to the commissioner. The seller shall also furnish the commissioner with a list of the names, addresses and telephone numbers of those purchaser-investors to whom business opportunities have been sold without compliance with the registration provisions of

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sections 36b-60 to 36b-80, inclusive, as amended by this act, and the amount paid by each purchaser-investor for the business opportunity.

(i) If it appears to the commissioner that no person has been defrauded, prejudiced or damaged by such noncompliance or sale and that no persons will be defrauded, prejudiced or damaged by such postsale registration, the commissioner may permit the business opportunity to be registered upon the payment of fifty dollars plus the fee prescribed by subsection (b) of this section. Registration under the provisions of this subsection shall not affect the prosecution of a violation of any provision of sections 36b-60 to 36b-80, inclusive, as amended by this act.

Sec. 3. Section 36b-63 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) At least ten business days prior to the time the purchaser-investor signs a business opportunity contract, or at least ten business days prior to the receipt of any money or thing of value by the seller or any person designated by the seller to receive such money or thing of value, whichever occurs first, the seller shall provide the prospective purchaser-investor a written disclosure document described in subsection (c) of this section, the cover sheet of which shall be entitled in at least ten-point boldface capital letters "DISCLOSURES REQUIRED BY CONNECTICUT LAW". Under this title shall appear the statement in at least ten-point type that "The State of Connecticut does not approve, recommend, endorse or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract or agreement." Nothing except the title, the required statement, the name of the seller and the date of the disclosure document shall appear on the cover sheet. [When, however, the seller uses a disclosure document in accordance with the provisions of the Federal Trade Commission's trade

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regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures", 16 CFR 436, as amended from time to time, the cover sheet required by this subsection shall be placed immediately after the cover sheet required under such rule of the Federal Trade Commission.]

(b) (1) The disclosure document required by subsection (a) of this section may consist of: (A) The Uniform Franchise Offering Circular with associated guidelines adopted by the North American Securities Administrators Association, Inc., as amended from time to time, or (B) a disclosure document in accordance with the provisions of the Federal Trade Commission's trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures", 16 CFR 436, as amended from time to time, with the cover sheet required by subsection (a) of this section placed immediately after the cover sheet required under such rule of the Federal Trade Commission.

(2) Any additional information required by subsection (c) of this section, which is not contained in the document filed under subdivision (1) of this subsection, shall be included in an addendum to the disclosure document and the seller shall file a cross-reference sheet indicating the location of the disclosures required by subsection (c) of this section.

[(b)] (c) Except as provided in subsection [(c)] (d) of this section, the disclosure document shall contain at least the following information which shall be presented in a single document in the order set forth in this subsection and shall include a comment which either positively or negatively responds to each disclosure item required to be in the disclosure document by use of a statement which fully incorporates the information required within such document:

(1) (A) The official name, business address and principal place of

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business of the seller and of any [parent or holding company of the seller, if any, or any affiliated firm] affiliate or predecessor of the seller; whether such seller is [doing business as] an individual, partnership, limited liability company, limited liability partnership or corporation and, if the seller is an entity, the date and place of [any such incorporation] organization; (B) the name under which the seller is doing or intends to do business; and (C) trademarks and service marks which identify the product or products, equipment, supplies or services to be offered, sold or distributed by the prospective purchaser-investor, or under which the prospective purchaser-investor will be operating;

(2) The business experience during the past five years of each of the seller's current directors, executive officers, trustees, general partners, general managers, and any other persons charged with responsibility for the seller's business activities, including but not limited to, the chief operating officer and the financial, marketing, training and service officers. With regard to each such listed person, for the past five years, such person's principal occupations, nature and types of business in which such person was engaged, names of his employers, current business addresses and titles shall be provided;

(3) The business experience of the seller and the seller's [parent firm, holding company,] affiliate or predecessor, if any, including the length of time each: (A) Has conducted a business of the type to be operated by the purchaser-investor; (B) has offered for sale or sold a business opportunity for such business; and (C) has offered for sale or sold business opportunities in any other line of business and a description of such other line of business;

(4) A statement disclosing who, if any, of such persons listed in subdivisions (1) and (2) of this subsection: (A) Has, at any time during the previous [seven] ten fiscal years, been convicted of a felony or pleaded nolo contendere to a felony charge if such felony involved

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fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade; (B) has, at any time during the previous [seven] ten fiscal years, been held liable in a civil action resulting in a final judgment, [or] has settled out of court any civil action, [or] is a party to any civil action, or is or was a principal, director, executive officer or partner of any other person that was so held liable, settled or is a party to such action where the civil action (i) [involving] involved allegations of fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or (ii) which was brought by a present or former purchaser-investor and which involves or involved the business opportunity relationship; (C) is subject to any currently effective state or federal agency or court injunctive or restrictive order, [or] is a party to a proceeding currently pending in which such order is sought, or is or was a principal, director, executive officer or partner of any other person that is subject to such order or is a party to any such currently pending proceeding relating to or affecting business opportunity activities or the seller-purchaser-investor relationship, or involving fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade. The statement required by this subdivision shall include the identity and location of the court or agency; the date of conviction, judgment, or decision; the penalty imposed; the damages assessed; the terms of settlement or the terms of the order and the date, nature, and issuer of each such order or ruling. A seller may include a summary opinion of counsel as to any pending litigation but only if counsel's consent to use such opinion is included in the disclosure [statement] document;

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(5) A statement disclosing who, if any, of the persons listed in subdivisions (1) and (2) of this subsection at any time during the previous [seven] ten fiscal years has: (A) Filed [in] for bankruptcy protection; (B) been adjudged bankrupt; (C) been reorganized due to insolvency; or (D) been a principal, director, executive officer or partner of any other person that has so filed or was so adjudged or reorganized, during or within one year after the period that such person held such position with such other person. [If so, the seller] The statement required by this subdivision shall [set forth] include the name and location of the person having so filed or having been so adjudged or reorganized, the date and any other material facts;

(6) A factual description of the business opportunity offered to be sold by the seller including a full and detailed description of (A) the actual services and equipment that the business opportunity seller undertakes to perform for or supply to the purchaser-investor and (B) the actual services which the purchaser-investor undertakes to perform, including but not limited to, compliance with procedures established by the seller regarding the operation of the business;

(7) A statement of the total funds which shall be a sum certain and which the seller requires the purchaser-investor to pay to any specifically named person or any other person known to the seller who receives any consideration incident to such transaction, or which the seller, or any person affiliated with the seller collects in whole or in part on behalf of any party in order to obtain or commence the business opportunity operation such as initial fees, deposits, down payments, prepaid rent, and equipment and inventory purchases, provided the seller shall not be required to make such disclosures if the seller merely approves the purchaser-investor's decision to do business with any other person selected by the purchaser-investor. If all or part of these fees or deposits are returnable under certain conditions, the seller shall set forth these conditions, and if not

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returnable, the seller shall disclose this fact;

(8) A statement describing any recurring funds in connection with carrying on the business opportunity business the purchaser-investor is required to pay to any person, including, but not limited to, royalty, lease, advertising, training and sign rental fees and equipment or inventory purchases;

(9) A statement setting forth the name of each person, including the seller and its affiliates, with whom the seller directly or indirectly requires or advises the purchaser-investor to do business;

(10) A statement describing any real estate, services, supplies, products, inventories, signs, fixtures, or equipment relating to the establishment or the operation of the business opportunity business the seller directly or indirectly requires the purchaser-investor to purchase, lease or rent, and if such purchase, lease or rental shall be made from specific persons including the seller, a list of the names and addresses of each such person. Such list may be set forth in a separate document and delivered to the prospective purchaser-investor with the disclosure document if the existence of such separate document is disclosed in the disclosure document;

(11) A description of the basis for calculating, and, if such information is readily available, the actual amount of any revenue or other consideration to be received by the seller or persons affiliated with the seller from suppliers to the prospective purchaser-investor in consideration for goods or services which the seller requires or advises the purchaser-investor to obtain from such suppliers;

(12) (A) A statement of all material terms and conditions of any financing arrangement offered directly or indirectly by the seller or any person affiliated with the seller to the prospective purchaser-investor; and (B) a description of the terms by which any payment is to

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be received by the seller from (i) any person offering financing to a prospective purchaser-investor; and (ii) any person arranging for financing for a prospective purchaser-investor;

(13) A statement describing the material facts of whether under the terms of the business opportunity agreement or other device or practice the purchaser-investor is: (A) Limited in the goods or services he may offer for sale; (B) limited in the customers to whom he may sell such goods or services; (C) limited in the geographic area in which he may offer for sale or sell goods or services; or (D) granted territorial protection by the seller, by which, with respect to a territory or area, the seller will not establish another or more than a fixed number of business opportunity or company-owned outlets either operating under or selling, offering, or distributing the same or similar products, equipment, supplies or services currently being offered to purchaser-investors;

(14) A statement of the extent to which the seller requires or it is necessary that the purchaser-investor, or if the purchaser-investor is [a corporation] an entity any person affiliated with the purchaser-investor, participates personally in the direct operation of the business opportunity;

(15) With respect to the business opportunity agreement and any related agreements, a statement disclosing: (A) The term or duration of arrangement, if any, of such agreement and whether such term is or may be affected by an agreement, including leases or subleases, other than the one from which such term arises; (B) the conditions under which the purchaser-investor may renew or extend; (C) the conditions under which the seller may refuse to renew or extend; (D) the conditions under which the purchaser-investor may terminate; (E) the conditions under which the seller may terminate; (F) the obligations, including lease or sublease obligations, of the purchaser-investor after termination of the business opportunity by the seller and the

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obligations of the purchaser-investor, including lease or sublease obligations, after termination of the business opportunity by the purchaser-investor and after the expiration of the business opportunity; (G) the purchaser-investor's interest upon termination of the business opportunity or upon refusal to renew or extend the business opportunity whether by the seller or by the purchaser-investor; (H) the conditions under which the seller may repurchase, whether by right of first refusal or at the option of the seller, and, if the seller has the option to repurchase the business opportunity, whether there will be an independent appraisal of the business opportunity, whether the repurchase price will be determined by a predetermined formula and whether there will be a recognition of good will or other such intangibles in such repurchase price; (I) the conditions under which the purchaser-investor may sell or assign all or any interest in the ownership of the business opportunity or of the assets of the business opportunity and the amount of consideration, if any, which shall be paid to the seller for such sale or assignment; (J) the conditions under which the seller may sell or assign, in whole or in part, its interest under such agreements; (K) the conditions under which the purchaser-investor may modify; (L) the conditions under which the seller may modify; (M) the rights of the purchaser-investor's heirs or personal representative upon the death or incapacity of the purchaser-investor; and (N) the provisions of any covenant not to compete;

(16) With respect to the seller and as to the particular named business being offered, a statement disclosing: (A) The total number of business opportunities operating within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by sections 36b-60 to 36b-80, inclusive, as amended by this act; (B) the total number of company-owned outlets operating within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections; (C) the names, addresses, and telephone numbers of (i) the

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ten business opportunity outlets of the named business opportunity business nearest the prospective purchaser-investor's intended location or (ii) all purchaser-investors of the seller, or (iii) all purchaser-investors of the seller in the state in which the prospective purchaser-investor lives or where the proposed business opportunity is to be located, provided there are more than ten such purchaser-investors. If the number of purchaser-investors to be disclosed exceeds fifty, the listing may be made in a separate document and delivered to the prospective purchaser-investor with the disclosure document if the existence of such separate document is disclosed in the disclosure document; (D) the number of business opportunities that, within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections, were voluntarily terminated or not renewed by purchaser-investors within or at the conclusion of the term of the business opportunity agreement; (E) the number of business opportunities that, within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections, the seller reacquired by purchase during the term of the business opportunity agreement and upon the conclusion of the term of the business opportunity agreement; (F) the number of business opportunities that, within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections, were otherwise reacquired by the seller during the term of the business opportunity agreement and upon the conclusion of the term of the business opportunity agreement; (G) the number of business opportunities within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections, in which the seller refused renewal of the business opportunity agreement or other agreements relating to the business opportunity; (H) the number of business opportunities that, within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections, were cancelled or

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terminated by the seller during the term of the business opportunity agreement and upon conclusion of the term of the business opportunity agreement; and (I) with respect to the disclosures required by subparagraphs (D), (E), (F), (G) and (H) of this subdivision, the disclosure [statement] document shall also include a general categorization of the reasons for such reacquisitions, terminations and refusals to renew and the number falling within each such category, including but not limited to the following categories: Failure to comply with quality control standards, failure to make sufficient sales, and other breaches of contract;

(17) (A) If the seller promises services to be performed in connection with site selection, a statement disclosing the full nature of those services, (B) for each agreement entered into within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by sections 36b-60 to 36b-80, inclusive, as amended by this act, a statement disclosing the range of time that has elapsed between the signing of the business opportunity agreement or other agreement relating to the business opportunity and the site selection, (C) for each agreement entered into within the calendar year immediately preceding, and as of a date thirty days prior to, the filing of information required by said sections, if the seller is to provide operating business opportunity outlets, a statement disclosing the range of time that has elapsed between the signing of each business opportunity agreement or other agreement relating to the business opportunity and the commencement of the purchaser-investor's business, (D) with respect to the disclosures required by subparagraphs (B) and (C) of this subdivision, a seller may provide a distribution chart using meaningful classifications with respect to such ranges of time;

(18) If the seller offers an initial training program or informs the prospective purchaser-investor that it intends to provide such person

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with initial training, a statement disclosing: (A) The type and nature of such training; (B) the minimum amount, if any, of training that will be provided to such purchaser-investor; and (C) the amount, if any, such purchaser-investor shall pay for such training or for obtaining such training;

(19) If the name of a public figure is used in connection with a recommendation to purchase a business opportunity or as a part of the name of the business opportunity operation or if the public figure is stated to be involved with the management of the seller, a statement disclosing: (A) The nature and extent of the public figure's involvement and obligations to the seller, including but not limited to, the promotional assistance the public figure will provide to the seller and to the purchaser-investor; (B) the total investment of the public figure in the business opportunity operation; and (C) the amount of any fee or fees the purchaser-investor will be obligated to pay for such involvement or assistance provided by the public figure;

(20) If the seller intends to use estimated or projected business opportunity sales or earnings, a statement of such estimates or projections together with an explanation of the bases and assumptions underlying such estimates or projections and any supportive data. The seller shall clearly and conspicuously disclose the following statement together with the information required by this subdivision in immediate conjunction with such representations and in not less than twelve point upper and lower case boldface type: "Caution: These figures are only estimates of what we think you may earn. There is no assurance you will do as well. If you rely upon our figures, you must accept the risk of not doing as well";

(21) If the seller makes any statement concerning sales or earnings or range of sales or earnings that may be made through this business opportunity, the document shall disclose: (A) For the three-year period prior to the date of the disclosure [statement] document, the total

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number of purchaser-investors of business opportunities involving the products, equipment, supplies or services being offered who, to the seller's knowledge, have actually received earnings in the amount or range specified and the length of time it took such purchaser-investors to receive earnings in such amount or range; (B) for the three-year period prior to the date of the disclosure [statement] document, the total number of purchaser-investors of business opportunities involving the products, equipment, supplies or services being offered. The seller shall clearly and conspicuously disclose the following statement together with the information required by this subdivision in immediate conjunction with such representations and in not less than twelve-point upper and lower case boldface type: "Caution: Some business opportunities have (sold)(earned) this amount. There is no assurance you will do as well. If you rely upon our figures, you must accept the risk of not doing as well";

(22) If the business opportunity seller is required to secure a bond or establish a trust deposit pursuant to section 36b-64, as amended by this act, the document shall state either:

(A) "As required by Connecticut law, the seller has secured a bond issued by

....

(Name and address of surety company)

a surety company authorized to do business in this state. Before signing a contract to purchase this business opportunity, you should check with the surety company to determine the bond's current status," or

(B) "As required by Connecticut law, the seller has established a trust account

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....

(Number of account)

with

(Name and address of bank or [savings] other financial institution)

before signing a contract to purchase this business opportunity, you should check with the bank or [savings] other depository institution to determine the current status of the trust account";

(23) The following statement: "If the seller fails to deliver the products, equipment or supplies or fails to render the services necessary to begin substantial operation of the business within forty-five days of the delivery date stated in your contract, you may notify the seller in writing and demand that the contract be cancelled";

(24) A financial statement as required by subsection (b) of section [36b-65] 36b-62, as amended by this act;

(25) A table of contents shall be included within the disclosure document and shall immediately follow the cover page or pages of the disclosure document;

(26) The names of those persons who will represent the seller in offering or selling business opportunities in this state. With respect to each such person, a statement disclosing: (A) [His or her] Such person's business address and telephone number, [; (B) his or her] present employer, [; (C) his or her] and employment or occupational history for the past ten years, including the names of [his or her] employers, positions held and starting and termination dates for each such position; [(D)] and (B) whether such person (i) has, at any time during the previous [seven] ten fiscal years, been convicted of a felony or pleaded nolo contendere to a felony charge if such felony involved

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fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade, or (ii) has, at any time during the previous [seven] ten fiscal years, been held liable in a civil action resulting in a final judgment or has settled any civil action out of court or is a party to any civil action involving allegations of fraud, including but not limited to a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or [which] that was brought by a present or former purchaser-investor and [which] that involves or involved the business opportunity relationship, or (iii) is subject to any currently effective injunctive or restrictive order issued by any state or federal court or administrative agency, or is a party to a proceeding currently pending in which such order is sought, relating to or affecting business opportunity activities or the seller-purchaser-investor relationship, or involving fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade. Such statement shall disclose the identity and location of the court or administrative agency; the date of conviction, judgment, order or decision; the penalty imposed; any damages assessed and the terms of settlement or the terms of the order;

(27) A section entitled "risk factors" containing a series of short concise captioned paragraphs summarizing the principal factors which make the business opportunity one of high risk or of a speculative nature. Such factors shall include, but not be limited to: The absence of profitable operations within the previous three years; an erratic financial position of the seller; the particular nature of the business in which the seller is engaged or proposes to engage; any adverse

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background information regarding executive officers and directors of the seller, including prior business failures, criminal convictions or personal adjudications of bankruptcy; limited experience or lack of experience of the seller's management with respect to the particular business; and the identity and relationship to the seller of any customers, the loss of any one of whom would have a material adverse effect on the seller. Where appropriate, reference shall be made to other sections of the disclosure document where more detailed information has been disclosed.

[(c)] (d) The information contained in the disclosure document may be supplemented by more detailed information contained in other documents [which] that shall be made a part of the disclosure document; provided, any such supplementary documents [must be] are given to the purchaser-investor at the time the disclosure document is given to the purchaser-investor.

Sec. 4. Section 36b-64 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

If the business opportunity seller makes any of the representations set forth in subparagraph (C) of subdivision [(6)] (2) of section 36b-61, as amended by this act, the seller shall have obtained a surety bond issued by a surety company authorized to do business in this state or shall have established a trust account with a licensed and insured bank or [savings] other depository institution located in Connecticut. The amount of such bond or trust account shall be an amount not less than fifty thousand dollars, but the commissioner may require a greater amount if he believes it necessary for the protection of purchaser-investors. Such bond or trust account shall be in favor of the state of Connecticut. Any person who is damaged by any violation of sections 36b-60 to 36b-80, inclusive, as amended by this act, or by the seller's breach of the contract for the business opportunity sale or of any obligation arising under such contract may bring an action against the

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bond or trust account to recover damages suffered.

Sec. 5. Section 36b-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

[(a) Unless exempted by subsection (e) of this section, any person who advertises, sells, contracts, offers for sale or promotes any business opportunity in this state or from this state must register with the commissioner and file, in a form prescribed by said commissioner, an application which shall contain the following documents and information: (1) The official name and address and principal place of business of the seller and the parent firm or holding company of such seller, if any; (2) the business experience stated individually of each of the seller's directors and officers including the biographical data concerning all such persons; (3) the business experience of the seller, including the length of time such seller has conducted a business of the type to be operated by the purchaser-investor, has granted business opportunities for such business, and has granted business opportunities in other lines of business; (4) a copy of any contracts, agreements, brochures or other documents relating to the business opportunity; (5) a factual description of the business opportunity offered to be sold and of the services, training and assistance which will be provided by the seller to the purchaser-investor; (6) a statement describing any services, supplies, products, signs, fixtures or equipment relating to the establishment or the operating of the business opportunity which the purchaser-investor is required to purchase, lease or rent directly or indirectly from the seller; (7) a copy of the table of contents of any operations manual to be provided to the purchaser-investor; and (8) any other information the commissioner in his discretion reasonably requires. The application shall contain the seller's statement sworn to before a person qualified to administer oaths that the information contained in the application is true to the seller's knowledge.

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(b) The seller shall file with the commissioner: (1) A balance sheet, income statement and statement of changes in financial condition of such seller as of a date not more than four months prior to the filing of the registration statement, which financial statements may be unaudited, provided if the seller has been in business for less than twelve months from the date of the filing of the registration statement, such financial statements shall be reviewed by an independent certified public accountant and shall include a written opinion from said accountant stating that he is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles; (2) a balance sheet of such seller, an income statement and statement of changes in financial position for the most recent fiscal year audited by an independent public accountant or an independent certified public accountant; and (3) a balance sheet and income statement and statement of changes in financial position for the prior two fiscal years reviewed by an independent certified public accountant who provides an opinion stating that he is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles. If any material changes in the financial condition of such seller occur after such statements are prepared, such seller shall disclose such changes and explain their significance to the operation of a business opportunity. If the seller is controlled by any person who absolutely and unconditionally guarantees to assume the duties and obligations of such seller under the business opportunity agreement should such seller become unable to perform, the commissioner may accept consolidated financial statements from such seller and such person. If the commissioner finds that a seller has failed to demonstrate that adequate financial arrangements have been made to fulfill the obligations set forth in the business opportunity agreement, the commissioner may require the escrow or impoundment of fees and other funds paid by the purchaser-investor or purchaser-

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investors until such obligations have been fulfilled, or, at the option of such seller, the furnishing of a surety bond as provided by regulation or order of the commissioner, if he finds that such requirement is necessary and appropriate to protect purchaser-investors.

(c) Upon satisfactory submission of the information and documents required by subsections (a) and (b) of this section and all the information and documents required by section 36b-64 and the payment of a registration fee of four hundred dollars, the commissioner shall issue a certificate stating that the business opportunity has been registered.

(d) The commissioner may accept the uniform franchise offering circular adopted by The Midwest Securities Commissioners Association on September 2, 1975, with associated guidelines amended by The North American Securities Administrators Association from time to time, in lieu of the disclosure document required by section 36b-63, provided that (1) the disclosure document contains the cover sheet required by subsection (a) of said section 36b-63, (2) any additional information required by said section 36b-63 which is not contained in the uniform franchise offering circular is included in an addendum to the disclosure document, and (3) the seller files a cross-reference sheet indicating the location of the disclosures required by said section 36b-63.]

[(e)] (a) The following business opportunities are exempt from [subsections (a) and (b)] subsection (a) of section 36b-62, as amended by this act; [sections] section 36b-63, as amended by this act, and section 36b-64, as amended by this act; [subsections (a), (b), (c), (d) and (f) of this section;] section 36b-66 and [subdivisions] subdivision (1) [, (2) and (3)] of section 36b-67: (1) (A) Subject to the provisions of subparagraph (B) of this subdivision, any business opportunity for which the initial payment made by the purchaser-investor per business opportunity does not exceed two hundred dollars, if no

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representations are made that the seller guarantees, either conditionally or unconditionally, that the purchaser-investor will derive income from the business opportunity. For purposes of this subparagraph, "initial payment" means the total amount the purchaser-investor becomes obligated to pay to the seller or to any third party either prior to or at the time of delivery of the products, equipment, supplies or services or within one year of the commencement of operation of the business by the purchaser-investor. If payment is over a period of time, "initial payment" [shall include] includes the sum of the down payment and the total periodic payments. "Initial payment" does not include periodic payments where the amount or rate of the payment is based on net revenue or gross revenue generated by the business. (B) The commissioner may, by regulation, adopted pursuant to section 36b-77, or order as to any business opportunity or type of business opportunity or transaction exempt under subdivision (1) (A) of this subsection, modify, withdraw, further condition or waive such conditions, in whole or in part, conditionally or unconditionally, on a finding that such regulation or order is necessary and appropriate, in the public interest or for the protection of purchaser-investors; (2) any business opportunity sold in this state exclusively to purchaser-investors each of whom has a net worth of not less than one million dollars exclusive of principal residence, home furnishings, and personal automobiles; and (3) any other business opportunity that the commissioner by regulation, adopted pursuant to section 36b-77, or order may exempt, conditionally or unconditionally, if the commissioner finds that enforcement of all the provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act, with respect to such business opportunity is not necessary to protect the public interest, and for the protection of purchaser-investors due to the limited character of the business opportunity, or because such business opportunity is, in the judgment of the commissioner, adequately regulated by federal law. The commissioner may by order deny, suspend or revoke any

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exemption with respect to a particular offering of one or more business opportunities in accordance with the provisions of section 36b-68, as amended by this act. No order under this subsection may operate retroactively. No person may be considered to have violated any order issued under this subsection by reason of any offer or sale effected after the entry of such order if such person sustains the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of such order. [In any proceeding under this subsection, the burden of proving an exemption is upon the person claiming it.]

[(f) The seller shall immediately notify the commissioner of any material change in information contained in the application for registration, amend financial statements not less than quarterly and make appropriate amendment of the disclosure document.]

(b) In any proceeding under sections 36b-60 to 36b-80, inclusive, as amended by this act, the burden of proving an exemption, exclusion or an exception from a definition is upon the person claiming it.

Sec. 6. Section 36b-68 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any business opportunity registration if [he] the commissioner finds that: (1) [That such] Such order is in the public interest; (2) [that] such order is necessary for the protection of purchaser-investors or prospective purchaser-investors; (3) [that] the registration of the business opportunity is incomplete in any material respect but is not abandoned pursuant to subsection (e) of this section or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact; [or] (4) [that] any provision of sections 36b-60 to 36b-80, inclusive, as amended by this

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act, or any regulation, order or condition lawfully adopted, issued or imposed under said sections has been wilfully violated by any person; (5) the seller, or any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the seller or charged with responsibility for the seller's business activities (A) has, at any time during the previous ten fiscal years, been convicted of a felony or pleaded nolo contendere to a felony charge or a misdemeanor if such misdemeanor involved fraud, including, but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade, provided any denial, suspension or revocation hereunder shall be in accordance with the provisions of section 46a-80; (B) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving business opportunity or securities activities, the seller-purchaser-investor relationship or fraudulent conduct, including, but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade; (C) is the subject of a cease and desist order, consent order or order imposing fines entered by the commissioner within the past ten years and involving a violation of this chapter or chapter 672a; or (D) is the subject of any state or federal agency order or any securities or commodities self-regulatory organization sanction entered within the past ten years and involving (i) business opportunity activities or the seller-purchaser-investor relationship, or (ii) fraud, including, but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade; (6) the seller's enterprise or method of business, or that of the business opportunity, includes or would include activities that are illegal where performed; (7) the business

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opportunity or the offering of the business opportunity has worked or tended to work a fraud upon purchaser-investors or would so operate; or (8) the seller's literature or advertising is misleading, incorrect, incomplete or deceptive.

(b) The commissioner may by order summarily postpone or suspend the effectiveness of the registration of a business opportunity pending final determination of any proceeding under this section. Upon the entry of such order, said commissioner shall promptly notify the registrant or applicant of the business opportunity that it has been entered and of the reasons for such entry and that within fifteen days after receipt by said commissioner of a written request the matter will be set down for a hearing. If no hearing is requested and none is ordered by the commissioner, such order will remain in effect until modified or vacated by said commissioner. If a hearing is requested, said commissioner may modify or vacate such order or extend it until final determination.

(c) No stop order may be entered under this section except as provided in subsection (b) of this section without: (1) Appropriate prior notice to the applicant or registrant of a business opportunity; (2) opportunity for a hearing; and (3) the issuance of written findings of fact and conclusions of law by the commissioner, provided, if the commissioner has previously entered a stop order under this section, the commissioner, in the commissioner's discretion, may deny any subsequent application for registration of such business opportunity without such notice, opportunity for a hearing and written findings of fact and conclusions of law, if the commissioner makes the findings in subsection (a) of this section and notifies the seller in writing of such denial.

(d) The commissioner may vacate or modify a stop order if he finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

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(e) Notwithstanding the provisions of this section, the commissioner may deem an application for registration of any business opportunity to be abandoned if the applicant fails to respond to any request for information required under sections 36b-60 to 36b-80, inclusive, as amended by this act, or any regulations adopted pursuant to said sections. The commissioner shall notify the applicant in writing that if such information is not submitted within sixty days of such written notification, the application shall be deemed abandoned. Any registration fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for registration under this chapter. The hearing requirement in subsection (c) of this section shall not apply to abandonment pursuant to this subsection.

Sec. 7. Subsection (b) of section 36b-72 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) (1) Whenever the commissioner finds as the result of an investigation that any person [or persons have] has violated any of the provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act, or any regulation, rule or order adopted or issued under said sections, the commissioner may send a notice to such person [or persons] by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by the person on the earlier of the date of actual receipt or the date seven days after the date on which such notice was mailed or sent. Any such notice shall include: (A) A reference to the title, chapter, regulation, rule or order alleged to have been violated; (B) a short and plain statement of the matter asserted or charged; (C) the maximum fine that may be imposed for such violation; [and] (D)

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[the time and place for the hearing. Such hearing shall be fixed for a date not earlier] a statement indicating that such person may file a written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice; [is mailed] and (E) the time and place for the hearing.

(2) [The] If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the charges made unless such person [or persons fail] fails to appear at the hearing. Such hearing shall be held in accordance with the provisions of chapter 54. After the hearing if the commissioner finds that the person [or persons have] has violated any of the provisions of sections 36b-60 to 36b-80, inclusive, as amended by this act, or any regulation, rule or order adopted or issued under said sections, the commissioner may, in addition to any other remedy authorized by said sections, order that a fine not exceeding one hundred thousand dollars per violation be imposed upon such person. [or persons.] If such person [or persons fail] fails to appear at the hearing, the commissioner may, as the facts require, order that a fine not exceeding one hundred thousand dollars per violation be imposed upon such person. [or persons.] The commissioner shall send a copy of any order issued pursuant to this subsection by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to any person [or persons] named in such order.

Sec. 8. Section 36b-79 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

[Within] Not later than one hundred and twenty days [following] after the end of the seller's most recent fiscal year and each year thereafter, each seller whose business opportunity has been registered under sections 36b-60 to 36b-80, inclusive, as amended by this act, shall renew the registration by submitting to the commissioner: (1) An annual renewal registration fee of one hundred dollars, which shall be

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nonrefundable; (2) [an application filed] a filing in accordance with the requirements of subsection [(a)] (b) of section [36b-65] 36b-62, as amended by this act, reflecting all amendments as of the date of filing; (3) a disclosure document filed in accordance with the requirements of sections 36b-62, as amended by this act, and 36b-63, as amended by this act, reflecting all amendments, clearly marked, since the date of the most recent disclosure document that was filed with the commissioner, or, if no such amendments have been made, an affidavit so stating; and (4) financial statements in accordance with the requirements of subsection (b) of section [36b-65] 36b-62, as amended by this act. In the event that the seller fails to submit the fee and information within the time period and in accordance with requirements of this section, the registration of such seller's business opportunity shall terminate.

Sec. 9. Section 36b-80 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

No person shall make or cause to be made orally or in any document filed with the commissioner or in any proceeding, investigation or examination under sections 36b-60 to 36b-80, inclusive, as amended by this act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with the statement, omit to state a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.

Sec. 10. Subsection (a) of section 36b-15 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The commissioner may, by order, deny, suspend or revoke any registration or, by order, restrict or impose conditions on the securities or investment advisory activities that an applicant or registrant may

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perform in this state if the commissioner finds that (1) the order is in the public interest, and (2) the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser: (A) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; (B) has wilfully violated or wilfully failed to comply with any provision of sections 36b-2 to 36b-33, inclusive, as amended by this act, or a predecessor statute or any regulation or order under said sections or a predecessor statute; (C) has been convicted, within the past ten years, of any misdemeanor involving a security, any aspect of [the securities business] a business involving securities, commodities, investments, franchises, business opportunities, insurance, banking or finance, or any felony, provided any denial, suspension or revocation of such registration shall be in accordance with the provisions of section 46a-80; (D) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of [the securities or commodities business] a business involving securities, commodities, investments, franchises, business opportunities, insurance, banking or finance; (E) is the subject of a cease and desist order of the commissioner or an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser or investment adviser agent; (F) is the subject of any of the following sanctions that are currently effective or were imposed within the past ten years: (i) An order issued by the securities administrator of any other state [, Canadian province or territory,] or by the Securities and Exchange Commission or the Commodity Futures Trading Commission denying, suspending or revoking registration as a

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broker-dealer, agent, investment adviser, investment adviser agent or a person required to be registered under the Commodity Exchange Act, 7 USC 1 et seq., as from time to time amended, and the rules and regulations thereunder, or the substantial equivalent of those terms, as defined in sections 36b-2 to 36b-33, inclusive, as amended by this act, (ii) an order of the Securities and Exchange Commission or Commodity Futures Trading Commission suspending or expelling such applicant, registrant or person from a national securities or commodities exchange or national securities or commodities association registered under the Securities Exchange Act of 1934 or the Commodity Exchange Act, 7 USC 1 et seq., as from time to time amended, or, in the case of an individual, an order of the Securities and Exchange Commission or an equivalent order of the Commodity Futures Trading Commission barring such individual from association with a broker-dealer or an investment adviser, (iii) a suspension, expulsion or other sanction issued by a national securities exchange or other self-regulatory organization registered under federal laws administered by the Securities and Exchange Commission or the Commodity Futures Trading Commission if the effect of the sanction has not been stayed or overturned by appeal or otherwise, (iv) a United States Post Office fraud order, [or] (v) a denial, suspension, revocation or other sanction issued by the commissioner or any other state or federal financial services regulator based upon nonsecurities violations of any state or federal law under which a business involving investments, franchises, business opportunities, insurance, banking or finance is regulated, or (vi) a cease and desist order entered by the Securities and Exchange Commission, a self-regulatory organization or the securities agency or administrator of any other state or Canadian province or territory; but the commissioner may not (I) institute a revocation or suspension proceeding under this subparagraph more than five years from the date of the sanction relied on, and (II) enter an order under this subparagraph on the basis of an order under any other state act unless that order was based on facts which would

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constitute a ground for an order under this section; (G) may be denied registration under federal law as a broker-dealer, agent, investment adviser, investment adviser agent or as a person required to be registered under the Commodity Exchange Act, 7 USC 1 et seq., as from time to time amended, and the rules and regulations promulgated thereunder, or the substantial equivalent of those terms as defined in sections 36b-2 to 36b-33, inclusive, as amended by this act; (H) has engaged in fraudulent, dishonest or unethical practices in the securities, [or] commodities, investment, franchise, business opportunity, banking, finance or insurance business, including abusive sales practices in the business dealings of such applicant, registrant or person with current or prospective customers or clients; (I) is insolvent, either in the sense that the liabilities of such applicant, registrant or person exceed the assets of such applicant, registrant or person, or in the sense that such applicant, registrant or person cannot meet the obligations of such applicant, registrant or person as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser under this subparagraph without a finding of insolvency as to the broker-dealer or investment adviser; (J) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b) of this section; (K) has failed reasonably to supervise: (i) The agents or investment adviser agents of such applicant or registrant, if the applicant or registrant is a broker-dealer or investment adviser; or (ii) the agents of a broker-dealer or investment adviser agents of an investment adviser, if such applicant, registrant or other person is or was an agent, investment adviser agent or other person charged with exercising supervisory authority on behalf of a broker-dealer or investment adviser; (L) in connection with any investigation conducted pursuant to section 36b-26 or any examination under subsection (d) of section 36b-14, has made any material misrepresentation to the commissioner or upon request made by the commissioner, has withheld or concealed material information from,

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or refused to furnish material information to the commissioner, provided, there shall be a rebuttable presumption that any records, including, but not limited to, written, visual, audio, magnetic or electronic records, computer printouts and software, and any other documents, that are withheld or concealed from the commissioner in connection with any such investigation or examination are material, unless such presumption is rebutted by substantial evidence; (M) has wilfully aided, abetted, counseled, commanded, induced or procured a violation of any provision of sections 36b-2 to 36b-33, inclusive, as amended by this act, or a predecessor statute or any regulation or order under such sections or a predecessor statute; [or] (N) after notice and opportunity for a hearing, has been found within the previous ten years: (i) By a court of competent jurisdiction, to have wilfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investments, franchises, business opportunities, insurance, banking or finance is regulated; (ii) to have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser agent or similar person; or (iii) to have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction. As used in this subparagraph, "foreign" means a jurisdiction outside of the United States; or (O) has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this subparagraph, and the commissioner shall vacate any such order when the deficiency has been corrected. The commissioner may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to the commissioner when the registration became effective unless the proceeding is instituted within one hundred eighty days of the effective date of such registration.

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Sec. 11. Subsection (d) of section 36b-27 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(d) (1) Whenever the commissioner finds as the result of an investigation that any person has violated any of the provisions of sections 36b-2 to 36b-33, inclusive, or any regulation, rule or order adopted or issued under said sections, the commissioner may send a notice to (A) such person, (B) any other person that directly or indirectly controls such person and that was a cause of the violation of said sections or any such regulation, rule or order, due to an act or omission such other person knew or should have known would contribute to such violation, or (C) any other person that has materially aided in such violation, by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by the person on the earlier of the date of actual receipt or the date seven days after the date on which such notice was mailed or sent. Any such notice shall include: (i) A reference to the title, chapter, regulation, rule or order alleged to have been violated; (ii) a short and plain statement of the matter asserted or charged; (iii) the maximum fine that may be imposed for such violation; [and] (iv) [the time and place for the hearing. Any such hearing shall be fixed for a date not earlier] a statement indicating that such person may file a written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice; [is mailed] and (v) the time and place for the hearing.

(2) [The] If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the charges made unless such person fails to appear at the hearing. Any such hearing shall be held in accordance with the provisions of chapter 54. After the hearing if the commissioner finds that the person has violated, caused

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a violation or materially aided in the violation of any of the provisions of sections 36b-2 to 36b-33, inclusive, as amended by this act, or any regulation, rule or order adopted or issued under said sections, the commissioner may, in the commissioner's discretion and in addition to any other remedy authorized by said sections, order that a fine not exceeding one hundred thousand dollars per violation be imposed upon such person. If such person fails to appear at the hearing, the commissioner may, as the facts require, order that a fine not exceeding one hundred thousand dollars per violation be imposed upon such person. The commissioner shall send a copy of any order issued pursuant to this subsection by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to any person named in such order.

Approved June 30, 2009