

AN ACT

ENTITLED, An Act to revise the exemptions for the regulation of business opportunities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 37-25A-3 be amended to read as follows:

37-25A-3. The following business opportunities are exempt from §§ 37-25A-7 to 37-25A-24, inclusive:

- (1) Any offer or sale of a business opportunity for which the immediate cash payment made by the purchaser for any business opportunity is at least twenty-five thousand dollars if the immediate cash payment does not exceed twenty percent of the purchaser's net worth as determined exclusive of principal residence, furnishings therein, and automobiles. However, the director of the Division of Securities may, by rules adopted pursuant to chapter 1-26, withdraw or further condition the availability of this exemption;
- (2) Any offer or sale of a business opportunity for which the purchaser is required to make a payment to the seller or a person recommended by the seller not to exceed two hundred fifty dollars during the period from any time before commencing operation to within six months after commencing operation of the business opportunity;
- (3) Any offer or sale of a business opportunity if the seller has a net worth of not less than one million dollars as determined by the seller's most recent audited financial statement, prepared within thirteen months of the first offering in this state. Net worth may be determined on a consolidated basis if the seller is at least eighty percent owned by one person and that person expressly guarantees the obligations of the seller with regard to the offer or sale of any business opportunity claimed to be exempt under this subdivision. The director may, by rules adopted pursuant to chapter 1-26, withdraw or further condition the availability of this exemption;

- (4) Any offer or sale of a business opportunity if the purchaser is a bank, savings and loan association, trust company, insurance company, credit union, or investment company as defined by the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer or a dealer registered pursuant to chapter 47-31A, if the purchaser is acting for itself or in a fiduciary capacity;
- (5) Any offer or sale of a business opportunity which is defined as a franchise in subdivision 37-25A-1(4) if the seller delivers to each purchaser at the earlier of the first personal meeting, or ten business days prior to the earlier of the execution by a purchaser of any contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity, a uniform franchise offering circular prepared in accordance with the guidelines adopted by the North American Securities Administrators Association, Inc., as amended through September 21, 1983, and registered with the division of securities pursuant to chapter 37-5A;
- (6) Any offer or sale of a business opportunity for which the cash payment made by a purchaser for any business opportunity does not exceed five hundred dollars and the payment is made for the not-for-profit sale of sales demonstration equipment, material, or samples, or the payment is made for product inventory sold to the purchaser at a bona fide wholesale price;
- (7) Any offer or sale of a business opportunity which the director exempts by order or a class of business opportunities which the director exempts by rule upon the finding that such exemption is not contrary to public interest and that registration is not necessary or appropriate for the protection of purchasers.

An Act to revise the exemptions for the regulation of business opportunities.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1224

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1224
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State