

551A.3 Disclosure documents — contracts.

1. *Disclosure document required.* A person required to file an irrevocable consent to service of process with the secretary of state as a seller as provided in section 551A.7 shall not act as seller in this state unless the person provides a written disclosure document to each purchaser. The person shall deliver the written disclosure document to the purchaser at least ten business days prior to the earlier of the purchaser's execution of a contract imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity.

2. *Disclosure document cover sheet.*

a. The disclosure document shall have a cover sheet which shall consist of a title printed in bold and a statement. The title and statement shall be in at least ten point type and shall appear as follows:

DISCLOSURE
REQUIRED BY IOWA LAW

This business opportunity does not have the approval, recommendation, or endorsement of the state of Iowa. The information contained in this disclosure document has not been verified by this state. If you have any questions or concerns about this investment, seek professional advice before you sign a contract or make any payment. You are to be provided ten (10) business days to review this document before signing a contract or making any payment to the seller or the seller's representative.

b. The seller's name and principal business address, along with the date of the disclosure document, shall also be provided on the cover sheet. No other information shall appear on the cover sheet.

3. *Disclosure document contents.* A disclosure document shall be in one of the following forms:

a. A uniform franchise offering circular prepared in accordance with the guidelines adopted by the North American securities administrators association, inc.

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

c. A form that includes all of the following:

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

(2) The name of the seller; whether the seller is doing business as an individual, partnership, corporation, or other entity; the names under which the seller has done, is doing, or intends to do business; and the name of any parent or affiliated company that will engage in business transactions with purchasers or that will take responsibility for statements made by the seller.

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

(4) Prior business experience of the seller relating to business opportunities including all of the following:

(a) The name, address, and a description of any business opportunity previously offered by the seller.

(b) The length of time the seller has offered each such business opportunity.

(c) The length of time the seller has conducted the business opportunity currently being offered to the purchaser.

(5) With respect to each person identified in subparagraph (3), all of the following:

(a) A description of the person's business experience for the ten-year period preceding the filing date of this disclosure document. The description of business experience shall list principal occupations and employers.

(b) A listing of the person's educational and professional background, including the

names of schools attended and degrees received, and any other information that will demonstrate sufficient knowledge and experience to perform the services proposed.

(6) Whether any of the following apply to the seller or any person identified in subparagraph (3):

(a) The seller or other person has been convicted of a felony, pleaded nolo contendere to a felony charge, or has been the subject of a criminal, civil, or administrative proceeding alleging the violation of a business opportunity law, securities law, commodities law, or franchise law, or alleging fraud or deceit, embezzlement, fraudulent conversion, restraint of trade, an unfair or deceptive practice, misappropriation of property, or making comparable allegations.

(b) The seller or other person has filed for bankruptcy, been adjudged bankrupt, or been reorganized due to insolvency, or was an owner, principal officer, or general partner of a person, or any other person that has filed for bankruptcy or was adjudged bankrupt, or been reorganized due to insolvency during the last seven years.

(7) The name of any person identified in subparagraph (6), the nature of and the parties to the action or proceeding, the court or other forum, the date of the institution of the action, the docket references to the action, the current status of the action or proceeding, the terms and conditions of any order or decree, and the penalties or damages assessed and terms of settlement.

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

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

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

(11) A detailed description of services the seller agrees to perform in connection with the placement of equipment, products, or supplies at a location, as well as any agreement necessary in order to locate or operate equipment, products, or supplies on premises which are not owned or leased by the purchaser or seller.

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

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

(a) The bases or assumptions for any actual, average, projected, or forecasted sales, profits, income, or earnings.

(b) The total number of purchasers who, within a period of three years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies, or services being offered to the purchaser.

(c) The total number of purchasers who, within three years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies, or services being offered to the purchaser who, to the seller's knowledge, have actually received earnings in the amount or range specified.

(14) A detailed description of the elements of a guarantee made by a seller to a purchaser. The description shall include, but is not limited to, the duration, terms, scope, conditions, and limitations of the guarantee.

(15) A statement including all of the following:

(a) The total number of business opportunities that are the same or similar in nature to those being sold or organized by the seller.

(b) The names and addresses of purchasers who have requested a refund or rescission from the seller within the last twelve months and the number of those who have received the refund or rescission.

(c) The total number of business opportunities the seller intends to sell in this state within the next twelve months.

(d) The total number of purchasers known to the seller to have failed in the business opportunity.

(16) A statement describing any contractual restrictions, prohibitions, or limitations on the purchaser's conduct. Attach a copy of all contracts proposed for use or in use in this

state including, without limitation, all lease agreements, option agreements, and purchase agreements.

(17) The rights and obligations of the seller and the purchaser regarding termination of the business opportunity contract.

(18) A statement accurately describing the grounds upon which the purchaser may initiate legal action to terminate the business opportunity contract.

(19) A copy of the most recent audited financial statement of the seller, prepared within thirteen months of the first offer in this state, together with a statement of any material changes in the financial condition of the seller from that date.

(20) A list of the states in which this business opportunity is registered.

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

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

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

4. *Contract provisions.*

a. A person shall not offer or sell a business opportunity unless a business opportunity contract is in writing and a copy of the contract is provided to the purchaser at the time the purchaser executes the contract.

b. A business opportunity contract shall set forth in at least ten point type or equivalent size, if handwritten, all of the following:

(1) The terms and conditions of any and all payments due to the seller.

(2) The seller's principal business address and the name and address of the seller's agent in this state authorized to receive service of process.

(3) The business form of the seller, whether corporate, partnership, or otherwise.

(4) The delivery date, or when the contract provides for a periodic delivery of items to the purchaser, the approximate delivery date of the product, equipment, or supplies the seller is to deliver to the purchaser to enable the purchaser to start business.

(5) Whether the product, equipment, or supplies are to be delivered to the purchaser's home or business address or are to be placed or caused to be placed by the seller at locations owned or managed by persons other than the purchaser.

(6) A statement that accurately states the purchaser's right to void the contract under the circumstances and in the manner set forth in section 551A.6.

(7) The cancellation statement appearing in section 555A.3.

(8) The rights and responsibilities of the parties regarding the marketing of a business opportunity, including but not limited to all of the following:

(a) Whether the seller assigns the purchaser a territory in which to sell a business opportunity.

(b) Whether the seller assists the purchaser in finding locations in which to sell a business opportunity.

(c) Whether the purchaser is solely responsible for marketing a business opportunity.

[81 Acts, ch 171, §2]

C83, §523B.2

91 Acts, ch 205, §2; 98 Acts, ch 1189, §12 – 14; 99 Acts, ch 166, §11; 2000 Acts, ch 1147, §21 – 24; 2004 Acts, ch 1104, §11 – 19, 30

C2005, §551A.3

2005 Acts, ch 3, §94; 2005 Acts, ch 56, §1; 2006 Acts, ch 1030, §68; 2012 Acts, ch 1023, §157

Referred to in §551A.4, 551A.8, 551A.9, 551A.10

[T] Code editor directive applied