

551A.4 Exemptions from requirements — burden of proof.

1. The following business opportunities are exempt from the requirements of section 551A.3:

a. The offer or sale of a business opportunity if the purchaser is a bank, federally chartered savings and loan association, trust company, insurance company, credit union, or investment company as defined by the federal Investment Company Act of 1940, a pension or profit-sharing trust, or other financial institution or institutional buyer, or a broker-dealer registered pursuant to chapter 502, whether the purchaser is acting for itself or in a fiduciary capacity.

b. (1) An offer or sale of a business opportunity which is a franchise, provided that the seller delivers to each purchaser at the earlier of the first personal meeting between the seller and the purchaser, or fourteen days prior to the earlier of the execution by a purchaser of a contract imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity, one of the following disclosure documents:

(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 entitled “Disclosure requirements and prohibitions concerning franchising and business opportunity ventures”, 16 C.F.R. § 436 or any successor regulation.

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

c. The offer or sale of a business opportunity for which the cash payment made by a purchaser 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.

2. In an administrative, civil, or criminal proceeding related to this chapter, the burden of proving an exemption, an exception from a definition, or an exclusion from this chapter is upon the person claiming it.

[81 Acts, ch 171, §3]

C83, §523B.3

91 Acts, ch 205, §3; 98 Acts, ch 1189, §15, 16; 99 Acts, ch 90, §2, 3; 2004 Acts, ch 1104, §21, 30

C2005, §551A.4

2005 Acts, ch 56, §2; 2012 Acts, ch 1017, §152; 2012 Acts, ch 1023, §157

[T] Code editor directive applied

[T] Subsection 1, paragraph a amended