

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1202

By: Inman

4
5
6 AS INTRODUCED

7 An Act relating to securities; amending 71 O.S. 2001,
8 Section 803, which relates to the Oklahoma Business
9 Opportunity Sales Act; modifying provision related to
10 certain exemption; modifying provision related to
11 certain notice period; and providing an effective
12 date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 71 O.S. 2001, Section 803, is
15 amended to read as follows:

16 Section 803. The following business opportunities are exempt
17 from Sections 806 through 811 of this title:

18 1. Any offer or sale of a business opportunity for which the
19 immediate cash payment made by the purchaser for any business
20 opportunity is at least Twenty-five Thousand Dollars (\$25,000.00) if
21 the immediate cash payment does not exceed twenty percent (20%) of
22 the purchaser's net worth as determined exclusive of principal
23 residence, furnishings therein, and automobiles. The Administrator
24

1 may by rule withdraw or further condition the availability of this
2 exemption.

3 2. Any offer or sale of a business opportunity for which the
4 purchaser is required to make a payment to the seller or a person
5 recommended by the seller not to exceed Five Hundred Dollars
6 (\$500.00). For purposes of this paragraph, "payment" means the
7 total amount the purchaser becomes obligated to pay to the seller or
8 to any third party either prior to or at the time of delivery of the
9 products, equipment, supplies or services or within one (1) year of
10 the commencement of operation of the business opportunity by the
11 purchaser. If payment is over a period of time, "payment" shall
12 include the sum of the down payment and the total periodic payments.
13 If the purchaser may enter at different levels, "payment" means the
14 total sum the purchaser is obligated to pay to enter at the level
15 chosen by the purchaser.

16 3. Any offer or sale of a business opportunity where the seller
17 has a net worth of not less than One Million Dollars (\$1,000,000.00)
18 as determined on the basis of the seller's most recent audited
19 financial statements, prepared within thirteen (13) months of such
20 offer or sale in accordance with generally accepted accounting
21 principles and audited in accordance with generally accepted
22 auditing standards. Net worth may be determined on a consolidated
23 basis where the seller is at least eighty percent (80%) owned by one
24 person and that person expressly guarantees the obligations of the

1 seller with regard to the offer or sale of any business opportunity
2 claimed to be exempt under this paragraph. The Administrator may by
3 rule withdraw or further condition the availability of this
4 exemption.

5 4. Any offer or sale of a business opportunity where the
6 purchaser has a net worth of not less than Two Hundred Fifty
7 Thousand Dollars (\$250,000.00). Net worth shall be determined
8 exclusive of principal residence, furnishings therein, and
9 automobiles. The Administrator may by rule withdraw or further
10 condition the availability of this exemption.

11 5. Any offer or sale of a business opportunity where the
12 purchaser is a bank, savings and loan association, trust company,
13 insurance company, credit union, investment company as defined by
14 the Investment Company Act of 1940, pension or profit sharing trust
15 or other financial institution or institutional buyer or a dealer
16 registered pursuant to the Oklahoma Securities Act, where the
17 purchaser is acting for itself or in a fiduciary capacity.

18 6. Any offer or sale of a franchise as defined in Section 802
19 of this title provided that the seller delivers to each purchaser ~~at~~
20 ~~the earlier of the first personal meeting, or ten (10) business~~
21 fourteen (14) calendar days prior to the earlier of the execution by
22 a purchaser of any contract or agreement imposing a binding legal
23 obligation on the purchaser or the payment by a purchaser of any

24

1 consideration in connection with the offer or sale of the business
2 opportunity, one of the following disclosure documents:

3 a. A Uniform Franchise Offering Circular prepared in
4 accordance with the guidelines adopted by the North
5 American Securities Administrators Association, Inc.,
6 or

7 b. A disclosure document prepared pursuant to the Federal
8 Trade Commission rule entitled Disclosure Requirements
9 and Prohibitions Concerning Franchising and Business
10 Opportunity Ventures, 16 C.F.R. Section 436.

11 For the purposes of this paragraph, a personal meeting shall
12 mean a face-to-face meeting between the purchaser and the seller or
13 their representatives, which is held for the purpose of discussing
14 the offer or sale of a business opportunity. The Administrator may
15 by rule adopt any amendment to the Uniform Franchise Offering
16 Circular that has been adopted by the North American Securities
17 Administrators Association, Inc. or any amendment to the disclosure
18 document prepared pursuant to the Federal Trade Commission rule
19 entitled Disclosure Requirements and Prohibitions Concerning
20 Franchising and Business Opportunity Ventures, 16 C.F.R. Section
21 436, that has been adopted by the Federal Trade Commission.

22 7. Any offer or sale of a business opportunity for which the
23 required cash payment made by a purchaser to participate in any
24

1 business opportunity does not exceed Seven Hundred Fifty Dollars
2 (\$750.00) and the required payment is made for:

3 a. the not-for-profit sale of sales demonstration
4 equipment, material or samples, and/or

5 b. product inventory sold to the purchaser at a bona fide
6 wholesale price.

7 8. Any offer or sale of a business opportunity which the
8 Administrator exempts by order or a class of business opportunities
9 which the Administrator exempts by rule upon the finding that such
10 exemption would not be contrary to public interest and that
11 registration would not be necessary or appropriate for the
12 protection of purchasers.

13 9. Any business which is operated under a lease or license on
14 the premises of the lessor or licensor as long as such business is
15 incidental to the business conducted by the lessor or the licensor
16 on such premises, including, without limitation, leased departments,
17 licensed departments and concessions.

18 SECTION 2. This act shall become effective November 1, 2011.

19

20 53-1-5205 MAH 01/03/11

21

22

23

24