

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 74
HOUSE BILL 267

AN ACT TO AMEND THE DEFINITION OF "BUSINESS OPPORTUNITY" AND TO AMEND THE REQUIREMENTS FOR CHARITABLE SOLICITATION LICENSE APPLICANTS TO ALLOW A CERTIFICATE OF DEPOSIT IN LIEU OF A BOND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-94 reads as rewritten:

"§ 66-94. Definition.

For purposes of this Article, 'business opportunity' means the sale or lease of any products, equipment, supplies or services for the purpose of enabling the purchaser to start a business, and in which the seller represents:

- (1) That the seller will provide locations or assist the purchaser 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, on premises neither owned nor leased by the purchaser or seller; or
- (2) That it may, in the ordinary course of business, purchase any or all products made, produced, fabricated, grown, bred or modified by the purchaser using in whole or in part the supplies, services or chattels sold to the purchaser; or
- (3) The seller guarantees that the purchaser will derive income from the business opportunity which exceeds the price paid for 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 is unsatisfied with the business opportunity; or opportunity and pays to the seller an initial, required consideration which exceeds two hundred dollars (\$200.00); or
- (4) That it will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity which exceeds the price paid for the business opportunity, provided that this subsection shall not apply to the sale of a marketing program made in conjunction with the licensing of a federally registered trademark or a federally registered service mark, or when the purchaser pays less than ~~one~~ two hundred dollars ~~(\$100.00).~~ (\$200.00).

Provided, that 'business opportunity' does not include the sale of an on-going business when 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 two hundred dollars (\$200.00) or less."

Sec. 2. G.S. 131C-10 reads as rewritten:

"§ 131C-10. Bond.

An applicant under G.S. 131C-6 shall, at the time of making application, file with and have approved by the Department a bond in which the applicant shall be the principal obligor in the sum of twenty thousand dollars (\$20,000) with one or more sureties satisfactory to the Department, whose liability in the aggregate as such sureties will at least equal the said sum; and the applicant shall maintain said bond in effect so long as the license is in effect. The bond shall run to the State for the use of said bond for any penalties and to any person who may have a cause of action against the obligor of the bond for any losses resulting from the obligor's conduct of any and all activities subject to this Chapter or arising out of a violation of this Chapter or any rule of the Commission. A bond shall not be required of any applicant who does not personally receive any of the contributions collected and who does not personally handle any of the contributions expended. In lieu of the bond required under this section, an applicant may submit a certificate of deposit in the amount of twenty thousand dollars (\$20,000) that is either payable to the State and unrestrictively endorsed to the Department; or in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Department; or, in the case of a nonnegotiable certificate of deposit, is assigned to the Department in a form satisfactory to the Department. Access to the certificate of deposit in favor of the State is subject to the same conditions as for a bond under this section and shall extend for a period not less than four years after the licensee ceases activities that are subject to this Chapter. The Department shall deliver to the State Treasurer certificates of deposit submitted under this section."

Sec. 3. This act is effective upon ratification and Section 1 applies to business opportunity sales consummated on or after that date.

In the General Assembly read three times and ratified this the 7th day of May, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives