

Effective 5/4/2022

13-15-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Business opportunity" means an arrangement under which a person:
 - (i) sells or leases a product, equipment, a supply, or a service:
 - (A) upon payment of initial required consideration of at least \$500; and
 - (B) for the purpose of enabling the buyer or lessee to start a business; and
 - (ii) represents to the buyer or lessee that:
 - (A) the person will provide a location or assist the buyer or lessee find a location for the use or operation of a vending machine, rack, display case, or other similar device, or a currency-operated amusement machine or device, on premises neither owned nor leased by the person nor the buyer or lessee;
 - (B) the person will purchase a product the buyer or lessee makes, produces, fabricates, grows, or modifies, using in whole or in part the product, equipment, supply, or service the buyer or lessee buys or leases from the person;
 - (C) the person will provide the buyer or lessee with a guarantee that the buyer or lessee will receive income from the product, equipment, supply, or service the buyer or lessee buys or leases from the person that exceeds the amount the buyer or lessee pays to buy or lease the product, equipment, supply, or service, and if not the person will repurchase the product, equipment, supply, or service, if the buyer or lessee is dissatisfied; or
 - (D) the buyer or lessee will or may derive income from the business described in Subsection (1)(a)(i) that exceeds the amount the buyer or lessee pays to buy or lease the product, equipment, supply, or service.
 - (b) "Business opportunity" does not include:
 - (i) the sale of an ongoing business when the owner of that business sells and intends to sell only that one business; or
 - (ii) not-for-profit sale of sales demonstration equipment, materials, or samples for a total price of \$500 or less.
- (2) "Division" means the Division of Consumer Protection of the Department of Commerce.
- (3) "Franchise" means the same as that term is defined by Federal Trade Commission rules governing franchise and business opportunity ventures.
- (4) "Guarantee" means a written agreement that:
 - (a) a purchaser and seller sign; and
 - (b) discloses the complete details and each limitation or exception of the agreement.
- (5)
 - (a) "Initial required consideration" means the total amount a purchaser is obligated to pay under the terms of a business opportunity:
 - (i) before the day on which the purchaser receives the product, equipment, supply, or service;
 - (ii) the day on which the purchaser receives the product, equipment, supply, or service; or
 - (iii) within six months after the day on which the purchaser and seller enter into the business opportunity.
 - (b) "Initial required consideration" includes the sum of any down payment and the total of all additional payments, if the purchaser's payment under the terms of the business opportunity is over a period of time.
 - (c) "Initial required consideration" does not include the not-for-profit sale of sales demonstration equipment, materials, or supplies for a total amount of less than \$500.

- (6) "Principal" means as the division determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (7) "Purchaser" means a person who buys or leases from another person a business opportunity.
- (8) "Registered trademark" or "service mark" means a trademark, trade name, or service mark registered with the United States Patent and Trademark Office, or Utah, or the state of incorporation if a corporation.
- (9)
 - (a) "Seller" means a person who offers to sell, offers to lease, sells, or leases to another person a business opportunity.
 - (b) "Seller" does not include an individual representative or salesperson, unless the individual is a principal of a sole proprietorship, partnership, association, joint venture, corporation, firm, or other organization or entity used in carrying on a business, that offers to sell, offers to lease, sells, or leases to another person a business opportunity.

Renumbered and Amended by Chapter 243, 2022 General Session