§ 66-95. Required disclosure statement.

At least 48 hours prior to the time the purchaser signs a business opportunity contract, or at least 48 hours prior to the receipt of any consideration by the seller, whichever occurs first, the seller shall provide the prospective purchaser a written document, [with] a cover sheet that includes a statement entitled in at least 10-point bold face capital letters "DISCLOSURES REQUIRED BY NORTH CAROLINA LAW." Under this title shall appear the statement in at least 10-point type that "The State of North Carolina has not reviewed and does not approve, recommend, endorse or sponsor any business opportunity. The information contained in this disclosure has not been verified by the State. If you have any questions about this investment, see an attorney before you sign a contract or agreement." Only the title and required statement shall appear on the cover sheet, except that franchisors subject to this Article may include other material pursuant to 16 C.F.R. Part 436 or guidelines of the North American Securities Administrators Association. The disclosure document shall contain either of the following:

(1) A franchise disclosure document that complies in all material respects with 16 C.F.R. Part 436.

(2) The following information:

a. The name of the seller, whether the seller is doing business as an individual, partnership, or corporation, 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 takes responsibility for statements made by the seller.

b. The names and addresses and titles of the seller's officers, directors, trustees, general partners, general managers, principal executives, and any other persons charged with responsibility for the seller's business activities relating to the sale of business opportunities. The disclosure document shall additionally contain a statement disclosing who, if any, of the above persons has been either of the following:

1. The subject of any legal or administrative proceeding alleging the violation of any business opportunity or franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property, or comparable allegations.

2. The subject of any bankruptcy, reorganization, or receivership proceeding or was an owner, a principal officer, or a general partner of any entity that has been subject to any of these proceedings.

The disclosure document shall set forth the name of the person, the nature of and the parties to the action or proceeding, the court or other forum, the date, the current status of the action or proceeding, the terms and conditions of any order of decree, the penalties or damages assessed, any terms of settlement, and any other information to enable the purchaser to assess the prior business activities of the seller.

c. The prior business experience of the seller relating to business opportunities including all of the following:

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

2. The length of time the seller has offered each business opportunity.

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

d. A full and detailed description of the actual services that the business opportunity seller undertakes to perform for the purchaser.

e. A copy of a current (not older than 13 months) financial statement of the seller, updated to reflect any material changes in the seller's financial condition.

f. If training of any type is promised by the seller, the disclosure statement shall set forth a complete description of the training and the length of the training.

g. If the seller promises services to be performed in connection with the placement of equipment, products, or supplies at various locations, the disclosure statement shall set forth the full nature of those services as well as the nature of the agreements to be made with the owners or managers of these locations where the purchaser's equipment, products, or supplies will be placed.

h. If the business opportunity seller is required to secure a bond or establish a trust deposit pursuant to G.S. 66-96, the document shall state either of the following:

1. "As required by North Carolina law, the seller has secured a bond issued by _____
(name and address of surety company)
a surety authorized to do business in this State. Before signing a contract to purchase this business opportunity, you should check with the surety company to determine the bond's current status."

2. "As required by North Carolina law, the seller has established a trust account _____
(number of account)
with _____
(name and address of bank or savings institution)
Before signing a contract to purchase this business opportunity, you should check with the bank or savings institution to determine the current status of the trust account."

i. The following statement:

"If the seller fails to deliver the product(s), equipment or supplies necessary to begin substantial operation of the business within 45 days of the delivery date stated in your contract, you may notify the seller in writing and demand that the contract be cancelled."

j. If the seller makes any statement concerning sales or earnings or range of sales or earnings that may be made through this business opportunity, the document shall disclose all of the following:

1. The total number of purchasers of business opportunities involving the products, equipment, supplies, or services being offered that, to the seller's knowledge, have actually received earnings in the amount or range specified within three years prior to the date of the disclosure statement.

2. The total number of purchasers of business opportunities involving the products, equipment, supplies, or services being offered within three years prior to the date of the disclosure

statement. (1977, c. 884, s. 1; 1981, c. 817, s. 2; 2023-130, s. 5(a).)