

**SENATE BILL NO. 2091**

Introduced by

Industry, Business and Labor Committee

(At the request of the Securities Commissioner)

1 A BILL for an Act to amend and reenact subsection 2 of section 51-19-04 and subdivisions f  
2 and g of subsection 2 of section 51-19-13 of the North Dakota Century Code, relating to  
3 franchise registration exemptions and the powers of the securities commissioner regarding the  
4 issuance of orders.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 51-19-04 of the 1999 Supplement  
7 to the North Dakota Century Code is amended and reenacted as follows:

8 2. The offer or sale of a franchise by a franchisee for the franchisee's own account or  
9 the offer or sale of the entire area franchise owned by a subfranchisor for the  
10 subfranchisor's own account is exempted from the provisions of section 51-19-03 if  
11 the sale is not effected by or through a franchisor; provided, however, that no  
12 ~~franchisee or~~ subfranchisor may offer or sell a franchise under this subsection  
13 without first obtaining the written approval of the commissioner. The commissioner  
14 may require that the ~~franchisee or~~ subfranchisor and the franchisor provide the  
15 prospective purchaser and the commissioner with such information and disclosures  
16 as the commissioner deems necessary or appropriate to carry out the purposes of  
17 this chapter. A sale is not effected by or through a franchisor merely because a  
18 franchisor has a right to approve or disapprove a different franchisee.

19 **SECTION 2. AMENDMENT.** Subdivisions f and g of subsection 2 of section 51-19-13  
20 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as  
21 follows:

22 f. If, in the opinion of the commissioner, the offer of any franchise is subject to  
23 registration under this chapter and it is being or has been offered for sale  
24 without the offer first being registered, the commissioner may order the

1 franchisor or offeror of the franchise to desist and refrain from the further offer  
2 or sale of the franchise unless and until the offer has been duly registered  
3 under this chapter. In addition to any other remedy authorized by this  
4 chapter, the commissioner may impose by order and collect a civil penalty in  
5 an amount not to exceed ten thousand dollars for each violation against any  
6 person found in an administrative action to have violated this chapter. The  
7 commissioner may bring an action in district court to recover penalties under  
8 this section. If, within fifteen days after the order has been ~~made~~ served on  
9 the respondent, a request for a hearing is filed in writing by the person to  
10 whom the order was directed, a hearing must be held. ~~Unless the hearing is~~  
11 ~~commenced~~ within fifteen business days after the request is made ~~or unless~~  
12 ~~the person~~ persons affected ~~consents~~ consent to a later date, ~~the order is~~  
13 ~~rescinded~~. If a request for hearing is not made within the fifteen days  
14 permitted herein, the order is final.

- 15 g. If, in the opinion of the commissioner, the offer of any franchise exempt from  
16 registration under this chapter is being or has been offered for sale without  
17 complying with section 51-19-04 or subsection 2 of section 51-19-11, the  
18 commissioner may order the franchisor or offeror of the franchise to desist  
19 and refrain from the further offer or sale of the franchise unless and until an  
20 offer is made in compliance with this chapter. In addition to any other remedy  
21 authorized by this chapter, the commissioner may impose by order and collect  
22 a civil penalty in an amount not to exceed ten thousand dollars for each  
23 violation against any person found in an administrative action to have violated  
24 this chapter. The commissioner may bring an action in district court to  
25 recover penalties under this section. If, within fifteen days after the order has  
26 been ~~made~~ served on the respondent, a request for a hearing is filed in  
27 writing by the person to whom the order was directed, a hearing must be held.  
28 ~~Unless the hearing is commenced~~ within fifteen business days after the date,  
29 ~~the order is rescinded~~. If a request for hearing is not made within the fifteen  
30 days permitted herein, the order is final.