

By Senator Baker

20-01575-09

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1 A bill to be entitled
2 An act relating to the sale of business opportunities;
3 amending s. 559.807, F.S.; deleting provisions that
4 allow the seller of a business opportunity to post a
5 certificate of deposit or guaranteed letter of credit
6 in lieu of a surety bond; increasing the amount of the
7 required surety bond; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 559.807, Florida Statutes, is amended to
12 read:

13 559.807 Bond ~~or other security~~ required.—

14 (1) A ~~If The~~ business opportunity seller ~~makes any~~
15 ~~representations set forth in s. 559.801(1)(a)3., the seller~~ must
16 obtain ~~either have obtained~~ a surety bond issued by a surety
17 company authorized to do business in this state ~~or have~~
18 ~~established a certificate of deposit or a guaranteed letter of~~
19 ~~credit with a licensed and insured bank or savings institution~~
20 ~~located in the state. The amount of the bond must, ~~certificiate~~~~
21 ~~of deposit, or guaranteed letter of credit shall~~ be an amount
22 not less than \$100,000 ~~\$50,000~~.

23 (2) The bond must, ~~certificate of deposit, or guaranteed~~
24 ~~letter of credit shall~~ be in the favor of the department for the
25 use and benefit of any person who is injured by the fraud,
26 misrepresentation, breach of contract, financial failure, or
27 violation of any provision of this part by the seller. Such
28 liability may be enforced by filing an action at law in a court
29 of competent jurisdiction without precluding enforcement in an

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30 administrative action pursuant to chapter 120. However, the bond
31 ~~is, certificate of deposit, or guaranteed letter of credit shall~~
32 ~~be~~ amenable to and enforceable only by and through
33 administrative proceedings before the department. A money
34 judgment resulting from an action at law, less any award for
35 costs and attorney's fees, shall be prima facie evidence
36 sufficient to establish the value of the claim in an
37 administrative action. It is the intent of the Legislature that
38 such bond ~~is, certificate of deposit, or guaranteed letter of~~
39 ~~credit shall be~~ applicable to and liable only for payment of
40 claims duly adjudicated by order of the department. The bond ~~is,~~
41 ~~certificate of deposit, or guaranteed letter of credit shall be~~
42 open to successive claims, but the aggregate amount may not
43 exceed the amount of the bond, ~~certificate of deposit, or~~
44 ~~guaranteed letter of credit.~~

45 Section 2. This act shall take effect July 1, 2009.