

1 A bill to be entitled

2 An act relating to the prohibition of pyramid
3 promotional schemes; amending s. 849.091, F.S.;
4 deleting provisions relating to pyramid sales schemes;
5 creating s. 849.0913, F.S.; providing definitions;
6 prohibiting a person from establishing, promoting,
7 operating, or participating in a pyramid promotional
8 scheme; providing construction; requiring the
9 Department of Legal Affairs to issue and serve a
10 complaint and cease and desist order in certain
11 instances; establishing procedures for cease and
12 desist orders; providing penalties; providing for
13 restitution; authorizing the department to apply for
14 an injunction; providing requirements for an
15 injunction; authorizing the court to appoint a
16 receiver; providing for the powers and duties of such
17 receivership; authorizing the court to issue an order
18 to stay certain actions and requiring such actions be
19 assigned to the judge who appointed the receiver;
20 providing that specified provisions and penalties are
21 in addition to civil, administrative, or criminal
22 actions provided by law; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 **Section 1. Section 849.091, Florida Statutes, is amended**
 27 **to read:**

28 849.091 Chain letters, pyramid clubs, etc., declared a
 29 lottery; prohibited; penalties.—

30 ~~(1)~~ The organization of any chain letter club, pyramid
 31 club, or other group organized or brought together under any
 32 plan or device whereby fees or dues or anything of material
 33 value to be paid or given by members thereof are to be paid or
 34 given to any other member thereof, which plan or device includes
 35 any provision for the increase in such membership through a
 36 chain process of new members securing other new members and
 37 thereby advancing themselves in the group to a position where
 38 such members in turn receive fees, dues, or things of material
 39 value from other members, is hereby declared to be a lottery,
 40 and whoever shall participate in any such lottery by becoming a
 41 member of, or affiliating with, any such group or organization
 42 or who shall solicit any person for membership or affiliation in
 43 any such group or organization commits a misdemeanor of the
 44 first degree, punishable as provided in s. 775.082 or s.
 45 775.083.

46 ~~(2) A "pyramid sales scheme," which is any sales or~~
 47 ~~marketing plan or operation whereby a person pays a~~
 48 ~~consideration of any kind, or makes an investment of any kind,~~
 49 ~~in excess of \$100 and acquires the opportunity to receive a~~
 50 ~~benefit or thing of value which is not primarily contingent on~~

51 ~~the volume or quantity of goods, services, or other property~~
52 ~~sold in bona fide sales to consumers, and which is related to~~
53 ~~the inducement of additional persons, by himself or herself or~~
54 ~~others, regardless of number, to participate in the same sales~~
55 ~~or marketing plan or operation, is hereby declared to be a~~
56 ~~lottery, and whoever shall participate in any such lottery by~~
57 ~~becoming a member of or affiliating with, any such group or~~
58 ~~organization or who shall solicit any person for membership or~~
59 ~~affiliation in any such group or organization commits a~~
60 ~~misdemeanor of the first degree, punishable as provided in s.~~
61 ~~775.082 or s. 775.083. For purposes of this subsection, the term~~
62 ~~"consideration" and the term "investment" do not include the~~
63 ~~purchase of goods or services furnished at cost for use in~~
64 ~~making sales, but not for resale, or time and effort spent in~~
65 ~~the pursuit of sales or recruiting activities.~~

66 **Section 2. Section 849.0913, Florida Statutes, is created**
67 **to read:**

68 849.0913 Pyramid promotional schemes prohibited;
69 enforcement; remedies; penalties.-

70 (1) As used in this section, the term:

71 (a) "Compensation" means a payment of any money, thing of
72 value, or financial benefit conferred in return for inducing a
73 person to participate in a pyramid promotional scheme.

74 (b) "Consideration" means the payment of money or the
75 purchase of a product, good, service, or intangible property.

76 The term does not include the purchase of a product or service
77 furnished at cost to be used in making a sale and not for resale
78 or any time and effort spent in pursuit of sales or recruiting
79 activities.

80 (c) "Department" means the Department of Legal Affairs.

81 (d) "Participant" means a person who takes part in a
82 pyramid promotional scheme.

83 (e) "Pyramid promotional scheme" means a plan or operation
84 in which a person pays or gives consideration for the right to
85 receive compensation that is based on recruiting other persons
86 into the plan or operation rather than from the sale and
87 consumption of products, goods, services, or intangible property
88 by a participant or other person introduced into the plan or
89 operation. The term includes a plan or operation in which the
90 number of persons who may participate is limited either
91 expressly or by the application of conditions affecting the
92 eligibility of a person to receive compensation under the plan
93 or operation, or a plan or operation in which a person, upon
94 giving consideration, obtains any products, goods, services, or
95 intangible property in addition to the right to receive
96 compensation.

97 (2) A person may not establish, promote, operate, or
98 participate in a pyramid promotional scheme, even if such
99 person, upon giving consideration, obtains products, goods,
100 services, or intangible property in addition to the right to

101 receive compensation.

102 (3) (a) This section does not prohibit a plan or operation
103 in which participants give consideration in return for the right
104 to receive compensation based on the purchase of products,
105 goods, services, or intangible property by participants for
106 personal use, consumption, or resale so long as the plan or
107 operation:

108 1. Does not promote or induce a practice in which a
109 pyramid promotional scheme requires its independent salesperson
110 to purchase inventory in an amount exceeding that which the
111 salesperson can expect to resell for ultimate consumption or
112 consumption in a reasonable time period, or both; and

113 2. Implements a program in which a plan or operation
114 repurchases from a salesperson, upon request and pursuant to
115 commercially reasonable terms, current and marketable inventory
116 in the possession of the salesperson which was purchased during
117 his or her business relationship for resale. Such plan or
118 operation must clearly describe the program in its business
119 recruiting literature, sales manual, or contract with
120 independent salespersons, including the disclosure of inventory
121 that is not eligible for repurchase under the program.

122 (b) For purposes of this subsection, the term:

123 1. "Inventory" includes products, goods, and services,
124 including company-produced promotional materials, sales aids,
125 and sales kits that the plan or operation requires independent

126 salespersons to purchase.

127 2. "Commercially reasonable terms" means the repurchase of
128 current and marketable inventory within 12 months after the date
129 of purchase at not less than 90 percent of the original net
130 cost, less appropriate setoffs and legal claims, if any.

131 3. "Current and marketable inventory" does not include any
132 inventory that:

133 a. Is no longer within its commercially reasonable use or
134 shelf-life period;

135 b. Was clearly described to the salesperson before
136 purchase as being seasonal, discontinued, or special promotional
137 goods, products, or services that are not subject to the
138 inventory repurchase program; or

139 c. Has been used or opened.

140 (4) (a) Whenever the department has reason to believe that
141 a person has been, or is, violating this section, and if it
142 appears to the department that a cease and desist order against
143 such person would be in the interest of the public, the
144 department shall issue and serve upon such person a complaint
145 and cease and desist order stating its charges in that respect
146 and containing a notice of a hearing upon a day and at the place
147 therein fixed at least 15 days after the service of the
148 complaint. The hearing shall be held in conformity with chapter
149 120.

150 (b) The department may modify or set aside its order at

151 any time by rehearing upon its own motion when such rehearing is
152 in the interest of the public welfare.

153 (c) Judicial review of orders of the department shall be
154 in accordance with s. 120.68 and shall take precedence over
155 other civil cases pending and shall be expedited in every way.

156 (d) An order of the department to cease and desist does
157 not become effective until 10 days after all administrative
158 action has been concluded or, if appeal is made to the district
159 court of appeal and bond is posted, until a final order has been
160 entered by that court.

161 (e) A cease and desist order may not act as a limitation
162 upon any other action or remedy available.

163 (f) When a court remands an order of the department for
164 rehearing, such rehearing must be held within 45 days after the
165 remand.

166 (g) Any person who violates a cease and desist order of
167 the department after it has become final and while such order is
168 in effect shall forfeit and pay to the state a civil penalty of
169 up to \$10,000 for each violation which shall accrue to the state
170 and may be recovered in a civil action brought by the state.
171 Each separate violation of such an order shall be a separate
172 offense, except that in the case of a violation through
173 continuing failure or neglect to obey a final order of the
174 department, each day of continuance of such failure or neglect
175 shall be deemed a separate offense.

176 (5) (a) Whenever the department has reason to believe that
177 a person has been, or is, violating this section, the person
178 must be prosecuted by the department in accordance with s.
179 16.56.

180 (b) Any person who is convicted of establishing,
181 promoting, or operating a pyramid promotional scheme is guilty
182 of a felony of the third degree, punishable as provided in s.
183 775.082, s. 775.083, or s. 775.084.

184 (c) Any person who is convicted of participating in a
185 pyramid promotional scheme is guilty of a misdemeanor of the
186 first degree, punishable as provided in s. 775.082 or s.
187 775.083.

188 (d) When a person is convicted of an offense under this
189 section, the court, pursuant to s. 775.089, shall order the
190 person to pay restitution to the victim of the offense. In
191 determining the value of the property loss, the court shall
192 include expenses incurred in the investigation or prosecution of
193 the offense as well as the disgorgement of any profits realized
194 by a person convicted of the offense.

195 (6) (a) In addition to the remedies provided in this
196 section, the department may apply to any circuit court of this
197 state for the issuance of a temporary or permanent injunction,
198 or both, for the purpose of enforcing this section. In any such
199 action, an order or judgment may be entered awarding such
200 temporary or permanent injunction as may be deemed proper. Such

201 injunction must be issued without bond. A single act in
202 violation of this section is sufficient to authorize the
203 issuance of an injunction.

204 (b) In addition to all other means provided by law for the
205 enforcement of an injunction, the court in which such action is
206 brought shall have power and jurisdiction to appoint one or more
207 receivers for the property and business of a person who has
208 been, or is, violating this section, including books, papers,
209 documents, and records pertaining thereto, or as much thereof as
210 the court may deem reasonably necessary to prevent violations of
211 the law or injury to the public through, or by means of, the use
212 of such property and business. The receiver, when so appointed
213 and qualified, shall have such powers and duties as to custody,
214 collection, administration, winding up, and liquidation of such
215 property and business as is, from time to time, conferred upon
216 him or her by the court. In any such action, the court may issue
217 an order staying all pending civil actions and the court, in its
218 discretion, may require that all civil actions be assigned to
219 the circuit court judge who appointed the receiver.

220 (7) The provisions and penalties set forth in this section
221 are in addition to any other civil, administrative, or criminal
222 action provided by law.

223 **Section 3.** This act shall take effect July 1, 2025.