

One Hundred Fourth Legislature - Second Session - 2016

Introducer's Statement of Intent

LB942

Chairperson: Senator Jim Scheer

Committee: Banking, Commerce and Insurance

Date of Hearing: February 01, 2016

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This bill would amend the Seller-Assisted Marketing Plan Act and the Franchise Practices Act with regard to the disclosure and enforcement of non-compete agreements. The bill would provide, section by section, as follows:

Section 1 would amend section 59-1724 of the Seller-Assisted Marketing Plan Act to provide that if a seller requires a purchaser to enter into a non-compete agreement in a side-agreement or ancillary agreement, the seller shall include a disclosure of the existence of the side-agreement or ancillary agreement in its updated disclosure document as filed with the Department of Banking and Finance.

Section 2 would amend section 87-402 of the Franchise Practices Act to define “non-compete agreement” as an agreement between a franchisor and a franchisee that restricts the business activities in which such persons may engage during or after the term of the franchise.

Section 3 would amend section 87-404 of the Franchise Practices Act to provide that if restrictions in a non-compete agreement are found by an arbitrator or a court to be unreasonable in restraining competition, the arbitrator or court shall reform the terms of the non-compete agreement to the extent necessary to cause the restrictions to be reasonable and enforceable. This section would further provide that the arbitrator or court shall then enforce the non-compete agreement against the franchisee in accordance with the reformed terms of the non-compete agreement.

The bill carries the emergency clause.

Principal Introducer: _____

Senator Jim Scheer