AN ACT

relating to the franchise arrangements excluded from the Business
Opportunity Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 51.003, Business &
Commerce Code, as effective April 1, 2009, is amended to read as
follows:

(b) In this chapter, "business opportunity" does not
include:

(1) the sale or lease of an established and ongoing
business or enterprise that has actively conducted business before
the sale or lease, whether composed of one or more than one
component business or enterprise, if the sale or lease represents
an isolated transaction or series of transactions involving a bona
fide change of ownership or control of the business or enterprise or
liquidation of the business or enterprise;

(2) a sale by a retailer of goods or services under a
contract or other agreement to sell the inventory of one or more
ongoing leased departments to a purchaser who is granted the right
to sell the goods or services within or adjoining a retail business
establishment as a department or division of the retail business
establishment;

(3) a transaction that is:

(A) regulated by the Texas Department of
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1 Licensing and Regulation, the Texas Department of Insurance, the
2 Texas Real Estate Commission, or the director of the Motor Vehicle
3 Division of the Texas Department of Transportation; and
4   (B) engaged in by a person licensed by one of
5 those agencies;
6   (4) a real estate syndication;
7   (5) a sale or lease to a business enterprise that also
8 sells or leases products, equipment, or supplies or performs
9 services:
10   (A) that are not supplied by the seller; and
11   (B) that the purchaser does not use with the
12 seller's products, equipment, supplies, or services;
13   (6) the offer or sale of a franchise as described by
15 seq.) and its subsequent amendments;
16   (7) the offer or sale of a business opportunity if the
17 seller:
18   (A) has a net worth of $25 million or more
19 according to the seller's audited balance sheet as of a date not
20 earlier than the 13th month before the date of the transaction; or
21   (B) is at least 80 percent owned by another
22 person who:
23   (i) in writing unconditionally guarantees
24 performance by the person offering the business opportunity plan;
25 and
26   (ii) has a net worth of more than $25
27 million according to the person's most recent audited balance sheet
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as of a date not earlier than the 13th month before the date of the
transaction; or

(8) an arrangement defined as a franchise by 16 C.F.R.
Part 436 [Section 436.2(a)] and its subsequent amendments if:

(A) the franchisor complies in all material
respects in this state with 16 C.F.R. Part 436 and each order or
other action of the Federal Trade Commission; and

(B) before offering for sale or selling a
franchise in this state, a person files with the secretary of state
a notice containing:

(i) the name of the franchisor;

(ii) the name under which the franchisor
intends to transact business; and

(iii) the franchisor's principal business
address.

SECTION 2. This Act takes effect September 1, 2009.
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Rand Paul
President of the Senate

I hereby certify that S.B. No. 1701 passed the Senate on April 23, 2009, by the following vote: Yeas 30, Nays 0.

J. Straus
Speaker of the House

Pettyaud
Secretary of the Senate

I hereby certify that S.B. No. 1701 passed the House on May 26, 2009, by the following vote: Yeas 144, Nays 0, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

19 JUN '09

Date

Rick Perry
Governor

Filed in the Office of the Secretary of State
2 P.M. O'Clock
JUN 19 2009

Colby Shuter III