



Business Opportunity Disclosure Act

Utah Code § 13-15

A Guide For Sellers of Business Opportunities



Statute is subject to change

Digital handbook published June 2024. The information presented is subject to change at any time, and may not fully describe your legal obligations. This handbook is not legal advice. For questions, call 801-530-6601 or email consumerprotection@utah.gov.

Table of Contents

Registering With Commerce	3
What is a “Business Opportunity”?	4
Franchises Under BODA	5
Enforcement Under the Division	6
BODA & Consumer Complaints	7
What You Need to File With DCP	8
How to Obtain a Proof of Disclosure Receipt	9
Disclosure Cover Sheet Details	10
How to Get a Proof of Notice Receipt	11

Registering With Commerce



The Utah Department of Commerce and its various divisions oversee the registration and enforcement of a variety of business and statutes that either operate within the state or directly solicit from citizens thereof. Your business venture may fall under more than one category and may need several different registrations depending on how it operates.

For example: It is typical to sell business opportunities over the phone. Organization that do this would need to register with the Division of Consumer Protection under both BODA and the Telephone Fraud Prevention Act (Utah code § 13-26) as well as any other necessary registrations that pertain to that business.

It is your responsibility to register your business under any and all provisions set forth under the law.

.....

Learn more:



UTAH DEPARTMENT
OF COMMERCE

Division of Consumer Protection

Reviewed July 3, 2024
Statute is subject to change, information
is not intended as legal advice.

What is a “Business Opportunity”?

When a person:

1. Sells or leases a product, equipment, supply or service.
2. Receives payment of at least \$500 within 6 months.
3. For the purpose of enabling the buyer to start a business.

AND makes ANY of the following representations:



The seller guarantees that the buyer will make more from the business opportunity than it cost to purchase and if not the seller will repurchase the opportunity from the buyer.



The buyer will derive income from the business that exceeds the purchase price of the product, equipment, supply or services.



The seller provides locations for vending machines, amusement machines, or anything similar.



The seller will purchase a product made by buyer using products, equipment, or supplies purchased from the seller.



Franchises Under BODA

A person may not sell a franchise that will be located in Utah, or to a resident of Utah without first filing a notice with the Division of Consumer Protection stating that the franchisor is in compliance with **FTC rules**.

How does the statute define a franchise?

Any continuing, commercial relationship or arrangement, in which the terms of the offer or contract specify, or the franchise seller promises or represents, orally or in writing that:

1

The franchisee will obtain the right to operate a business that is identified or associated with the franchisor's trademark, or to offer, sell, or distribute goods, services, or commodities that are identified or associated with the franchisor's trademark;

2

The franchisor will exert or has authority to exert a significant degree of control over the franchisee's method of operation, or provide significant assistance in the franchisee's method of operations; and

3

As a condition of obtaining or commencing operation of the franchise, the franchisee makes a required payment or commits to make a required payment to the franchisor or its affiliate.



Enforcement Under the Division



The Division may fine up to:
\$2,500
per BODA violation.

Misrepresentations and violations of BODA rules have previously resulted in considerable consumer harm. Here are two examples of companies that have faced severe consequences for misrepresenting and violating statute:

BODA & Consumer Complaints

The Division of Consumer Protection generally cannot disclose consumer complaints unless the Division files a legal action in connection with that complaint. However,

if a consumer alleges a loss of \$3,500 or more

or

10 or more complaints are made against the same company in the span of 12 months,

those complaints can be made public.



What you need to File with DCP

Business Opportunity Sellers

\$200 Filing Fee

Franchises

\$100 Filing Fee

Proofs of Disclosure and Notice must be filed annually with the Division of Consumer Protection



UTAH DEPARTMENT
OF COMMERCE

Division of Consumer Protection

Reviewed July 3, 2024
Statute is subject to change, information
is not intended as legal advice.

How to Obtain a Proof of Disclosure Receipt (BODA)



The statement includes identifying information for owners and managers of the business, a financial statement, and information about the business opportunity being sold.

Pay a \$200 filing fee

Disclosure Cover Sheet Details

Business Opportunity Disclosures must include a cover letter attached to the front in at least 12-point upper-and lower-case boldface type with the following information and script:

Name of the applicant

Date the applicant files the disclosure

“INFORMATION FOR THE PURCHASE OF A BUSINESS OPPORTUNITY: To protect you, the State of Utah has required your seller to give you this disclosure statement. The State of Utah has not verified the accuracy of the information in the disclosure statement.”

“CAUTION

The number of purchasers who have earned through this business opportunity an amount in excess of the amount the purchaser pays for the business opportunity is at least _____ which represents at least _____% of the total number of purchasers of this business opportunity.”



How to Obtain a Proof of Disclosure Receipt (BODA)

The franchisor is in compliance with the requirement laid out in the Federal Trade Commission Rule concerning **Disclosure Requirement and Prohibitions Concerning Franchising**.

The name of the applicant

The name of the franchise

The name under which the applicant intends to transact business, if different

The address of applicant's principal place of business

The applicant's state-issued or government-issued business entity number




Pay a \$200 filing fee



Statute is subject to change

Get In Touch

 801-530-6601

 consumerprotection@utah.gov

 www.dcp.utah.gov

 PO Box 146704
Salt Lake City, UT 84114