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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (*Division 8 added by Stats. 1941, Ch. 44.*)

CHAPTER 17. Invention Development Services Contracts [22370 - 22395] (*Chapter 17 added by Stats. 1975, Ch. 967.*)

ARTICLE 1. General Provisions [22370 - 22371] (*Article 1 added by Stats. 1975, Ch. 967.*)

22370. (a) The Legislature finds that there are in the State of California members of the general public who have ideas or inventions that they believe have substantial commercial value but which members of the general public do not have the resources or expertise necessary to develop, manufacture or market these ideas or inventions; that these members of the general public are commonly referred to as "inventors"; that these inventors are generally not people who earn their livelihood from developing, manufacturing, promoting or marketing ideas or inventions, from manufacturing or marketing products, from publishing literary works or from owning, operating or controlling commercial enterprises; that there is a significant number of persons who have realized that inventors are willing to expend substantial sums for services represented to result in the development, manufacture, promotion, sale or general exploitation of the commercial value of their ideas or inventions; that these persons are frequently known as invention developers; that the invention developers' services are generally offered for sums ranging from \$500 to \$5,000 plus either a percentage of the income that may be derived from the sale or marketing of the idea or invention or a partial ownership interest in the idea or invention; that the inventors generally have a very passive role in the development, promotion, manufacture or sale of their ideas or inventions after the contract with the invention developer is executed, usually doing little more than receiving periodic reports from the invention developer; that an extremely small number of inventors to whom these invention developers offer their services ever have their products sold or marketed; that there exists in connection with invention development services, sales practices and business methods which have worked a fraud, deceit, imposition, and financial hardship upon many people of this state; that existing legal protection to consumers is inadequate to prevent these abuses; that the invention development industry has a significant impact upon the economy and well-being of this state and its local communities; and that the provisions of this chapter relating to such services are necessary for the public welfare.

(b) The Legislature declares that the purpose of this chapter is to safeguard the public against fraud, deceit, imposition, and financial hardship, and to foster and encourage competition, fair dealing, and prosperity in the field of invention development services by prohibiting or restricting false or misleading advertising, onerous contract terms, harmful financial practices, and other unfair, dishonest, deceptive, destructive, unscrupulous, fraudulent, and discriminatory practices by which the public has been injured in connection with invention development services but not to interfere with, or further regulate by this chapter, those persons who provide researching, marketing, surveying, or other kinds of consulting services to professional manufacturers, marketers, publishers or others purchasing such services as an adjunct to the traditional commercial enterprises in which they engage as a livelihood.

(*Added by Stats. 1975, Ch. 967.*)

22371. As used in this chapter, the following words have the following meanings:

(a) "Contract for invention development services" shall include a contract by which an invention developer undertakes to develop or promote an invention for a customer.

(b) "Customer" shall include any person, firm, corporation, or other entity that is solicited by, inquires about or seeks the services of, or enters into a contract for invention development services with an invention developer, except (1) any department or agency of the federal, state, or local government, (2) any charitable, scientific, educational, religious, or other organization qualified under Section 501(c)(3) or described in Section 170(b)(1)(a) of the Internal Revenue Code of 1954, as amended, and (3) any person, firm, corporation, or other entity regularly engaged in a trade, business, or profession which has either a net worth of one hundred thousand dollars (\$100,000) or more or gross receipts from any source of fifty thousand dollars (\$50,000) or more during the calendar year in which any contract for invention development services is signed.

(c) "Invention" shall mean (1) an invention, (2) an idea, (3) a concept, or (4) any combination thereof.

(d) "Invention developer" shall mean any person, firm, corporation, or association, and the agents, employees, or representatives of such person, firm, corporation, or association that develops or promotes or offers to develop or promote an invention, except (1) any

department or agency of the federal, state, or local government, (2) any charitable, scientific, educational, religious, or other organization qualified under Section 501(c)(3) or described in Section 170(b)(1)(a) of the Internal Revenue Code of 1954, as amended, (3) any person, firm, corporation, association, or other entity whose gross receipts from contracts for invention development services, as defined in subdivision (a) of Section 22371, do not exceed 10 percent of its gross receipts from all sources during the fiscal year preceding the year in which any contract for invention development services is signed, or (4) any person, firm, corporation, association or other entity that does not charge a fee for invention development services. For the purposes of this paragraph, "fee" shall include any payment made by the customer to such entity including reimbursements for expenditures made or costs incurred by such entity but shall not include any payment made from a portion of the income received by a customer by virtue of invention development services performed by such entity.

(e) "Invention development services" shall include acts required or promised to be performed, or actually performed, or both, by an invention developer for a customer.

(Added by Stats. 1975, Ch. 967.)