

LOCAL LAW No. 13 - 1973

A local law prohibiting the operation of pyramid sales schemes.

Became a law with the approval of the county executive, August 9, 1973. Passed by the local legislative body of the county of Erie. Filed in the office of the secretary of state August 15, 1973.

*Be it enacted by the legislature of the county of Erie as follows:*

Section 1. Legislative findings and declaration of policy. It is hereby declared that:

(a) It is contrary to the interests of the people of Erie county to permit companies which, for the purpose of defrauding the public, practice a pattern of misrepresentation, trickery and deceit by operating what is termed a "pyramid sales scheme" or "endless chain plan".

(b) The nature of a pyramid sales scheme is a plan in which each consumer-investor buys a product and the right to recruit other consumer-investors, who recruit other consumer-investors, etc. The scheme is similar to a chain letter which enables some profit until the available supply of participants in the geographical area is exhausted. The operators of the scheme have usually left town before this mathematical inevitability occurs.

(c) By inducing consumers with promises of high income and utilizing deceptive, high-pressure sales techniques, these schemes put investors in a position whereby the only way they can avert financial ruin is to exploit their friends and acquaintances.

(d) To protect the people of Erie county from becoming ensnared by such schemes, it is necessary to make operation of or participation in such a scheme an illegal practice.

§ 2. Definitions. (a) The term "sale or distribution" includes, but is not limited to, the acts of leasing, renting or consigning.

(b) The term "goods" includes any personal property, real property or any combination thereof.

(c) The term "other property" includes a franchise, license distributorship, or other similar right, privilege or interest.

(d) The term "pyramid sales scheme" includes any plan or operation for the sale or distribution of goods, services or other property wherein a person for a consideration acquires the opportunity to receive a pecuniary benefit (1) which is not primarily contingent on the volume or quantity of goods, services or other properties sold or distributed or to be sold or distributed to persons for purposes of resale to consumers, and (2) which is based upon the inducement of additional persons, by himself or others, to participate in the same plan or operation.

(e) The term "person" shall include a corporation.

§ 3. Whoever sells or offers or attempts to sell a participation or the right to participate in a pyramid sales scheme shall be deemed guilty of a misdemeanor, as defined in section 10.00 of the Penal Law of the state of New York, and subject to a fine of not more than one thousand dollars or by imprisonment for a term not to exceed up to one year, or by both such fine and imprisonment.

§ 4. Any contract made in violation of section three of this act is void and any person who induces another person to participate in a pyramid sale\* scheme shall be liable to the induced person in an amount equal to the sum of (1) twice the amount of consideration as determined by the court.

§ 5. Whenever it appears any person is engaged or is about to engage in any act or practice which constitutes a pyramid sale\* scheme, the Erie county attorney may bring an action in a court of competent jurisdiction to enjoin such act or practice, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond.

§ 6. If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or section thereof directly involved in the proceeding in which such adjudication shall have been rendered.

§ 7. This local law shall take effect immediately.

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\* So in original.