

**ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB942**

---

**Hearing Date:** Monday February 01, 2016  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Scheer  
**One Liner:** Provide a disclosure requirement to the Department of Banking and Finance for seller-assisted marketing plan contracts as prescribed

---

**Roll Call Vote - Final Committee Action:**  
Advanced to General File

---

**Vote Results:**

<b>Aye:</b>	6	Senators Campbell, Fox, Gloor, Lindstrom, Scheer, Williams
<b>Nay:</b>		
<b>Absent:</b>	1	Senator Craighead
<b>Present Not Voting:</b>	1	Senator Schumacher

---

**Verbal Testimony:**

**Proponents:**

Senator Jim Scheer  
Jim Otto  
Dean Heyl  
Ron Sedlacek

**Representing:**

Introducer  
NE Retail Federation; NE Restaurant Association  
International Franchise Association  
Nebraska Chamber of Commerce

**Opponents:**

**Representing:**

**Neutral:**

Director Mark Quandahl

**Representing:**

NE Department of Banking and Finance

---

**Summary of purpose and/or changes:**

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 in accordance with the reformed terms of the non-compete agreement.

---

The bill carries the emergency clause.

---

---

Jim Scheer, Chairperson