

By the Committee on Regulated Industries; and Senators Latvala, Lee, and Perry

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1 A bill to be entitled
2 An act relating to franchises; creating s. 686.101,
3 F.S.; providing a short title; creating s. 686.102,
4 F.S.; providing legislative findings and intent;
5 providing construction; creating s. 686.103, F.S.;
6 providing definitions; creating s. 686.104, F.S.;
7 prohibiting a franchisor from terminating or not
8 renewing a franchise except under certain
9 circumstances; providing limitations on what
10 constitutes good cause; providing that immediate
11 notice of termination of a franchise for specified
12 reasons under certain circumstances is reasonable;
13 creating s. 686.105, F.S.; providing that a franchise
14 is deemed to be continuing under certain
15 circumstances; prohibiting a franchisor from allowing
16 a franchise to expire unless specified criteria have
17 been met; authorizing a franchisor to require a
18 franchisee to meet specified requirements; requiring a
19 franchise and other related agreements to continue in
20 effect under certain circumstances; creating s.
21 686.106, F.S.; prohibiting a franchisor from denying
22 certain persons the opportunity to participate in the
23 ownership of a franchise for a specified period after
24 the death of the franchisee or the person controlling
25 a majority interest; requiring specified persons to
26 meet certain requirements or to sell, transfer, or
27 assign the franchise after the death of the franchisee
28 or the person controlling a majority interest;
29 authorizing a franchisee to sell, transfer, or assign

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30 a franchise, specified assets, or an interest in the
31 franchisee under certain circumstances; prohibiting a
32 franchisor from preventing a franchisee from selling
33 or transferring a franchise, assets of the franchise
34 business, or an interest in the franchisee under
35 certain circumstances; requiring the franchisor to
36 make available and to apply specified requirements for
37 the approval of new or renewing franchises under
38 certain circumstances; requiring a franchisee to
39 notify a franchisor of certain intent; providing
40 notice requirements; providing application
41 requirements for the proposed purchaser, transferee,
42 or assignee of a franchise, certain assets, or an
43 interest in the franchisee under certain
44 circumstances; requiring a franchisor to notify a
45 franchisee of the approval status of a proposed sale,
46 assignment, or transfer within a specified timeframe;
47 providing notice requirements; providing that certain
48 provisions do not prohibit a franchisor from
49 exercising a contractual right of first refusal under
50 certain circumstances; creating s. 686.107, F.S.;
51 providing that a franchisee must have the opportunity
52 to monetize certain equity from the franchise business
53 under certain circumstances; requiring the repurchase
54 by a franchisor of certain inventory, supplies, goods,
55 fixtures, equipment, goodwill, and furnishings upon
56 termination, nonrenewal, or expiration of a franchise
57 subject to certain requirements; providing
58 applicability; providing that a franchisor is civilly

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59 liable for failing or refusing to repurchase certain
60 inventory, supplies, goods, fixtures, equipment,
61 goodwill, and furnishings under specified requirements
62 upon termination, nonrenewal, or expiration of a
63 franchise; creating s. 686.108, F.S.; requiring a
64 franchisor or subfranchisor and a franchisee to deal
65 with each other in good faith; prohibiting a person
66 from intentionally misrepresenting or failing to
67 disclose specified information; providing that certain
68 actions are deemed unfair and deceptive; providing
69 that it is a violation of certain provisions for a
70 franchisor and subfranchisor to restrict or inhibit
71 specified rights of franchisees; providing that
72 certain violations constitute a misdemeanor of the
73 second degree; providing penalties; providing that a
74 person may be awarded certain damages, attorney fees,
75 and other costs under specified circumstances;
76 authorizing the Department of Legal Affairs by itself
77 or jointly with the Department of Agriculture and
78 Consumer Services to sue a franchisor on behalf of
79 certain persons for specified violations; creating s.
80 686.109, F.S.; providing that a contract or franchise
81 agreement is void and unenforceable under certain
82 circumstances; creating s. 686.110, F.S.; providing
83 that provisions in a franchise agreement which
84 restrict venue or choice of law are void under certain
85 circumstances; creating s. 686.111, F.S.; providing
86 that the rights of a franchisor and franchisee to
87 agree to binding arbitration are not limited under

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88 certain circumstances; creating s. 686.112, F.S.;

89 providing remedies for a franchisee or an aggrieved or

90 injured person under certain circumstances;

91 authorizing punitive damages under certain

92 circumstances; authorizing the Department of Legal

93 Affairs or the state attorney to bring an action for

94 injunctive relief or other civil relief under certain

95 circumstances; clarifying that specified remedies are

96 in addition to existing remedies; creating s. 686.113

97 F.S.; providing applicability; amending s. 817.416,

98 F.S.; providing applicability; providing a directive

99 to the Division of Law Revision and Information;

100 providing an effective date.

101

102 Be It Enacted by the Legislature of the State of Florida:

103

104 Section 1. Section 686.101, Florida Statutes, is created to

105 read:

106 686.101 Short title.—Sections 686.101-686.113 may be cited

107 as the "Protect Florida Small Business Act."

108 Section 2. Section 686.102, Florida Statutes, is created to

109 read:

110 686.102 Legislative findings and intent; construction.—

111 (1) The Legislature finds that the welfare of franchisees,

112 including the success and failure of their franchise businesses,

113 greatly affects the general economy of this state, the public

114 interest, and the public welfare. The intent of the Legislature

115 is to promote fair business relations between franchisees and

116 franchisors and to protect franchisees against unfair treatment

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117 by franchisors. Therefore, it is necessary to regulate the
118 conduct of franchisors and their representatives in order to
119 prevent fraud, unfair business practices, unfair methods of
120 competition, impositions, and other abuses upon franchisees in
121 this state.

122 (2) In order to promote the intention and policies in this
123 section, the provisions of this act shall be liberally
124 construed.

125 Section 3. Section 686.103, Florida Statutes, is created to
126 read:

127 686.103 Definitions.—As used in this act, the term:

128 (1) "Affiliate" means a person controlling, controlled by,
129 or under common control with another person or, in the case of a
130 business entity, such entity's officer, director, or other
131 person in control of the activities of such entity.

132 (2) "Area franchise" means a contract or agreement,
133 expressed or implied, written or oral, regardless of whether the
134 contract or agreement is designated as a franchise, permit,
135 license, resolution, contract, certificate, agreement, or
136 otherwise, between a franchisor and another person through which
137 that person is granted the right, for consideration in whole or
138 in part:

139 (a) To sell or negotiate the sale of a franchise in the
140 name or on behalf of the franchisor; or

141 (b) To become an area developer and develop a franchise for
142 the benefit of that person or that person's affiliates.

143 (3) "Area franchisee" means the owner of an area franchise.

144 (4) (a) "Franchise" or "franchise agreement" means a
145 contract or agreement, expressed or implied, written or oral,

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146 regardless of whether the contract or agreement is designated as
147 a franchise, permit, license, resolution, contract, certificate,
148 agreement, or otherwise, for a definite or indefinite time,
149 between two or more persons by which:

150 1. A franchisee is granted the right to engage in the
151 business of offering, selling, or distributing goods or services
152 under a marketing plan or system prescribed in substantial part
153 by a franchisor;

154 2. The operation of the franchise business pursuant to that
155 marketing plan or system is substantially associated with the
156 franchisor's trademark, service mark, trade name, logotype,
157 advertising, or other commercial symbol designating the
158 franchisor or its affiliate; and

159 3. The franchisee is required to pay, directly or
160 indirectly, a franchise fee.

161 (b) The term "franchise" or "franchise agreement" includes
162 an area franchise.

163 (c) The term "franchise" or "franchise agreement" does not
164 include any of the following:

165 1. A franchise governed by the Agricultural Equipment
166 Manufacturers and Dealers Act.

167 2. Any activity governed by ss. 686.501-686.506.

168 3. A franchise governed by the Outdoor Power Equipment
169 Manufacturers, Distributors, Wholesalers, and Servicing Dealers
170 Act.

171 4. A motor vehicle franchise or agreement governed by ss.
172 320.3201-320.3211 or ss. 320.60-320.70.

173 5. A business relationship between a beer distributor and a
174 manufacturer governed by s. 563.022.

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175 6. A professional sports franchise as described in s.
176 288.11625(2)(c).

177 (5) "Franchise business" means a business unit that is
178 owned or operated by a franchisee and that is subject to a
179 marketing plan or system prescribed by the franchise.

180 (6) "Franchise fee" means a fee or charge greater than \$100
181 annually which a franchisee is required to pay or agrees to pay,
182 directly or indirectly, to the franchisor for the right to enter
183 into or continue a franchise, including, but not limited to, a
184 payment for goods or services. However, a fee or charge that a
185 franchisee pays or agrees to pay the franchisor for goods at a
186 bona fide wholesale price if no obligation is imposed upon the
187 franchisee to purchase or pay for a quantity of goods in excess
188 of that which a reasonable person normally would purchase by way
189 of a starting inventory or supply or to maintain an ongoing
190 inventory or supply is not considered a franchise fee.

191 (7) "Franchisee" means a person to whom a franchise is
192 offered or granted.

193 (8) "Franchisor" means a person who grants a franchise to a
194 franchisee.

195 (9) "Fraud" means and includes actual fraud or constructive
196 fraud as normally defined, in addition to the following:

197 (a) A misrepresentation in any manner, whether
198 intentionally false or arising from negligence, of a material
199 fact.

200 (b) A promise or representation not made honestly and in
201 good faith.

202 (c) An intentional failure to disclose a material fact.

203 (d) Any artifice employed to deceive another.

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204 (10) "Person" means a natural person, corporation, limited
205 liability company, association, partnership, trust, or other
206 business entity and, in the case of a business entity, includes
207 any other affiliate of such entity.

208 (11) "Sale" means and includes the issuance, transfer,
209 agreement for transfer, exchange, pledge, hypothecation, or
210 mortgage in any manner or form, whether by transfer in trust or
211 otherwise, of any goods or interest therein, or of any franchise
212 related thereto, for a consideration, and any option,
213 subscription or other contract, or solicitation, looking to a
214 sale, or offer or attempt to sell in any form, whether in
215 written or oral form, for a consideration.

216 Section 4. Section 686.104, Florida Statutes, is created to
217 read:

218 686.104 Termination or nonrenewal.—

219 (1) Except as otherwise provided in this act, a franchisor
220 may not terminate or refuse to renew a franchise except for good
221 cause. The termination or nonrenewal of a franchise without good
222 cause constitutes an unfair termination. Except as provided in
223 subsection (2), good cause is limited to the failure of the
224 franchisee to substantially comply with the reasonable and
225 material requirements imposed upon the franchisee by the
226 franchise agreement after being given notice at least 90 days in
227 advance of the termination and a reasonable opportunity, which
228 may not be less than 60 days after the date of the notice of
229 noncompliance, to cure the failure. If the franchisee cures the
230 failure within the time given to cure, the termination notice is
231 void.

232 (2) A franchisor may give to a franchisee an immediate

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233 notice of termination without an opportunity to cure if, during
234 the period in which the franchise is in effect, any one of the
235 following events relevant to the franchise occurs:

236 (a) The franchisee has been judicially determined to be
237 insolvent, has had all or a substantial part of its assets
238 assigned to or for the benefit of any creditor, or has admitted
239 its inability to pay its debts as they come due.

240 (b) The franchisee abandons, by failing to operate, the
241 franchise business for 10 consecutive days during which, under
242 the terms of the franchise, the franchisee is required to
243 operate the franchise business unless such failure to operate is
244 due to an act of God; a work stoppage; a strike or labor
245 difficulty; a fire, flood, hurricane, or sinkhole; or other
246 causes beyond the franchisee's control.

247 (c) The franchisor and franchisee, within 30 days after
248 termination or nonrenewal, agree in writing to terminate the
249 franchise.

250 (d) The franchisee fails, for a period of 10 days after a
251 notice of noncompliance, to comply with any federal, state, or
252 local law or regulation, including, but not limited to, any
253 health, safety, building, and labor law or regulation applicable
254 to the operation of the franchise.

255 (e) A levy of execution has been made on the license
256 granted by the franchise or on a property used in the franchise
257 business and is not discharged within 5 days after such levy.

258 (f) The franchisee is convicted of a felony that
259 significantly, directly, and adversely affects the operation of
260 the franchise business.

261 (g) The franchisor makes a reasonable determination that

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262 continued operation of the franchise business by the franchisee
263 will result in imminent and substantial danger to public health
264 or safety.

265 Section 5. Section 686.105, Florida Statutes, is created to
266 read:

267 686.105 Expiration.—

268 (1) A franchise agreement, regardless of its stated term of
269 years, is deemed to be continuing unless the franchisor has
270 complied with subsections (2) and (3).

271 (2) A franchisor must provide written notice to the
272 franchisee of the franchisor's intent not to extend the
273 agreement beyond its expiration date at least 180 days before
274 the expiration date unless:

275 (a) Termination of the franchise agreement is authorized
276 under s. 686.104;

277 (b) The franchisor and franchisee agree, before the
278 agreement's expiration, in writing not to extend the franchise;
279 or

280 (c) The franchisor completely withdraws from directly or
281 indirectly distributing its products or services in the
282 geographic market then being served by the franchisee.

283 (3) The franchisor may permit the franchise agreement to
284 expire if the franchisor provides written notice 180 days before
285 the agreement's expiration, the franchisor agrees not to enforce
286 any covenant against the franchisee not to compete with the
287 franchisor or with other franchisees of the franchisor, and the
288 nonrenewal of the franchise is not for the purpose of converting
289 the franchise business to operation by an affiliate, employee,
290 or agent of the franchisor.

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291 (4) As a condition of an extension of the franchise
292 agreement, the franchisor may require that the franchisee meet
293 the reasonable qualifications for new franchisees existing at
294 the time of extension and that the franchisee execute a new
295 franchise agreement incorporating terms and fees existing for
296 new franchises at the time of extension.

297 Section 6. Section 686.106, Florida Statutes, is created to
298 read:

299 686.106 Sales, transfers, and assignments.-

300 (1) A franchisor may not deny the surviving spouse, heir,
301 or estate of a deceased franchisee or of the person controlling
302 a majority interest in the franchisee the opportunity to
303 participate in the ownership of the franchise or franchise
304 business under a valid franchise agreement for at least 180 days
305 after the death of the franchisee or person controlling a
306 majority interest in the franchisee. During that time, the
307 surviving spouse, heir, or estate of the deceased must either
308 meet all of the existing reasonable qualifications for a
309 purchaser of a franchise or must sell, transfer, or assign the
310 franchise to a person who meets the franchisor's existing
311 reasonable qualifications for new franchisees. The rights
312 granted to the surviving spouse, heir, or estate under this
313 section are granted subject to the surviving spouse, heir, or
314 estate of the deceased maintaining all standards and obligations
315 of the franchise.

316 (2) (a) A franchisee may sell, transfer, or assign a
317 franchise, all or substantially all of the assets of the
318 franchise business, or an interest in the franchisee with the
319 prior written consent of the franchisor. The franchisor's

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320 consent may not be withheld unless the purchaser, transferee, or
321 assignee does not meet the qualifications for new or renewing
322 franchisees described in paragraph (b) or the franchisee and the
323 purchaser, transferee, or assignee fail to comply with other
324 reasonable transfer conditions specified in the franchise
325 agreement.

326 (b) A franchisor may not prevent a franchisee from selling,
327 transferring, or assigning a franchise, all or substantially all
328 of the assets of the franchise business, or an interest in the
329 franchisee to another person if the other person meets the
330 franchisor's reasonable qualifications for the approval of new
331 or renewing franchises in effect at the time the franchisor
332 receives notice of the proposed sale, transfer, or assignment.

333 (3) (a) To invoke the protections under this section, a
334 franchisee must, before the sale, transfer, or assignment of a
335 franchise, all or substantially all of the assets of the
336 franchise business, or an interest in the franchisee, notify the
337 franchisor in writing of the franchisee's intent to sell,
338 transfer, or assign.

339 (b) The franchisor shall, within 60 days after receipt of
340 all of the written notice or any shorter period required by the
341 franchise agreement, notify the franchisee of the approval or
342 disapproval of the proposed sale, transfer, or assignment. If
343 the proposed sale, transfer, or assignment is disapproved, the
344 franchisor must include in the notice of disapproval a statement
345 specifying the reasons for the disapproval. A proposed sale,
346 transfer, or assignment is deemed approved unless disapproved by
347 the franchisor in the manner provided in this paragraph.

348 (4) This section does not prohibit a franchisor from

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349 exercising the contractual right of first refusal to purchase a
350 franchise, all or substantially all of the assets of a franchise
351 business, or an interest in a franchisee after receipt of a bona
352 fide offer from a proposed seller to purchase the franchise,
353 assets, or interest. A franchisor exercising the contractual
354 right of first refusal shall offer the seller payment at least
355 equal to the value offered in the bona fide offer.

356 Section 7. Section 686.107, Florida Statutes, is created to
357 read:

358 686.107 Repurchase of inventory upon termination,
359 nonrenewal, or expiration of a franchise agreement.-

360 (1) (a) A franchisee must have the opportunity to monetize
361 any equity that the franchisee may have developed in the
362 franchise business before the termination, nonrenewal, or
363 expiration of the franchise agreement. Equity in the
364 franchisor's intellectual property is not transferred to the
365 franchisee, however. Therefore, upon termination, nonrenewal, or
366 expiration of a franchise agreement, a franchisor must, if the
367 franchisee requests it, repurchase at fair market value the
368 inventory, supplies, goods, fixtures, equipment, and furnishings
369 of the franchise business. The franchisor must also either
370 purchase the goodwill of the franchise business or waive any and
371 all noncompete obligations of the franchisee so that the
372 franchisee may, at its option, continue in business.

373 (b) This section does not apply if the franchisee declines
374 a bona fide offer of renewal from the franchisor which is
375 consistent with s. 686.105 and the franchise agreement between
376 the franchisor and franchisee.

377 (c) This section does not apply if the franchisor and

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378 franchisee agree in writing within 30 days of the termination,
379 nonrenewal, or expiration of the franchise to terminate or not
380 renew the franchise, or to allow the franchise to expire.

381 (d) This section does not apply to inventory, supplies,
382 goods, fixtures, equipment, or furnishings sold by the
383 franchisee between the date of the notice of termination,
384 nonrenewal, or expiration and the date the franchisee ceases to
385 operate the franchise business pursuant to a termination,
386 nonrenewal, or expiration.

387 (2) If a franchisor fails or refuses to repurchase any
388 inventory, supplies, goods, fixtures, equipment, goodwill, or
389 furnishings required to be repurchased under subsection (1)
390 within 60 days after the termination, nonrenewal, or expiration
391 of a franchise, the franchisor is civilly liable for the entire
392 value of the inventory, supplies, goods, fixtures, equipment,
393 goodwill, and furnishings required to be repurchased under
394 subsection (1), plus the franchisee's reasonable attorney fees,
395 court costs, and interest on the inventory, supplies, goods,
396 fixtures, equipment, goodwill, and furnishings computed at the
397 legal interest rate provided in s. 687.01 from the 61st day
398 after termination.

399 Section 8. Section 686.108, Florida Statutes, is created to
400 read:

401 686.108 Rights and prohibitions.—The following rights and
402 prohibitions govern the relations between a franchisor or
403 subfranchisor and its franchisee:

404 (1) The parties shall deal with each other in good faith
405 and in a commercially reasonable manner.

406 (2) A person may not, during the selling or establishing of

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407 a franchise, intentionally misrepresent or fail to disclose:

408 (a) The prospects or chances for success of the proposed or
409 existing franchise;

410 (b) The known required total investment for such franchise;
411 or

412 (c) Any effort to sell or establish more franchises than is
413 reasonable to expect the market or market area for the
414 particular franchise to sustain.

415 (3) It is prohibited and deemed an unfair and deceptive act
416 or practice, or an unfair method of competition, and a violation
417 of this section for a franchisor or subfranchisor, or an
418 officer, agent, employee, or other representative thereof to
419 directly or indirectly:

420 (a) Terminate or fail to renew a franchise agreement in
421 violation of this act;

422 (b) Allow a franchise agreement to expire without complying
423 with this act;

424 (c) Fail to repurchase inventory, supplies, goods,
425 fixtures, equipment, goodwill, and furnishings in violation of
426 s. 686.107;

427 (d) Prevent a sale, transfer, or assignment of a franchise
428 in violation of s. 686.106;

429 (e) Violate the Florida Deceptive and Unfair Trade
430 Practices Act in connection with its business as a franchisor,
431 or an officer, agent, or other representative thereof;

432 (f) Resort to or use false or misleading advertising in
433 connection with its business as a franchisor, or an officer,
434 agent, or other representative thereof;

435 (g) Without prior written disclosure to a franchisee,

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436 obtain vendor rebates, kickbacks, or other similar payments from
437 another person with whom the franchisee does business or employs
438 on account of or in relation to the transactions between the
439 franchisee, the franchisor, and the other person;

440 (h) Require a franchisee to assent to a release,
441 assignment, novation, waiver, or estoppel that would relieve any
442 person from liability imposed under this act, including, but not
443 limited to, through the use of a disclaimer or checklist
444 designed to avoid a protection under this act;

445 (i) Require a franchisee to assent to the use of a choice
446 of law provision by selecting a different state's law to govern
447 the relationship of the parties;

448 (j) Restrict or inhibit, directly or indirectly, the right
449 of a franchisee to join a franchisee association or the free
450 association for any lawful purpose among franchisees;

451 (k) Impose upon a franchisee, by contract or rule, written
452 or oral, any unreasonable standard of conduct; or

453 (l) Require a franchisee to waive its rights to a jury
454 trial or waive any procedure or remedy otherwise available in
455 this state, however, a binding arbitration clause is enforceable
456 if it complies with s. 686.111.

457 (4) A person who executes or carries out a scheme, plan, or
458 organization that violates any provision of this section, if
459 knowledge or intent is proved, commits a misdemeanor of the
460 second degree, punishable as provided in ss. 775.082 and
461 775.083.

462 (5) A person who shows in a civil court of law a violation
463 of this section is entitled to the remedies in s. 686.112.

464 (6) The Department of Legal Affairs, by itself or jointly

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465 with the Department of Agriculture and Consumer Services, may
466 sue on behalf of the people of this state for injunctive relief
467 against any franchisor plan or activity that is in violation of
468 this act.

469 Section 9. Section 686.109, Florida Statutes, is created to
470 read:

471 686.109 Unenforceable franchise agreement or other contract
472 or part thereof.—A franchise agreement or other contract, a part
473 thereof, or practice thereunder which is in violation of any
474 provision of this act is deemed against public policy and is
475 void and unenforceable. An aggrieved party at its option may
476 choose to seek to void only the portion of the agreement that is
477 unenforceable and continue to enforce the remainder of the
478 agreement.

479 Section 10. Section 686.110, Florida Statutes, is created
480 to read:

481 686.110 Venue; choice of law.—

482 (1) A provision in a franchise agreement restricting the
483 venue to a forum outside of this state or selecting the law of
484 any other state or jurisdiction other than Florida is void with
485 respect to any claim arising under or relating to a franchise
486 agreement involving a franchisee that was, at the time of
487 signing, a resident of this state or a business entity
488 established in this state or involving a franchise business
489 either operating or planning to be operated in this state.

490 (2) An agreement between a franchisor based in this state
491 and a franchisee that was not, at the time of signing, a
492 resident of this state or a business entity established in this
493 state or involving a franchise business either operating or

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494 planning to be operated in this state is not subject to this
495 act, regardless of whether the franchise agreement contains a
496 choice of law provision selecting this state.

497 Section 11. Section 686.111, Florida Statutes, is created
498 to read:

499 686.111 Arbitration.—This act does not limit the right of a
500 franchisor and franchisee to agree, before or after a dispute
501 arises, to binding arbitration to settle a claim under this act
502 if:

503 (1) The standards applied and the remedies available in the
504 arbitration are not less than the requirements specified in this
505 act; and

506 (2) Each arbitrator employed is chosen from a list of
507 impartial arbitrators provided by the American Arbitration
508 Association or is any other impartial person.

509 Section 12. Section 686.112, Florida Statutes, is created
510 to read:

511 686.112 Remedies.—

512 (1) If a franchisor terminates, fails to renew, or allows a
513 franchise to expire in violation of this act, the franchisee is
514 entitled to receive from the franchisor the fair market value of
515 the franchise business and franchise assets in addition to any
516 other damage caused by the violation.

517 (2) In addition to any relief specified in this act, any
518 person aggrieved or injured in his or her business or property
519 by any violation of this act may bring an action in the
520 appropriate state or federal court of this state and shall
521 recover the damages sustained and the costs of such action,
522 including reasonable attorney fees.

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523 (3) Without regard and in addition to any other remedy or
524 relief to which a person is entitled, any person aggrieved by a
525 violation of this act may bring an action to obtain a
526 declaratory judgment stating that an action or a practice
527 violates these sections and may obtain injunctive relief
528 enjoining a franchisor that has violated, is violating, or is
529 otherwise likely to violate these sections from committing the
530 violation.

531 (4) In an action for monetary damages, if a judge or jury
532 finds that the franchisor acted maliciously, the judge or jury
533 may award punitive damages as authorized by state law.

534 (5) The Department of Legal Affairs or the state attorney
535 may bring an action for injunctive relief or other appropriate
536 civil relief for a violation of this act if the violation occurs
537 in the judicial circuit of the department or the state attorney,
538 respectively.

539 (6) The remedies provided in this section are in addition
540 to any other remedies provided by law or in equity, including,
541 but not limited to, the Florida Deceptive and Unfair Trade
542 Practices Act.

543 Section 13. Section 686.113, Florida Statutes, is created
544 to read:

545 686.113 Applicability.—

546 (1) Any person or franchisor who engages directly or
547 indirectly in an agreement or contract within this state in
548 connection with a franchise, or any franchise whose franchisee
549 is a resident of this state or is domiciled in this state or
550 whose franchise business is, has been, or is intended to be
551 operated in this state, is subject to this act and to the

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552 jurisdiction of the courts of this state, in accordance with the
553 laws of this state, for violations of this act.

554 (2) This act applies to:

555 (a) Any written or oral agreement between a franchisor and
556 a franchisee, including, but not limited to, a franchise
557 offering; a franchise agreement; a sale of goods, services, and
558 advertising; a lease or mortgage of real or personal property; a
559 promise to pay; a security interest; a pledge; an insurance
560 contract; an advertising contract; a construction or
561 installation contract; a servicing contract; and any other
562 agreement in which the franchisor has a direct or indirect
563 interest;

564 (b) Any franchise entered into, renewed, amended, or
565 revised after the effective date of this act;

566 (c) Any existing franchise of an indefinite duration which
567 may be terminated by the franchisee or franchisor without cause;
568 and

569 (d) Any existing franchise entered into before the
570 effective date of this act, only to the extent that this act
571 does not significantly impair the existing contract rights
572 between the parties.

573 (3) This act is supplemental to, and does not preempt,
574 local ordinances dealing with prohibited or unlawful conduct in
575 the manufacturing, distribution, wholesaling, advertising, or
576 sale of goods if such ordinances are not inconsistent with this
577 act.

578 (4) This act supersedes s. 817.416 with respect to any
579 franchisee that signs a franchise agreement on or after the
580 effective date of this act. Section 817.416 continues to govern

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581 the claims of all franchisees that signed franchise agreements
582 or were victims of fraud perpetrated before the effective date
583 of this act, as well as distributors and any other entities,
584 past, present, or future, which would be covered by s. 817.416,
585 but not by this act.

586 Section 14. Subsection (5) is added to section 817.416,
587 Florida Statutes, to read:

588 817.416 Franchises and distributorships;
589 misrepresentations.—

590 (5) APPLICABILITY.—This section does not apply to a
591 franchise entered into, renewed, amended, or revised on or after
592 the effective date of this act. A franchise entered into,
593 renewed, amended, or revised on or after the effective date of
594 this act is subject to ss. 686.101-686.113.

595 Section 15. The Division of Law Revision and Information is
596 directed to replace the phrase "the effective date of this act"
597 wherever it occurs in this act with the date the act becomes a
598 law.

599 Section 16. This act shall take effect upon becoming a law.