



HOUSE BILL No. 5553

February 1, 1996, Introduced by Reps. Schroer, Baird, Griffin, Brater, Weeks, Porreca, Profit, Martinez, LaForge, Cherry, Geiger, Jellema and Jaye and referred to the Committee on Commerce.

A bill to amend section 27 of Act No. 269 of the Public Acts of 1974, entitled as amended

"Franchise investment law,"

as amended by Act No. 92 of the Public Acts of 1984, being section 445.1527 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 27 of Act No. 269 of the Public Acts of
2 1974, as amended by Act No. 92 of the Public Acts of 1984, being
3 section 445.1527 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 27. ~~Each of the~~ THE following provisions ~~is~~ ARE
6 void and unenforceable if contained in any ~~documents~~ DOCUMENT
7 relating to a franchise:

8 (a) A prohibition on ~~the right of a franchisee~~ A
9 FRANCHISEE'S RIGHT to join an association of franchisees.

1 (b) A requirement that a franchisee assent to a release,
2 assignment, novation, waiver, or estoppel ~~which~~ THAT deprives a
3 franchisee of rights and protections provided in this act. This
4 ~~shall~~ SUBDIVISION DOES not preclude a franchisee, after enter-
5 ing into a franchise agreement, from settling any and all
6 claims.

7 (c) A provision that permits a franchisor to terminate a
8 franchise ~~prior to~~ BEFORE the expiration of its term except for
9 good cause. Good cause ~~shall include~~ INCLUDES the failure of
10 the franchisee to comply with any lawful provision of the fran-
11 chise agreement and to cure ~~such~~ THAT failure after being given
12 written notice ~~thereof~~ OF THAT FAILURE and a reasonable oppor-
13 tunity, which in no event need be more than 30 days, to cure
14 ~~such~~ THAT failure.

15 (d) A provision that permits a franchisor to refuse to renew
16 a franchise without fairly compensating the franchisee by repur-
17 chase or other means for the fair market value ~~at the time of~~
18 ~~expiration~~ of the franchisee's inventory, supplies, equipment,
19 fixtures, and furnishings AT THE TIME THE FRANCHISE EXPIRES.
20 Personalized materials ~~which~~ THAT have no value to the franchi-
21 sor and inventory, supplies, equipment, fixtures, and furnishings
22 not reasonably required in the conduct of the franchise business
23 are not subject to compensation. This ~~subsection~~ SUBDIVISION
24 applies only if BOTH OF THE FOLLOWING APPLY:

25 (i) The term of the franchise is less than 5 years. ~~and~~

26 (ii) ~~the~~ THE franchisee is prohibited by the franchise or
27 other agreement from ~~continuing to conduct~~ CONDUCTING

1 substantially the same business under another trademark, service
2 mark, trade name, logotype, advertising, or other commercial
3 symbol in the same area ~~subsequent to the expiration of~~ AFTER
4 the franchise ~~or the~~ EXPIRES.

5 (iii) THE franchisee does not receive at least 6 ~~months~~
6 MONTHS' advance notice of THE franchisor's intent not to renew
7 the franchise.

8 (e) A provision that permits the franchisor to refuse to
9 renew a franchise on terms generally available to other franchi-
10 sees of the same class or type under similar circumstances. This
11 ~~section~~ SUBDIVISION does not require a renewal provision.

12 (f) A provision requiring that arbitration or litigation be
13 conducted outside this state. This ~~shall~~ DOES not preclude the
14 franchisee from entering into an agreement ~~—~~ at the time of
15 arbitration ~~—~~ to conduct arbitration at a location outside this
16 state.

17 (g) A provision ~~which~~ THAT permits a franchisor to refuse
18 to permit a transfer of ownership of a franchise ~~—~~ except for
19 good cause. This subdivision does not prevent a franchisor from
20 exercising a right of first refusal to purchase the franchise.
21 Good cause ~~shall include~~ INCLUDES, but is not limited to, THE
22 FOLLOWING:

23 (i) The ~~failure of the~~ proposed transferee FAILS to meet
24 the franchisor's then current reasonable qualifications or
25 standards.

26 (ii) The ~~fact that the~~ proposed transferee is a competitor
27 of the franchisor or subfranchisor.

1 (iii) The ~~unwillingness of the~~ proposed transferee IS
2 UNWILLING to agree in writing to comply with all lawful
3 obligations.

4 (iv) The ~~failure of the~~ franchisee or proposed transferee
5 FAILS to pay any sums owing to the franchisor or to cure any
6 default in the franchise agreement existing at the time of the
7 proposed transfer.

8 (h) A provision that requires the franchisee to resell to
9 the franchisor items that are not uniquely identified with the
10 franchisor. This subdivision does not prohibit a provision that
11 grants to a franchisor a right of first refusal to purchase the
12 assets of a franchise on the same terms and conditions as a bona
13 fide third party willing and able to purchase those assets, ~~nor~~
14 AND does ~~this subdivision~~ NOT prohibit a provision that grants
15 the franchisor the right to acquire the assets of a franchise for
16 the market or appraised value of ~~such~~ THE assets if the fran-
17 chisee has ~~breached~~ FAILED TO COMPLY WITH the lawful provisions
18 of the franchise agreement and has ~~failed to cure the breach~~
19 NOT CURED THAT FAILURE in the manner provided in subdivision
20 (c).

21 (i) A provision ~~which~~ THAT permits the franchisor to
22 directly or indirectly convey, assign, or otherwise transfer its
23 obligations to fulfill contractual obligations to the franchisee
24 unless provision has been made for providing the required con-
25 tractual services.

1 (J) A CHOICE OF LAW PROVISION THAT REQUIRES THE FRANCHISOR'S
2 AND FRANCHISEE'S RIGHTS UNDER THE FRANCHISE AGREEMENT TO BE
3 DETERMINED UNDER THE LAWS OF A STATE OTHER THAN THIS STATE.