

HOUSE BILL 992

C2

5lr1288

By: **Delegate Korman**

Introduced and read first time: January 31, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Maryland Franchise Registration and Disclosure Law –**
3 **Alterations**
4 **(Franchise Reform Act)**

5 FOR the purpose of altering the period of time within which the Securities Commissioner
6 in the Office of the Attorney General may exercise a power under certain provisions
7 of law governing the sale of franchises; requiring the Securities Commissioner to
8 require that a certain franchise registration exemption be indexed to inflation or
9 deflation based on a certain index; altering the period of time within which an action
10 for liability under a certain provision of law pertaining to franchise offers for sale
11 must be brought; prohibiting a franchisor and certain others from inhibiting the
12 right of franchisees to associate for certain purposes; providing that an action may
13 be brought against a certain franchisor under certain circumstances; requiring the
14 Securities Commissioner to establish a certain pilot program to waive certain
15 franchise registration renewal fees under a certain provision of law under certain
16 circumstances; and generally relating to the Maryland Franchise Registration and
17 Disclosure Act.

18 BY repealing and reenacting, with amendments,
19 Article – Business Regulation
20 Section 14–210, 14–214, 14–227, and 14–233
21 Annotated Code of Maryland
22 (2024 Replacement Volume)

23 BY adding to
24 Article – Business Regulation
25 Section 14–219.1 and 14–233
26 Annotated Code of Maryland
27 (2024 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Business Regulation

14–210.

(a) (1) Whenever the Commissioner finds that a person has violated or is about to violate this subtitle or a regulation adopted or order passed under it, the Commissioner may order the person to cease and desist from the further offer to sell or sale of the franchise until the offer or sale complies with this subtitle.

(2) After passage of a cease and desist order, the alleged violator may submit to the Commissioner a written request for a hearing.

(3) The hearing shall begin:

(i) within 15 business days after the Commissioner receives the request for a hearing; or

(ii) at a later date, with the consent of the alleged violator.

(4) Unless there is a timely hearing, the cease and desist order is rescinded.

(b) (1) Whenever the Commissioner finds that a person has violated or is about to violate this subtitle or a regulation adopted or order passed under it, the Commissioner may sue in the circuit court to enjoin the violation or enforce this subtitle or the regulation or order.

(2) The court shall:

(i) determine if a violation of this subtitle has been or is about to be committed; and

(ii) if so, pass any order the court considers necessary to prevent the violation or remove the effects of the violation and prevent it from continuing or being renewed in the future.

(3) The court may exercise all equitable powers necessary for this purpose, including:

(i) injunction;

(ii) revocation, forfeiture, or suspension of the charter authority or privileges of a business organization operating under the laws of the State;

(iii) dissolution of a corporation or association organized under the laws of the State;

(iv) suspension or termination of the right of a corporation or association organized under the laws of another state or country to do business in the State;

(v) restitution;

(vi) restraining order;

(vii) award of damages to be paid by a franchisor or subfranchisor to a person injured by a violation of this subtitle; and

(viii) appointment of a receiver or conservator.

(4) The court may not require the Commissioner to post bond.

(c) The Commissioner may not exercise a power under this section more than [3] 5 years after the violation occurs.

14–214.

(a) Except as otherwise provided in this subtitle, a person must register the offer of a franchise with the Commissioner before the person offers to sell, through advertisement or otherwise, or sells the franchise in the State.

(b) The registration requirement of this section does not apply to:

(1) a transaction by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian, or conservator;

(2) an offer to sell or sale of a franchise that is substantially similar to a franchise already owned by the offeree or buyer; and

(3) any other transaction that the Commissioner exempts by regulation because:

(i) the transaction is not within the purpose of this subtitle; and

(ii) the registration of the transaction is not necessary or appropriate in the public interest or for the protection of investors.

(c) (1) The registration requirement of this section does not apply to the offer to sell or sale of a franchise by a franchisee for the franchisee's own account, or the offer to sell or sale of the entire area franchise owned by a subfranchisor for the subfranchisor's own account.

(2) A sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove a different franchisee.

(d) (1) The Commissioner may require by regulation that a franchisor or subfranchisor who claims under subsection (b)(3) of this section to be exempt from the registration requirements of this section:

(i) file with the Commissioner a notice of claim of exemption in the form that the Commissioner requires; and

(ii) pay a fee of \$250.

(2) The franchisor or subfranchisor shall sign and verify the notice of claim of exemption.

(E) THE COMMISSIONER SHALL REQUIRE THE FRANCHISOR NET EQUITY AMOUNTS SET FORTH IN THE FRANCHISE REGISTRATION EXEMPTION UNDER COMAR 02.02.08.10D.1 TO ACCOUNT FOR INFLATION OR DEFLATION BASED ON THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS BY THE U.S. DEPARTMENT OF LABOR.

14-227.

(A) THIS SECTION APPLIES ONLY TO:

(1) A FRANCHISEE OR FRANCHISOR WHO IS A RESIDENT OF THE STATE; OR

(2) A FRANCHISED BUSINESS THAT OPERATES OR WILL BE OPERATED IN THE STATE.

[(a)] (B) (1) A person who sells or grants a franchise is civilly liable to the person who buys or is granted a franchise if the person who sells or grants a franchise offers to sell or sells a franchise:

(i) without the offer of the franchise being registered under this subtitle; or

(ii) by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, if the person who buys or is granted a franchise does not know of the untruth or omission.

(2) In determining liability under this subsection, the person who sells or grants a franchise has the burden of proving that the person who sells or grants a franchise

1 did not know and, in the exercise of reasonable care, could not have known of the untruth
2 or omission.

3 **[(b)] (C)** The person who buys or is granted a franchise may sue under this
4 section to recover damages sustained by the grant of the franchise.

5 **[(c)] (D)** A court may order the person who sells or grants a franchise to:

6 (1) rescind the franchise; and

7 (2) make restitution to the person who buys or is granted a franchise.

8 **[(d)] (E)** (1) Joint and several liability under this section extends to:

9 (i) each person who directly or indirectly controls a person liable
10 under this section;

11 (ii) each partner in a partnership liable under this section;

12 (iii) each principal officer or director of a corporation liable under this
13 section;

14 (iv) each other person that has a similar status or performs similar
15 functions as a person liable under this section; and

16 (v) each employee of a person liable under this section, if the
17 employee materially aids in the act or transaction that is a violation under this subtitle.

18 (2) However, liability under this subsection does not extend to a person
19 who did not have knowledge of or reasonable grounds to believe in the existence of the facts
20 by which the liability is alleged to exist.

21 **[(e)] (F)** An action under this section must be brought within **[3] THE LATER**
22 **OF:**

23 **(1) 5 years after the grant of the franchise; OR**

24 **(2) 2 YEARS AFTER THE DATE OF THE INITIAL COMMENCEMENT OF**
25 **OPERATIONS OF THE FRANCHISE.**

26 **14-233.**

27 **(A) A FRANCHISOR MAY NOT, DIRECTLY OR INDIRECTLY, THROUGH ANY**
28 **OFFICER, AGENT, OR EMPLOYEE:**

(1) RESTRICT OR INHIBIT THE RIGHT OF A FRANCHISEE TO JOIN A TRADE ASSOCIATION CONSISTING OF OTHER FRANCHISEES OF THE SAME FRANCHISE; OR

(2) PROHIBIT THE RIGHT OF FREE ASSOCIATION AMONG FRANCHISEES FOR ANY LAWFUL PURPOSE.

(B) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION MAY BE SUED IN CIRCUIT COURT FOR:

(I) TEMPORARY OR PERMANENT INJUNCTIVE RELIEF;

(II) DAMAGES, IF ANY; AND

(III) COSTS OF THE SUIT, INCLUDING ANY REASONABLE ATTORNEY'S FEES.

(2) THE INJUNCTIVE RELIEF MAY BE SOUGHT FROM THE CIRCUIT COURT IN THE COUNTY WHERE THE INDIVIDUAL WHO IS ALLEGED TO BE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION RESIDES OR THE FRANCHISE AFFECTED BY THE VIOLATION CONDUCTS BUSINESS.

(3) WHEN SEEKING AN INJUNCTION UNDER THIS SECTION, THE PLAINTIFF MAY NOT BE REQUIRED TO ALLEGE OR PROVE ACTUAL DAMAGES SUFFERED TO OBTAIN INJUNCTIVE RELIEF.

(4) AN ACTION UNDER THIS SUBSECTION MUST BE BROUGHT WITHIN THE EARLIER OF:

(I) 2 YEARS AFTER THE ALLEGED VIOLATION OCCURRED; OR

(II) 1 YEAR AFTER THE DISCOVERY BY THE PLAINTIFF OF THE FACTS OF THE ALLEGED VIOLATION.

[14-233.] 14-234.

This subtitle is the Maryland Franchise Registration and Disclosure Law.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Regulation

14-219.1.

1 **(A) THE COMMISSIONER SHALL ESTABLISH A PILOT PROGRAM TO WAIVE**
2 **THE FRANCHISE REGISTRATION RENEWAL FEE UNDER § 14–219 OF THIS SUBTITLE**
3 **IF A REGISTRANT, AT LEAST 60 BUSINESS DAYS BEFORE THE END OF THE**
4 **REGISTRANT’S FISCAL YEAR, FILES WITH THE COMMISSIONER:**

5 **(1) A RENEWAL APPLICATION ON THE FORM THAT THE**
6 **COMMISSIONER REQUIRES;**

7 **(2) A PROSPECTUS;**

8 **(3) AN UNAUDITED FINANCIAL STATEMENT; AND**

9 **(4) DOCUMENTATION OF ANY MATERIAL CHANGES IN THE FINANCIAL**
10 **CONDITION OF THE REGISTRANT FROM THE DATE OF THE MOST RECENT AUDITED**
11 **FINANCIAL STATEMENT.**

12 **(B) ON OR BEFORE SEPTEMBER 30, 2030, THE COMMISSIONER SHALL, IN**
13 **ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, SUBMIT A**
14 **REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC**
15 **MATTERS COMMITTEE THAT INCLUDES:**

16 **(1) THE NUMBER AND TOTAL AMOUNT OF FRANCHISE REGISTRATION**
17 **RENEWAL FEES WAIVED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION;**

18 **(2) THE AMOUNT OF TIME REQUIRED TO ADMINISTER THE PILOT**
19 **PROGRAM, INCLUDING THE PROCESSING OF FRANCHISE REGISTRATION RENEWAL**
20 **FEES UNDER § 14–219 OF THIS SUBTITLE; AND**

21 **(3) AN ANALYSIS OF WHETHER THERE WAS ANY IMPACT ON**
22 **REGISTRANTS WHO DID NOT QUALIFY FOR THE WAIVER OF THE FRANCHISE**
23 **REGISTRATION RENEWAL FEE UNDER SUBSECTION (A) OF THIS SECTION.**

24 **SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect**
25 **October 1, 2025. Section 2 of this Act shall remain effective for a period of 6 years and, at**
26 **the end of September 30, 2031, Section 2 of this Act, with no further action required by the**
27 **General Assembly, shall be abrogated and of no further force and effect.**