

Introduced by Senator JacksonFebruary 22, 2013

An act to add Article 2.5 (commencing with Section 20016) to Chapter 5.5 of Division 8 of the Business and Professions Code, relating to franchises.

LEGISLATIVE COUNSEL'S DIGEST

SB 610, as introduced, Jackson. Franchises.

The California Franchise Relations Act sets forth certain requirements related to the termination, nonrenewal, and transfer of franchises between a franchisor, subfranchisor, and franchisee, as those terms are defined.

This bill would require these parties to deal with each other in good faith, as defined, and prohibit a franchisor or subfranchisor from restricting the right of a franchisee to join or participate in an association of franchisees to the extent the restriction is prohibited by existing law. This bill would authorize a civil action for a violation of these provisions that includes, but is not limited to, rescission and an award of costs, reasonable attorney's fees, and treble damages. This bill would also authorize a franchisor or subfranchisor who becomes liable to make payments for a violation of these provisions to recover contributions from any person who, if sued separately, would also have been liable to make the same payments.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 2.5 (commencing with Section 20016) is
2 added to Chapter 5.5 of Division 8 of the Business and Professions
3 Code, to read:

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5 Article 2.5. Relationships Between Franchisor or Subfranchisor
6 and Franchisees
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8 20016. Without limiting the other provisions of this chapter,
9 the following specific rights and prohibitions shall govern the
10 relations between a franchisor, subfranchisor, and franchisee:

11 (a) (1) These parties shall deal with each other in good faith in
12 the performance and enforcement of the franchise agreement.

13 (2) “Good faith” for purposes of this subdivision means honesty
14 in fact and the observance of reasonable commercial standards of
15 fair dealing in the trade.

16 (b) A franchisor or subfranchisor shall not restrict the right of
17 a franchisee to join or participate in an association of franchisees
18 to the extent the restriction is prohibited by Section 31220 of the
19 Corporations Code.

20 20017. (a) A franchisor or subfranchisor who offers to sell,
21 sells, fails to renew or transfer, or terminates a franchise in
22 violation of Section 20016 shall be liable to the subfranchisor or
23 franchisee, who may sue for damages caused thereby or for
24 rescission or other relief as the court may deem appropriate.

25 (b) The suit authorized pursuant to this section may be brought
26 to recover the actual damages sustained by the plaintiff together
27 with the cost of the suit, including reasonable attorney’s fees, and
28 the court may in its discretion increase the award of damages to
29 an amount not to exceed three times the actual damages sustained.

30 (c) A franchisor or subfranchisor who becomes liable to make
31 payments under this section may recover contributions from any
32 person who, if sued separately, would have been liable to make
33 the same payments.

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