

AMENDED IN SENATE APRIL 8, 2013

**SENATE BILL**

**No. 610**

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**Introduced by Senator Jackson**

February 22, 2013

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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 amended, 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~~ *franchisee to bring an action against a franchisor or subfranchisor who offers to sell, sells, fails to renew or transfer, or terminates a franchise in violation of these provisions for damages caused thereby, or for rescission or other relief deemed appropriate by the court. This bill would additionally authorize a court in its discretion to increase the award of damages to an amount not to exceed 3 times the actual damages sustained and to award reasonable costs and attorney's fees to a prevailing plaintiff.* 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:

4  
 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 *20017. (a) A franchisee may bring an action against a*  
 31 *franchisor or subfranchisor who offers to sell, sells, fails to renew*  
 32 *or transfer, or terminates a franchise in violation of Section 20016*

1 *for damages caused thereby, or for rescission or other relief*  
2 *deemed appropriate by the court. In addition, the court may in its*  
3 *discretion increase the award of damages to an amount not to*  
4 *exceed three times the actual damages sustained and may award*  
5 *reasonable costs and attorney's fees to a prevailing plaintiff.*

6 ~~(e)~~

7 (b) A franchisor or subfranchisor who becomes liable to make  
8 payments under this section may recover contributions from any  
9 person who, if sued separately, would have been liable to make  
10 the same payments.

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