

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1407, L.D. 1916, Bill, "An Act to Create a Franchise Practices Act"

Amend the amendment in section 1 in that part designated "~~§1391.~~" by striking out all of subsection 1 and inserting in its place the following:

'1. Purpose. This chapter promotes greater fairness and equity in franchise relationships, establishes minimum standards of conduct in franchise practices, recognizes the disparity in bargaining power between franchisors and franchisees, strengthens private remedies and provides consumers the greater benefits that flow from equitable franchise relationships.'

Further amend the amendment in section 1 in that part designated "~~§1392.~~" by inserting before subsection 1 the following:

'1. Designated family member. "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the franchisee.'

Further amend the amendment in section 1 in that part designated "~~§1392.~~" in the blocked paragraph in the 2nd line (page 2, line 26 in amendment) by inserting after the following: "~~204.~~" the following: '211-A.'

Further amend the amendment in section 1 in that part designated "~~§1392.~~" by striking out all of subsection 5 (page 3, lines 28 to 32 in amendment)

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2 Further amend the amendment in section 1 in that part
designated "§1392." in subsection 9 in the first line (page 3,
line 51 in amendment) by striking out the following: "Sale,
4 transfer or assignment." and inserting in its place the
following: 'Sale.' and in the first and 2nd lines (page 3, lines
6 51 and 52 in amendment) by striking out the following: "Sale,
transfer or assignment" and inserting in its place the
8 following: 'Sale'

10 Further amend the amendment in section 1 in that part
designated "§1392." by renumbering the subsections to read
12 consecutively.

14 Further amend the amendment in section 1 in that part
designated "§1393." in subsection 1 by striking out all of the
16 2nd sentence (page 4, lines 16 to 19 in amendment) and in the 2nd
and 3rd lines from the end (page 4, lines 29 and 30 in amendment)
18 by striking out the following: "existing or future"

20 Further amend the amendment in section 1 in that part
designated "§1393." in subsection 2 in the 3rd line from the end
22 (page 4, line 49 in amendment) by inserting after the following:
"204;" the following: 'to an agreement subject to chapter 211-A;'
24

26 Further amend the amendment in section 1 by striking out all
of that part designated "§1396." and inserting in its place the
following:
28

30 '§1396. Right to association

32 A franchisor may not restrict a franchisee from associating
with other franchisees or from participating in a trade
association or retaliate against a franchisee for exercising its
34 right to associate. A violation of this section constitutes an
unfair method of competition and an unfair and deceptive
36 practice.'

38 Further amend the amendment in section 1 in that part
designated "§1397." in subsection 1 in paragraph A in the 3rd
40 line (page 5, line 42 in amendment) by striking out the
following: "service or" and inserting in its place the
42 following: 'service of'

44 Further amend the amendment in section 1 in that part
designated "§1397." in subsection 1 in paragraph B by striking
46 out all of subparagraph (1) (page 5, lines 50 to 52 in amendment)
and inserting in its place the following:
48

50 '(1) The franchisee is insolvent or a petition by or
against the franchisee under any bankruptcy or
receivership law is filed;'

2 Further amend the amendment in section 1 in that part
designated "~~§1397.~~" in subsection 2 in paragraph B in the last
4 line (page 6, line 39 in amendment) by striking out the
following: "geographic market" and inserting in its place the
6 following: 'area'

8 Further amend the amendment in section 1 in that part
designated "~~§1397.~~" in subsection 3 in the 2nd line (page 6, line
10 42 in amendment) by striking out the following: "the" and
inserting in its place the following: 'a'

12 Further amend the amendment in section 1 by striking out all
14 of those parts designated "~~§1398.~~" and "~~§1399.~~"

16 Further amend the amendment in section 1 in that part
designated "~~§1399-A.~~" in the first line (page 8, line 21 in
18 amendment) by striking out the following: "~~§1399-A.~~" and
inserting in its place the following: '~~§1398.~~'

20 Further amend the amendment in section 1 in that part
22 designated "~~§1399-A.~~" by striking out all of the first paragraph
(page 8, lines 23 to 25 in amendment) and inserting in its place
24 the following:

26 'The right of a designated family member to succeed in
ownership of the franchise is governed by the following
28 provisions.'

30 Further amend the amendment in section 1 in that part
designated "~~§1399-A.~~" in subsection 1 in the 3rd line (page 8,
32 line 29 in amendment) by inserting after the following:
"franchisor" the following: 'and who meets the reasonable
34 current qualifications of the franchisor' and in the 6th line
(page 8, line 32 in amendment) by striking out the following:
36 "120" and inserting in its place the following: '180'

38 Further amend the amendment in section 1 in that part
designated "~~§1399-B.~~" in the first line (page 9, line 21 in
40 amendment) by striking out the following: "~~§1399-B.~~" and
inserting in its place the following: '~~§1399.~~'

42 Further amend the amendment in section 1 in that part
44 designated "~~§1399-C.~~" in the first line (page 9, line 26 in
amendment) by striking out the following: "~~§1399-C.~~" and
46 inserting in its place the following: '~~§1399-A.~~'

48 Further amend the amendment in section 1 in that part
designated "~~§1399-D.~~" in the first line (page 9, line 35 in
50 amendment) by striking out the following: "~~§1399-D.~~" and
inserting in its place the following: '~~§1399-B.~~'

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Further amend the amendment in section 1 in that part designated "§1399-E." in the first line (page 10, line 1 in amendment) by striking out the following: "§1399-E." and inserting in its place the following: '§1399-C.'

Further amend the amendment in section 1 in that part designated "§1399-F." in the first line (page 10, line 7 in amendment) by striking out the following: "§1399-F." and inserting in its place the following: '§1399-D.' and in the first paragraph by inserting at the end (page 10, line 10 in amendment) the following: 'Any contract or part of a contract or practice under a contract that provides for greater rights to the franchisee is not contrary to public policy.'

Further amend the amendment in section 1 in that part designated "§1399-G." in the first line (page 10, line 12 in amendment) by striking out the following: "§1399-G." and inserting in its place the following: '§1399-E.'

Further amend the amendment in section 1 in that part designated "§1399-H." in the first line (page 10, line 18 in amendment) by striking out the following: "§1399-H." and inserting in its place the following: '§1399-F.'

STATEMENT OF FACT

This amendment removes from the committee amendment those provisions relating to retroactive application, encroachment and transfers of franchises. The amendment also provides that a franchisee may designate a qualified family member as a successor in the event of death or incapacitation unless there is good cause for prohibiting that transfer.

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