

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

SMY  
ROFS

A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

L.D. 1458

Date: 3/11/14 Report A

(Filing No. H-609)

**LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
126TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1043, L.D. 1458, Bill, "An Act To Enact the Maine Small Business Investment Protection Act"

Amend the bill by striking out the title and substituting the following:

**'Resolve, To Establish the Commission To Study Business Format Franchising'**

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**Sec. 1. Commission To Study Business Format Franchising established. Resolved:** That the Commission To Study Business Format Franchising, referred to in this resolve as "the commission," is established; and be it further

**Sec. 2. Commission membership. Resolved:** That the commission consists of 7 members as follows:

1. Two members of the Senate appointed by the President of the Senate, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Two members of the House of Representatives appointed by the Speaker of the House, including a member from each of the 2 parties holding the largest number of seats in the Legislature;
3. Two members appointed by the Governor who possess expertise in the subject matter of the study, as follows:
  - A. A Maine-based business format franchisee, selected from a list of not less than 3 individuals provided by a statewide association of franchisees; and
  - B. A representative of a business format franchisor doing business in this State, selected from a list of not less than 3 individuals provided by a national trade association representing franchisors and franchisees.

The Governor shall consider any recommendations submitted within 20 days of the effective date of this section; and

1           4. The Commissioner of Economic and Community Development or the  
2 commissioner's designee; and be it further

3           **Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate  
4 chair and the first-named House of Representatives member is the House chair of the  
5 commission; and be it further

6           **Sec. 4. Appointments; convening of commission. Resolved:** That all  
7 appointments must be made no later than 30 days following the effective date of this  
8 resolve. The appointing authorities shall notify the Executive Director of the Legislative  
9 Council once all appointments have been completed. After appointment of all members,  
10 the chairs shall call and convene the first meeting of the commission. If 30 days or more  
11 after the effective date of this resolve a majority of but not all appointments have been  
12 made, the chairs may request authority and the Legislative Council may grant authority  
13 for the commission to meet and conduct its business; and be it further

14           **Sec. 5. Duties. Resolved:** That the commission shall study the following issues:

15           1. The frequency of transfers of franchises in this State from a franchisee to a  
16 member of the franchisee's family, including but not limited to cases in which the  
17 franchisee dies or becomes incapacitated;

18           2. Legal issues raised with state franchise laws that require contract disputes to be  
19 subject to the jurisdiction of state courts;

20           3. The cancellation, termination and renewal terms of franchise agreements;

21           4. The impact of the imposition of the obligation to act in good faith on parties to a  
22 franchise agreement; and

23           5. The impact of the imposition of the requirement of reasonableness on terms and  
24 provisions of a franchise agreement.

25           In studying each of these issues, the commission shall discuss, among other things:  
26 whether the absence of business format franchise regulation in this State has resulted in  
27 unfair or unforeseen treatment of franchisors or franchisees; whether federal regulations  
28 and contractual agreements are effective or sufficient to address issues raised by  
29 franchisees; how other states regulate business format franchises; and any potential legal  
30 challenges that could be raised as a result of state regulation of business format  
31 franchises; and be it further

32           **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide  
33 necessary staffing services to the commission; and be it further

34           **Sec. 7. Report. Resolved:** That, no later than November 5, 2014, the  
35 commission shall submit a report that includes its findings and recommendations,  
36 including suggested legislation, for presentation to the joint standing committee of the  
37 Legislature having jurisdiction over labor, commerce, research and economic  
38 development matters.'

**SUMMARY**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

This amendment is the majority report of the committee and replaces the bill with a resolve to establish the Commission To Study Business Format Franchising. It requires the commission to study the following: the frequency of transfers of franchises in this State from a franchisee to a member of the franchisee's family, including but not limited to cases in which the franchisee dies or becomes incapacitated; legal issues raised with state franchise laws that require contract disputes to be subject to the jurisdiction of state courts; the cancellation, termination and renewal terms of franchise agreements; the impact of the imposition of the obligation to act in good faith on parties to a franchise agreement; and the impact of the imposition of the requirement of reasonableness on terms and provisions of a franchise agreement. It requires the commission to submit a report by November 5, 2014 to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters.

**FISCAL NOTE REQUIRED**  
(See attached)



# 126th MAINE LEGISLATURE

LD 1458

LR 1591(02)

**An Act To Enact the Maine Small Business Investment Protection Act**

**Fiscal Note for Bill as Amended by Committee Amendment A" (H-669)**  
**Committee: Labor, Commerce, Research and Economic Development**

**Fiscal Note Required: Yes**

---

## Fiscal Note

### Legislative Cost/Study

#### Legislative Cost/Study

The general operating expenses of this commission are projected to be \$2,500 in fiscal year 2014-15. The Legislature's proposed budget includes \$10,000 in fiscal year 2014-15 for legislative studies. Whether the amounts are sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature. The additional costs of providing staffing assistance to the study during the interim can be absorbed utilizing existing budgeted staff resources.

#### Fiscal Detail and Notes

Additional costs to the Department of Economic and Community Development to serve on the Commission can be absorbed within existing budgeted resources.