

FRANCHISE INVESTMENT LAW (EXCERPT)
Act 269 of 1974

445.1508 Prospective franchisee to be provided copy of disclosure statement, notice, and proposed agreements; form and contents of disclosure statement; location and contents of notice.

Sec. 8.

(1) A franchise shall not be sold in this state without first providing to the prospective franchisee, at least 10 business days before the execution by the prospective franchisee of any binding franchise or other agreement or at least 10 business days before the receipt of any consideration, whichever occurs first, a copy of the disclosure statement described in subsection (2), the notice described in subsection (3), and a copy of all proposed agreements relating to the sale of the franchise.

(2) The disclosure statement required in subsection (1) may be in the form of a disclosure statement required by a federal or state government agency, or a disclosure statement approved by an association of state regulatory agencies, which the department determines by rule or order to encompass disclosure requirements similar to those in this subsection, or may be a disclosure statement that shall contain all of the following:

(a) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of the parent or affiliated company that will engage in business transactions with franchisees.

(b) The franchisor's principal business address and the name and address of its agent in this state authorized to receive process.

(c) The business form of the franchisor, whether corporate, partnership, or otherwise.

(d) The information concerning the identity and business experience of persons affiliated with the franchisor, as the department may prescribe.

(e) A statement whether any person identified in the disclosure statement:

(i) Has been convicted of a felony or pleaded nolo contendere to a felony charge, or held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(ii) Is subject to a currently effective order of the United States securities and exchange commission or the securities administrator of a state denying registration of, or barring or suspending the registration or license of, the person as a securities broker, dealer, securities agent, or registered representative or investment advisor or is subject to a currently effective order of a national securities association or national securities exchange, as defined in the securities exchange act of 1934, suspending or expelling the person from membership in the association or exchange.

(iii) Is subject to a currently effective order or ruling of the federal trade commission.

(iv) Is subject to a currently effective injunctive or restrictive order relating to business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or salesperson. The statement shall set forth the court, date of conviction or judgment, the penalty imposed or damages assessed, or the date, nature, and issuer of the order.

(f) The length of time the franchisor has conducted a business of the type to be operated by the franchisees, has granted franchises for the business, and has granted franchises in other lines of business.

(g) A recent financial statement of the franchisor, together with a statement of material changes in the financial condition of the franchisor from the date thereof. The department may prescribe the form and content of financial statements required under this act and the circumstances under which consolidated financial statements shall be filed. If a financial statement audited by independent certified public accountants is available, that audited financial statement shall be a part of the disclosure statement.

(h) A copy of the typical current franchise contract or agreement proposed for use or in use in this state, including all amendments thereto.

(i) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(j) A statement describing payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.

(k) A statement of the conditions under which the franchise agreement may be terminated or renewal refused or repurchased at the option of the franchisor.

(l) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or the franchisor's designee services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business, together with a description, and the terms and conditions thereof.

(m) A statement as to whether, by the terms of the franchise agreement or other device or practice, the

franchisee is limited in the goods or services offered by the franchisee to customers.

(n) A statement of the terms and conditions of a financing arrangement when offered directly or indirectly by the franchisor or an agent or affiliate of the franchisor.

(o) A statement of past or present practice or of intent of the franchisor to sell, assign, or discount to a third party a note, contract, or other obligation of the franchisee or subfranchisor in whole or in part.

(p) A copy of a statement, if any, of estimated or projected franchisee earnings prepared for presentation to prospective franchisees or subfranchisors, or other persons, together with a statement setting forth the data upon which the estimation or projection is based.

(q) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from the use of the public figure in the name or symbol of the franchise or the indorsement or recommendation of the franchise by the public figure in advertisements.

(r) A statement of the total number and location of franchises presently operating and the proposed total to be sold in this state.

(s) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

(t) Other relevant information as the franchisor may desire to present.

(3) The notice required in subsection (1) shall be on a separate sheet immediately following the cover sheet and shall contain all of the following:

(i) In 12-point boldface type: "The state of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in these franchise documents, the provisions are void and cannot be enforced against you."

(ii) An exact copy of the items prohibited in section 27.

(iii) In 12-point boldface type: "The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general."

(iv) If the franchisor is subject to the escrow provisions of section 12, a statement describing the right of the franchisee to request an escrow arrangement.

(v) A statement that any questions regarding the notice should be directed to the department along with the address and phone number of the department.

History: 1974, Act 269, Eff. Oct. 15, 1974 ;-- Am. 1984, Act 92, Eff. June 20, 1984