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HOUSE BILL NO. 2086

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend and reenact §§ 13.1-560, 13.1-563, 13.1-565, and 13.1-566 of the Code of Virginia and to repeal § 13.1-574 of the Code of Virginia, relating to the Virginia Retail Franchising Act; sale of franchise.

 Patron—Purkey

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That 13.1-560, 13.1-563, 13.1-565, and 13.1-566 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-560. Registration required.

It shall be unlawful for any person to ~~grant~~ *sell* or offer to ~~grant~~ *sell* a franchise in this Commonwealth unless the franchise is registered under the provisions of this chapter or exempted from registration by rule or order of the Commission.

§ 13.1-563. Unlawful offers.

It shall be unlawful for any person, in connection with the ~~grant~~ *sale* or offer to ~~grant~~ *sell* a franchise in this Commonwealth, directly or indirectly:

(a) 1. To employ any device, scheme or artifice to defraud;

(b) 2. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to avoid misleading the offeree;

(c) 3. To engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon the franchisee; or

(d) ~~[Repealed.]~~

(e) 4. To fail to provide the franchisee a copy of (i) the franchise agreement and (ii) such disclosure document as may be required by rule or order of the Commission.

§ 13.1-565. Voidable franchises.

Any franchise may be declared void by the franchisee at his option by sending a written declaration of that fact and the reasons therefor to the franchisor by registered or certified mail if:

(a) 1. The franchisor's offer to ~~grant~~ *sell* a franchise was unlawful, as provided in § 13.1-560 or § 13.1-563, provided that the franchisee send such written declaration within seventy-two hours after discovery thereof but not more than ninety days after execution of the franchise;

(b) 2. The franchisee was not afforded the opportunity to negotiate with the franchisor on all provisions within the franchise, except that such negotiations shall not result in the impairment of the uniform image and quality standards of the franchise, provided that the franchisee send such written declaration within thirty days after execution of the franchise; or

(c) 3. The franchisee was not furnished a copy of the franchise agreement and disclosure documents at least seventy-two hours prior to execution of the franchise, provided that the franchisee send such written declaration within thirty days after execution of the franchise.

§ 13.1-566. Service of process on nonresident franchisor.

Every nonresident franchisor who has a franchise registered hereunder and which is not a corporation complying with § 13.1-759 or § 13.1-767 shall appoint in writing the clerk of the Commission as his agent upon whom may be served any process, notice, order or demand. Every nonresident franchisor who ~~grants~~ *sells* or offers to ~~grant~~ *sell* a franchise registered hereunder and every nonresident franchisor whose franchise is ~~granted~~ *sold* or offered to be ~~granted~~ *sold* in this Commonwealth shall be deemed to have appointed the clerk of the Commission as his agent upon whom may be served, in any matter arising under this chapter any process, notice, order or demand. Service may be made on the clerk in accordance with § 12.1-19.1.

2. That § 13.1-574 of the Code of Virginia is repealed.

3. That an emergency exists and this act is in force from its passage.

INTRODUCED

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