

REFERENCE TITLE: **franchises; regulation**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# **HB 2404**

Introduced by  
Representatives Travers: Quiñonez, Sandoval, Terech

**AN ACT**

**AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 41;  
RELATING TO FRANCHISES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, Arizona Revised Statutes, is amended by adding  
3 chapter 41, to read:

4 CHAPTER 41

5 FRANCHISES

6 ARTICLE 1. GENERAL PROVISIONS

7 44-8041. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AREA FRANCHISE" MEANS ANY CONTRACT OR AGREEMENT BETWEEN A  
10 FRANCHISOR AND A SUBFRANCHISOR THAT GRANTS THE SUBFRANCHISOR THE RIGHT,  
11 FOR CONSIDERATION GIVEN IN WHOLE OR IN PART, TO SELL OR NEGOTIATE THE SALE  
12 OF FRANCHISES IN THE NAME OR ON BEHALF OF THE FRANCHISOR.

13 2. "FRANCHISE":

14 (a) MEANS A CONTRACT OR AGREEMENT, EITHER EXPRESSED OR IMPLIED,  
15 ORAL OR WRITTEN, BETWEEN TWO OR MORE PERSONS THAT DOES ALL OF THE  
16 FOLLOWING:

17 (i) GRANTS A FRANCHISEE THE RIGHT TO ENGAGE IN THE BUSINESS OF  
18 OFFERING, SELLING OR DISTRIBUTING GOODS OR SERVICES UNDER A MARKETING PLAN  
19 OR SYSTEM PRESCRIBED IN SUBSTANTIAL PART BY A FRANCHISOR.

20 (ii) PROVIDES THAT THE OPERATION OF THE FRANCHISEE'S BUSINESS  
21 PURSUANT TO A MARKETING PLAN OR SYSTEM DESCRIBED IN ITEM (i) OF THIS  
22 SUBDIVISION IS SUBSTANTIALLY ASSOCIATED WITH THE FRANCHISOR'S TRADEMARK,  
23 SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING OR OTHER COMMERCIAL SYMBOL  
24 DESIGNATING THE FRANCHISOR OR ITS AFFILIATE.

25 (iii) REQUIRES THE FRANCHISEE TO PAY, DIRECTLY OR INDIRECTLY, A  
26 FRANCHISE FEE.

27 (b) INCLUDES AN AREA FRANCHISE.

28 (c) DOES NOT INCLUDE ANY OF THE FOLLOWING:

29 (i) ANY FRANCHISE THAT IS GOVERNED BY THE PETROLEUM MARKETING  
30 PRACTICES ACT (P.L. 95-297; 92 STAT. 322; 15 UNITED STATES CODE SECTIONS  
31 2801 THROUGH 2807).

32 (ii) LEASE DEPARTMENTS, LICENSES OR CONCESSIONS AT OR WITH A  
33 GENERAL MERCHANDISE RETAIL ESTABLISHMENT IF THE LEASE DEPARTMENT, LICENSEE  
34 OR CONCESSIONAIRE IS INCIDENTAL AND ANCILLARY TO THE GENERAL COMMERCIAL  
35 OPERATION OF THE RETAIL ESTABLISHMENT. FOR THE PURPOSES OF THIS ITEM,  
36 SALES OF A LEASED DEPARTMENT, LICENSE OR CONCESSIONAIRE ARE INCIDENTAL AND  
37 ANCILLARY TO THE GENERAL COMMERCIAL OPERATION OF THE RETAIL ESTABLISHMENT  
38 IF THEY AMOUNT TO LESS THAN TEN PERCENT OF THE ESTABLISHMENT'S SALES.

39 3. "FRANCHISEE" MEANS A PERSON TO WHOM A FRANCHISE IS GRANTED.

40 4. "FRANCHISE FEE":

41 (a) MEANS ANY FEE OR CHARGE THAT A FRANCHISEE OR SUBFRANCHISOR IS  
42 REQUIRED TO PAY OR AGREES TO PAY FOR THE RIGHT TO ENTER INTO A BUSINESS  
43 UNDER A FRANCHISE AGREEMENT, INCLUDING ANY PAYMENT FOR GOODS AND SERVICES.

1 (b) DOES NOT INCLUDE:  
2 (i) THE PURCHASE OF OR AGREEMENT TO PURCHASE GOODS AT A BONA FIDE  
3 WHOLESAL PRICE IF AN OBLIGATION IS NOT IMPOSED ON THE PURCHASER TO  
4 PURCHASE OR PAY FOR A QUANTITY OF GOODS IN EXCESS OF WHAT A REASONABLE  
5 BUSINESSPERSON NORMALLY WOULD PURCHASE BY WAY OF A STARTING INVENTORY OR  
6 SUPPLY OR TO MAINTAIN A GOING INVENTORY OR SUPPLY.  
7 (ii) THE PAYMENT OF A REASONABLE SERVICE CHARGE TO THE ISSUER OF A  
8 CREDIT CARD BY AN ESTABLISHMENT ACCEPTING OR HONORING THAT CREDIT CARD.  
9 (iii) THE PAYMENT, DIRECTLY OR INDIRECTLY, OF A FRANCHISE FEE THAT  
10 DOES NOT EXCEED AN ANNUAL SUM OF \$100.  
11 (iv) THE PAYMENT OF A SUM NOT EXCEEDING \$1,000 ANNUALLY FOR THE  
12 PURCHASE PRICE OR RENTAL OF FIXTURES, EQUIPMENT OR OTHER TANGIBLE PROPERTY  
13 TO BE USED IN AND THAT IS NECESSARY FOR OPERATING THE FRANCHISED BUSINESS  
14 IF THE PRICE OR RENTAL DOES NOT EXCEED THE COST THAT THE FRANCHISEE WOULD  
15 INCUR IF THE FRANCHISEE ACQUIRES THE ITEM FROM OTHER PERSONS OR IN THE  
16 OPEN MARKET.  
17 5. "FRANCHISOR" MEANS A PERSON THAT GRANTS OR HAS GRANTED A  
18 FRANCHISE.  
19 6. "SUBFRANCHISOR" MEANS A PERSON TO WHOM AN AREA FRANCHISE IS  
20 GRANTED.  
21 44-8042. Waiver; void  
22 ANY CONDITION, STIPULATION OR PROVISION PURPORTING TO BIND ANY  
23 PERSON TO WAIVE COMPLIANCE WITH ANY PROVISION OF THIS CHAPTER IS CONTRARY  
24 TO PUBLIC POLICY AND VOID.  
25 44-8043. Jurisdiction; applicability; nonprofits  
26 A. THIS CHAPTER APPLIES TO ANY FRANCHISE WHEN EITHER THE FRANCHISEE  
27 IS DOMICILED IN THIS STATE OR THE FRANCHISED BUSINESS IS OR HAS BEEN  
28 OPERATED IN THIS STATE.  
29 B. ANY PROVISION OF A FRANCHISE AGREEMENT REQUIRING THE FRANCHISEE  
30 TO WAIVE THE PROVISIONS OF THIS CHAPTER IS CONTRARY TO PUBLIC POLICY AND  
31 IS VOID AND UNENFORCEABLE.  
32 C. THIS CHAPTER DOES NOT APPLY TO A NONPROFIT ORGANIZATION THAT IS  
33 OPERATED ON A COOPERATIVE BASIS BY AND FOR INDEPENDENT RETAILERS THAT  
34 WHOLESALES GOODS AND SERVICES PRIMARILY TO ITS MEMBER RETAILERS IF ALL OF  
35 THE FOLLOWING APPLY:  
36 1. CONTROL AND OWNERSHIP OF EACH MEMBER IS SUBSTANTIALLY EQUAL.  
37 2. MEMBERSHIP IS LIMITED TO THOSE WHO WILL USE THE SERVICES  
38 FURNISHED BY THE NONPROFIT ORGANIZATION.  
39 3. TRANSFER OF OWNERSHIP IS PROHIBITED OR LIMITED.  
40 4. CAPITAL INVESTMENT DOES NOT RECEIVE A RETURN.  
41 5. THERE ARE SUBSTANTIALLY EQUAL BENEFITS THAT PASS TO THE MEMBERS  
42 ON THE BASIS OF PATRONAGE OF THE NONPROFIT ORGANIZATION.  
43 6. MEMBERS ARE NOT PERSONALLY LIABLE FOR OBLIGATIONS OF THE  
44 NONPROFIT ORGANIZATION IN THE ABSENCE OF A DIRECT UNDERTAKING OR  
45 AUTHORIZATION BY THE MEMBERS.



1 4. THE FRANCHISEE MAKES ANY MATERIAL MISREPRESENTATIONS RELATING TO  
2 THE ACQUISITION OF THE FRANCHISE BUSINESS, OR THE FRANCHISEE ENGAGES IN  
3 CONDUCT THAT REFLECTS MATERIALLY AND UNFAVORABLY ON THE OPERATION AND  
4 REPUTATION OF THE FRANCHISE BUSINESS OR SYSTEM.

5 5. FOR A PERIOD OF TEN DAYS AFTER A NOTIFICATION OF NONCOMPLIANCE,  
6 THE FRANCHISEE FAILS TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL LAW,  
7 INCLUDING ALL HEALTH, SAFETY, BUILDING AND LABOR LAWS APPLICABLE TO THE  
8 OPERATION OF THE FRANCHISE.

9 6. AFTER CURING ANY FAILURE PURSUANT TO SECTION 44-8044, THE  
10 FRANCHISEE ENGAGES IN THE SAME NONCOMPLIANCE WHETHER OR NOT THE  
11 NONCOMPLIANCE IS CORRECTED AFTER NOTICE.

12 7. THE FRANCHISEE REPEATEDLY FAILS TO COMPLY WITH ONE OR MORE  
13 REQUIREMENTS OF THE FRANCHISE, WHETHER OR NOT CORRECTED AFTER A  
14 NOTIFICATION OF NONCOMPLIANCE.

15 8. THE FRANCHISED BUSINESS OR BUSINESS PREMISES OF THE FRANCHISE IS  
16 SEIZED, TAKEN OVER OR FORECLOSED BY A GOVERNMENT OFFICIAL IN THE EXERCISE  
17 OF THE GOVERNMENT OFFICIAL'S DUTIES OR SEIZED, TAKEN OVER OR FORECLOSED BY  
18 A CREDITOR, LIENHOLDER OR LESSOR IF EITHER:

19 (a) A FINAL JUDGMENT AGAINST THE FRANCHISEE REMAINS UNSATISFIED FOR  
20 THIRTY DAYS UNLESS A SUPERSEDEAS OR OTHER APPEAL BOND HAS BEEN FILED.

21 (b) A LEVY OF EXECUTION HAS BEEN MADE ON THE LICENSE GRANTED BY THE  
22 FRANCHISE AGREEMENT OR ON ANY PROPERTY USED IN THE FRANCHISED BUSINESS AND  
23 IT IS NOT DISCHARGED WITHIN FIVE DAYS OF THE LEVY.

24 9. THE FRANCHISEE IS CONVICTED OF A FELONY OR ANY OTHER CRIMINAL  
25 MISCONDUCT THAT IS RELEVANT TO OPERATING THE FRANCHISE.

26 10. THE FRANCHISEE FAILS TO PAY ANY FRANCHISE FEES OR OTHER AMOUNTS  
27 DUE TO THE FRANCHISOR OR ITS AFFILIATE WITHIN FIVE DAYS AFTER RECEIVING  
28 WRITTEN NOTICE THAT THE FEES ARE OVERDUE.

29 11. THE FRANCHISOR MAKES A REASONABLE DETERMINATION THAT CONTINUED  
30 OPERATION OF THE FRANCHISE BY THE FRANCHISEE WILL RESULT IN AN IMMINENT  
31 DANGER TO PUBLIC HEALTH OR SAFETY.

32 B. IF THE FRANCHISE EXPRESSLY ALLOWS TERMINATION FOR A REASON  
33 DESCRIBED IN SUBSECTION A OF THIS SECTION, THERE IS A LAWFUL TERMINATION  
34 OR NONRENEWAL OF A SEPARATE MOTOR FUEL FRANCHISE GOVERNED BY PROVISIONS OF  
35 THE PETROLEUM MARKETING PRACTICES ACT (P.L. 95-297; 92 STAT. 322; 15  
36 UNITED STATES CODE SECTIONS 2801 THROUGH 2807) THAT IS OPERATED BY THE  
37 FRANCHISEE OR AFFILIATE OF THE FRANCHISEE LOCATED AT THE SAME BUSINESS  
38 PREMISES IF BOTH FRANCHISES ARE GRANTED BY THE SAME FRANCHISOR OR AN  
39 AFFILIATE OF THE FRANCHISOR.

40 44-8046. Lawful termination or nonrenewal

41 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, ON A LAWFUL  
42 TERMINATION OR NONRENEWAL OF A FRANCHISEE, THE FRANCHISOR SHALL PURCHASE  
43 FROM THE FRANCHISEE, AT THE VALUE OF THE PRICE PAID MINUS DEPRECIATION,  
44 ALL INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES AND FURNISHINGS PURCHASED OR  
45 PAID FOR UNDER THE TERMS OF THE FRANCHISE AGREEMENT OR ANY ANCILLARY OR

1 COLLATERAL AGREEMENT BETWEEN THE FRANCHISEE AND THE FRANCHISOR OR ITS  
2 APPROVED SUPPLIERS AND SOURCES THAT ARE, AT THE TIME OF THE NOTICE OF  
3 TERMINATION OR NONRENEWAL, IN THE FRANCHISEE'S POSSESSION OR USED BY THE  
4 FRANCHISEE IN THE FRANCHISE BUSINESS. THE FRANCHISOR MAY RECEIVE CLEAR  
5 TITLE TO AND POSSESSION OF ALL ITEMS PURCHASED FROM THE FRANCHISEE UNDER  
6 THIS SUBSECTION.

7 B. THIS SECTION DOES NOT REQUIRE THE FRANCHISOR TO PURCHASE ANY  
8 PERSONALIZED ITEMS, INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES OR  
9 FURNISHINGS IF EITHER:

10 1. THE INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES OR FURNISHINGS ARE  
11 NOT REASONABLY REQUIRED TO CONDUCT THE OPERATION OF THE FRANCHISE BUSINESS  
12 IN ACCORDANCE WITH THE FRANCHISE AGREEMENT OR ANY ANCILLARY OR COLLATERAL  
13 AGREEMENT.

14 2. THE FRANCHISEE, AT THE CESSATION OF OPERATION OF THE FRANCHISE  
15 BUSINESS BY THE FRANCHISEE, CANNOT LAWFULLY GRANT OR DOES NOT GRANT THE  
16 FRANCHISOR CLEAR TITLE AND POSSESSION WHEN THE FRANCHISOR PAYS THE  
17 FRANCHISEE FOR THE INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES OR  
18 FURNISHINGS.

19 C. THIS SECTION DOES NOT APPLY:

20 1. IF THE FRANCHISEE DECLINES A BONA FIDE OFFER OF RENEWAL FROM THE  
21 FRANCHISOR.

22 2. IF THE FRANCHISOR DOES NOT PREVENT THE FRANCHISEE FROM RETAINING  
23 CONTROL OF THE PRINCIPAL PLACE OF THE FRANCHISE BUSINESS.

24 3. TO ANY TERMINATION OR NONRENEWAL OF A FRANCHISE DUE TO A  
25 PUBLICLY ANNOUNCED AND NONDISCRIMINATORY DECISION BY THE FRANCHISOR TO  
26 COMPLETELY WITHDRAW FROM ALL FRANCHISE ACTIVITY WITHIN THE RELEVANT  
27 GEOGRAPHIC MARKET AREA IN WHICH THE FRANCHISE IS LOCATED.

28 4. IF THE FRANCHISOR AND FRANCHISEE MUTUALLY AGREE IN WRITING TO  
29 TERMINATE OR NOT RENEW THE FRANCHISE.

30 5. TO ANY INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES OR FURNISHINGS  
31 THAT ARE SOLD BY THE FRANCHISEE BETWEEN THE DATE OF THE NOTICE OF  
32 TERMINATION OR NONRENEWAL AND THE CESSATION OF OPERATION OF THE FRANCHISE  
33 BUSINESS BY THE FRANCHISEE PURSUANT TO THE TERMINATION OR NONRENEWAL.

34 D. ON THE TERMINATION OR NONRENEWAL OF A FRANCHISE, A FRANCHISOR  
35 MAY OFFSET AGAINST THE AMOUNTS OWED TO A FRANCHISEE UNDER SUBSECTION A OF  
36 THIS SECTION ANY AMOUNTS OWED BY THE FRANCHISEE TO THE FRANCHISOR IF THE  
37 FRANCHISEE AGREES TO THE AMOUNT OWED OR THE FRANCHISOR HAS RECEIVED A  
38 FINAL ADJUDICATION OF ANY AMOUNTS OWED.

39 44-8047. Notice of intention not to renew; sale of business

40 A. A FRANCHISOR MUST RENEW A FRANCHISE UNLESS THE FRANCHISOR  
41 PROVIDES THE FRANCHISEE WITH A WRITTEN NOTICE OF ITS INTENTION NOT TO  
42 RENEW AT LEAST ONE HUNDRED EIGHTY DAYS BEFORE THE END OF THE FRANCHISE  
43 AGREEMENT AND ANY OF THE FOLLOWING APPLIES:

44 1. DURING THE ONE HUNDRED EIGHTY-DAY PERIOD THE FRANCHISOR ALLOWS  
45 THE FRANCHISEE TO SELL THE FRANCHISEE'S BUSINESS TO A PURCHASER THAT MEETS

1 THE FRANCHISOR'S THEN CURRENT REQUIREMENTS FOR GRANTING NEW FRANCHISES OR  
2 IF THE FRANCHISOR IS NOT GRANTING A SIGNIFICANT NUMBER OF NEW FRANCHISES,  
3 THE THEN CURRENT REQUIREMENTS FOR GRANTING RENEWAL FRANCHISES.

4 2. THE REFUSAL TO RENEW IS NOT FOR THE PURPOSE OF CONVERTING THE  
5 FRANCHISEE'S BUSINESS PREMISES TO OPERATION BY EMPLOYEES OR AGENTS OF THE  
6 FRANCHISOR FOR THE FRANCHISOR'S OWN ACCOUNT. ON EXPIRATION OF THE  
7 FRANCHISE, THE FRANCHISOR AGREES NOT TO SEEK TO ENFORCE ANY COVENANT OF  
8 THE NONRENEWED FRANCHISEE NOT TO COMPETE WITH THE FRANCHISOR OR  
9 FRANCHISEES OF THE FRANCHISOR. THIS PARAGRAPH DOES NOT PROHIBIT A  
10 FRANCHISOR FROM EXERCISING A RIGHT OF FIRST REFUSAL TO PURCHASE THE  
11 FRANCHISEE'S BUSINESS.

12 3. TERMINATION WOULD BE ALLOWED PURSUANT TO SECTION 44-8044 OR  
13 44-8045.

14 4. THE FRANCHISEE AND THE FRANCHISOR AGREE NOT TO RENEW THE  
15 FRANCHISE.

16 5. THE FRANCHISOR WITHDRAWS FROM DISTRIBUTING ITS PRODUCTS OR  
17 SERVICES THROUGH FRANCHISES IN THE GEOGRAPHIC MARKET SERVED BY THE  
18 FRANCHISEE, IF ALL OF THE FOLLOWING OCCUR:

19 (a) ON EXPIRATION OF THE FRANCHISE, THE FRANCHISOR AGREES NOT TO  
20 SEEK TO ENFORCE ANY COVENANT OF THE NONRENEWED FRANCHISEE NOT TO COMPETE  
21 WITH THE FRANCHISOR OR FRANCHISEES OF THE FRANCHISOR.

22 (b) THE FAILURE TO RENEW IS NOT FOR THE PURPOSE OF CONVERTING THE  
23 BUSINESS CONDUCTED BY THE FRANCHISEE PURSUANT TO THE FRANCHISE AGREEMENT  
24 TO OPERATION BY EMPLOYEES OR AGENTS OF THE FRANCHISOR FOR THE FRANCHISOR'S  
25 OWN ACCOUNT.

26 (c) IF THE FRANCHISOR DETERMINES TO SELL, TRANSFER OR ASSIGN ITS  
27 INTEREST IN A MARKETING PREMISES OCCUPIED BY A FRANCHISEE WHOSE FRANCHISE  
28 AGREEMENT IS NOT RENEWED PURSUANT TO THIS PARAGRAPH, EITHER:

29 (i) DURING THE ONE HUNDRED EIGHTY-DAY PERIOD AFTER GIVING NOTICE,  
30 THE FRANCHISOR OFFERS THE FRANCHISEE A RIGHT OF FIRST REFUSAL OF A BONA  
31 FIDE OFFER MADE BY ANOTHER TO PURCHASE THE FRANCHISOR'S INTEREST IN THE  
32 PREMISES. THE RIGHT OF FIRST REFUSAL UNDER THIS ITEM SHALL BE AT LEAST A  
33 THIRTY-DAY PERIOD.

34 (ii) IN THE CASE OF THE SALE, TRANSFER OR ASSIGNMENT TO ANOTHER  
35 PERSON OF THE FRANCHISOR'S INTEREST IN ONE OR MORE OTHER CONTROLLED  
36 MARKETING PREMISES, THE OTHER PERSON IN GOOD FAITH OFFERS THE FRANCHISEE A  
37 FRANCHISE ON SUBSTANTIALLY THE SAME TERMS AND CONDITIONS CURRENTLY BEING  
38 OFFERED BY THE OTHER PERSON TO OTHER FRANCHISEES.

39 6. THE FRANCHISOR AND THE FRANCHISEE FAIL TO AGREE TO CHANGES OR  
40 ADDITIONS TO THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT, IF THE  
41 CHANGES OR ADDITIONS WOULD RESULT IN RENEWAL OF THE FRANCHISE AGREEMENT ON  
42 SUBSTANTIALLY THE SAME TERMS AND CONDITIONS ON WHICH THE FRANCHISOR IS  
43 THEN CUSTOMARILY GRANTING RENEWAL FRANCHISES, OR IF THE FRANCHISOR IS NOT  
44 THEN GRANTING A SIGNIFICANT NUMBER OF RENEWAL FRANCHISES, THE TERMS AND  
45 CONDITIONS ON WHICH THE FRANCHISOR IS THEN CUSTOMARILY GRANTING ORIGINAL

1 FRANCHISES. THE FRANCHISOR MAY GIVE THE FRANCHISEE WRITTEN NOTICE OF A  
2 DATE AT LEAST THIRTY DAYS AFTER THE DATE OF THE NOTICE, ON OR BEFORE WHICH  
3 A PROPOSED WRITTEN AGREEMENT OF THE TERMS AND CONDITIONS OF THE RENEWAL  
4 FRANCHISE SHALL BE ACCEPTED IN WRITING BY THE FRANCHISEE. THE NOTICE,  
5 WHEN GIVEN AT LEAST ONE HUNDRED EIGHTY DAYS BEFORE THE END OF THE  
6 FRANCHISE TERM, MAY STATE THAT IF THE FRANCHISEE FAILS TO ACCEPT, THE  
7 NOTICE IS DEEMED A NOTICE OF INTENTION NOT TO RENEW AT THE END OF THE  
8 FRANCHISE TERM.

9 B. THIS SECTION DOES NOT PROHIBIT A FRANCHISOR FROM OFFERING OR  
10 AGREEING BEFORE THE EXPIRATION OF THE CURRENT FRANCHISE TERM TO EXTEND THE  
11 TERM OF THE FRANCHISE FOR A LIMITED PERIOD IN ORDER TO SATISFY THE TIME OF  
12 NOTICE OF NONRENEWAL REQUIREMENT OF THAT FRANCHISE.

13 44-8048. Death of franchisee or majority shareholder; rights  
14 of surviving spouse, heirs or estate

15 A. A FRANCHISOR MAY NOT DENY THE SURVIVING SPOUSE, HEIRS OR ESTATE  
16 OF A DECEASED FRANCHISEE OR THE MAJORITY SHAREHOLDER OF THE FRANCHISEE THE  
17 OPPORTUNITY TO PARTICIPATE IN THE OWNERSHIP OF THE FRANCHISE UNDER A VALID  
18 FRANCHISE AGREEMENT FOR A REASONABLE TIME AFTER THE DEATH OF THE  
19 FRANCHISEE OR MAJORITY SHAREHOLDER OF THE FRANCHISEE. DURING THAT TIME,  
20 THE SURVIVING SPOUSE, HEIRS OR ESTATE OF THE DECEASED SHALL EITHER SATISFY  
21 ALL OF THE THEN CURRENT QUALIFICATIONS FOR A PURCHASER OF A FRANCHISE OR  
22 SELL, TRANSFER OR ASSIGN THE FRANCHISE TO A PERSON THAT SATISFIES THE  
23 FRANCHISOR'S THEN CURRENT STANDARDS FOR NEW FRANCHISEES. THE RIGHTS  
24 GRANTED PURSUANT TO THIS FRANCHISE SHALL BE GRANTED SUBJECT TO THE  
25 SURVIVING SPOUSE, HEIRS OR ESTATE OF THE DECEASED MAINTAINING ALL  
26 STANDARDS AND OBLIGATIONS OF THE FRANCHISE.

27 B. THIS SECTION DOES NOT PROHIBIT A FRANCHISOR FROM EXERCISING THE  
28 RIGHT OF FIRST REFUSAL TO PURCHASE A FRANCHISE AFTER RECEIVING A BONA FIDE  
29 OFFER TO PURCHASE THE FRANCHISE BY A PROPOSED PURCHASER OF THE FRANCHISE.

30 44-8049. Franchise prohibited from preventing sale or  
31 transfer of franchise to qualified person;  
32 franchisor consent required; right of first  
33 refusal; definition

34 A. IT IS UNLAWFUL FOR A FRANCHISOR TO PREVENT A FRANCHISEE FROM  
35 SELLING OR TRANSFERRING A FRANCHISE, ALL OR SUBSTANTIALLY ALL OF THE  
36 ASSETS OF THE FRANCHISE BUSINESS OR A CONTROLLING OR NONCONTROLLING  
37 INTEREST IN THE FRANCHISE BUSINESS TO ANOTHER PERSON IF THE PERSON IS  
38 QUALIFIED UNDER THE FRANCHISOR'S THEN EXISTING STANDARDS FOR THE APPROVAL  
39 OF NEW OR RENEWING FRANCHISEES. THE FRANCHISOR SHALL DISCLOSE THESE  
40 STANDARDS TO THE FRANCHISEE PURSUANT TO SECTION 44-8050, AND THE STANDARD  
41 SHALL BE CONSISTENTLY APPLIED TO SIMILARLY SITUATED FRANCHISEES OPERATING  
42 WITHIN THE FRANCHISE BRAND, AND THE FRANCHISEE AND THE BUYER, TRANSFEREE  
43 OR ASSIGNEE SHALL COMPLY WITH THE TRANSFER CONDITIONS SPECIFIED IN THE  
44 FRANCHISE AGREEMENT.



1 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A FRANCHISEE DOES  
2 NOT HAVE THE RIGHT TO SELL, TRANSFER OR ASSIGN THE FRANCHISE ALL OR  
3 SUBSTANTIALLY ALL OF THE ASSETS OF THE FRANCHISE BUSINESS OR A CONTROLLING  
4 OR NONCONTROLLING INTEREST IN THE FRANCHISE BUSINESS WITHOUT THE WRITTEN  
5 CONSENT OF THE FRANCHISOR. THE CONSENT MAY BE WITHHELD ONLY IF THE BUYER,  
6 TRANSFEREE OR ASSIGNEE DOES NOT MEET THE STANDARDS FOR NEW OR RENEWING  
7 FRANCHISEES DESCRIBED IN SUBSECTION A OF THIS SECTION OR THE FRANCHISEE  
8 AND THE BUYER, TRANSFEREE OR ASSIGNEE DO NOT COMPLY WITH THE TRANSFER  
9 CONDITIONS SPECIFIED IN THE FRANCHISE AGREEMENT.

10 C. THIS SECTION DOES NOT PROHIBIT A FRANCHISOR FROM EXERCISING THE  
11 CONTRACTUAL RIGHT OF FIRST REFUSAL TO PURCHASE A FRANCHISE, ALL OR  
12 SUBSTANTIALLY ALL OF THE ASSETS OF A FRANCHISE BUSINESS OR A CONTROLLING  
13 OR NONCONTROLLING INTEREST IN A FRANCHISE BUSINESS AFTER RECEIVING A BONA  
14 FIDE OFFER FROM A PROPOSED PURCHASER TO PURCHASE THE FRANCHISE, ASSETS OR  
15 INTEREST. A FRANCHISOR EXERCISING THE CONTRACTUAL RIGHT OF FIRST REFUSAL  
16 SHALL OFFER THE SELLER PAYMENT THAT IS AT LEAST EQUAL TO THE VALUE OFFERED  
17 IN THE BONA FIDE OFFER.

18 D. FOR THE PURPOSES OF THIS SECTION, "FRANCHISE BUSINESS" INCLUDES  
19 A LEGAL ENTITY THAT IS A PARTY TO A FRANCHISE AGREEMENT.

20 44-8050. Notice of franchisee's intent to sell, assign or  
21 transfer; requirements; notice of approval or  
22 disapproval; franchisor's right of first refusal;  
23 definition

24 A. BEFORE THE SALE, ASSIGNMENT OR TRANSFER OF A FRANCHISE, ALL OR  
25 SUBSTANTIALLY ALL OF THE ASSETS OF A FRANCHISE BUSINESS OR A CONTROLLING  
26 OR NONCONTROLLING INTEREST IN THE FRANCHISE BUSINESS, THE FRANCHISEE SHALL  
27 NOTIFY THE FRANCHISOR OF THE FRANCHISEE'S INTENT TO SELL, ASSIGN OR  
28 TRANSFER THE FRANCHISE, ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE  
29 FRANCHISE BUSINESS OR THE CONTROLLING OR NONCONTROLLING INTEREST IN THE  
30 FRANCHISE BUSINESS. THE NOTICE MUST BE IN WRITING, BE DELIVERED TO THE  
31 FRANCHISOR BY BUSINESS COURIER OR BY CERTIFIED MAIL AND INCLUDE ALL OF THE  
32 FOLLOWING:

33 1. THE PROPOSED TRANSFEREE'S NAME AND ADDRESS.

34 2. A COPY OF ALL AGREEMENTS RELATED TO THE SALE, ASSIGNMENT OR  
35 TRANSFER OF THE FRANCHISE, THE ASSETS OF THE FRANCHISE BUSINESS OR THE  
36 INTEREST IN THE FRANCHISE BUSINESS.

37 3. THE PROPOSED TRANSFEREE'S APPLICATION FOR APPROVAL TO BECOME THE  
38 SUCCESSOR FRANCHISEE. THE APPLICATION SHALL INCLUDE ALL FORMS, FINANCIAL  
39 DISCLOSURES AND RELATED INFORMATION THAT THE FRANCHISOR USES IN REVIEWING  
40 PROSPECTIVE NEW FRANCHISEES, IF THOSE FORMS ARE READILY MADE AVAILABLE TO  
41 THE EXISTING FRANCHISEE. IF THE FORMS ARE NOT READILY AVAILABLE, THE  
42 FRANCHISEE SHALL REQUEST AND THE FRANCHISOR SHALL DELIVER THE FORMS TO THE  
43 FRANCHISEE BY BUSINESS COURIER OR CERTIFIED MAIL WITHIN FIFTEEN CALENDAR  
44 DAYS. AS SOON AS PRACTICABLE AFTER RECEIVING THE PROPOSED TRANSFEREE'S  
45 APPLICATION, THE FRANCHISOR SHALL NOTIFY IN WRITING THE FRANCHISEE AND THE

1 PROPOSED TRANSFEREE OF ANY ADDITIONAL INFORMATION OR DOCUMENTATION  
2 NECESSARY TO COMPLETE THE TRANSFER APPLICATION. IF THE FRANCHISOR'S THEN  
3 EXISTING STANDARDS FOR THE APPROVAL OF NEW OR RENEWING FRANCHISEES ARE NOT  
4 READILY AVAILABLE TO THE FRANCHISEE WHEN THE FRANCHISEE NOTIFIES THE  
5 FRANCHISOR OF THE FRANCHISEE'S INTENT TO SELL, TRANSFER OR ASSIGN THE  
6 FRANCHISE, THE ASSETS OF THE FRANCHISE BUSINESS OR THE CONTROLLING OR  
7 NONCONTROLLING INTEREST IN THE FRANCHISE BUSINESS, THE FRANCHISOR SHALL  
8 COMMUNICATE THE STANDARDS TO THE FRANCHISEE WITHIN FIFTEEN CALENDAR DAYS.

9 B. WITHIN SIXTY DAYS AFTER RECEIVING ALL OF THE NECESSARY  
10 INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO SUBSECTION A OF THIS  
11 SECTION OR AS SPECIFIED BY WRITTEN AGREEMENT BETWEEN THE FRANCHISOR AND  
12 THE FRANCHISEE, THE FRANCHISOR SHALL NOTIFY THE FRANCHISEE OF THE APPROVAL  
13 OR DISAPPROVAL OF THE PROPOSED SALE, ASSIGNMENT OR TRANSFER. THE NOTICE  
14 SHALL BE IN WRITING AND SHALL BE DELIVERED TO THE FRANCHISEE BY BUSINESS  
15 COURIER OR CERTIFIED MAIL. A PROPOSED SALE, ASSIGNMENT OR TRANSFER IS  
16 DEEMED APPROVED UNLESS DISAPPROVED BY THE FRANCHISOR IN THE MANNER  
17 PROVIDED BY THIS SECTION. IF THE PROPOSED SALE, ASSIGNMENT OR TRANSFER IS  
18 DISAPPROVED, THE FRANCHISOR MUST INCLUDE IN THE NOTICE OF DISAPPROVAL A  
19 STATEMENT STATING THE REASONS FOR THE DISAPPROVAL.

20 C. IN ANY ACTION IN WHICH THE FRANCHISOR'S DISAPPROVAL OF A SALE,  
21 ASSIGNMENT OR TRANSFER PURSUANT TO THIS SECTION IS AN ISSUE, THE  
22 REASONABLENESS OF THE FRANCHISOR'S DECISION IS A QUESTION OF FACT  
23 REQUIRING CONSIDERATION OF ALL EXISTING CIRCUMSTANCES. FOR THE PURPOSES  
24 OF THIS SUBSECTION, THE FINDER OF FACT MAY BE AN ARBITRATOR SPECIFIED IN  
25 THE FRANCHISE AGREEMENT. THIS SUBSECTION DOES NOT PROHIBIT SUMMARY  
26 JUDGMENT WHEN THE REASONABLENESS OF TRANSFER APPROVAL OR DISAPPROVAL CAN  
27 BE DECIDED AS A MATTER OF LAW.

28 D. THIS SECTION DOES NOT DO EITHER OF THE FOLLOWING:

29 1. REQUIRE A FRANCHISOR TO EXERCISE A CONTRACTUAL RIGHT OF FIRST  
30 REFUSAL.

31 2. PROHIBIT A FRANCHISOR FROM EXERCISING THE CONTRACTUAL RIGHT OF  
32 FIRST REFUSAL TO PURCHASE A FRANCHISE, ALL OR SUBSTANTIALLY ALL OF THE  
33 ASSETS OF A FRANCHISE BUSINESS OR A CONTROLLING OR NONCONTROLLING INTEREST  
34 IN A FRANCHISE BUSINESS AFTER RECEIVING A BONA FIDE OFFER FROM A PROPOSED  
35 PURCHASER TO PURCHASE THE FRANCHISE, ASSETS OR INTEREST. ANY FRANCHISOR  
36 EXERCISING THE CONTRACTUAL RIGHT OF FIRST REFUSAL SHALL OFFER THE SELLER  
37 PAYMENT THAT IS AT LEAST EQUAL TO THE VALUE OFFERED IN THE BONA FIDE  
38 OFFER.

39 E. FOR THE PURPOSES OF THIS SECTION, "FRANCHISE BUSINESS" INCLUDES  
40 A LEGAL ENTITY THAT IS A PARTY TO A FRANCHISE AGREEMENT.

1           44-8051. Notices of termination or nonrenewal  
2 ALL NOTICES OF TERMINATION OR NONRENEWAL REQUIRED BY THIS CHAPTER  
3 MUST:  
4           1. BE IN WRITING.  
5           2. BE POSTED BY CERTIFIED MAIL, DELIVERED BY TELEGRAM OR PERSONALLY  
6 DELIVERED TO THE FRANCHISEE.  
7           3. CONTAIN A STATEMENT OF INTENT TO TERMINATE OR NOT RENEW THE  
8 FRANCHISE THAT CONTAINS BOTH:  
9           (a) THE REASONS FOR THE TERMINATION OR NONRENEWAL.  
10           (b) THE EFFECTIVE DATE OF THE TERMINATION OR NONRENEWAL OR  
11 EXPIRATION.  
12           44-8052. Remedies  
13           A. IF A FRANCHISOR TERMINATES OR FAILS TO RENEW A FRANCHISEE IN  
14 VIOLATION OF THIS CHAPTER, THE FRANCHISEE IS ENTITLED TO RECEIVE FROM THE  
15 FRANCHISOR THE FAIR MARKET VALUE OF THE FRANCHISED BUSINESS AND FRANCHISE  
16 ASSETS AND ANY OTHER DAMAGES CAUSED BY THE VIOLATION.  
17           B. A COURT MAY GRANT PRELIMINARY AND PERMANENT INJUNCTIONS FOR A  
18 VIOLATION OR THREATENED VIOLATION OF THIS CHAPTER.  
19           44-8053. Offset of prior recovery by franchisee and monies  
20                                     owed franchisor or subsidiaries  
21           THE FRANCHISOR MAY OFFSET AGAINST ANY REMEDIES MADE PURSUANT TO  
22 SECTION 44-8052 ANY PRIOR RECOVERY BY THE FRANCHISEE AND ANY SUMS THAT THE  
23 FRANCHISEE OWES THE FRANCHISOR OR ITS SUBSIDIARIES PURSUANT TO THE  
24 FRANCHISE OR ANY ANCILLARY AGREEMENT.  
25           44-8054. Violation of federal rule; remedy  
26           IF A FRANCHISOR VIOLATES 16 CODE OF FEDERAL REGULATIONS SECTION 436,  
27 A FRANCHISEE THAT PURCHASES A FRANCHISE FROM THE FRANCHISOR IS ENTITLED TO  
28 ALL DAMAGES FLOWING FROM THE PURCHASE OR TO RESCISSION OF THE FRANCHISE  
29 AGREEMENT AND ANCILLARY DAMAGES.  
30           44-8055. Franchisee right to sue  
31           EXCEPT AS EXPRESSLY PROVIDED IN THIS CHAPTER, THIS CHAPTER DOES NOT  
32 ABROGATE THE RIGHT OF A FRANCHISEE TO SUE UNDER ANY OTHER LAW.  
33           44-8056. Rights of association  
34           A FRANCHISOR, DIRECTLY OR INDIRECTLY, THROUGH ANY OFFICER, AGENT OR  
35 EMPLOYEE, MAY NOT RESTRICT OR INHIBIT THE RIGHT OF FRANCHISEES TO JOIN A  
36 TRADE ASSOCIATION OR TO PROHIBIT THE RIGHT OF FREE ASSOCIATION AMONG  
37 FRANCHISEES FOR ANY LAWFUL PURPOSES. A VIOLATION OF THIS SECTION IS NOT A  
38 CRIME.  
39           44-8057. Enforcement of rights of association  
40           A. A PERSON WHO VIOLATES SECTION 44-8056 MAY BE SUED IN THE COUNTY  
41 IN WHICH THE PERSON RESIDES OR WHERE A FRANCHISE AFFECTED BY THE VIOLATION  
42 DOES BUSINESS. THE CAUSE OF ACTION MAY INCLUDE A DEMAND FOR TEMPORARY AND  
43 PERMANENT INJUNCTIVE RELIEF AND DAMAGES, IF ANY, AND THE COSTS OF THE  
44 LITIGATION, INCLUDING REASONABLE ATTORNEY FEES. A PERSON WHO BRINGS A  
45 CAUSE OF ACTION UNDER THIS SUBSECTION IS NOT REQUIRED TO ALLEGE OR PROVE

1 THAT ACTUAL DAMAGES HAVE BEEN SUFFERED IN ORDER TO OBTAIN INJUNCTIVE  
2 RELIEF.

3 B. A CAUSE OF ACTION MAY NOT BE BROUGHT TO ENFORCE A VIOLATION OF  
4 SECTION 44-8056 UNLESS IT IS BROUGHT WITHIN THREE YEARS AFTER THE  
5 VIOLATION OCCURS OR WITHIN ONE YEAR AFTER A PERSON DISCOVERS THE FACTS  
6 CONSTITUTING THE VIOLATION, WHICHEVER OCCURS FIRST.

7 44-8058. Venue restriction; void

8 A PROVISION IN A FRANCHISE AGREEMENT RESTRICTING VENUE TO A FORUM  
9 OUTSIDE THIS STATE IS VOID WITH RESPECT TO ANY CLAIM ARISING UNDER OR  
10 RELATING TO A FRANCHISE AGREEMENT INVOLVING A FRANCHISE BUSINESS OPERATING  
11 WITHIN THIS STATE.

12 44-8059. Applicability

13 THIS CHAPTER APPLIES ONLY TO:

14 1. EXCEPT AS PROVIDED IN PARAGRAPH 3 OF THIS SECTION, FRANCHISES  
15 GRANTED OR RENEWED ON OR AFTER JANUARY 1, 2024 OR TO FRANCHISES OF AN  
16 INDEFINITE DURATION THAT MAY BE TERMINATED BY THE FRANCHISEE OR FRANCHISOR  
17 WITHOUT CAUSE.

18 2. EXCEPT AS PROVIDED IN PARAGRAPH 3 OF THIS SECTION, FRANCHISE  
19 AGREEMENTS ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2024 OR TO  
20 FRANCHISES OF AN INDEFINITE DURATION THAT MAY BE TERMINATED BY THE  
21 FRANCHISEE OR FRANCHISOR WITHOUT CAUSE.

22 3. A FRANCHISE AGREEMENT AMENDED AFTER JANUARY 1, 2024 IS NOT  
23 SUBJECT TO THIS CHAPTER IF THE AMENDMENT TO THE FRANCHISE AGREEMENT WAS  
24 INITIATED BY THE FRANCHISEE AND DID NOT SUBSTANTIALLY AND ADVERSELY IMPACT  
25 THE FRANCHISEE'S RIGHTS, BENEFITS, PRIVILEGES, DUTIES, OBLIGATIONS OR  
26 RESPONSIBILITIES UNDER THE FRANCHISE AGREEMENT.

27 44-8060. Modifications

28 A FRANCHISOR MAY NOT MODIFY A FRANCHISE AGREEMENT OR REQUIRE A  
29 GENERAL RELEASE IN EXCHANGE FOR ANY ASSISTANCE RELATED TO A DECLARED STATE  
30 OR FEDERAL EMERGENCY.

31 Sec. 2. Severability

32 If a provision of this act or its application to any person or  
33 circumstance is held invalid, the invalidity does not affect other  
34 provisions or applications of the act that can be given effect without the  
35 invalid provision or application, and to this end the provisions of this  
36 act are severable.