

HOUSE BILL No. 4030

February 1, 1989, Introduced by Rep. Bennett and referred to the Committee on Corporations and Finance.

A bill to amend section 31 of Act No. 269 of the Public Acts of 1974, entitled as amended "Franchise investment law," as amended by Act No. 92 of the Public Acts of 1984, being section 445.1531 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 31 of Act No. 269 of the Public Acts of
2 1974, as amended by Act No. 92 of the Public Acts of 1984, being
3 section 445.1531 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 31. (1) A person who offers or sells a franchise in
6 violation of section 5 ~~, 7a,~~ or 8, is liable to the person pur-
7 chasing the franchise for damages or rescission, with interest at
8 6% per year from the date of purchase until ~~the effective date~~

1 ~~of this 1983 amendatory act~~ JUNE 20, 1984 and 12% per year
2 thereafter and reasonable attorney fees and court costs.

3 (2) A person may not file or maintain suit under this sec-
4 tion if the franchisee received a written offer before suit and
5 at a time when the franchisee owned the franchise to refund the
6 consideration paid together with interest from the date of pur-
7 chase at 1 percentage point above the rate provided by
8 subsection (1), less the amount of income received on the fran-
9 chise, conditioned only upon tender by the person of all items
10 received by the franchisee for the consideration and not sold,
11 and failed to accept the offer within 30 days of its receipt, or
12 if the franchisee received the offer before suit and at a time
13 when the franchisee did not own the franchise, unless the fran-
14 chisee rejected the offer in writing within 30 days of its
15 receipt. The rescission offer shall recite the provisions of
16 this section. If the franchise involves substantial building or
17 substantial equipment and a significant period of time has
18 elapsed since the sale of the franchise to the franchisee, the
19 rescission offer may recognize depreciation, amortization, and
20 other factors which bear upon the value of the franchise being
21 returned to the franchisor.

22 (3) A PERSON WHO OFFERS OR SELLS A FRANCHISE IN VIOLATION OF
23 SECTION 7A IS LIABLE TO THE PERSON PURCHASING THE FRANCHISE FOR
24 DAMAGES CAUSED BY THE NONCOMPLIANCE.

25 (4) ~~(3)~~ In a proceeding under this act, damages may be
26 based on reasonable approximations, but not on speculation.