

FRANCHISE INVESTMENT LAW (EXCERPT)
Act 269 of 1974

445.1503 Additional definitions; burden of proof.

Sec. 3. (1) "Franchise fee" means a fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business under a franchise agreement, including but not limited to payments for goods and services. The following are not the payment of a franchise fee:

(a) The purchase or agreement to purchase goods, equipment, or fixtures directly or on consignment at a bona fide wholesale price.

(b) The payment of a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring the credit card.

(c) Amounts paid to a trading stamp company by a person issuing trading stamps in connection with the retail sale of merchandise or service.

(d) Payments made in connection with the lease or agreement to lease of a franchised business operated by a franchisee on the premises of a franchisor as long as the franchised business is incidental to the business conducted by the franchisor at such premises.

(2) "Fraud" and "deceit" are not limited to common law fraud or deceit.

(3) "Offer" or "offer to sell" includes an attempt to offer to dispose of or solicitation of an offer to buy, a franchise or interest in a franchise for value. The terms defined in this act do not include the renewal or extension of an existing franchise where there is no interruption in the operation of the franchised business by the franchisee.

(4) "Order" means a consent, authorization, approval, prohibition, or requirement applicable to a specific case issued by the department.

(5) "Person" means an individual, corporation, a partnership, a joint venture, an association, a joint stock company, a trust, or an unincorporated organization.

(6) "Publish" means publicly to issue or circulate by newspaper, mail, radio, or television or otherwise to disseminate to the public.

(7) "Rule" means a rule promulgated by the department.

(8) "Sale" or "sell" includes a contract or agreement of sale of, contract to sell, or disposition of, a franchise or interest in a franchise for value.

(9) "State" means a state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

(10) In any proceeding under this act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

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