

FRANCHISE INVESTMENT LAW (EXCERPT)
Act 269 of 1974

445.1535 Action by department for injunction, restitution, or compliance; restraining order; writ of mandamus; appointment of receiver or conservator; bond not required; costs; notice of action; opportunity to cease and desist or to confer with department; presumption of immediate and irreparable harm.

Sec. 35. (1) Whenever it appears to the department that a person has engaged, is engaged, or is about to engage in an act or practice constituting a violation of a provision of this act or a rule or order hereunder, after notice as required in subsection (2), the department may bring an action in the name of the people in the circuit court to enjoin the acts or practices, to obtain restitution on behalf of the franchisee, or to enforce compliance with this act or a rule or order hereunder. Upon a proper showing a preliminary or permanent injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the department to post a bond. The court may award costs, including reasonable costs of investigation, to the prevailing party.

(2) Unless waived by the court on good cause shown not less than 10 days before the commencement of an action under this section, the department shall notify the person of the intended action and give the person an opportunity to cease and desist from the alleged unlawful method, act, or practice or to confer with the department in person, by counsel, or by other representative as to the proposed action before the proposed filing date. The notice may be given the person by mail, postage prepaid, to the place of business listed in the notice under section 7a.

(3) In an action under this section to enjoin enforcement of a provision that is void and unenforceable under section 27, if the court finds that such a provision is present, there is a presumption of immediate and irreparable harm to the franchisee. Further showing shall not be required for a grant of a preliminary injunction.

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