

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, DECEMBER 19, 2019

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COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

*Ex Parte:* In the matter of  
Adopting a Revision to the Rules  
Governing the Virginia Retail Franchising Act

CASE NO. SEC-2019-00052

ORDER ADOPTING AMENDED RULES

By order entered November 1, 2019 ("Order to Take Notice"), all interested parties were ordered to take notice that the State Corporation Commission ("Commission") would consider the adoption of a revision to Chapter 110 of Title 21 of the Virginia Administrative Code ("Regulations") entitled "Retail Franchising Act Rules." On November 5 and 6, 2019, the Division of Securities and Retail Franchising ("Division") sent the Order to Take Notice of the proposed amendments to the Regulations to all interested parties pursuant to the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia.

Section 55 of Chapter 110 of the Act 's Rules sets forth the requirements for the content and format of a franchisor's Franchise Disclosure Document ("FDD"), which must be provided to a prospective franchisee and approved by the Division prior to the sale of a franchise in Virginia. The proposed amendments to the Regulations require franchisors to include with the FDD three "State Cover Sheets" and a "State Effective Dates Page" in accordance with the requirements of Part III B of the North American Securities Administrators Association, Inc. 2008 Franchise Registration and Disclosure Guidelines, as adopted in 2019.

The Order to Take Notice described the proposed amendments to Rule 21 VAC 5-110-55 (C) of the Act's Rules and afforded interested parties an opportunity to file written comments or requests for hearing by December 9, 2019.

On November 7, 2019, franchisor Precision Door Service filed a comment with the Commission supporting the adoption of the proposed amendments to the Regulations.<sup>1</sup> Precision Door Service did not request a hearing, and no other comments were filed, nor were any requests for hearing made in this matter.

NOW THE COMMISSION, upon consideration of the proposed amendment, the comments received, the recommendation of the Division, and the record in this case, finds that the proposed amendments to the Regulations should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed Regulations are attached hereto, made a part hereof, and are hereby ADOPTED effective January 3, 2020.
- (2) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY of this Order shall be sent by regular mail by the Division to: George Payor, Esquire, Precision Door Service, 2395 S. Washington Avenue, Suite 5, Titusville, Florida 32780; and copies also shall be sent to the Commission's Division of Information Resources and the Commission's Office of General Counsel.

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<sup>1</sup> Doc. Con. Cen. No. 191110287.

## STATE CORPORATION COMMISSION, DIVISION OF SECURITIES AND RETAIL

## FRANCHISING

## 2019 Franchise Rules

**21VAC5-110-55. The Franchise Disclosure Document.**

A. Format. The Franchise Disclosure Document must be prepared in accordance with §§ 436.3-436.5 of the Federal Trade Commission Franchise Rule (16 CFR 436.3-436.5), subject to the modifications set forth in subsections B and C of this section.

B. Financial statements. Notwithstanding § 436.5(u)(2) of the Federal Trade Commission Franchise Rule (16 CFR 436.5), a start-up franchisor in its first partial or full fiscal year selling franchises shall provide an opening balance sheet that has been audited by an independent certified public accountant using generally accepted United States auditing standards.

C. ~~State cover page sheets and effective dates page.~~ The Franchise Disclosure Document shall include the following ~~state cover page prepared in accordance with this subsection, which must immediately follow the Federal Trade Commission required cover page:~~

~~1. State the following legend:~~

~~STATE COVER PAGE~~

~~Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT.~~

~~Call the state franchise administrator listed in Exhibit \_\_\_ for information about the franchisor or about franchising in your state.~~

~~2. State the following:~~

~~MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.~~

~~3. If any of the following apply, state the following, using capital letters as shown:~~

~~Please consider the following RISK FACTORS before you buy this franchise:~~

~~THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY [LITIGATION/ARBITRATION/MEDIATION] ONLY IN [STATE]. OUT OF STATE [LITIGATION/ARBITRATION/MEDIATION] MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO [LITIGATE/ARBITRATE/MEDIATE] WITH US IN [STATE] THAN IN YOUR OWN STATE.~~

~~THE FRANCHISE AGREEMENT STATES THAT [STATE] LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.~~

~~4. In addition to the above, disclose other risk factors required by the state administrator.~~

~~5. If one or more risk factors applies, also state:~~

~~THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.~~

~~6. If you use the services of a franchise broker or referral source, state the following:~~

~~We use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of the franchise.~~

~~7. State the following:~~

~~Effective Date:~~

~~a. Leave the effective date blank until notified of effectiveness by the state administrator.~~

~~b. If an applicant is using a multistate disclosure document, the applicant may list multiple state effective dates together on a separate page that is to be inserted immediately following the state cover page. state cover sheets and state effective dates page prepared in accordance with the requirements set forth in Part III B of the 2008 Franchise Registration and Disclosure Guidelines, as adopted May 19, 2019, by the North American Securities Administrators Association, Inc.~~

DOCUMENTS INCORPORATED BY REFERENCE (21VAC5-110)

2008 Franchise Registration and Disclosure Guidelines, adopted May 19, 2019, North American Securities Administrators Association, Inc.