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When Should You Bring Your Franchise Law Claims?

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By [David Gurnick](#) on October 8, 2012 8:55 PM | [0 Comments](#) | [0 TrackBacks](#)



Franchise laws in California and several other states seek to protect both franchisors and franchisees in their investment in a [new franchise business](#).

Franchisees are protected under these laws because franchisors must:

- Register with the state each year,
- Present a disclosure document about the investment, and
- Allow a cooling-off period before the new franchisee signs any agreement or pays any money to the franchisor.

These laws permit franchisees to bring a legal claim if the franchisor violates the law, such as by making a misrepresentation in offering or selling the franchise.

For the franchisor, the laws limit the time when franchisees can bring claims.

A franchisee's claim alleging violation of California's Franchise Investment Law, is barred if not brought within the earliest to occur, of:

- Four years from the act or transaction claimed to have violated the law, or
- One year after the franchisee discovers facts constituting the claimed violation.

Moreover, under an old California law (from the 1800s), anyone, including a franchisee, who knows circumstances that should cause him or her to investigate, is deemed to know the facts the investigation would have revealed. This rule can make the one year time limit start and end quickly.

Time limits differ in the various states that have franchise laws. Here are some of them:

State	Time Limit for Franchise Law Claim
Hawaii	Five years from claimed violation; or two years from discovery of facts constituting the claimed violation; but no later than seven years after the violation.
Illinois	Three years after act or transaction claimed to violate franchise law, or one year from being aware of circumstances indicating there may be a claim.
Indiana	Three years after discovery of facts constituting claimed violation.
Maryland	Three years after grant of the franchise.
Michigan	Four years after act or transaction constituting the claimed violation.
Minnesota	Three years after action accrues.
New York	Three years after act or transaction constituting the violation.
North Dakota	Five years from date franchisee knew or reasonably should have known facts that are the basis for the claimed violation.
Oregon	Three years after sale of the franchise.
Rhode	Four years after act or transaction claimed to violate the state's franchise

Island	law.
South Dakota	One year from claimed violation (for a rescission claim); Two years from discovery of facts constituting the claimed violation or three years from claimed violation (for a damages claim).
Virginia	Four years after claimed cause of action arose.
Washington	Two years from date of signing of franchise agreement.
Wisconsin	Three years after act or transaction constituting the claimed violation.

Some Effects of Franchise Law Time Limits

- Sometimes they encourage litigation. They force franchisees to bring claims sooner, to reduce or avoid the risk of a claim being lost due to the statute of limitations.
- They also give franchisors a strong tool to defend and defeat some claims, because the franchisee waited too long to sue.
- These statutes also lead to some compromises and settlements, due to the complaining franchisee being uncertain if a statute of limitations may apply.
- In some cases, by the time a franchisee becomes suspicious of a problem, dissatisfied enough to consult a franchise lawyer, and then certain enough to make a claim, more time has passed than the statute of limitations allows.
- Sometimes, a franchisee knew the facts more than one year before bringing a claim.

As a business owner, actual or potential franchisor or franchisee, you should keep in mind the statutes of limitations under state franchise laws.

Franchisees should be aware to avoid losing or giving up a claim, by failing to bring it until after the time limit has passed.

Franchisors should be aware of statutes of limitations as a tool to bar or defeat an untimely claim, sometimes after only a relatively short time.

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