

FINAL STATEMENT OF REASONS
FOR RULE CHANGES UNDER THE
FRANCHISE INVESTMENT LAW

As required by Section 11346.2 of the Government Code, the Commissioner of Corporations ("Commissioner") sets forth below the reasons for the proposed amendment to Section 310.001 of the California Code of Regulations (10 C.C.R. Sec. 310.001).

The Department regulates the offer and sale of franchises under the Franchise Investment Law ("FIL"). Under the FIL, it is unlawful to offer or sell any franchise in this state unless the offer has been registered with the Commissioner or is exempt from registration. The FIL provides several exemptions from registration.

One of the exemptions, Rule 310.001, sets forth an exemption pursuant to Section 31110 of the Corporations Code, based on the policy that the offer and sale of a franchise should not be subject to registration where the franchisee is required to pay a franchise fee, on an annual basis, that does not exceed the sum of \$100. The franchise fee amount of \$100 has not been updated or changed since the initial adoption of this exemption in 1972.

The Federal Trade Commission rule adopted under Title 16 of the Federal Code of Regulations, Section 436.2(a)(B)(iii) (16 CFR 436.2(a)(B)(iii)), provides for a similar exemption. The Federal Trade Commission provides an exemption from the disclosure requirements of Rule 436 if the fee the franchisee is required to pay to the franchisor or an affiliate of the franchisor, from any time before to within six months after commencing operation of the franchise, is less than \$500.

The Department of Corporations proposes to amend Rule 310.001 to increase the de minimis amount of the exemption to \$500 from \$100, thereby making the exemption consistent with the federal rule. The Commissioner has also determined that a franchise fee is \$500 or less is not a significant financial risk on the part of the franchisee.

ALTERNATIVES CONSIDERED

No alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons, or would lessen any adverse impact on small businesses.

FISCAL IMPACT

Cost to Local Agencies and School Districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.

No other nondiscretionary cost or savings are imposed on local agencies.

DETERMINATIONS

The Commissioner has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, which require reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Facts evidence, documents, testimony, or other evidence upon which the agency relies to support a finding that the action will not have a significant adverse economic impact on business. The amendment increases the de minimis amount of the exemption from disclosure requirements of Rule 436 if the fee the franchisee is required to pay to the franchisor is less than \$500. Small business will not be required to comply with or enforce the proposed regulation.

No written comments were received during the 45-public comment period, which ended on April 9, 2001.

No requests for hearing were received. No public hearing was scheduled or heard.