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1996 Survey of Rhode Island Law: Legislation: Corporate Law. An Act Relating to Businesses and Professions - Health Clubs

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Corporate Law. *An Act Relating to Businesses and Professions—Health Clubs.* Requires health clubs to register with the Attorney General, to obtain surety bonds for their operations, and to adhere to truth-in-advertising standards. Imposes statutory terms and conditions on health club contracts, and allows for voidability by the consumer under certain circumstances. Effective, August 5, 1996. 1996 R.I. Pub. Laws ch. 154.

This legislation (the Act) repeals a relatively short chapter of the Rhode Island General Laws,¹ and substitutes a more comprehensive regulatory chapter.² While some provisions of the repealed chapter are retained, the new chapter is much more operative and regulatory in nature.

The Act requires health clubs, as defined in section 5-50-1 of the Rhode Island General Laws,³ to register with the Attorney General⁴ and to obtain surety bonds for their operations.⁵ The Act also requires health club contracts⁶ to contain certain terms and conditions, while prohibiting others.⁷

Changes in the definition section include the elimination of an exemption for self-defense instruction facilities.⁸ Also, the Act defines "disability" as "a condition which will exist for more than forty-five (45) days and prevents a buyer from utilizing the health club to the same extent the buyer did before the commencement of such condition."⁹

The operative provisions of the Act require health clubs to register with the Attorney General by filing a registration statement, a non-refundable one hundred dollar registration fee, and an annual renewal fee of fifty dollars.¹⁰ The registration statement includes the name of the operation, names and addresses of the

1. R.I. Gen. Laws §§ 5-50-1 to -7 (1995) (repealed 1996).

2. *Id.* §§ 5-50-1 to -11 (Supp. 1996).

3. *Id.* § 5-50-1.

4. *Id.* §§ 5-50-1 to -2.

5. *Id.* § 5-50-3.

6. *Id.* § 5-50-1(3). This provision defines a health club contract as a written agreement between a natural person and a health club which entitles the person to health club membership for more than seven days. *Id.*

7. *Id.* § 5-50-4.

8. *Id.* § 5-50-1(3) (1995) (repealed 1996); *id.* § 5-50-1(1) (Supp. 1996).

9. *Id.* § 5-50-1(6).

10. *Id.* § 5-50-2(B). Material changes in the required registration information must be filed within ten days. *Id.*

officers, directors and major stockholders, the square footage of the facility, a copy of the membership contract, including costs, and any pending or completed litigation within the past three years.¹¹

Health clubs are required to obtain a surety bond, proof of which must be presented at registration or renewal, based upon the square footage of the facility.¹² Exempted from this requirement are non-profit organizations, and weight loss and control services that do not provide exercise facilities, and that do not obligate the customer for more than thirty days, or charge an initiation fee.¹³

For consumer protection, the Act requires all health club contracts to be in writing and to contain a provision for cancellation within ten business days.¹⁴ Also, contracts may not be offered or entered into for a term longer than twenty-four months, but may be renewed for a duration up to that period.¹⁵ Pre-opening sales are regulated under section 5-50-7 of the Rhode Island General Laws,¹⁶ and health clubs are precluded from entering into contracts with buyers more than twelve months prior to the intended opening of the club.¹⁷ In addition, financing agreements may not exceed one month more than the term of the health club contract, and level monthly payments are required under such agreements.¹⁸ The Act prohibits any provision in a health club contract that would prevent the buyer from asserting his rights against the

11. *Id.* § 5-50-2.

12. *Id.* § 5-50-3(a). The minimum amount of bond coverage is \$10,000 for facilities with less than 10,000 square feet of a permanently covered non-court sport exercise/aerobic/fitness area. *Id.* The maximum amount of bond coverage is \$30,000 for facilities with greater than 25,000 square feet of space, as described above. *Id.*

13. *Id.* § 5-50-3(a).

14. *Id.* § 5-50-4(A)-(B). The notice of cancellation must be in writing and may be delivered in person or sent by mail. Proof of cancellation in person may be accomplished by the health club representative writing "cancellation" and the date on the contract. *Id.* § 5-50-4(B).

15. *Id.* § 5-50-5(A).

16. *Id.* § 5-50-7.

17. *Id.* Under this provision, a club that is not established but wants to conduct a pre-opening sales campaign must obtain a permit from the Director of the Department of Business Regulation and must comply with other regulations in this section, as well as any regulations that may be promulgated by the Department of Business Regulation. *Id.*

18. *Id.* § 5-50-5(B).

health club, its transferees or assignees,¹⁹ and both the buyer and the Attorney General may enforce the provisions of the Act.²⁰

Cancellation after the ten day grace period is allowed under certain circumstances, such as the disability of a member for more than three months.²¹ In addition, the contract may be canceled if the buyer relocates further than fifteen miles from a comparable facility owned by the health club operator,²² or if the facility relocates or fails to maintain a facility within fifteen miles from its current location.²³ Also of major importance is a provision that allows the buyer to void a health club contract in the event of a change in health club ownership.²⁴

Lastly, the Act provides that any health club contract not in compliance with the chapter is voidable at the option of the buyer.²⁵ Remedies available under the Act include injunctive relief and civil monetary penalties of up to one thousand dollars for each violation in an action brought by the Attorney General.²⁶ Additionally, buyers who have a right to cancel for a material violation of the provisions of the Act may recover triple the amount actually paid under the health club contract and may also receive reasonable attorney's fees.²⁷ Injunctive relief may be sought in superior court by the Attorney General or any interested person.²⁸

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19. *Id.* § 5-50-5.

20. *Id.* § 5-50-9.

21. *Id.* § 5-50-4(C)(4). The Act refers to significant physical or medical disability, and allows a "disabled" member to be relieved of liability for payment during the disability. The member may either get a refund for any prepaid membership or extend the contract for a period equal to the duration of the disability. The health club may require a doctor's certificate as verification of the disability. *Id.*

22. *Id.* § 5-50-4(C)(1).

23. *Id.* § 5-50-4. If the health club fails to open a planned facility, permanently discontinues, or substantially changes the operation, the buyer is relieved of all obligations and is entitled to a refund of any prepaid membership under the contract. *Id.*

24. *Id.* § 5-50-4(C)(6).

25. *Id.* § 5-50-4.

26. *Id.* § 5-50-9.

27. *Id.* § 5-50-9(A).

28. *Id.* § 5-50-9(B)-(C).