

# EMPLOYMENT PRACTICES LIABILITY FOR FRANCHISE RESTAURANTS

## WHY ARE FRANCHISE BUSINESSES A TARGET?

The association to a well-known franchise name is a magnet for litigation, because of the perception that aggrieved employees and their lawyers can sue and recover from the “deeper pocket” franchisor. There is also an assumption franchise business will settle lawsuits at any cost to avoid bad publicity and protect their brand

## HOW CAN FRANCHISE BUSINESSES PROTECT THEMSELVES?

**INSURANCE:** Employment Practices Liability Insurance (EPLI) protects employers against claims from current and former employees as well as applicants. It can also protect against claims for discrimination and harassment by third-parties, i.e. customers and vendors.

## Potential Coverage Can Include

- Discrimination based on race, age, gender, disability, religion and other protected classes
- Americans with Disabilities Act access claims
- Wage and Hour coverage
- Wrongful termination or demotion
- Retaliation claims for protected classes and activities
- Harassment including sexual and workplace bullying

## KEY FEATURES

- Limits available up to \$15M for select risks
- Defense Costs in addition to the Limit of Liability available for eligible risks
- Broad definition of Employment Practices Act
- Most favorable venue wording for punitive, multiple, or exemplary damages
- Definition of claim includes: arbitration, regulatory and administrative proceedings, EEOC and DOL investigations, and requests to toll the statute of limitations
- Quick turnaround times for proposals and policy issuance
- Third Party Liability coverage
- Definition of Individual Insured includes leased employees
- Wage and Hour coverage is available
- Independent Contractor coverage is available
- A triple aggregate retention available for eligible Insureds
- Availability of complementary coverages to provide broader risk management solutions including Directors & Officers, Fiduciary, Employed Lawyers, Crime, and Cyber Liability

## SUBMISSION REQUIREMENTS

- Completed application
- Latest financial statement/audit if more than 200 employees
- Complete loss history for the past five (5) years
- Supplemental claim form, if applicable

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Not all coverages of products may be available in all jurisdictions. The description of coverage in these pages is for information purposes only. Actual coverages will vary based on local law requirements and the terms and conditions of the policy issued. The information described herein does not amend, or otherwise affect, the terms and conditions of any insurance policy issued by carrier.



## CLAIM SCENARIOS

In recent years, employers have seen a steady increase in the charges filed against them. In 2016, the EEOC reported 91,648 charges, compared to only 75,768 in 2006.<sup>1</sup> That is a 21% increase over just the last decade. These lawsuits can be costly

### \$1M Sexual Harassment

A burger franchisee in Wisconsin paid **\$1,000,000** to three former female employees to resolve a sexual harassment lawsuit.

### \$100,000 Gender Pay Equity Discrimination

Accused of paying female employees lower wages than their male counterparts, a burger franchisee spent **\$100,000** to settle a gender pay equity/discrimination lawsuit

### \$40,000 Religious Discrimination

A North Carolina fried chicken franchisee paid **\$40,000** to settle a religious discrimination lawsuit after firing a Pentecostal employee for refusing to wear pants to work

### \$3,750,000 Wage Violations

A burger franchise operator in San Francisco paid **\$3,750,000** to settle a class action lawsuit alleging various wage violations.

**Litigation defense fees and expenses can easily exceed \$100,000 per claim and are in addition to any settlement or judgments.**