

112TH CONGRESS
1ST SESSION

H. R. 3344

To amend the Act of September 30, 1961, to limit the antitrust exemption applicable to broadcasting agreements made by leagues of professional sports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2011

Mr. BLUMENAUER (for himself and Ms. HAHN) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend the Act of September 30, 1961, to limit the antitrust exemption applicable to broadcasting agreements made by leagues of professional sports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Give Fans a Chance
5 Act of 2011”.

1 **SEC. 2. AMENDMENT TO ANTITRUST EXEMPTION.**

2 The Act of September 30, 1961 (Public Law 87–331;
3 15 U.S.C. 1291 et seq.), is amended by adding at the end
4 the following:

5 **“SEC. 7. CONDITIONAL APPLICATION OF ACT.**

6 “(a) INAPPLICABILITY.—This Act shall not apply to
7 a league of clubs of a professional sport for any period
8 during which any member club of such league is—

9 “(1) subject to such league’s requirement, or to
10 an agreement made by 2 or more member clubs of
11 such league, that forbids any of such clubs to trans-
12 fer (by sale or otherwise) an ownership interest of
13 any kind in such club to any governmental entity or
14 to members of the general public; or

15 “(2) not in compliance with subsection (b) or
16 (c).

17 “(b) NOTICE OF PROPOSED CHANGE IN COMMUNITY;
18 OPPORTUNITIES TO RESPOND TO PROPOSED RELOCA-
19 TION OR ELIMINATION.—

20 “(1) IN GENERAL.—A member club that pro-
21 poses to relocate, or a league that proposes to relo-
22 cate or eliminate a member club, out of a community
23 in the home territory of the member club shall fur-
24 nish notice of such proposed relocation or elimi-
25 nation not later than 180 days before the commence-

1 ment of the season in which the club is to play home
2 games in the proposed new location.

3 “(2) PERSONS ENTITLED TO RECEIVE NO-
4 TICE.—The notice required by paragraph (1) shall
5 be furnished to all interested persons.

6 “(3) REQUIREMENTS.—The notice shall—

7 “(A) be in writing and delivered in person
8 or by certified mail;

9 “(B) be made available to the news media;

10 “(C) be published in 1 or more newspapers
11 of general circulation within the club’s home
12 community; and

13 “(D) contain—

14 “(i) an identification of the proposed
15 new home community of such club if appli-
16 cable;

17 “(ii) a summary of the reasons for the
18 proposed relocation or elimination based on
19 the criteria listed in subsection (c); and

20 “(iii) the date on which the proposed
21 relocation or elimination would become ef-
22 fective.

23 “(4) OPPORTUNITY TO OFFER TO PURCHASE.—

24 “(A) IN GENERAL.—During the 180-day
25 notice period specified in paragraph (1), a local

1 government, stadium, arena authority, person,
2 or any combination thereof, may prepare and
3 present a proposal to purchase the club to re-
4 tain the club in the home community.

5 “(B) MEMBERSHIP IN LEAGUE.—If a bid
6 under subparagraph (A) is successful, the
7 league of which the club is a member shall not
8 prohibit the club’s membership in the league on
9 the basis that the club is owned in whole or in
10 part by several persons or entities, or by 1 or
11 more local governments.

12 “(5) OPPORTUNITY TO INDUCE CLUB TO
13 STAY.—During the 180-day notice period specified
14 in paragraph (1), the club (and the league of which
15 the club is a member) shall give a local government,
16 stadium authority, person, or any combination there-
17 of, the opportunity to prepare and present a pro-
18 posal to induce the club to remain in its home com-
19 munity.

20 “(6) RESPONSE.—The response of the owner of
21 the club to any offer made under paragraph (4) or
22 (5) shall—

23 “(A) be in writing and delivered in person
24 or by certified mail; and

1 “(B) state in detail the reasons for refusal
2 of any bona fide offer.

3 “(7) DETERMINATION BY LEAGUE.—

4 “(A) IN GENERAL.—The league of which
5 the club is a member shall make a determina-
6 tion, before the expiration of the 180-day notice
7 period specified in paragraph (1), with respect
8 to the relocation or elimination of the club out
9 of its home community.

10 “(B) HEARINGS.—In making a determina-
11 tion under this paragraph, the league shall con-
12 duct a hearing at which interested persons are
13 afforded an opportunity to present oral or writ-
14 ten testimony regarding the proposed relocation
15 or elimination of the club. The league shall keep
16 a record of all such proceedings.

17 “(C) CONSIDERATION OF PROPOSALS.—
18 The league shall take into account any induce-
19 ment proposal that is offered under paragraph
20 (5).

21 “(8) CONSIDERATIONS.—In determining wheth-
22 er to approve or disapprove the relocation or elimi-
23 nation of the club, the league shall take into consid-
24 eration the criteria listed in subsection (c).

1 “(c) CRITERIA FOR RELOCATION OR ELIMINATION
2 DECISIONS.—Notwithstanding any other law, before mak-
3 ing a decision to approve or disapprove the relocation or
4 elimination of a club out of its home community, the
5 league of which such club is a member shall take into con-
6 sideration—

7 “(1) the extent to which fan loyalty to and sup-
8 port for the club has been demonstrated during the
9 club’s operation in such community;

10 “(2) the degree to which the club has engaged
11 in good faith negotiations with appropriate persons
12 concerning terms and conditions under which the
13 club would continue to play home games in such
14 community or elsewhere within the club’s home ter-
15 ritory;

16 “(3) the degree to which the ownership or man-
17 agement of the club has contributed to any cir-
18 cumstances that might demonstrate the need for the
19 relocation or elimination;

20 “(4) the extent to which the club, directly or in-
21 directly, received public financial support by means
22 of any publicly financed playing facility, special tax
23 treatment, or any other form of public financial sup-
24 port;

1 “(5) the adequacy of the stadium in which the
2 club played its home games in the previous season,
3 and the willingness of the stadium, arena authority,
4 or local government to remedy any deficiencies in
5 the facility;

6 “(6) whether the club has incurred net oper-
7 ating losses, exclusive of depreciation and amortiza-
8 tion, sufficient to threaten the continued financial vi-
9 ability of the club;

10 “(7) whether any other club in the league is lo-
11 cated in the same home community;

12 “(8) whether the club proposes to relocate to a
13 community that is the home community of another
14 member club of the league;

15 “(9) whether the stadium authority, if public, is
16 opposed to the proposed relocation or elimination;
17 and

18 “(10) whether there is a bona fide investor of-
19 fering fair market value for the club and seeking to
20 retain the club in such community.”.

21 **SEC. 3. EFFECTIVE DATE.**

22 This Act and the amendment made by this Act shall
23 take effect on the first day of the first month beginning

1 more than 180 days after the date of the enactment of
2 this Act.

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