

From: [David Costello](#)
To: [NASAA Comments](#)
Cc: [Theresa Leets](#); bill.beatty@dfi.wa.gov; [Erin Houston](#)
Subject: [EXTERNAL]Feedback on NASAA Model Franchise Broker Registration Act
Date: Thursday, June 13, 2024 10:03:48 AM

Dear NASAA Team,

My name is David Costello, and I have 30 years of experience in buying and selling businesses, both franchise and non-franchise, as a licensed real estate broker in Maine and Florida. I am currently a franchise broker with The Franchise Brokers Association, and I have completed the Franchise Training Institute program.

I am writing to provide feedback on the NASAA Model Franchise Broker Registration Act, drawing from my extensive industry experience.

While the intention to ensure ethical practices in franchise brokering is commendable, the current draft introduces complexities that might hinder the franchise sales process. Here are my observations and suggestions:

Role of Franchise Brokers

- Franchise brokers match prospective franchisees with suitable franchisors, similar to employment recruiters. They facilitate introductions and are compensated only when a franchisor awards a franchise.

Impact on Prospective Franchisees

- The current draft may complicate the franchise discovery process by requiring multiple disclosure documents, creating confusion and anxiety.

Key Concerns and Suggestions

Section 2: Definitions

- Clarify the distinction between "franchise broker" and "franchise broker representative." The term "representatives" is too vague.

Section 3: Prohibited Practices

- Preventing unregistered brokers from engaging with prospective franchisees is sensible, but making franchisors verify broker registration adds an unnecessary burden. A centralized, government-maintained database would be more practical.

Section 4: Registration

- Define "material change" precisely. Significant changes, like criminal history or new litigation, should be considered material, but frequent updates for minor changes are burdensome.

Section 5: Disclosure Obligation

- Requiring disclosure of "all compensation" is challenging. A "typical referral fee range" would be more practical and should be included in the franchisor's FDD, not additional paperwork for brokers.

Client List Disclosure

- Disclosing client lists raises confidentiality concerns and could undermine trust. This requirement might lead to misuse of information and does not benefit prospective franchisees.

Record Retention

- The 10-year record retention requirement is excessive. A 5-7-year period is more reasonable, aligning with the statute of limitations for fraud and IRS requirements.

Education and Licensing Requirements

- National licensing could create a consistent standard, but state-by-state requirements are burdensome and financially prohibitive.

Conclusion

The Model Act should protect prospective franchisees while fostering ethical franchise brokering. The current draft introduces complexities that could discourage potential franchisees and impose undue burdens on brokers and franchisors. Please consider these suggestions to develop a more balanced and effective regulatory framework.

Thank you for considering my comments. I am open to further discussions and clarifications. Please feel free to contact me at your convenience.

Sincerely,
Dave

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