

From: [Mark Pasma](#)
To: [NASAA Comments](#)
Subject: [EXTERNAL]Proposed Model Franchise Broker Act - NASAA
Date: Thursday, June 13, 2024 10:00:29 PM
Attachments: [image001.png](#)

My name is Mark Pasma and I have been a Franchise consultant for over 23 years. I have helped hundreds of people determine if owning a franchise is the right decision for them. I have guided scores of people through the process of buying a franchise, realizing a lifelong dream. I continue to be in contact with many owners through the years and have shared celebrations and provided assistance through challenging times. I conduct my business with the highest level of integrity and ethical behavior. In fact, a standard for me through the years has been a willingness to only present franchise opportunities to my clients that I would allow my close friends and family members to choose. Most of my business today comes from referrals of those who I have worked with in the past. I am often asked what qualifies me to do my job. My answer is very simple, it's experience in the industry. I have spent the last 35 plus years of my life owning and operating several different franchise businesses. My portfolio includes a well-diversified mix of franchises including janitorial, maid service, disaster restoration, employment staffing, food and beverage, and multi-unit fitness. My experience has allowed me to effectively guide people to understand franchising from a real-world perspective. The name of my business is Franchising101.com. The reason I chose the name was to accentuate the need for people to be properly educated about franchising prior to them making any investment decision.

I am disappointed by the new proposed Model Franchise Broker Act coming from NASAA. This bill only addresses and applies to the few in our industry that have created a bad name for the franchise consulting industry. Please give consideration to my list of reasons why I do not believe this legislation should be enacted.

1. I have never liked or accepted being called a "franchise broker or franchise seller". It is a misleading title especially to a prospective franchisee. I sell nothing and have nothing to sell. If I'm selling anything, it might be myself, my experience, my process and knowledge. My role is like an executive recruiter who helps people find good jobs and is reimbursed for the matching and placement process.
2. As a franchise consultant I have no role in the sales process of a person looking to own a franchise. I educate prospects about the world of franchising, inform them about potential franchise opportunities, and finally introduce them to strong, successful franchises. My background and experience affords me the confidence to believe they are being introduced to excellent opportunities to investigate. Once I introduce a client to a franchise, my on-going role is very limited other than making sure my candidates are getting their questions answered by the franchise company salespeople. The franchise company makes the sole decision to award a franchise to a candidate.
3. I am a small business owner. I do not have employees. The time taken to do additional administrative tasks will impact my ability to service my candidates. I will experience an increase in costs and time commitment to my consulting business. There will most likely be registration fees, annual renewal fees, and potential amendment fees. The bill requires maintaining records, filing disclosures, and potentially attending training, all adding to operational costs.

4. The requirement to disclose my candidate's information, activity and choices is a clear violation of their privacy rights. All the time, effort and trust I try to build in the relationship will be completely destroyed.
5. The disclosure of compensation will only confuse the prospect. Today they understand I am only reimbursed by the franchise company if they purchase a franchise. In a typical year I work with scores of people and only a small percentage of them become owners. It's a referral fee not a sales commission. If franchise companies relied solely on marketing channels to attract qualified candidates, it would significantly increase their costs which will then be passed on to the prospective franchise owner. Using a franchise consultant for their recruitment enables franchise companies to get highly qualified candidates.
6. The bill allows the Commissioner to suspend registrations based on complaints. Even unfounded complaints could lead to delays and disruptions while the issue is resolved.
7. Frivolous lawsuits will become an issue. The ability for franchisees to sue franchise consultants could increase legal activity, even if a consultant acted ethically. This could damage a consultant's reputation and discourage some from working with franchises, not to mention the additional costs in having legal representation.

It seems to me this legislation is a reaction to a very small group of isolated situations. Yes, like in every industry, there are people in our who are unethical and make a bad name for those of us who have dedicated their lives to do what is right and ethical for the candidates they serve. Punishing the many for the mistakes of the few is shortsightedness. It will lead to the destruction of an industry that provides hope, new opportunities and the realization of the American dream.

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