
From: Douglas Grant <dgrant@franchise-options.com>
Sent: Thursday, June 13, 2024 11:09 AM
To: Leets, Theresa@DFPI <Theresa.Leets@dfpi.ca.gov>
Cc: ehouston@sos.nv.gov
Subject: Franchise Laws

Dear NASAA

I am Douglas Grant, bringing forth my considerable expertise as a franchisor, franchise development professional, broker, CFE recognized by the IFA, and multi-unit franchise owner. I am reaching out to offer feedback on the NASAA Model Franchise Broker Registration Act. I appreciate the opportunity to share insights gleaned from my extensive involvement in the franchise industry.

While the objective of ensuring ethical practices in franchise brokering is commendable, the current rendition of the Model Act introduces complexities that may inadvertently impede the franchise sales process. Below are my observations and suggestions:

Franchise Brokers' Role: Franchise brokers serve as pivotal intermediaries in aligning prospective franchisees with suitable franchisors. Ethical brokers prioritize their clients' interests, aiding them in identifying fitting franchise opportunities. Much like employment recruiters, brokers facilitate introductions without making final franchise award decisions and are remunerated only upon a franchisor awarding a franchise.

Impact on Prospective Franchisees: The existing draft of the Model Act may inadvertently complicate the franchise exploration process for prospective franchisees. Mandating multiple disclosure documents could cause unnecessary confusion and anxiety, potentially dissuading individuals from pursuing franchise opportunities.

Key Concerns and Recommendations: Section 2: Definitions: Clearer definitions are necessary for distinguishing between a "franchise broker" and a "franchise broker representative." Licensing for brokers, including specified training hours akin to the Certified Franchise Executive (CFE) program, would be advantageous. However, the term "representatives" is too ambiguous and is prone to misinterpretation.

Section 3: Prohibited Practices: While it is sensible to prevent unregistered or inadequately trained brokers from engaging with prospective franchisees, burdening franchisors with the responsibility to verify broker registration adds unnecessary administrative overhead. A centralized, government-maintained database would be indispensable for this purpose, although its implementation might be impractical.

Section 4: Registration: A precise definition of "material change" is warranted. Significant changes, such as criminal history or new litigation, should be deemed material. However, frequent updates for minor changes would be burdensome and unnecessary.

Section 5: Disclosure Obligation: The mandate to disclose "all compensation" poses challenges. Referral fees often fluctuate, necessitating frequent updates to disclosure documents, which could lead to confusion. Disclosing a "typical referral fee range" would be a more pragmatic approach, striking a balance between transparency and administrative feasibility. This disclosure should be within the franchisor's Franchise Disclosure Document (FDD), without burdening the franchise broker with additional paperwork.

Client List Disclosure: Requiring brokers to disclose their client lists raises significant confidentiality concerns and may undermine trust between brokers and clients. Additionally, this requirement might foster misuse of information and does not clearly benefit prospective franchisees. The rationale for this requirement lacks clarity in the proposed act.

Record Retention: The proposed mandate to retain records for 10 years, even after business closure, is excessive. The statute of limitations for fraud and misrepresentation typically ranges from 5 to 7 years. Even the IRS requires record retention for only 7 years. A 10-year requirement is unduly burdensome and warrants reconsideration.

Education and Licensing Requirements: To uphold integrity among franchise brokers, national education and licensing requirements should be established. Mandatory training programs, akin to the CFE, would ensure brokers adhere to ethical standards and industry best practices. National licensing would establish a consistent standard of professionalism and accountability, benefiting the franchise sector. Fragmenting this regulation into a state-by-state level would be burdensome and financially prohibitive.

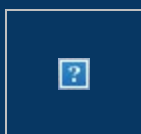
Conclusion: The Model Act should safeguard prospective franchisees while fostering an environment conducive to ethical franchise brokering. The current draft introduces complexities that could dissuade potential franchisees and burden brokers and franchisors unnecessarily. I urge the NASAA to consider these suggestions in crafting a more balanced and effective regulatory framework.

Thank you for considering my input. I am open to further discussions and clarifications. Please do not hesitate to reach out at your convenience.

Sincerely, Douglas Grant

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Schedule a call with me: [15 min](#) | [30 min](#) | [60 min](#)



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