

**From:** [Sabrina Panfilo](#)  
**To:** [NASAA Comments](#)  
**Cc:** [Theresa Leets](#); [billbeatty](#); [Erin Houston](#)  
**Subject:** [EXTERNAL]NASAA Model Franchise Broker Registration Act  
**Date:** Thursday, June 13, 2024 4:28:10 PM

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Dear NASAA Team,

I'm Sabrina Panfilo, and I've been deeply involved in the franchise world as a franchise broker/consultant, and a recognized member of the FBA. I appreciate the chance to provide feedback on the NASAA Model Franchise Broker Registration Act, drawing from my industry experience thus far.

While I understand the intention behind ensuring ethical practices in franchise brokering, the current draft of the Model Act introduces some complexities that might unintentionally hinder the franchise sales process. Here are a few thoughts and suggestions:

### **The Role of Franchise Brokers**

Franchise brokers are crucial in matching prospective franchisees with the right franchisors. Ethical brokers always put their clients' best interests first, helping them find suitable franchise opportunities. They are like employment recruiters; they facilitate introductions without making final decisions on franchise awards and only get compensated when a franchise is awarded.

### **Impact on Prospective Franchisees**

The current draft of the Model Act might unintentionally complicate the franchise discovery process for potential franchisees. Requiring multiple disclosure documents can create unnecessary confusion and anxiety, potentially deterring individuals from pursuing franchise opportunities.

### **Key Concerns and Suggestions**

#### **Section 2: Definitions**

The distinction between a "franchise broker" and a "franchise broker representative" needs to be made clear. Licensing for brokers, including specified training hours similar to the Certified Franchise Executive (CFE) program, would be beneficial. However, the term "representative" is too vague and likely to be misinterpreted. Also, it should be noted that brokers who have undergone extensive training to become franchise sales compliant receive badges upon completion of this training and those who are active members of franchise organizations - such as the FBA - are daily involved with education beyond new brands, including franchise ethics and the professional process broker/consultants must follow to ensure what is in the best interest of prospects and franchisors.

#### **Section 3: Prohibited Practices**

It's sensible to prevent unregistered or untrained brokers from engaging with prospective franchisees, but placing the responsibility on franchisors to verify broker registration seems problematic.

#### **Section 4: Registration**

The term "material change" needs a precise definition. Significant changes, such as criminal history or new litigation, should be considered material. However, frequent updates for minor changes would be burdensome and unnecessary.

#### **Section 5: Disclosure Obligation**

The mandate to disclose "all compensation" is challenging. Referral fees often change, necessitating frequent updates to disclosure documents, leading to confusion. Disclosing a "typical referral fee range" would be a more practical approach, balancing transparency with administrative feasibility. This disclosure should be within the franchisor's FDD, not additional paperwork passed to the franchise broker.

#### **Client List Disclosure**

Requiring brokers to disclose their client lists raises significant confidentiality concerns and could undermine trust between brokers and clients. This requirement might also lead to misuse of information and does not clearly benefit prospective franchisees. The rationale for this requirement is not well-defined in the proposed act.

### **Record Retention**

The proposed requirement to retain records for 10 years, even after business closure, is excessive. The statute of limitations for fraud and misrepresentation ranges from 5-7 years. Even the IRS only requires record retention for 7 years. A 10-year requirement is overly burdensome and should be reconsidered.

### **Education and Licensing Requirements**

To promote integrity among franchise brokers, national education and licensing requirements should be implemented. Mandatory training programs, similar to the CFE, would ensure brokers adhere to ethical standards and industry best practices. National licensing would create a consistent standard of professionalism and accountability, benefiting the franchise sector. Breaking this down to a state-by-state level will be burdensome and financially prohibitive.

### **Conclusion**

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

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

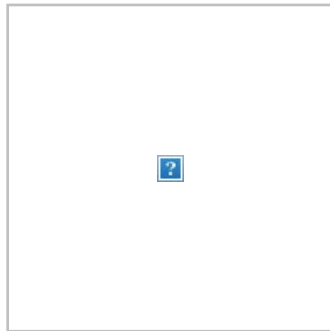
Best regards,

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