

From: [Cecelia Runyon](#)
To: [NASAA Comments](#); [Theresa Leets](#); [billbeatty](#); [Erin Houston](#)
Subject: [EXTERNAL]NASAA Model Franchise Broker Registration Act
Date: Thursday, June 13, 2024 12:27:07 PM

Dear NASAA Team,

My name is Cecelia J. Runyon, and I am a certified franchise consultant. I work full-time for Integrity Franchise Group based out of Appleton, a consulting firm that was founded over 10 years ago. Additionally, my family has been a part of the franchise industry for over 20 years, both as a franchisor and as current multi-unit franchisees. I am writing to provide commentary on the NASAA Model Franchise Broker Registration Act. Thank you for allowing me to share my feedback.

Though the aim to uphold ethical standards in franchise brokering is commendable, the existing draft of the NASAA Model Franchise Broker Registration Act introduces complications that could unintentionally impede the franchise sales process. Below, I present my observations and suggestions:

Role of Franchise Brokers

Franchise brokers fulfill a crucial function by connecting potential franchisees with compatible franchisors. Ethical brokers place their clients' interests first, guiding them to appropriate franchise options. Comparable to recruitment agents, brokers facilitate introductions, abstaining from final franchise award decisions, and receive compensation solely upon a franchisor's award of a franchise.

Impact on Prospective Franchisees

The present iteration of the NASAA Model Franchise Broker Registration Act might inadvertently add complexity to the process of discovering franchises for potential franchisees. Mandating numerous disclosure documents has the potential to generate unwarranted confusion and stress, potentially dissuading individuals from exploring franchise opportunities.

Key Concerns and Suggestions

Section 2: Definitions

Clearer definitions are needed to distinguish between a "franchise broker" and a "franchise broker representative." Implementing licensing requirements for brokers, with specified training hours akin to the Certified Franchise Executive (CFE) program, would be advantageous. However, the term "representatives" lacks clarity and is prone to misinterpretation.

Section 3: Prohibited Practices

While it makes sense to bar unregistered brokers from interacting with potential franchisees, imposing the duty on franchisors to confirm broker registration appears unfeasible. The establishment of a centralized, government-managed database would be necessary for this purpose, although its implementation could pose challenges.

Section 4: Registration

A clear definition of the term "material change" is required. Major alterations, like criminal history or new litigation, should be categorized as material. Yet, requiring frequent updates for minor changes would be excessive and unnecessary.

Section 5: Disclosure Obligation

Requiring disclosure of "all compensation" poses challenges as referral fees often fluctuate, requiring frequent updates to documents and risking confusion. Suggesting a disclosure of a "typical referral fee range" within the franchisor's FDD instead of separate paperwork for franchise brokers would balance transparency with administrative ease.

Client List Disclosure

Mandating brokers to reveal their client lists raises significant confidentiality worries, potentially damaging trust between brokers and clients. This requirement could also result in information misuse and lacks evident benefits for potential franchisees. The reasoning behind this mandate is poorly defined in the proposed act.

Record Retention

The suggested mandate to retain records for 10 years, even after a business has closed, is excessive. The statute of limitations for fraud and misrepresentation ranges from 5 to 7 years, and even the IRS only mandates record retention for 7 years. Therefore, a 10-year requirement is inappropriate and unduly burdensome, and thus should be reevaluated.

Education and Licensing Requirements

To ensure integrity among franchise brokers, national education and licensing requirements should be established. Mandatory training, akin to the CFE program, would enforce ethical standards and industry best practices. National licensing would provide consistent professionalism and accountability, benefiting the franchise sector, while state-by-state regulation would be burdensome and costly.

Conclusion

The NASAA Model Franchise Broker Registration Act should safeguard prospective franchisees and promote ethical franchise brokering. However, the current draft's complexities may deter potential franchisees and unduly burden both brokers and franchisors. It is recommended that the NASAA consider my suggestions to create a more balanced and effective regulatory framework.

Thank you for considering my comments. I am available for further discussions and clarifications. Please do not hesitate to contact me at your convenience.

Sincerely,

Cecelia Runyon, Integrity Franchise Group
Franchise Consultant

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