

From: [Robert Haar](#)
To: [NASAA Comments](#)
Cc: [Theresa Leets](#); bill.beatty@dfi.wa.gov; [Erin Houston](#)
Subject: [EXTERNAL]Public Comment-NASSA Model Franchise Broker Registration Act
Date: Thursday, June 13, 2024 12:25:21 PM

Dear NASAA Team,

My name is Robert Haar, and I have extensive experience in the franchising industry for the past 30 years having spent the last 12 of those as the VP of Franchise Development. I helped grow that brand significantly over those 12 years. I am now a franchise broker operating under the umbrella of The Franchise Brokers Association which is where I continued my education through their Franchise Training Institute program. I am writing to provide feedback on the NASAA Model Franchise Broker Registration Act. Thank you for allowing me to share my insights based on years of involvement in the franchise industry.

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

The Role of Franchise Brokers

Franchise brokers play a vital role in matching prospective franchisees with the right franchisors. Ethical brokers prioritize their clients' best interests, helping them find suitable franchise opportunities. Brokers are akin to employment recruiters; they facilitate introductions without making final decisions on franchise awards and are compensated only when a franchisor awards a franchise.

Impact on Prospective Franchisees

The current draft of the Model Act may unintentionally complicate the franchise discovery process for prospective 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" requires clearer definitions. The term "representatives" is too vague and will be misinterpreted.

Section 3: Prohibited Practices

While it is sensible to prevent unregistered / aka untrained brokers from engaging with prospective franchisees, imposing the responsibility on franchisors to verify broker registration adds unnecessary administrative burden. A centralized, government-maintained database would be essential for this, though it might be impractical to implement.

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. I also believe that the jurisdiction of any litigation should be controlled by the agreements signed which all parties can negotiate and agree to. Jurisdiction should not be determined by the Act.

Continuing education is a good idea and in fact, part of the training at Franchise Brokers Association includes a Franchise Sales Compliance course as part of the membership and we are tested on our understanding of it before we complete our training. These resources exist and should be managed by the industry professionals, not NASSA as the industry professionals will make the training meaningful and effective. Other broker groups would gladly offer training to increase education on

the rules in franchising. Many already do this.

If the Director requires by rule or otherwise that a franchise broker meet certain financial or insurance requirements this would result in an unnecessary barrier to entering the industry. The effect will likely decrease interest in business concepts to pursue franchising due to fewer franchise brokers entering the market coupled with some franchise brokers leaving the market due to not being capable of obtaining insurance. I recommend removing the financial insurance requirements altogether as it is discriminatory to those entering the field and reduces competition.

Section 5: Disclosure Obligation

The mandate to disclose "all compensation" is challenging. Referral fees often change, necessitating frequent updates to disclosure documents, which can lead 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.

This will add confusion to the prospect as well. The prospect does not understand the number of zero-benefit prospects who have been helped prior to this and how the compensation must be high enough to justify all the free work done with other prospects. To tell prospects that franchise brokers work for free on all these other accounts where people aren't buying franchises deters the franchise's ability to attract people to franchising. If there are so many people that are not buying franchises, why would they be interested in franchising? This would put franchising in a bad light which is not the point of the Act.

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

National licensing could 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 am open to further discussions and clarifications. Please feel free to contact me at your convenience.

Sincerely,

|



Robert Haar
President
Best Franchise Options, LLC

- [561-782-5567](tel:561-782-5567)
- robert@bestfranchiseoptions.com
- www.bestfranchiseoptions.com



Book a Call

Recipient acknowledges that it has not relied on any statement made by our brokers in our candidates determination of whether or not to become a franchisee or enter into any relationship with the Franchise. The candidate has conducted or will conduct, prior to signing any agreement with respect to the Franchise, its own due diligence on the Franchise and has not and will not rely on any representation whatsoever of our brokers.

The information contained in this message and any attachments is confidential and intended only for the named recipient(s). If you have received this message in error, you are prohibited from copying, distributing or using the information. Please contact the sender immediately by return email and delete the original message.

This email does not constitute an offer of a franchise per the registration requirements by the Franchisor in some States. The following are the registration States (CA, HI, IL, IN, MD, MI, MN, NY, ND, RI, SD, VA, WA, WI).

The information provided in any PowerPoint presentation or brochure is found in greater detail in the franchisor's Franchise Disclosure Document. You should review the entire Franchise Disclosure Document carefully and seek the advice of a professional advisor prior to making any decision on whether to purchase this franchise. Do not rely on any information which is not consistent with the information in the Franchise Disclosure Document.