



STATE OF WASHINGTON  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
SECURITIES DIVISION

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**SMALL BUSINESS ECONOMIC IMPACT SURVEY**

**Concerning the Adoption of the NASAA Statement of Policy Regarding the  
Use of Franchise Questionnaires and Acknowledgments**

The Securities Division is conducting this survey to determine the economic impact of the potential adoption of the Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments promulgated by the North American Securities Administrators Association, Inc. (“NASAA”). If you are a franchisor, we request that you complete this survey by **March 15, 2023**, so that your responses may be considered as part of the rulemaking.

On September 18, 2022, NASAA adopted the Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments (“Statement of Policy”). The Statement of Policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. Specifically, the Statement of Policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. These provisions are also inconsistent with the anti-waiver provisions in Washington’s Franchise Investment Protection Act. *See* RCW 19.100.220(2) and RCW 19.100.180(2)(g). It is important to note that the adoption of the Statement of Policy would not represent a material change in requirements for franchise offerings in Washington. However, adoption of the Statement of Policy would aid franchisors in complying with existing Washington law by providing specific examples of prohibited questionnaires and acknowledgments, while also increasing compliance with anti-waiver and anti-fraud requirements across the states with such requirements.

The Securities Division is now considering proposing to amend Chapter 460-80 WAC to formally adopt the Statement of Policy and is conducting this survey to determine the economic impact of the rulemaking on franchisors.

To aid in your completion of this survey, please use the links below to review the Statement of Policy and the draft of the potential rule proposal prior to completing the survey:

- **Statement of Policy:** <https://www.nasaa.org/wp-content/uploads/2022/09/NASAA-Franchise-Questionnaires-and-Acknowledgments-Statement-of-Policy-9-18-2022.pdf>.
- **Draft rule:** <https://dfi.wa.gov/rulemaking/nasaa-statement-policy-regarding-use-franchise-questionnaires-and-acknowledgments>.

Please complete the survey no later than **March 15, 2023**, so that it may be appropriately considered as part of the rulemaking process.

1. Name of Person Completing Survey:
2. Name of Business or Organization:
3. Phone Number:
4. Email Address:
5. You are an (check one):
  - Employee, officer, or director of a business that offers or sells franchises.
  - Attorney or paralegal that advises a business that offers or sells franchises.
  - Other:

**To assist the Division in determining the economic impact of its proposed rule on small businesses, please answer the following questions:**

6. Including yourself, how many employees does your business have?
7. What was the total revenue of your business for its last fiscal year?
8. What was the total income of your business for its last fiscal year?
9. What was the total payroll of your business for its last fiscal year?

### **Compliance Requirements**

The draft rule requires franchisors to comply with the NASAA Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments (“Statement of Policy”). The Statement of Policy mandates that franchisors include a legend in their Franchise Disclosure Documents and Franchise Agreements stating:

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

In addition, the Statement of Policy generally prohibits a franchisor from requiring a prospective franchisee to make any statement in any questionnaire, acknowledgment or similar document that is subjective, unreasonable or that attempts to absolve the franchisor or its agents of liability in connection with the sale of a franchise. The Statement of Policy includes a non-exhaustive list of prohibited statements to aid franchisors in complying with the Statement of Policy. Franchisors will need to remove all prohibited statements in questionnaires, acknowledgments, and similar documents, and include the legend set forth above after the effective date of the rule adopting the Statement of Policy. Franchisors may choose to rely on legal counsel to implement these requirements.

The Securities Division contemplates that franchisors conducting franchise offerings that are already registered may update their offering materials to comply with the Statement of Policy at the same time they submit their annual renewal applications. Franchisors conducting exempt offerings may choose to update their offering materials when they prepare their next annual update of the Franchise Disclosure Document to include updated financial statements as required by the FTC Franchise Rule.

**Questions concerning implementation of the Statement of Policy:**

10. Is your business currently offering or selling franchises in Washington or does it plan to offer or sell franchises in Washington in the next 12 months?

Yes  No  Unknown

11. Does your business currently use acknowledgements or questionnaires in its Franchise Disclosure Document (FDD), Franchise Agreement, or other documents that are prohibited by the Statement of Policy?

Yes  No  Unknown

12. Would the requirement to comply with the Statement of Policy create any additional cost to your business?

Yes  No  Unknown

13. Does your business plan to offer or sell franchises in a state other than Washington that also requires franchise offerings to be registered or exempt from registration?

Yes  No  Unknown

14. Please estimate the total cost of any additional professional services (legal, accounting, etc.) you will need to comply with this rule in the first year: \$ \_\_\_\_\_.

15. Please estimate the annual cost of any additional professional services (legal, accounting, etc.) you will need to comply with this rule on an ongoing basis: \$\_\_\_\_\_.

16. Please estimate your costs for equipment, supplies, labor, and/or increased administrative costs associated with the draft rule:

- a. Equipment \$\_\_\_\_\_.
- b. Supplies \$\_\_\_\_\_.
- c. Labor \$\_\_\_\_\_.
- d. Increased administrative costs \$\_\_\_\_\_.

17. Please describe any other compliance costs associated with the draft rule:

\_\_\_\_\_

18. Do you believe that compliance with the draft rule will result in lost sales or revenue for your business?      Yes  No

a. If yes, please estimate the amount of lost revenue: \$

b. If yes, please indicate which specific provisions of the draft rule you anticipate will result in lost revenue:

19. Do you anticipate that compliance with the draft rule would cause your business to eliminate any jobs?    Yes  No       If yes, how many jobs?

20. Do you anticipate that compliance with the draft rule would cause your business to add any jobs?    Yes  No       If yes, how many jobs?

**Thank you for completing the survey**