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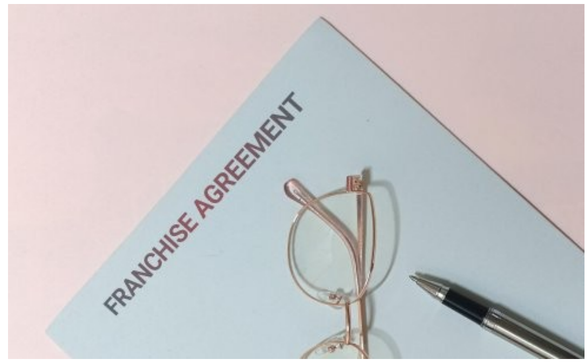
Virginia Reshapes Franchising with Ban on Post-Term Non-Competes



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By David Cahn

Franchisors with Virginia locations should prepare to revise their franchise agreements and Virginia-specific disclosure materials. Beginning July 1, 2026, Virginia law will prohibit most post-termination non-compete provisions in covered franchise agreements and will require those agreements to be governed by Virginia law.

For franchisees, the amendments create greater post-exit flexibility and reduce the ability of franchisors to rely on out-of-state governing-law clauses to avoid Virginia's statutory protections. The practical message is straightforward: franchisors should review Virginia-facing templates, renewal and amendment practices, confidentiality and trade secret protections, and enforcement strategies well before making any new offer, sale, renewal, extension, or amendment for a Virginia location on or after the effective date.

Implications for Virginia Franchisors and Franchisees

These changes matter immediately for drafting and compliance. A franchisor that continues to use a standard national form for Virginia deals without modification risks including provisions that will no longer be permitted once the new law takes effect. Agreements entered into before July 1, 2026, are not automatically displaced, but renewals, extensions, and amendments on or after that date may trigger the new requirements, making it especially important to review not only new-deal documents but also legacy agreements that may soon come back into circulation. Public commentary following the legislation has also noted guidance issued on April 14, 2026, by the Virginia State Corporation Commission's Division of Securities and Retail Franchising regarding updates to franchise disclosure materials and Virginia addenda, underscoring that compliance will require attention not just to contracts but also to disclosure practice.

How Virginia's New Franchise Non-Compete Law Affects Franchise Agreements

The amendments to Virginia's Retail Franchising Act, enacted through House Bill 69 and the companion Senate Bill 240, apply to franchises that require or contemplate a place of business in Virginia, a concept broad enough to reach more than traditional brick-and-mortar outlets and potentially many service concepts operating in the Commonwealth. Effective July 1, 2026, the law makes it unlawful to offer or enter into a covered franchise agreement that restricts the franchisee's right to engage in the business of offering, selling, or distributing goods or services at retail after termination or expiration of the franchise agreement. Just as significantly, covered franchise agreements must now be governed by Virginia law, preventing franchisors from selecting another state's law in an effort to sidestep Virginia's franchisee protections.

Virginia Franchise Non-Compete Exceptions

The statute includes a narrow exception when a franchisee voluntarily sells the franchise at a mutually agreed price, whether to a third party or back to the franchisor. In that setting, the franchisor or the buyer may require the selling franchisee to agree to a non-compete that is binding for up to two years after the sale. Outside that sale context, however, post-term non-compete restrictions in covered Virginia franchise agreements are no longer permitted. The law is also expressly prospective: contracts entered into, extended, or modified on or before June 30, 2026, remain unaffected, but activity on or after July 1, 2026, may bring an agreement within the amended statute's reach.

The Business Impact of Virginia's Franchise Non-Compete Ban and Compliance Steps for Franchisors

Taken together, the amendments materially rebalance franchise relationships for Virginia locations in favor of franchisees by eliminating most post-termination non-competes and requiring Virginia law to govern covered agreements. That governing-law requirement may prove especially consequential, because it reduces the usefulness of contract provisions that previously might have directed disputes toward more franchisor-friendly legal standards. It also means that franchisors evaluating renewals, transfers, terminations, and system enforcement in Virginia will need to assess those decisions against Virginia's franchise-specific statutory framework.

For franchisors, the likely response will be to strengthen other forms of system protection that do not depend on a post-term non-compete. Confidentiality provisions, trade secret controls, non-solicitation language where appropriate, access limits on customer data, tighter operational safeguards, and clearer brand-transition requirements may all take on greater importance. The statute does not prevent a franchisor from pursuing monetary remedies when a franchisee breaches contractual obligations during the term, so careful drafting around in-term defaults, de-branding obligations, liquidated damages, and post-termination transition steps may become more important than ever.

The new law may also influence how franchisors think about renewal rights in Virginia. If a former franchisee cannot be restricted from competing after expiration in most circumstances, franchisors may revisit whether renewal should remain automatic or broadly available, and whether Virginia-specific renewal provisions should be adjusted to reflect the changed competitive landscape. For franchisees, by contrast, the law creates additional bargaining leverage and a more realistic ability to continue in business after the franchise relationship ends, provided they do so without violating enforceable contractual duties that survive termination.

More broadly, Virginia's action may be an early indication of where franchise regulation is heading in other jurisdictions. Franchisors operating nationally may therefore want to treat these amendments not as an isolated state-law issue, but as a signal to review their broader contract architecture and protective covenants across the system. For now, however, the immediate takeaway is clear: any franchisor with Virginia-facing agreements or pending registration materials should act promptly to align its documents, disclosures, and operational protections with the Commonwealth's new rules before July 1, 2026.