NEW JERSEY FRANCHISE LEGISLATION

Impacts on Franchisees, Customers, ROI and the Business Model

New Jersey has introduced a bill that will fundamentally alter the hotel franchise model. SB3165/AB 1958 specifically singles out the lodging industry and creates a pathway for government to regulate the industry differently than others. Many of the issues are franchisee facing and create new, negative, and unintended consequences that would impact New Jersey owners and affect the value of investments across brand systems. This bill could halt future hotel development in New Jersey and prevent brands from renewing existing franchise agreements.

WHY IS THIS BILL PROBLEMATIC?

IMPACTS LOYALTY POINT PROGRAMS

- The bill seeks to place restrictions on how loyalty points are reimbursed, creating a formula that would not only make New Jersey an outlier, it would certainly lead to limitations on the availability and use of loyalty points in the state.
- The bill also prevents franchisors from charging franchisees a fee for failing to enroll a minimum number of guests into the loyalty program, creating a free-rider problem. Properties diligently enrolling guests into the program will be driving business to those that do not, disincentivizing enrollments all together.

IMPACTS BRAND STANDARDS

- Any brand improvements such as Wi-Fi, mobile check-in, breakfast, etc. would be negotiated property by property, if at all.
- The bill would create a new entity, the "Franchise Advisory Committee," which would control new fees. However, the bill doesn't detail how members would be elected, or what their fiduciary obligations to the owners would be.
- The bill also weakens brand standards by allowing franchisees to use "comparable" products to items required by the brand – leading to inconsistency throughout the brand.

INCREASES LITIGATION

- The bill will likely lead to extensive, costly, and time-consuming litigation.
- The proposed law would establish many new vague legal terms that are not defined and provide no guidance. Attempting to resolve them will create more legal disputes among franchisees and with hotel brand companies.
- The bill establishes conflicts with intellectual property protections.
- The one-size-fits-all approach fails to consider varying segments, chain scales, types of properties, and contract terms.

LIMITS VENDOR PARTNERSHIPS

- The bill restricts a brand from developing revenue raising agreements with partners and vendors which could lead to increases in franchise fees and supply costs, limits on services, and differences between properties within the same brand family.
- The bill may restrict access to volume discounts secured by franchisors.
- The bill limits technology and procedural upgrades and efficiencies leading to obsolete amenities for guests and systems for management.