Question: I am thinking of buying a franchise. I was told that you couldn't negotiate a franchise agreement because it is standardized. Is that true?

It is true that a seller of a franchise ("franchisor") must present the same franchise agreement and disclosure statements to all of its prospective purchasers ("franchisees"). It is not true, however, that a franchise agreement cannot be negotiated by and changed for a particular franchisee. As a general rule, the newer the franchise, the more that can be negotiated. Franchisors are also more apt to negotiate a franchise agreement if the prospective franchisee will be opening in an area of the country that will be new to the franchise.

There are a host of issues that are often negotiated. To name only a few, these issues could include: the term of the franchise, the ability to pay the franchise fee in installments, the percentage of royalties to be paid in the beginning years, the size of the franchise territory, limitations on competition from the franchisor or other franchisees, indemnification for the use of the trademarks or tradenames involved in the franchise, franchisee's right of first refusal on other territories, protection from forced relocation, warranties for the franchisor's products, protection against overbearing requirements for upgrades or changes in the franchise business, notice requirements, renewal requirements, protections against default, early assistance desired from franchisor, relaxation on limitations imposed on the transfer of the franchise or the acceptance of new investors or partners, restrictions on those circumstances where the franchisor might have the option to take over franchisee's business, and responsibility for litigation expenses.

Even if the franchisor refuses to change one comma in the franchise agreement, it is extremely important for the prospective franchisee to read and understand all of the terms of that agreement and not just accept it because "everyone else has the same agreement."