

49:3-52.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2010 **CHAPTER:** 41

NJSA: 49:3-52.2 (Prohibits misleading use of senior-specific certifications or professional designations in connection with sales of securities)

BILL NO: S1745 (Substituted for A369)

SPONSOR(S) Whelan and others

DATE INTRODUCED: March 11, 2010

COMMITTEE: **ASSEMBLY:** Financial Institutions and Insurance

SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 20, 2010

SENATE: May 20, 2010

DATE OF APPROVAL: July 2, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S1745

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A369

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KR

[First Reprint]

SENATE, No. 1745

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 11, 2010

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Assemblyman GARY S. SCHAER

District 36 (Bergen, Essex and Passaic)

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

Senator Scutari, Assemblyman Ramos, Assemblywoman Rodriguez,

Assemblymen Prieto, Connors and Assemblywoman Greenstein

SYNOPSIS

Prohibits misleading use of senior-specific certifications or professional designations in connection with sales of securities.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on March 18, 2010, with amendments.



(Sponsorship Updated As Of: 5/21/2010)

1 AN ACT concerning sales of securities and supplementing P.L.1967,
2 c.93 (C.49:3-47 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. ¹~~It shall be unlawful for any~~ A¹ person ¹~~to use~~ who
8 uses¹ a certification or professional designation to indicate or imply
9 that the user has special training in advising or servicing senior
10 citizens or retirees (hereinafter, a “senior-specific certification or
11 professional designation”), in such a way as to mislead any person,
12 in connection with the offer, sale, or purchase of a security, or the
13 provision of advice as to the value of or the advisability of investing
14 in, purchasing, or selling a security, either directly or indirectly or
15 through a publication or a writing, or by issuing or promulgating an
16 analysis or report relating to a security ¹shall have engaged in a
17 dishonest or unethical practice pursuant to subparagraph (vii) of
18 paragraph (2) of subsection (a) of section 11 of P.L.1967, c.93
19 (C.49:3-58)¹.

20 b. Uses of a senior-specific certification or professional
21 designation that shall be ¹~~unlawful~~ a dishonest or unethical
22 practice¹ pursuant to subsection a. of this section shall include, but
23 shall not be limited to, the use of:

24 (1) a certification or professional designation by a person who
25 has not actually earned or who is otherwise ineligible to use that
26 certification or professional designation;

27 (2) a nonexistent or self-conferred certification or professional
28 designation;

29 (3) a certification or professional designation that indicates or
30 implies a level of occupational qualifications obtained through
31 education, training, or experience that the person using the
32 certification or professional designation does not have; and

33 (4) a certification or professional designation that was obtained
34 from a certifying or designating organization that:

35 (a) is primarily engaged in the business of instruction in sales or
36 marketing;

37 (b) does not have reasonable standards or procedures for
38 assuring the competency of its certificants or designees;

39 (c) does not have reasonable standards or procedures for
40 monitoring and disciplining its certificants or designees for
41 improper or unethical conduct; or

42 (d) does not have reasonable continuing education requirements
43 for its certificants or designees in order to maintain the certificate or
44 designation.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted March 18, 2010.

1 c. A rebuttable presumption that a certifying or designating
2 organization is not included as an organization to which paragraph
3 (4) of subsection b. of this ¹[act] section¹ is applicable shall exist,
4 if the organization has been accredited by:

- 5 (1) the American National Standards Institute;
- 6 (2) the National Commission for Certifying Agencies; or
- 7 (3) an organization that is on the United States Department of
8 Education's list entitled "Accrediting Agencies Recognized for
9 Title IV Purposes" and the certification or professional designation
10 issued by the organization does not primarily apply to sales or
11 marketing.

12 d. In determining whether a combination of words, or an
13 acronym standing for a combination of words, constitutes a senior-
14 specific certification or professional designation, factors to be
15 considered shall include:

- 16 (1) use of one or more words such as "senior," "retirement,"
17 "elder," or like words, combined with one or more words such as
18 "certified," "registered," "chartered," "adviser," "specialist,"
19 "consultant," "planner," or like words, in the name of the
20 certification or professional designation; and
- 21 (2) the manner in which those words are combined.

22 e. For purposes of this ¹[act] section¹, a senior-specific
23 certification or professional designation shall not include a job title
24 within an organization that is licensed or registered by a state or
25 federal financial services regulatory agency, if that job title:

- 26 (1) indicates seniority or standing within the organization; or
- 27 (2) specifies an individual's area of specialization within the
28 organization.

29 For purposes of this subsection, "financial services regulatory
30 agency" shall include, but shall not be limited to, an agency that
31 regulates brokers, dealers, investment advisers, or investment
32 companies as defined pursuant to the federal "Investment Advisers
33 Act of 1940" (15 U.S.C. s.80b-1 et seq.) or the federal "Investment
34 Company Act of 1940" (15 U.S.C. s.80a-1 et seq.).

35 ¹f. Nothing in this section shall limit the bureau chief's
36 enforcement authority under the law.¹

37

38 2. This act shall take effect immediately.

SENATE, No. 1745

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 11, 2010

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Senator Scutari

SYNOPSIS

Prohibits misleading use of senior-specific certifications or professional designations in connection with sales of securities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/19/2010)

1 AN ACT concerning sales of securities and supplementing P.L.1967,
2 c.93 (C.49:3-47 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. It shall be unlawful for any person to use a certification
8 or professional designation to indicate or imply that the user has
9 special training in advising or servicing senior citizens or retirees
10 (hereinafter, a “senior-specific certification or professional
11 designation”), in such a way as to mislead any person, in connection
12 with the offer, sale, or purchase of a security, or the provision of
13 advice as to the value of or the advisability of investing in,
14 purchasing, or selling a security, either directly or indirectly or
15 through a publication or a writing, or by issuing or promulgating an
16 analysis or report relating to a security.

17 b. Uses of a senior-specific certification or professional
18 designation that shall be unlawful pursuant to subsection a. of this
19 section shall include, but shall not be limited to, the use of:

20 (1) a certification or professional designation by a person who
21 has not actually earned or who is otherwise ineligible to use that
22 certification or professional designation;

23 (2) a nonexistent or self-conferred certification or professional
24 designation;

25 (3) a certification or professional designation that indicates or
26 implies a level of occupational qualifications obtained through
27 education, training, or experience that the person using the
28 certification or professional designation does not have; and

29 (4) a certification or professional designation that was obtained
30 from a certifying or designating organization that:

31 (a) is primarily engaged in the business of instruction in sales or
32 marketing;

33 (b) does not have reasonable standards or procedures for
34 assuring the competency of its certificants or designees;

35 (c) does not have reasonable standards or procedures for
36 monitoring and disciplining its certificants or designees for
37 improper or unethical conduct; or

38 (d) does not have reasonable continuing education requirements
39 for its certificants or designees in order to maintain the certificate or
40 designation.

41 c. A rebuttable presumption that a certifying or designating
42 organization is not included as an organization to which paragraph
43 (4) of subsection b. of this act is applicable shall exist, if the
44 organization has been accredited by:

45 (1) the American National Standards Institute;

46 (2) the National Commission for Certifying Agencies; or

47 (3) an organization that is on the United States Department of
48 Education’s list entitled “Accrediting Agencies Recognized for

1 Title IV Purposes” and the certification or professional designation
2 issued by the organization does not primarily apply to sales or
3 marketing.

4 d. In determining whether a combination of words, or an
5 acronym standing for a combination of words, constitutes a senior-
6 specific certification or professional designation, factors to be
7 considered shall include:

8 (1) use of one or more words such as “senior,” “retirement,”
9 “elder,” or like words, combined with one or more words such as
10 “certified,” “registered,” “chartered,” “adviser,” “specialist,”
11 “consultant,” “planner,” or like words, in the name of the
12 certification or professional designation; and

13 (2) the manner in which those words are combined.

14 e. For purposes of this act, a senior-specific certification or
15 professional designation shall not include a job title within an
16 organization that is licensed or registered by a state or federal
17 financial services regulatory agency, if that job title:

18 (1) indicates seniority or standing within the organization; or

19 (2) specifies an individual’s area of specialization within the
20 organization.

21 For purposes of this subsection, “financial services regulatory
22 agency” shall include, but shall not be limited to, an agency that
23 regulates brokers, dealers, investment advisers, or investment
24 companies as defined pursuant to the federal “Investment Advisers
25 Act of 1940” (15 U.S.C. s.80b-1 et seq.) or the federal “Investment
26 Company Act of 1940” (15 U.S.C. s.80a-1 et seq.).

27

28 2. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill supplements the “Uniform Securities Law (1997)” and
34 makes it unlawful for any person to use a senior-specific
35 certification or designation to indicate or imply that the user has
36 special training in advising or servicing senior citizens or retirees,
37 in such a way as to mislead any person, in connection with the
38 offer, sale, or purchase of a security, or the provision of advice as to
39 the value of or the advisability of investing in, purchasing, or
40 selling a security, either directly or indirectly or through a
41 publication or a writing, or by issuing or promulgating an analysis
42 or a report relating to a security.

43 The bill specifies certain prohibited uses of a senior-specific
44 certification or professional designation which include, but which
45 are not limited to, use of:

46 (1) a certification or professional designation by a person who
47 has not actually earned or is otherwise ineligible to use such
48 certification or designation;

1 (2) a nonexistent or self-conferred certification or professional
2 designation;

3 (3) a certification or professional designation that indicates or
4 implies a level of occupational qualifications obtained through
5 education, training, or experience that the person using the
6 certification or professional designation does not have; and

7 (4) a certification or professional designation that was obtained
8 from a certifying or designating organization that does not meet
9 certain criteria as specified in the bill.

10 The bill further provides that in determining whether a
11 combination of words, or an acronym standing for a combination of
12 words, constitutes a senior-specific certification or professional
13 designation, the use of certain words, as specified in the bill, and
14 the manner in which these words are combined, shall be considered
15 factors in the determination.

16 Finally, the bill provides that a senior-specific certification or
17 professional designation shall not include a job title within an
18 organization that is licensed or registered by a state or federal
19 financial services regulatory agency, in situations in which that job
20 title indicates seniority or standing within the organization, or
21 specifies an individual's area of specialization within the
22 organization.

23 As the bill supplements the "Uniform Securities Law (1997),"
24 the Bureau of Securities in the Division of Consumers Affairs of the
25 Department of Law and Public Safety will administer the provisions
26 of the bill, and any person who violates any of the bill's provisions
27 will be subject to liability under the civil and criminal penalties
28 currently provided for in the "Uniform Securities Law (1997)."

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1745

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2010

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 1745.

This bill, as amended, makes it a dishonest or unethical practice for any person to use a senior-specific certification or designation to indicate or imply that the person has special training in advising or servicing senior citizens or retirees, in such a way as to mislead any person, in connection with the offer, sale, or purchase of a security, or the provision of advice, as to the value of, or the advisability of investing in, purchasing, or selling a security. This prohibition against the use of a misleading senior-specific certification or designation is applicable whether presented directly or indirectly, or through a publication or a writing, or by issuing or promulgating an analysis or a report relating to a security.

The bill specifies certain uses of a senior-specific certification or professional designation that shall be considered a dishonest or unethical practice, which include the use of:

(1) a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) a nonexistent or self-conferred certification or professional designation;

(3) a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(4) a certification or professional designation that was obtained from a certifying or designating organization that: is primarily engaged in the business of instruction in sales or marketing; does not have reasonable standards for assuring the competency of its certificants or designees; does not have reasonable standards for monitoring and disciplining its certificants or designees; or does not have reasonable continuing education requirements for its certificants or designees.

The bill further provides that in determining whether a combination of words, or an acronym standing for a combination of words, constitutes a senior-specific certification or professional

designation that may be subject to the bill, factors to be considered shall include: the use of one or more words, such as “senior,” “retirement,” “elder,” or like words, combined with words such as “certified,” “registered,” “specialist,” or like words; and the manner in which these words are combined.

The bill expressly indicates that a senior-specific certification or professional designation shall not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, in situations in which that job title indicates seniority or standing within the organization, or specifies an individual’s area of specialization within the organization.

Finally, the bill indicates that nothing in the bill shall limit the enforcement authority of the Chief of the Bureau of Securities under the law. As the bill supplements the “Uniform Securities Law (1997),” which is enforced by the bureau chief, the provisions of that law shall be applicable to the bill. As such, any person who violates any of the bill’s provisions shall be subject to liability under the civil and criminal provisions currently provided for under that law. These provisions include: a monetary civil penalty of not more than \$10,000 for a first offense, and not more than \$20,000 for a second or subsequent offense; or guilt for the commission of a crime, which depending upon the violation may be graded as high as a crime of the second degree, with a corresponding term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. See P.L.1997, c.276, s.29 (C.49:3-70.1) (monetary civil penalties); P.L.1967, c.93, s.23 (C.49:3-70) (criminal penalties).

The committee amendments to the bill:

- designate that the misleading use of a senior-specific certification or professional designation shall be a “dishonest or unethical practice,” as that phrase is already referenced in statute, instead of designating it to be “unlawful”; and

- clarify that nothing in the bill shall limit the enforcement authority of the Chief of the Bureau of Securities under the law.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 1745

STATE OF NEW JERSEY

DATED: MAY 6, 2010

The Assembly Financial Institutions and Insurance Committee reports favorably Senate Bill No. 1745 (1R).

This bill makes it a dishonest or unethical practice for any person to use a senior-specific certification or designation to indicate or imply that the person has special training in advising or servicing senior citizens or retirees, in such a way as to mislead any person, in connection with the offer, sale, or purchase of a security, or the provision of advice, as to the value of, or the advisability of investing in, purchasing, or selling a security. This prohibition against the use of a misleading senior-specific certification or designation is applicable whether presented directly or indirectly, or through a publication or a writing, or by issuing or promulgating an analysis or a report relating to a security.

The bill specifies certain uses of a senior-specific certification or professional designation that shall be considered a dishonest or unethical practice, which include the use of:

(1) a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) a nonexistent or self-conferred certification or professional designation;

(3) a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(4) a certification or professional designation that was obtained from a certifying or designating organization that: is primarily engaged in the business of instruction in sales or marketing; does not have reasonable standards for assuring the competency of its certificants or designees; does not have reasonable standards for monitoring and disciplining its certificants or designees; or does not have reasonable continuing education requirements for its certificants or designees.

The bill further provides that in determining whether a combination of words, or an acronym standing for a combination of

words, constitutes a senior-specific certification or professional designation that may be subject to the bill, factors to be considered shall include: the use of one or more words, such as “senior,” “retirement,” “elder,” or like words, combined with words such as “certified,” “registered,” “specialist,” or like words; and the manner in which these words are combined.

The bill expressly indicates that a senior-specific certification or professional designation shall not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, in situations in which that job title indicates seniority or standing within the organization, or specifies an individual’s area of specialization within the organization.

Finally, the bill indicates that nothing in the bill shall limit the enforcement authority of the Chief of the Bureau of Securities under the law. As the bill supplements the “Uniform Securities Law (1997),” which is enforced by the bureau chief, the provisions of that law shall be applicable to the bill. As such, any person who violates any of the bill’s provisions shall be subject to liability under the civil and criminal provisions currently provided for under that law. These provisions include: a monetary civil penalty of not more than \$10,000 for a first offense, and not more than \$20,000 for a second or subsequent offense; or guilt for the commission of a crime, which depending upon the violation may be graded as high as a crime of the second degree, with a corresponding term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. See P.L.1997, c.276, s.29 (C.49:3-70.1) (monetary civil penalties); P.L.1967, c.93, s.23 (C.49:3-70) (criminal penalties).

The bill, as reported, is identical to A-369, as amended and also reported by the committee today.

ASSEMBLY, No. 369

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen, Essex and Passaic)

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

Assemblyman Ramos, Assemblywoman Rodriguez and Assemblyman Prieto

SYNOPSIS

Prohibits misleading use of senior-specific certifications or professional designations in connection with sales of securities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/9/2010)

1 AN ACT concerning sales of securities and supplementing P.L.1967,
2 c.93 (C.49:3-47 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. A person who uses a certification or professional
8 designation to indicate or imply that the user has special training in
9 advising or servicing senior citizens or retirees (hereinafter, a
10 “senior-specific certification or professional designation”), in such
11 a way as to mislead any person, in connection with the offer, sale,
12 or purchase of a security, or the provision of advice as to the value
13 of or the advisability of investing in, purchasing, or selling a
14 security, either directly or indirectly or through a publication or a
15 writing, or by issuing or promulgating an analysis or report relating
16 to a security shall have engaged in a dishonest or unethical practice
17 pursuant to subparagraph (vii) of paragraph (2) of subsection (a) of
18 section 11 of P.L.1967, c.93 (C.49:3-58).

19 b. Uses of a senior-specific certification or professional
20 designation that shall be a dishonest or unethical practice pursuant
21 to subsection a. of this section shall include, but shall not be limited
22 to, the use of:

23 (1) a certification or professional designation by a person who
24 has not actually earned or who is otherwise ineligible to use that
25 certification or professional designation;

26 (2) a nonexistent or self-conferred certification or professional
27 designation;

28 (3) a certification or professional designation that indicates or
29 implies a level of occupational qualifications obtained through
30 education, training, or experience that the person using the
31 certification or professional designation does not have; and

32 (4) a certification or professional designation that was obtained
33 from a certifying or designating organization that:

34 (a) is primarily engaged in the business of instruction in sales or
35 marketing;

36 (b) does not have reasonable standards or procedures for assuring
37 the competency of its certificants or designees;

38 (c) does not have reasonable standards or procedures for
39 monitoring and disciplining its certificants or designees for
40 improper or unethical conduct; or

41 (d) does not have reasonable continuing education requirements
42 for its certificants or designees in order to maintain the certificate or
43 designation.

44 c. A rebuttable presumption that a certifying or designating
45 organization is not included as an organization to which paragraph
46 (4) of subsection b. of this act is applicable shall exist, if the
47 organization has been accredited by:

- 1 (1) the American National Standards Institute;
2 (2) the National Commission for Certifying Agencies; or
3 (3) an organization that is on the United States Department of
4 Education's list entitled "Accrediting Agencies Recognized for
5 Title IV Purposes" and the certification or professional designation
6 issued by the organization does not primarily apply to sales or
7 marketing.

8 d. In determining whether a combination of words, or an
9 acronym standing for a combination of words, constitutes a senior-
10 specific certification or professional designation, factors to be
11 considered shall include:

12 (1) use of one or more words such as "senior," "retirement,"
13 "elder," or like words, combined with one or more words such as
14 "certified," "registered," "chartered," "adviser," "specialist,"
15 "consultant," "planner," or like words, in the name of the
16 certification or professional designation; and

17 (2) the manner in which those words are combined.

18 e. For purposes of this act, a senior-specific certification or
19 professional designation shall not include a job title within an
20 organization that is licensed or registered by a state or federal
21 financial services regulatory agency, if that job title:

22 (1) indicates seniority or standing within the organization; or

23 (2) specifies an individual's area of specialization within the
24 organization.

25 For purposes of this subsection, "financial services regulatory
26 agency" shall include, but shall not be limited to, an agency that
27 regulates brokers, dealers, investment advisers, or investment
28 companies as defined pursuant to the federal "Investment Advisers
29 Act of 1940" (15 U.S.C.s.80b-1 et seq.) or the federal "Investment
30 Company Act of 1940" (15 U.S.C. s.80a-1 et seq.).

31 f. The bureau chief may deny, suspend or revoke the registration
32 of any person who has engaged in dishonest or unethical practices
33 pursuant to this section. In addition, the bureau chief may provide
34 penalties for a violation of this section by regulation. Such penalties
35 shall be the exclusive penalties or remedies for a violation of this
36 section.

37

38 2. This act shall take effect immediately.

39

40

41

STATEMENT

42

43 This bill supplements the "Uniform Securities Law (1997)" and
44 makes it a dishonest or unethical practice for any person to use a
45 senior-specific certification or designation to indicate or imply that
46 the user has special training in advising or servicing senior citizens
47 or retirees, in such a way as to mislead any person, in connection

1 with the offer, sale, or purchase of a security, or the provision of
2 advice as to the value of or the advisability of investing in,
3 purchasing, or selling a security, either directly or indirectly or
4 through a publication or a writing, or by issuing or promulgating an
5 analysis or a report relating to a security.

6 The bill specifies certain prohibited uses of a senior-specific
7 certification or professional designation as a dishonest or unethical
8 practice. These practices include, but are not limited to, use of:

9 (1) a certification or professional designation by a person who
10 has not actually earned or is otherwise ineligible to use such
11 certification or designation;

12 (2) a nonexistent or self-conferred certification or professional
13 designation;

14 (3) a certification or professional designation that indicates or
15 implies a level of occupational qualifications obtained through
16 education, training, or experience that the person using the
17 certification or professional designation does not have; and

18 (4) a certification or professional designation that was obtained
19 from a certifying or designating organization that does not meet
20 certain criteria as specified in the bill.

21 The bill further provides that in determining whether a
22 combination of words, or an acronym standing for a combination of
23 words, constitutes a senior-specific certification or professional
24 designation, the use of certain words, as specified in the bill, and
25 the manner in which these words are combined, shall be considered
26 factors in the determination.

27 Finally, the bill provides that a senior-specific certification or
28 professional designation shall not include a job title within an
29 organization that is licensed or registered by a state or federal
30 financial services regulatory agency, in situations in which that job
31 title indicates seniority or standing within the organization, or
32 specifies an individual's area of specialization within the
33 organization.

34 As the bill supplements the "Uniform Securities Law (1997),"
35 the Bureau of Securities in the Division of Consumers Affairs of the
36 Department of Law and Public Safety will administer the provisions
37 of the bill.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 369

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 2010

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 369.

This bill, as amended, supplements the “Uniform Securities Law (1997)” and makes it a dishonest or unethical practice for any person to use a senior-specific certification or designation to indicate or imply that the user has special training in advising or servicing senior citizens or retirees, in such a way as to mislead any person, in connection with the offer, sale, or purchase of a security, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling a security, either directly or indirectly or through a publication or a writing, or by issuing or promulgating an analysis or a report relating to a security.

The bill specifies certain prohibited uses of a senior-specific certification or professional designation as a dishonest or unethical practice. These practices include, but are not limited to, use of:

(1) a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) a nonexistent or self-conferred certification or professional designation;

(3) a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(4) a certification or professional designation that was obtained from a certifying or designating organization that does not meet certain criteria as specified in the bill.

The bill further provides that in determining whether a combination of words, or an acronym standing for a combination of words, constitutes a senior-specific certification or professional designation, the use of certain words, as specified in the bill, and the

manner in which these words are combined, shall be considered factors in the determination.

Finally, the bill provides that a senior-specific certification or professional designation shall not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, in situations in which that job title indicates seniority or standing within the organization, or specifies an individual's area of specialization within the organization.

The bill indicates that nothing in the bill shall limit the enforcement authority of the Chief of the Bureau of Securities under the law. As the bill supplements the "Uniform Securities Law (1997)," which is enforced by the bureau chief, the provisions of that law shall be applicable to the bill. As such, any person who violates any of the bill's provisions shall be subject to liability under the civil and criminal provisions currently provided for under that law. These provisions include: a monetary civil penalty of not more than \$10,000 for a first offense, and not more than \$20,000 for a second or subsequent offense; or guilt for the commission of a crime, which depending upon the violation may be graded as high as a crime of the second degree, with a corresponding term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. See P.L.1997, c.276, s.29 (C.49:3-70.1) (monetary civil penalties); P.L.1967, c.93, s.23 (C.49:3-70) (criminal penalties).

The bill, as reported with amendments, is identical to S-1745(1R), also reported by the committee today.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that nothing in the bill shall limit the enforcement authority of the Chief of the Bureau of Securities under the "Uniform Securities Law (1997)," and to make certain technical changes.