

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 882

(Delegate Kramer, *et al.*)

Health and Government Operations

Finance

Insurance Producers - Use of Senior or Retiree Credential or Designation

This bill makes it unlawful for any insurance producer to use a senior or retiree credential or designation in a misleading way in connection with the offer, sale, or purchase of life insurance, health insurance, or annuities. A misleading use of a senior or retiree credential or designation by an insurance producer constitutes a lack of trustworthiness under the Insurance Article and subjects the producer to specified administrative actions and penalties. The bill also requires the Insurance Commissioner, in consultation with the Securities Commissioner, to define what constitutes a misleading use of a senior or retiree credential or designation.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to imposition of existing penalty provisions. Enforcement can be handled with existing budgeted resources of the Maryland Insurance Administration.

Local Effect: Potential minimal increase in revenues due to imposition of existing penalty provisions. No effect on expenditures.

Small Business Effect: Potential minimal.

Analysis

Current Law: The Insurance Commissioner may deny a license to an applicant or suspend, revoke, or refuse to renew or reinstate a license after providing the individual with notice and opportunity for a hearing if the applicant or license holder shows a lack

of trustworthiness or competence to act as an insurance producer. Instead of, or in addition to suspending or revoking the license, the Commissioner may impose a penalty on the license holder of at least \$100 but no more than \$500 for each violation.

A person may not engage in the State in a trade practice that is an unfair method of competition or an unfair or deceptive act or practice in the insurance business. In addition, a person may not make or cause to be made, published, disseminated, circulated, or placed before the public an untrue, deceptive, or misleading advertisement, announcement, or statement about the insurance business. In addition to any administrative penalty, a person that willfully violates a provision of the Insurance Article, with respect to which a greater penalty is not provided by other applicable State law, is guilty of a misdemeanor, and upon conviction, is subject to a fine of up to \$100,000.

Background: Under the Maryland Securities Act, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, to engage in a fraudulent or deceptive act or practice. A person who violates the Act is subject to administrative, civil, and criminal penalties, including the denial, suspension, or revocation of the person's registration to do business in the State.

Chapters 301 and 302 of 2009 addressed the growing use of senior-specific certifications or professional designations that misleadingly imply expertise in advising or servicing senior investors. The Acts make it unlawful for any person to use a senior or retiree credential or designation in a way that is or would be misleading in connection with (1) the offer, sale, or purchase of securities; (2) receiving any consideration from another person for advice about the value of securities or their purchase or sale; or (3) acting as a broker-dealer, agent, investment adviser, or investment adviser representative. The Acts require the Maryland Securities Commissioner to define what constitutes a misleading use of a senior or retiree credential or designation and establish enhanced criminal penalties for a willful violation of the law. The Acts were emergency measures that took effect on May 7, 2009, upon the signature of the Governor.

Additional Information

Prior Introductions: None.

Cross File: SB 774 (Senator Kramer, *et al.*) - Finance.

Information Source(s): Department of Health and Mental Hygiene, Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Office of the Attorney General (Securities Division), Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2010
mpc/ljm Revised - House Third Reader - March 25, 2010
Revised - Enrolled Bill - May 26, 2010

Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510