

By: Eiland

H.B. No. 1294

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the use of senior-specific certifications and  
3 professional designations in the sale of life insurance and  
4 annuities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The Insurance Code is amended by adding a new  
7 Chapter 1117 to read as follows:

8 CHAPTER 1117.

9 SUBCHAPTER A. GENERAL PROVISIONS

10 § 1117.001. Purpose

11 The purpose of this chapter is to set forth standards to  
12 protect consumers from misleading and fraudulent marketing  
13 practices with respect to the use of senior-specific certifications  
14 and professional designations in the solicitation, sale or purchase  
15 of, or advice made in connection with, a life insurance or annuity  
16 product.

17 § 1117.002. Scope

18 This chapter shall apply to any solicitation, sale or  
19 purchase of, or advice made in connection with, a life insurance or  
20 annuity product by an insurance agent. Nothing in this chapter  
21 shall limit the commissioner's authority to enforce existing  
22 provisions of the law.

23 § 1117.003. Definitions

24 In this chapter:

1           (1) "Insurance Agent" means a person required to be  
2 licensed under the laws of this state to sell, solicit or negotiate  
3 life insurance or annuities.

4           SUBCHAPTER B. USE OF SENIOR SPECIFIC CERTIFICATIONS AND  
5                           PROFESSIONAL DESIGNATIONS

6 § 1117.051. Prohibited Uses of Senior-Specific Certifications and  
7 Professional Designations

8           (a) An insurance agent shall not use a senior-specific  
9 certification or professional designation that indicates or  
10 implies in such a way as to mislead a purchaser or prospective  
11 purchaser that the insurance agent has special certification or  
12 training in advising or servicing seniors in connection with the  
13 solicitation, sale or purchase of a life insurance or annuity  
14 product or in the provision of advice as to the value of or the  
15 advisability of purchasing or selling a life insurance or annuity  
16 product, either directly or indirectly through publications or  
17 writings, or by issuing or promulgating analyses or reports related  
18 to a life insurance or annuity product.

19           (b) The prohibited use of senior-specific certifications or  
20 professional designations includes, but is not limited to, the  
21 following:

22                   (1) use of a certification or professional designation  
23 by an insurance agent who has not actually earned or is otherwise  
24 ineligible to use such certification or designation;

25                   (2) use of a nonexistent or self-conferred  
26 certification or professional designation;

27                   (3) use of a certification or professional designation

1 that indicates or implies a level of occupational qualifications  
2 obtained through education, training or experience that the  
3 insurance agent using the certification or designation does not  
4 have; and

5 (4) use of a certification or professional designation  
6 that was obtained from a certifying or designating organization  
7 that:

8 (A) is primarily engaged in the business of  
9 instruction in sales or marketing;

10 (B) does not have reasonable standards or  
11 procedures for assuring the competency of its certificants or  
12 designees;

13 (C) does not have reasonable standards or  
14 procedures for monitoring and disciplining its certificants or  
15 designees for improper or unethical conduct; or

16 (D) does not have reasonable continuing  
17 education requirements for its certificants or designees in order  
18 to maintain the certificate or designation.

19 (b) There is a rebuttable presumption that a certifying or  
20 designating organization is not disqualified solely for purposes of  
21 Subsection (b)(4) when the certification or designation issued from  
22 the organization does not primarily apply to sales or marketing and  
23 when the organization or the certification or designation in  
24 question has been accredited by:

25 (1) the American National Standards Institute (ANSI);

26 (2) the National Commission for Certifying Agencies;

27 or

1           (3) any organization that is on the U.S. Department of  
2 Education's list entitled "Accrediting Agencies Recognized for  
3 Title IV Purposes."

4           (c) In determining whether a combination of words or an  
5 acronym standing for a combination of words constitutes a  
6 certification or professional designation indicating or implying  
7 that a person has special certification or training in advising or  
8 servicing seniors, factors to be considered shall include:

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

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

15           (d) For purposes of this chapter, a job title within an  
16 organization that is licensed or registered by a State or federal  
17 financial services regulatory agency is not a certification or  
18 professional designation, unless it is used in a manner that would  
19 confuse or mislead a reasonable consumer, when the job title:

20           (1) indicates seniority or standing within the  
21 organization; or

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

24           (e) For purposes of Subsection (d), financial services  
25 regulatory agency includes, but is not limited to, an agency that  
26 regulates insurers, insurance producers, broker-dealers,  
27 investment advisers, or investment companies as defined under the

1 Investment Company Act of 1940.

2           SECTION 2. This legislation shall be become effective  
3 January 1, 2010.