



Senate

General Assembly

File No. 168

February Session, 2016

Substitute Senate Bill No. 265

Senate, March 23, 2016

The Committee on Aging reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section and section 2 of this act, (1) "fiduciary duty" means a duty to
3 act with prudence in the best interests of a consumer with undivided
4 loyalty to such consumer, and (2) "financial planner" means a person
5 offering individualized financial planning or investment advice to a
6 consumer for compensation whose advice to the consumer is not
7 otherwise regulated under the Employee Retirement Income Security
8 Act of 1974, the Investment Advisers Act of 1940 or the Securities
9 Exchange Act of 1934, as said acts are amended from time to time.

10 (b) No financial planner shall, in connection with an agreement with
11 a consumer to provide financial planning or investment advice for
12 compensation, use a certificate, professional designation or form of
13 advertising expressing or implying that such person has special
14 training, education or experience in advising or serving senior citizens,

15 unless such person has obtained a certificate, title or designation in
16 accordance with the provisions of section 36b-4 of the general statutes.

17 (c) A financial planner shall disclose to a consumer, upon request,
18 whether or not such financial planner has a fiduciary duty to such
19 consumer for each recommendation such financial planner makes to
20 such consumer.

21 Sec. 2. (NEW) (*Effective from passage*) The Commissioner of
22 Consumer Protection, in consultation with the Commissioner of
23 Banking, shall provide on the Internet web site of the Department of
24 Consumer Protection, a list of (1) financial planners and other financial
25 planning professionals doing business in the state who are required to
26 act in a consumer's best interests pursuant to their certification by the
27 Certified Financial Planner Board of Standards, and (2) investment
28 advisers who are required to act in a consumer's best interests
29 pursuant to chapter 672a of the general statutes. The Commissioner of
30 Consumer Protection shall also include on the department's Internet
31 web site information concerning a consumer's right to ask for
32 disclosure from financial planners or other financial planning
33 professionals about fees and compensation as required under
34 applicable state and federal law.

35 Sec. 3. (NEW) (*Effective from passage*) If any provision of sections 1
36 and 2 of this act is held invalid, such invalidity shall not affect other
37 provisions of said sections, in accordance with section 1-3 of the
38 general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In Section 1(a)(2), "Employee Retirement Income Security Act" was changed to "Employee Retirement Income Security Act of 1974" for

clarity and statutory consistency; in Section 1(c), "such person" was changed to "such financial planner" for clarity and internal consistency; and, in Section 2, "financial planning professionals" was changed to "financial planners and other financial planning professionals" and "financial planners or other financial advisors" was changed to "financial planners or other financial planning professionals" for internal consistency.

AGE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill results in no fiscal impact as the Department of Consumer Protection updates and alters its Internet web site as a normal course of operations.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 265*****AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.*****SUMMARY:**

This bill establishes advertising and disclosure requirements applicable to financial planners who are not subject to certain federal laws concerning investment advisors, securities, and retirement products. The bill extends to these financial planners a prohibition against using, in connection with an agreement to provide financial planning or investment advice for compensation, a certificate, professional designation, or form of advertising expressing or implying special training, education, or experience in advising or serving senior citizens without meeting certain educational requirements (see BACKGROUND). Existing state law already imposes this prohibition on individuals involved in securities transactions.

The bill also requires financial planners to disclose to consumers, upon request, whether they have a fiduciary duty with regard to each recommendation they make.

The bill defines (1) “financial planner” as a person offering individualized financial planning or investment advice to a consumer for compensation who is not otherwise regulated by the federal Employee Retirement Income Security Act (ERISA), Investment Advisers Act, or Securities Exchange Act and (2) “fiduciary duty” as a duty to act with prudence in the consumer’s best interest and with undivided loyalty to him or her.

The bill also requires the consumer protection commissioner, in

consultation with the banking commissioner, to post on the Department of Consumer Protection (DCP) website, a list of:

1. Connecticut financial planners and financial planning professionals required to act in a consumer's best interest pursuant to certification by the Certified Financial Planner Board of Standards and
2. investment advisers required to act in a consumer's best interest by the Connecticut Uniform Securities Act.

The DCP commissioner must also include on the website information about a consumer's right to ask financial planners or other financial planning professionals to disclose fees and compensation as required under state and federal law.

The bill also includes a severability clause, specifying that any provision of the bill rendered invalid does not affect remaining provisions.

EFFECTIVE DATE: Upon passage

BACKGROUND

Educational Requirements for Individuals Advertising Experience with Senior Citizens

By law, individuals offering, selling, or purchasing securities are prohibited, in connection with an agreement to provide financial planning or investment advice for compensation, from using a certificate, professional designation, or form of advertising expressing or implying special training, education, or experience in advising or serving senior citizens unless the individual has met certain educational criteria. They must receive a certificate, title, or designation by completing a course of study that:

1. resulted in an academic degree from an accredited higher education institution in a field related to advising or serving senior citizens, as determined by the banking commissioner or

2. relates to advising or serving senior citizens, as determined by the commissioner, and is provided by an organization accredited by the American National Standards Institute, National Commission for Certifying Agencies, an organization recognized as an accrediting agency by the United States Department of Education, or another organization approved by the commissioner (CGS § 36b-4(c)).

Individuals with these credentials are prohibited from using them in an untrue, deceptive, misleading, or false manner.

Related Federal Laws

Many individuals providing financial advice are regulated by federal laws, including ERISA and the Securities Exchange Act, among others. The applicability of federal law depends on the type of financial advice, service, or investment offered. Many of these laws require advisors to disclose certain fee and compensation information, establish penalties for fraudulent conduct, and impose a fiduciary duty.

Related State Laws

Existing law regulates the conduct of many financial advisors. For example, the Connecticut Uniform Securities Act (CGS § 36b-2 et seq.) generally prohibits, in connection with the offer, sale, or purchase of a security, individuals from (1) engaging in fraud or deceit, (2) making untrue or misleading statements, or (3) engaging in a dishonest or unethical practice. It also requires “investment advisors” to disclose certain compensation and fee information. Investment advisors, for compensation and as part of a regular business, advise others regarding securities transactions.

And Insurance Department regulations prohibit insurance producers (i.e., agents) from using senior citizen specific certifications or professional designations to mislead a purchaser when (1) soliciting, selling, or purchasing life insurance or annuities; (2) providing advice about purchasing or selling life insurance or annuities; or (3) issuing

reports or analyses on life insurance or annuities (Conn. State Agencies Regs. § 38a-432b-2).

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 12 Nay 1 (03/08/2016)