

SENATE BILL REPORT

SB 6426

As Reported By Senate Committee On:
Commerce, Trade, Housing & Financial Institutions, February 3, 2000

Title: An act relating to the definition of investment adviser.

Brief Description: Defining investment adviser.

Sponsors: Senators Prentice, Winsley, Deccio, Shin, McDonald, T. Sheldon and Rasmussen.

Brief History:

Committee Activity: Commerce, Trade, Housing & Financial Institutions: 1/28/2000, 2/3/2000 [DP].

SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Shin, Vice Chair; Benton, Gardner, Hale and T. Sheldon.

Staff: Susan Jones (786-7784)

Background: The 1980s experienced problems with fraud and abuse connected with the delivery of financial planning services. An organization representing state securities officials reported widespread fraud to Congress in 1988 and the Washington State Securities Division documented a number of criminal cases involving financial planners. At that time, few states had laws regulating financial planners or financial planning.

In 1989, legislation was passed amending the Securities Act of Washington to include financial planners under the definition of investment adviser, which would require persons holding themselves out as financial planners to register as investment advisers. Registration requires that the financial planner (1) pass an examination; (2) disclose his or her education, experience, and any disciplinary history; (3) adhere to ethical practices; (4) disclose conflicts of interest; (5) provide a financial planning agreement; and (6) disclose his or her compensation and commissions.

A rule adopted by the Securities Division allows unregistered persons to use the term financial planner– or some similar term if they disclose in writing to customers that financial or investment advice is not being provided, that they are not registered as an investment adviser, and a brief description of the products or services being provided.

Summary of Bill: A person, who is a member of an organization with financial planner– or financial adviser– in its name and who merely cites the membership is not, by those acts alone, considered an investment adviser– or to be holding himself or herself out as an investment advisor or representing that he or she is an investment advisor.

Appropriation: None.

Fiscal Note: Requested on January 24, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Recently, Washington State Association of Life Underwriters voted unanimously to change its name to the National Association of Insurance and Financial Advisors. The organization has 100,000 members, who are life, health, and property/casualty agents. The organization had 17 ethics chairs around the state working to help ensure standards are met. Many members have taken many hours of training and continuing education, and have passed examinations. The organization's members belong to an association that represents a wide range of financial services; membership in no way implies particular credentials or expertise.

Testimony Against: None.

Testified: PRO: John Rathbun, WA State Association of Life Underwriters; Neutral: Jim Boldt, WA CPA Society.