

FINAL BILL REPORT

ESHB 3012

C 161 L 08

Synopsis as Enacted

Brief Description: Regarding estate distribution documents.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Ross, Lantz, Rodne and Williams).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

It is unlawful for anyone not authorized to practice law in this state to market estate distribution documents in or from the state.

An estate distribution document is a will, trust, living trust, or other agreement fixing the terms of the sale of a decedent's interest in any property at or following the decedent's death, except a payable on death account, that is prepared for a specific person or prepared as marketing materials. Marketing materials include an offer or agreement to prepare or provide individualized advice about an estate distribution document.

The unauthorized marketing of estate distribution documents is also a violation of the state Consumer Protection Act (CPA). A person who is injured by a violation of the CPA may recover treble damages, costs, and reasonable attorneys' fees.

A person that is not authorized to practice law in this state may nonetheless gather information or assist in preparing estate distribution documents if: (1) he or she is employed by someone who is authorized to practice law in this state, and (2) he or she does not provide legal advice.

Financial institutions are exempt from the prohibition against marketing estate distribution documents by those not authorized to practice law. A financial institution is a:

- bank or bank holding company registered under federal law;
- trust company;
- savings or mutual savings bank;
- savings and loan association;
- credit union organized under state or federal law; or
- any affiliate, subsidiary, officer or employee of a financial institution.

A payable on death account is an account that becomes payable to one or more designated beneficiaries upon the death of the depositor.

A transfer on death account allows a holder to pass securities directly to another person or entity upon death without having to go through probate. These are regulated under the Uniform Transfer on Death Security Registration Act.

Summary:

Documents, instruments, writings, or marketing materials relating to a transfer on death account established under the Uniform Transfer on Death Security Registration Act are specifically exempted from the definition of "estate distribution document."

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: June 12, 2008