
ENGROSSED SUBSTITUTE HOUSE BILL 1114

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Rodne, Lantz, Moeller and B. Sullivan; by request of Attorney General)

READ FIRST TIME 02/15/07.

1 AN ACT Relating to marketing of estate distribution documents; and
2 adding a new chapter to Title 19 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds the practice of using
5 "living trusts" as a marketing tool by persons who are not authorized
6 to practice law, who are not acting directly under the supervision of
7 a person authorized to practice law, or who are not a financial
8 institution to be a deceptive means of obtaining personal asset
9 information and of developing and generating leads for sales to senior
10 citizens. The legislature further finds that this practice endangers
11 the financial security of consumers and may frustrate their estate
12 planning objectives. Therefore, the legislature intends to prohibit
13 the marketing of services related to preparation of estate distribution
14 documents by persons who are not authorized to practice law or who are
15 not a financial institution.

16 This chapter is not intended to limit consumers from receiving
17 legitimate estate planning services, including "living trusts," from
18 those authorized to practice law; but is intended to prohibit persons

1 not licensed to engage in the practice of law from the unscrupulous
2 practice of marketing legal services as a means of targeting senior
3 citizens for financial exploitation.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Market" or "marketing" includes every offer, contract, or
7 agreement to prepare or gather information for the preparation of, or
8 to provide, individualized advice about an estate distribution
9 document.

10 (2) "Estate distribution document" means any one or more of the
11 following documents, instruments, or writings prepared, or intended to
12 be prepared, for a specific person or as marketing materials for
13 distribution to any person, other than documents, instruments,
14 writings, or marketing materials relating to a payable on death account
15 established under RCW 30.22.040(9):

16 (a) Last will and testament or any writing, however designated,
17 that is intended to have the same legal effect as a last will and
18 testament, and any codicil thereto;

19 (b) Revocable and irrevocable inter vivos trusts and any instrument
20 which purports to transfer any of the trustor's current and/or future
21 interest in real or personal property thereto;

22 (c) Agreement that fixes the terms and provisions of the sale of a
23 decedent's interest in any real or personal property at or following
24 the date of the decedent's death.

25 (3) "Financial institution" means a bank holding company registered
26 under federal law, or a bank, trust company, mutual savings bank,
27 savings bank, savings and loan association or credit union organized
28 under state or federal law, or any affiliate, subsidiary, officer or
29 employee of a financial institution.

30 (4) "Person" means any natural person, corporation, partnership,
31 limited liability company, firm, or association.

32 NEW SECTION. **Sec. 3.** (1) Except as provided in subsection (2) of
33 this section, it is unlawful for a person to market estate distribution
34 documents, directly or indirectly, in or from this state unless the
35 person is authorized to practice law in this state.

1 (2) A person employed by someone authorized to practice law in this
2 state may gather information for, or assist in the preparation of,
3 estate distribution documents as long as that person does not provide
4 any legal advice.

5 (3) This chapter applies to any person who markets estate
6 distribution documents in or from this state. Marketing occurs in this
7 state, whether or not either party is then present in this state, if
8 the offer originates in this state or is directed into this state or is
9 received or accepted in this state.

10 (4) This chapter does not apply to any financial institution.

11 NEW SECTION. **Sec. 4.** The legislature finds that the practices
12 covered by this chapter are matters vitally affecting the public
13 interest for the purpose of applying the consumer protection act,
14 chapter 19.86 RCW. A violation of this chapter is not reasonable in
15 relation to the development and preservation of business and is an
16 unfair or deceptive act in trade or commerce and an unfair method of
17 competition for purposes of applying the consumer protection act,
18 chapter 19.86 RCW.

19 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute
20 a new chapter in Title 19 RCW.

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