CHAPTER 106
SB 348 - FINAL VERSION

2018 SESSION

18-2725
03/08

SENATE BILL ***348***

AN ACT **relative to senior-specific certifications or designations for securities broker-dealers.**

SPONSORS: **Sen. Soucy, Dist 18; Sen. Innis, Dist 24; Rep. Gidge, Hills. 33; Rep. Biggie, Hills. 23**

COMMITTEE: **Commerce**

ANALYSIS

This bill limits the use of senior-specific certifications or designations by securities broker-dealers.

This bill was requested by the bureau of securities regulation, department of state.

Explanation: **Matter added to current law appears in *bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT **relative to senior-specific certifications or designations for securities broker-dealers.**

Be it Enacted by the Senate and House of Representatives in General Court convened:

106:1 New Paragraph; Broker-Dealer Registration; Senior-Specific Designations. Amend RSA 421-B:4-401 by inserting after paragraph (f) the following new paragraph:

(g) Senior-specific designations.

(1) The use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of, or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice in the securities business within the meaning of RSA 421-B:4-412(d)(13). The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(A) Use of a certification or professional designation by a person who has not actually earned, or is otherwise ineligible to use such certification or designation;

(B) Use of a nonexistent or self-conferred certification or professional designation;

(C) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(D) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(i) Is primarily engaged in the business of instruction in sales or marketing;

(ii) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

(iii) Does not have reasonable standards or procedures for

monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(iv) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

(2) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of RSA 421-B:4-401(g)(1)(D) when the organization has been accredited by:

(A) The American National Standards Institute; or

(B) The National Commission for Certifying Agencies; or

(C) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

(3) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(A) Use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(B) The manner in which those words are combined.

(4) For purposes of this subsection, "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940. For the purposes of this subsection, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(A) Indicates seniority or standing within the organization; or

(B) Specifies an individual's area of specialization within the organization.

(5) Nothing in this subsection shall limit the secretary of state's authority to enforce existing provisions of law.

106:2 Reference Corrected. Amend RSA 421-B:6-604(c) to read as follows:

(c) Procedure for final order. If a hearing is requested or ordered pursuant to subsection (b), a hearing shall be held pursuant to RSA [~~421-B:6-612~~] *421-B:6-613*. In accordance with RSA [~~421-B:6-612~~] *421-B:6-613*, the secretary of state shall issue a written

decision stating the action to be taken by the department and may set forth findings of fact, conclusions of law, and disposition. The final order may make final, vacate, or modify the order issued under subsection (a).

106:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 25, 2018
Effective Date: July 24, 2018