

**Department of State
Division of Publications**

312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615.741.2650
Fax: 615.741.5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 01-18-10
Notice ID(s): 1195
File Date: 01/22/2010

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	LaCosta N. Wix, Assistant General Counsel
Address:	The Davy Crockett Tower 500 James Robertson Parkway, 2 nd Floor Nashville, TN 37243
Phone:	(615) 741-2199
Email:	lacosta.wix@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	The Davy Crockett Tower 500 James Robertson Parkway, 5 th Floor Nashville, TN 37243
Phone:	(615) 741-6500
Email:	don.coleman@tn.gov

Hearing Location(s):

Address 1:	The Davy Crockett Tower Conference Room A 500 James Robertson Parkway, 5th floor
City:	Nashville, TN
Zip:	37243
Hearing Date :	03/17/2010
Hearing Time:	10:00 Central

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s)

Chapter Number	Chapter Title
0780-01-92	Use of Senior-Specific Designations in Life Insurance and Annuities
Rule Number	Rule Title
0780-01-92-.01	Purpose
0780-01-92-.02	Scope

0780-01-92-.03	Authority
0780-01-92-.04	Definition
0780-01-92-.05	Prohibited Uses of Senior-Specific Certifications and Professional Designations

Chapter 0780-01-92
Use of Senior Specific Designations in Life Insurance and Annuities
New Chapter

Table of Contents

0780-01-92-.01	Purpose
0780-01-92-.02	Scope
0780-01-92-.03	Authority
0780-01-92-.04	Definition
0780-01-92-.05	Prohibited Uses of Senior Specific Certifications and Professional Designations

0780-01-92-.01 Purpose

The purpose of this Chapter is to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

Authority: T.C.A. §§ 56-8-101, *et seq.*

0780-01-92-.02 Scope

This Chapter shall apply to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by an insurance producer.

0780-01-92-.03 Authority

- (1) This Chapter is issued under the authority of T.C.A. §§ 56-8-101, *et seq.*
- (2) Nothing in this Chapter shall limit the Commissioner's authority to enforce existing provisions of law.

Authority: T.C.A. §§ 56-8-101, *et seq.*

0780-01-92-.04 Definition

For purposes of this Chapter,

- (1) "Commissioner" means the Commissioner of Commerce and Insurance; and
- (2) "Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance, including annuities.

Authority: T.C.A. §§ 56-8-101, *et seq.*

0780-01-92-.05 Prohibited Uses of Senior Specific Certifications and Professional Designations

- (1) (a) It is an unfair and deceptive act or practice in the business of insurance within the meaning of T.C.A. § 56-8-103 for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product,

either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

- (b) The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:
1. Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;
 2. Use of a nonexistent or self-conferred certification or professional designation;
 3. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the insurance producer using the certification or designation does not have; and
 4. Use of a certification or professional designation that was obtained from a certifying or designating 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 certificants or designees;
 - (iii) Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or
 - (iv) Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.
- (2) There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of Paragraph (1)(b)4. when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:
- (a) The American National Standards Institute (ANSI);
 - (b) The National Commission for Certifying Agencies; or
 - (c) Any organization that is on the U.S. Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes."
- (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 seniors, 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," "advisor," "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) (a) For purposes of this Chapter, a job title within an organization that is licensed or registered by a State or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

1. Indicates seniority or standing within the organization; or
 2. Specifies an individual's area of specialization within the organization.
- (b) For purposes of this Paragraph (4), financial services regulatory agency includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

Authority: T.C.A. §§ 56-8-101, *et seq.*

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 1/22/10

Signature: *Lacosta Wix*

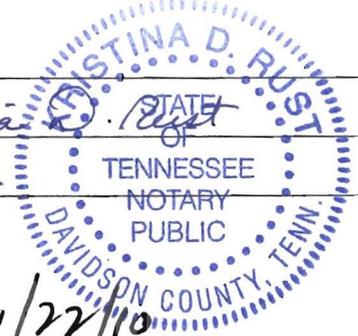
Name of Officer: Lacosta Wix

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 1/22/10

Notary Public Signature: *Justina D. Rust*

My commission expires on: 3/10/12



Department of State Use Only

Filed with the Department of State on: 1/22/10

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2010 JAN 22 PM 4: 09
SECRETARY OF STATE
PUBLICATIONS