



**NATIONAL ASSOCIATION OF  
INSURANCE AND FINANCIAL ADVISORS**

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May 15, 2008,

The Honorable Herb Kohl  
Special Committee on Aging  
United States Senate  
Washington, DC 20510

Re: Senior Investment Protection Act of 2009

Dear Chairman Kohl:

On behalf of the National Association of Insurance and Financial Advisors (NAIFA), the largest member association for insurance agents and advisors, and NAIFA Wisconsin, the Wisconsin state affiliate of NAIFA (hereafter, collectively referred to as "NAIFA"), we would like to thank you for the opportunity to submit to you our comments concerning legislation you recently introduced, S.906, the Senior Protection Act of 2009.

NAIFA members across the country, including the 1500 members of NAIFA Wisconsin, share your concerns that some senior citizens may be misled and harmed by the use of certain designations and certifications by insurance agents and advisors that may imply the existence of a level of expertise in senior affairs and financial matters that, in fact, does not exist. NAIFA is concerned that the actions of some bad actors could compromise the public's trust in all insurance agents who work hard to help 75 million American families secure their futures through the purchase of life insurance, annuities, long-term care, and disability income insurance.

NAIFA's national office has been actively engaged in this issue from the start. As you know we provided extensive written comment on the Senior Protection Act of 2008 and we appreciate the dialogue we have had with your staff in addressing NAIFA's concerns as we work towards our common goal. NAIFA also assumed a leadership role in urging the NAIC to become actively engaged in this issue and to develop a model regulation based on the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations. NAIFA submitted written comments and testimony on both the NAIC and NASAA proposed models; and the final NASAA model rule and NAIC model regulation included many of the revisions suggested by NAIFA. We are thankful that S.906 recognizes these efforts

and names the both the NASAA and NAIC models as qualifiers for a state to be eligible for the federal grant program established by the bill.

NAIFA does have some outstanding concerns with the current version of S.906 and we are writing today to urge you to consider making the following changes:

**1. Section 3, Definitions:** The definition of “misleading designation” in Section 3 (1) (A) is overly broad. We read it to say that using a designation that indicates or implies that someone has special certification or training in advising seniors is misleading, *regardless* of whether the person does in fact have such special certification or training. We do not believe that the subsequent language in Section 3 (1) (B) satisfactorily resolves or addresses our concerns.

To address our concerns, NAIFA recommends that Section 3 (1) (A) be revised to read as follows:

“(A) means the use of a certification, professional designation, or other credential, that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors when in fact the salesperson does not possess such special certification or training in advising or servicing seniors.”

- NAIFA’s objection to the original language is that it is not accurate—someone can use a designation that *implies* special training in advising seniors *and* actually have such special training in advising or servicing seniors.

**2. Section 4 (c) (5) (C) of S.906** would require a state to require the disclosure of commissions paid on the sale of annuity products in order to qualify for the grant program.

To address our concerns NAIFA recommends that Section 4(c) (5) (C) be revised to read as follows:

“(C) the prospective senior purchaser shall be informed of the total fees and costs associated with establishing the annuity transaction, as well as the total fees, costs and penalties associated with the termination of the transaction or agreement.”

NAIFA recommends these changes because:

- Mandating commission disclosure would encourage buyers to look for the lowest commission policy rather than the best combination of policy values and service.
- Commission disclosure would disrupt the sales process by drawing attention away from the consumer’s needs and the policy’s ability to meet those needs. This disruption would undoubtedly lead to consumers not being adequately protected.
- Disclosure of a commission will not prevent the objectionable market conduct practices of some unethical agents.

**3. Section 4 (c) (5)** requires states to adopt standard rules on suitability requirements for the sale of annuity products to qualify for the grant program. NAIFA recommends you amend this language to require the adoption of the NAIC Suitability in Annuity Transactions Model Regulation (Model) in order for a state to be eligible for the grant. We remain very concerned about the imposition of new suitability standards by the federal government, when the industry's functional regulators have already extensively studied the issue and have implemented the Model or its equivalent in close to 45 states.

Thank you for the opportunity to continue to provide NAIFA's feedback on the Senior Protection Act. We look forward to continuing to work with you, your staff, and state regulators in Wisconsin and across the country to address this important issue.

Sincerely,



Susan Jane Allen, LUTCF  
President  
NAIFA-Wisconsin



Cliff F. Wilson, CLU, ChFC, LUTCF, CLF  
President  
NAIFA