

ASSEMBLY, No. 868

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen MALONE, COTTRELL, Dalton, Blee, LeFevre,  
Arnone, Bucco, Assemblywoman Gill, Assemblyman Zecker,  
Assemblywoman Heck, Assemblyman Barnes and  
Assemblywoman Buono

1 AN ACT concerning certain consumer fraud practices relating to senior  
2 citizens and amending various parts of the statutory law.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) This act shall be known and may be cited as "The  
8 Senior Citizens Fraudulent Claims Act."  
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10 2. Section 1 of P.L.1960, c.39 (C.56:8-1) is amended to read as  
11 follows:

12 1. (a) The term "advertisement" shall include the attempt directly  
13 or indirectly by publication, dissemination, solicitation, indorsement or  
14 circulation or in any other way to induce directly or indirectly any  
15 person to enter or not enter into any obligation or acquire any title or  
16 interest in any merchandise or to increase the consumption thereof or  
17 to make any loan;

18 (b) The term "Attorney General" shall mean the Attorney General  
19 of the State of New Jersey or any person acting on his behalf;

20 (c) The term "merchandise" shall include any objects, wares, goods,  
21 commodities, services or anything offered, directly or indirectly to the  
22 public for sale;

23 (d) The term "person" as used in this act shall include any natural  
24 person or his legal representative, partnership, corporation, company,  
25 trust, business entity or association, and any agent, employee,  
26 salesman, partner, officer, director, member, stockholder, associate,  
27 trustee or cestuis que trustent thereof;

28 (e) The term "sale" shall include any sale, rental or distribution,  
29 offer for sale, rental or distribution or attempt directly or indirectly to  
30 sell, rent or distribute;

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1        (f) The term "senior citizen" means a natural person 60 years of age  
2 or older.

3 (cf: P.L.1967, c.301, s.1)

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5        3. Section 2 of P.L.1966, c.39 (C.56:8-14) is amended to read as  
6 follows:

7        2. The Superior Court and every municipal court shall have  
8 jurisdiction of proceedings for the collection and enforcement of a  
9 penalty imposed because of the violation, within the territorial  
10 jurisdiction of the court, of any provision of the act to which this act  
11 is a supplement. Except as otherwise provided in this act the penalty  
12 shall be collected and enforced in a summary proceeding pursuant to  
13 "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall  
14 be either in the nature of a summons or warrant and shall issue in the  
15 name of the State, upon the complaint of the Attorney General or any  
16 other person.

17        In any action brought pursuant to this section to enforce any order  
18 of the Attorney General or his designee the court may, without regard  
19 to jurisdictional limitations, restore to any person in interest any  
20 moneys or property, real or personal, which have been acquired by any  
21 means declared to be unlawful under this act, except that the court  
22 shall restore to any senior citizen twice the amount or value, as the  
23 case may be, of any moneys or property, real or personal, which have  
24 been acquired by any means declared to be unlawful under P.L.1960,  
25 c.39 (C.56:8-1 et seq.).

26        In the event that any person found to have violated any provision  
27 of this act fails to pay a civil penalty assessed by the court, the court  
28 may issue, upon application by the Attorney General, a warrant for the  
29 arrest of such person for the purpose of bringing him before the court  
30 to satisfy the civil penalty imposed.

31        A person who fails to restore any moneys or property, real or  
32 personal, found to have been acquired unlawfully from a senior citizen  
33 within 10 days after service of an order requiring such restoration,  
34 shall be guilty of a crime of the fourth degree.

35 (cf: P.L.1991, c.91, s.526.

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37        4. Section 3 of P.L.1971, c.247 (C.56:8-15) is amended to read as  
38 follows:

39        3. In addition to the assessment of civil penalties, the Attorney  
40 General or his designee may, after a hearing as provided in P.L.1967,  
41 c.97 (C.56:8-3.1) and upon a finding of an unlawful practice under this  
42 act and the act hereby amended and supplemented, order that any  
43 moneys or property, real or personal, which have been acquired by  
44 means of such unlawful practice be restored to any person in interest,  
45 except that if any moneys or property, real or personal, have been  
46 acquired by means of an unlawful practice perpetrated against a senior

1 citizen, the amount of moneys or property, real or personal, ordered  
2 restored shall be twice the amount acquired.

3 (cf: P.L.1971, c.247, s.3)

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5 5. Section 5 of P.L.1971, c.247 (C.56:8-17) is amended to read as  
6 follows:

7 5. Upon the failure of any person to comply within 10 days after  
8 service of any order of the Attorney General or his designee directing  
9 payment of penalties or restoration of moneys or property, the  
10 Attorney General may issue a certificate to the Clerk of the Superior  
11 Court that such person is indebted to the State for the payment of such  
12 penalty and the moneys or property ordered restored. A copy of such  
13 certificate shall be served upon the person against whom the order was  
14 entered. Thereupon the clerk shall immediately enter upon his record  
15 of docketed judgments the name of the person so indebted, and of the  
16 State, a designation of the statute under which the penalty is imposed,  
17 the amount of the penalty imposed and the amount of moneys ordered  
18 restored, a listing of property ordered restored, and the date of the  
19 certification. Such entry shall have the same force and effect as the  
20 entry of a docketed judgment in the Superior Court. Such entry,  
21 however, shall be without prejudice to the right of appeal to the  
22 Appellate Division of the Superior Court from the final order of the  
23 Attorney General or his designee.

24 A person who fails to restore moneys or property found to have  
25 been acquired unlawfully from a senior citizen within 10 days after  
26 service of any order requiring such restoration, shall be guilty of a  
27 crime of the fourth degree.

28 (cf: P.L.1971, c.247, s.5)

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30 6. This act shall take effect on the 180th day after enactment.

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35 "The Senior Citizens Fraudulent Claims Act."