

ASSEMBLY BILL NO. 4834

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 4834 with my recommendations for reconsideration.

Assembly Bill No. 4834 requires the inclusion of a disclosure letter with any mailing that could reasonably be interpreted as falsely implying a State government connection, approval, or endorsement. Specifically, the bill makes it an unlawful practice under the Consumer Fraud Act for a nongovernmental entity to solicit through the mail the purchase of a product or service while falsely implying a State government connection, approval, or endorsement through the use of a seal; insignia; citation to a State statute; name of a State agency, department, commission, or program; trade or brand name; or any other term or symbol unless the mailing also includes a disclosure letter.

Under the bill, the disclosure letter must contain: the full name of the person sending the solicitation; 14 point, bold typeface language stating that the product, service, or offer has not been approved, endorsed, or made by the State of New Jersey or any of its agencies, departments, commissions, or programs; and, if the solicitation constitutes an offer to satisfy a State statutory obligation in exchange for a fee, a breakdown of the cost of the service, including the fee and the amount to be paid to the State.

An unlawful practice under the Consumer Fraud Act, P.L.1960, c.39, is punishable by a monetary penalty of \$10,000 or less for a first offense and \$20,000 or less for any subsequent offense. In addition, a violation can result in a cease-and-desist order issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.

While I share the sponsors' concerns about the proliferation of mailings intended to defraud New Jersey residents, particularly vulnerable populations, I am concerned that the bill could be construed to, and in practical effect could be applied to explicitly allow, rather than deter, fraudulent mailings. The bill provides that mailings falsely implying a State government connection would be allowed so long as the mailing includes a disclosure letter.

Con artists should not be permitted to falsely imply a government connection under any circumstances. I am therefore recommending that the bill be revised to prohibit, categorically, these misleading mailings.

Accordingly, I herewith return Assembly Bill No. 4834 and recommend that it be amended as follows:

<u>Page 2, Section 1, Line 15:</u>	Delete "unless the person includes a disclosure letter" and insert "."
<u>Page 2, Section 1, Lines 16-29:</u>	Delete in their entirety
<u>Page 2, Section 1, Line 34:</u>	After "entity." insert "The provisions of this section shall not be construed to prevent a cause of action brought for violation of P.L.1960, c.39 (C.56:8-1 et seq.)."

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor