100TH GENERAL ASSEMBLY
State of Illinois
2017 and 2018
SB3621


SYNOPSIS AS INTRODUCED:

New Act

Creates the Protect Vulnerable Adults from Financial Exploitation Act. Provides that any investment adviser, salesperson, or other financial personnel who reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted shall promptly notify the Securities Director of the Securities Department and may also notify any third party previously designated by the eligible adult. Grants such persons immunity from any administrative or civil liability that might arise from such governmental or third-party disclosures. Provides that an investment adviser, salesperson, or other financial personnel may delay the disbursement of funds from the account of an eligible adult or any account that an eligible adult is a beneficiary of if financial exploitation is suspected. Provides that any delayed disbursement of funds shall expire upon the sooner of: (i) a determination that the disbursement will not result in financial exploitation of the eligible adult; or (ii) 15 business days after the date upon which the funds were first delayed, unless the Securities Director requests an extension. Permits a court to enter an order extending the delay of the disbursement of funds or to order other protective relief. Grants immunity to any investment adviser, salesperson, or other financial personnel from any administrative or civil liability that might arise from a delay in the disbursement of funds. Requires an investment adviser, salesperson, or other financial personnel to provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to State agencies charged with administering State adult protective services laws and to law enforcement. Defines terms. Effective immediately.
AN ACT concerning business.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Protect Vulnerable Adults from Financial Exploitation Act.

Section 5. Definitions. In this Act:

"Dealer" has the meaning ascribed to that term in the Illinois Securities Law of 1953.

"Eligible adult" has the meaning ascribed to that term in the Adult Protective Services Act and also includes a person 65 years of age or older.

"Financial exploitation" means:

(1) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an eligible adult; or

(2) any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:

(A) obtain control, through deception, intimidation, or undue influence, over the eligible adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property; or
(B) convert money, assets, or property of the eligible adult to deprive such eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property.

"Investment adviser" has the meaning ascribed to that term in the Illinois Securities Law of 1953.

"Investment adviser representative" has the meaning ascribed to that term in the Illinois Securities Law of 1953.

"Qualified individual" means any salesperson, investment adviser representative, or person who serves in a supervisory, compliance, or legal capacity for a dealer or investment adviser and also includes a "principal of a dealer" and a "principal of an investment adviser" as those terms are defined in the Illinois Securities Law of 1953.

"Salesperson" has the meaning ascribed to that term in the Illinois Securities Law of 1953.

"Securities Director" has the meaning ascribed to that term in the Illinois Securities Law of 1953.

Section 10. Governmental disclosures. If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the qualified individual shall promptly notify the Securities Director.

Section 15. Immunity for governmental disclosures. A
qualified individual who in good faith and exercising reasonable care makes a disclosure of information pursuant to Section 10 is immune from administrative or civil liability that might otherwise arise from such disclosure or for any failure to notify the customer of the disclosure.

Section 20. Third-party disclosures. If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the qualified individual may notify any third party previously designated by the eligible adult. Disclosure may not be made to any designated third party that is suspected of financial exploitation or other abuse of the eligible adult.

Section 25. Immunity for third-party disclosures. A qualified individual who, in good faith and exercising reasonable care, complies with Section 20 is immune from any administrative or civil liability that might otherwise arise from such disclosure.

Section 30. Delaying disbursements.

(a) A qualified individual may delay a disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) the qualified individual reasonably believes,
after initiating an internal review of the requested
disbursement and the suspected financial exploitation,
that the requested disbursement may result in financial
exploitation of an eligible adult; and

(2) the qualified individual:

(A) immediately, but in no event more than 2
business days after the requested disbursement,
provides written notification of the delay and the
reason for the delay to all parties authorized to
transact business on the account, unless any such party
is reasonably believed to have engaged in suspected or
attempted financial exploitation of the eligible
adult;

(B) immediately, but in no event more than 2
business days after the requested disbursement,
notifies the Securities Director; and

(C) continues its internal review of the suspected
or attempted financial exploitation of the eligible
adult, as necessary, and reports the investigation's
results to the Securities Director within 7 business
days after the requested disbursement.

(b) Any delay of a disbursement as authorized by this
Section shall expire upon the sooner of:

(1) a determination by the qualified individual that
the disbursement will not result in financial exploitation
of the eligible adult; or
(2) 15 business days after the date on which the qualified individual first delayed disbursement of the funds, unless the Securities Director requests that the qualified individual extend the delay, in which case the delay shall expire no more than 25 business days after the date on which the qualified individual first delayed disbursement of the funds unless sooner terminated by the Securities Director or an order of a court.

(c) A court may enter an order extending the delay of the disbursement of funds or may order other protective relief based on the petition of the Securities Director, qualified individual who initiated the delay under this Section, or other interested party.

Section 35. Immunity for delaying disbursements. A qualified individual who, in good faith and exercising reasonable care, complies with Section 30 is immune from any administrative or civil liability that might otherwise arise from such delay in a disbursement in accordance with Section 30.

Section 40. Records. A qualified individual shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to State agencies charged with administering State adult protective services laws and to law enforcement, either as part
of a referral to the agency or to law enforcement, or upon
request of the agency or law enforcement pursuant to an
investigation. The records may include historical records as
well as records relating to the most recent transaction or
transactions that may comprise financial exploitation of an
eligible adult. All records made available to agencies under
this Section shall not be considered public records as defined
in the Freedom of Information Act. Nothing in this Section
shall limit or otherwise impede the authority of the Securities
Director to access or examine the books and records of
salespersons and investment advisers as otherwise provided by
law.

Section 99. Effective date. This Act takes effect upon
becoming law.