99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6176


SYNOPSIS AS INTRODUCED:

320 ILCS 20/4.3 new

Amends the Adult Protective Services Act. Provides that pending an investigation by the financial institution, the Department on Aging, or law enforcement, if a financial institution reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring the disbursement of funds contained in the account: (i) of the eligible adult; (ii) on which the eligible adult is a beneficiary, including a trust or guardianship account; or (iii) of a person suspected of perpetrating financial exploitation of an eligible adult. Requires a financial institution that refuses to disburse funds to report the incident to the Adult Protective Services Program, local law enforcement, and other specified persons. Provides that a financial institution's refusal to disburse funds shall expire within certain timeframes under certain conditions; and that a court of competent jurisdiction may enter an order extending the refusal by the financial institution to disburse funds. Exempts a financial institution and its employees from criminal, civil, and administrative liability for refusing to disburse funds or disbursing funds if the determination of whether or not to disburse funds was made in good faith.
AN ACT concerning aging.

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

Section 5. The Adult Protective Services Act is amended by adding Section 4.3 as follows:

(320 ILCS 20/4.3 new)

Sec. 4.3. Financial exploitation; disbursement of funds.

(a) Pending an investigation by the financial institution, the Department, or law enforcement, if a financial institution reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring the disbursement of funds contained in the account:

(1) of the eligible adult;

(2) on which the eligible adult is a beneficiary, including a trust or guardianship account; or

(3) of a person suspected of perpetrating financial exploitation of an eligible adult.

(b) A financial institution may also refuse to disburse funds under this Section if the Department, law enforcement, or the prosecuting attorney provides information to the financial institution demonstrating that it is reasonable to believe that
financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted.

(c) A financial institution is not required to refuse to disburse funds when provided with information alleging that financial exploitation may have occurred, may have been attempted, or is being attempted, but may use its discretion to determine whether or not to refuse to disburse funds based on the information available to the financial institution.

(d) A financial institution that refuses to disburse funds based on a reasonable belief that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted shall:

(1) make a reasonable effort to notify all parties authorized to transact business on the account orally or in writing; and

(2) report the incident to the Adult Protective Services Program and local law enforcement.

(e) Any refusal to disburse funds as authorized by this Section based on the reasonable belief of a financial institution that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted shall expire upon the sooner of:

(1) 10 business days after the date on which the financial institution first refused to disburse the funds if the transaction involved the sale of a security or offer to sell a security, as defined in Section 2.1 of the
Illinois Securities Law of 1953, unless sooner terminated by an order of a court of competent jurisdiction;

(2) 5 business days after the date on which the financial institution first refused to disburse the funds if the transaction did not involve the sale of a security or offer to sell a security, unless sooner terminated by an order of a court of competent jurisdiction; or

(3) the time when the financial institution is satisfied that the disbursement will not result in financial exploitation of the eligible adult.

(f) A court of competent jurisdiction may enter an order extending the refusal by the financial institution to disburse funds based on a reasonable belief that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted. A court of competent jurisdiction may also order other protective relief.

(g) A financial institution or an employee of a financial institution is immune from criminal, civil, and administrative liability for refusing to disburse funds or disbursing funds under this Section and for actions taken in furtherance of that determination if the determination of whether or not to disburse funds was made in good faith.