

ASSEMBLY, No. 5091

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 25, 2019

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

“Safeguarding Against Financial Exploitation Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/26/2019)

1 AN ACT concerning financial exploitation of vulnerable adults and
2 supplementing P.L.1967, c.93 (C.49:3-47 et seq.).

3

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

6

7 1. This act shall be known and may be cited as the
8 “Safeguarding Against Financial Exploitation Act.”

9

10 2. As used in this act:

11 “Applicable county adult services provider” means the county
12 adult services provider that services the county of residence of the
13 eligible adult.

14 “County adult protective services provider” has the meaning in
15 section 2 of P.L.1993, c.249 (C.52:27D-407).

16 “Eligible adult” means:

17 (1) a person 65 years of age or older; or

18 (2) a person subject to the “Adult Protective Services Act,”
19 P.L.1993, c.249 (C.52:27D-406 et seq.).

20 “Financial exploitation” means:

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

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

27 (a) obtain control, through deception, intimidation or undue
28 influence, over the eligible adult’s money, assets or property to
29 deprive the eligible adult of the ownership, use, benefit or
30 possession of his or her money, assets or property; or

31 (b) convert money, assets or property of the eligible adult to
32 deprive such eligible adult of the ownership, use, benefit or
33 possession of his or her money, assets or property.

34 “Qualified individual” means any agent, investment adviser
35 representative or other person who serves in a supervisory,
36 compliance, or legal capacity for a broker-dealer or investment
37 adviser.

38

39 3. a. If a qualified individual reasonably believes that financial
40 exploitation of an eligible adult may have occurred, may have been
41 attempted, or is being attempted, the qualified individual shall
42 promptly notify the bureau and the applicable county adult
43 protective services provider.

44 b. A qualified individual who, in good faith and exercising
45 reasonable care, makes a disclosure in compliance with this section
46 shall be immune from administrative, civil or criminal liability that
47 might otherwise arise from such disclosure or for any failure to
48 notify the customer of the disclosure.

1 4. a. If a qualified individual reasonably believes that financial
2 exploitation of an eligible adult may have occurred, may have been
3 attempted, or is being attempted, a qualified individual shall notify
4 any third party previously designated by the eligible adult, provided
5 that disclosure may not be made to any designated third party that is
6 suspected of financial exploitation or other abuse of the eligible
7 adult.

8 b. A qualified individual who, in good faith and exercising
9 reasonable care, makes a disclosure in compliance with this section
10 shall be immune from any administrative, civil or criminal liability
11 that might otherwise arise from such disclosure.

12

13 5. a. A broker-dealer or investment adviser may delay a
14 disbursement from an account of an eligible adult or an account on
15 which an eligible adult is a beneficiary if:

16 (1) the broker-dealer, investment adviser, or qualified individual
17 reasonably believes, after initiating an internal review of the
18 requested disbursement and the suspected financial exploitation,
19 that the requested disbursement may result in financial exploitation
20 of an eligible adult; and

21 (2) the broker-dealer or investment adviser:

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

28 (b) immediately, but in no event more than two business days
29 after the requested disbursement, notifies the bureau and the
30 applicable county adult protective services provider; and

31 (c) continues the internal review of the suspected or attempted
32 financial exploitation of the eligible adult, as necessary, and reports
33 the investigation's results to the bureau and the applicable county
34 adult protective services provider within seven business days after
35 the requested disbursement.

36 b. Any delay of a disbursement as authorized by this section
37 shall expire upon the sooner of:

38 (1) a determination by the broker-dealer or investment adviser
39 that the disbursement will not result in financial exploitation of the
40 eligible adult; or

41 (2) 15 business days after the date on which the broker-dealer or
42 investment adviser first delayed disbursement of the funds, unless
43 either the bureau or the applicable county adult protective services
44 provider requests that the broker-dealer or investment adviser
45 extend the delay, in which case the delay shall expire no more than
46 25 business days after the date on which the broker-dealer or
47 investment adviser first delayed disbursement of the funds, unless

1 sooner terminated by either of the agencies or an order of a court of
2 competent jurisdiction.

3 c. A court of competent jurisdiction may enter an order
4 extending the delay of the disbursement of funds or may order other
5 protective relief based on the petition of the bureau, the applicable
6 county adult protective services provider, the broker-dealer or
7 investment adviser that initiated the delay under this section, or
8 other interested party.

9 d. A broker-dealer or investment adviser who, in good faith and
10 exercising reasonable care, acts in compliance with this section
11 shall be immune from any administrative, civil or criminal liability
12 that might otherwise arise from such delay in a disbursement in
13 accordance with this section.

14
15 6. A broker-dealer or investment adviser shall provide access
16 to, or copies of records that are relevant to the suspected or
17 attempted financial exploitation of an eligible adult to agencies
18 charged with administering State adult protective services laws and
19 to law enforcement, either as part of a referral to the agency or to
20 law enforcement, or upon request of the agency or law enforcement
21 pursuant to an investigation. The records may include historical
22 records as well as records relating to the most recent transaction or
23 transactions that may comprise financial exploitation of an eligible
24 adult. All records made available to agencies under this section
25 shall not be deemed to be a public record pursuant to P.L.1963, c.73
26 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et seq.). Nothing
27 in this section shall limit or otherwise impede the authority of the
28 bureau to access or examine the books and records of broker-dealers
29 and investment advisers as otherwise provided by law.

30
31 7. This act shall take effect on the 90th day next following the
32 date of enactment.

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STATEMENT

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36 This bill, the “Safeguarding Against Financial Exploitation Act,”
37 establishes protections from financial exploitation for vulnerable
38 adults.

39 The bill supplements the “Uniform Securities Law (1967)” and
40 thus adopts the definitions and regulatory framework of that law.
41 The bill defines an eligible adult as a person 65 years of age or
42 older or a person subject to the “Adult Protective Services Act,”
43 P.L.1993, c.249 (C.52:27D-406 et seq.).

44 The bill provides that when a qualified individual, defined as any
45 agent, investment adviser representative or other person who serves
46 in a supervisory, compliance, or legal capacity for a broker-dealer
47 or investment adviser, believes that financial exploitation of an
48 eligible adult has occurred or is being attempted, the qualified

1 individual shall notify the Bureau of Securities in the Division of
2 Consumer Affairs in the Department of Law and Public Safety and
3 the applicable county adult protective services provider. In addition,
4 the qualified individual shall notify any third party previously
5 designated by the eligible adult, unless the third party is the party
6 suspected of the financial exploitation. The bill provides that a
7 qualified individual who makes disclosure in good faith shall be
8 immune from administrative, civil or criminal liability.

9 The bill also provides that a broker-dealer or investment adviser
10 may delay a disbursement from an account of an eligible adult or an
11 account on which an eligible adult is a beneficiary when the
12 disbursement may result in financial exploitation. A broker-dealer
13 or investment adviser who complies with these delays shall be
14 immune from any administrative or civil liability that might
15 otherwise arise from the delay in a disbursement in accordance with
16 this bill.

17 The bill requires the broker-dealer or investment adviser to
18 provide access to or copies of records that are relevant to the
19 suspected or attempted financial exploitation of an eligible adult to
20 agencies charged with administering state adult protective services
21 laws and to law enforcement. The bill also provides that those
22 records made available to agencies shall not be deemed to be public
23 records.