

Effective 5/8/2018

Part 2
Protection of Vulnerable Adults from Financial Exploitation Act

61-1-201 Definitions.

As used in this part:

- (1) "Adult Protective Services" means the same as that term is defined in Section 62A-3-301.
- (2) "Eligible adult" means:
 - (a) an individual who is 65 years of age or older; or
 - (b) a vulnerable adult as defined in Section 62A-3-301.
- (3) "Financial exploitation of an eligible adult" means:
 - (a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an eligible adult; or
 - (b) an act or omission, including through a power of attorney, guardianship, or conservatorship of an eligible adult, to:
 - (i) obtain control, through deception, intimidation, or undue influence, over an eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other property; or
 - (ii) convert an eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other property.
- (4) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.
- (5) "Qualified individual" means:
 - (a) an agent;
 - (b) an investment adviser representative; or
 - (c) an individual who serves in a supervisory, compliance, or legal capacity for a broker-dealer or an investment adviser.

Enacted by Chapter 159, 2018 General Session

61-1-202 Governmental and third party disclosures.

- (1) If a broker-dealer, an investment adviser, or a qualified individual reasonably believes that a person has engaged in or attempted to engage in the financial exploitation of an eligible adult, the broker-dealer, investment adviser, or qualified individual:
 - (a) shall promptly notify the division and Adult Protective Services; and
 - (b) subject to Subsection (2), may notify a person previously designated by the eligible adult, a person allowed to receive notification under applicable law or any customer agreement, or an individual reasonably associated with the eligible adult.
- (2) A broker-dealer, an investment adviser, or a qualified individual may not notify a third party under Subsection (1)(b) if the third party is suspected of engaging in the financial exploitation of the eligible adult or other abuse of the eligible adult.

Enacted by Chapter 159, 2018 General Session

61-1-203 Immunity for governmental and third party disclosures.

A broker-dealer, an investment adviser, or a qualified individual who, in good faith and exercising reasonable care, notifies the division, Adult Protective Services, or a third party, in

accordance with Section 61-1-202, is immune from administrative or civil liability that might otherwise arise from the notification.

Enacted by Chapter 159, 2018 General Session

61-1-204 Delaying disbursements or transactions.

- (1) A broker-dealer or an investment adviser may delay a disbursement or transaction from an eligible adult's account or from an account on which the eligible adult is a beneficiary, if the broker-dealer or investment adviser:
 - (a) suspects that the disbursement or transaction may result in the financial exploitation of an eligible adult;
 - (b) initiates an internal review of the disbursement or transaction and the suspected financial exploitation of an eligible adult;
 - (c) after initiating the internal review, reasonably believes that the disbursement or transaction may result in the financial exploitation of an eligible adult;
 - (d) within two business days after the day on which the disbursement or transaction is delayed, provides written notification of the delay and the reason for the delay to:
 - (i) each party authorized to transact business on the account, unless the party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;
 - (ii) the division; and
 - (iii) Adult Protective Services;
 - (e) continues the broker-dealer's or investment adviser's internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary; and
 - (f) upon request, provides a timely report on the status and results of the internal review to the division or Adult Protective Services.
- (2) Except as provided in Subsection (3), a delay of a disbursement or transaction under Subsection (1) expires the earlier of:
 - (a) the day on which the broker-dealer or investment adviser determines that the disbursement or transaction will not result in the financial exploitation of an eligible adult; or
 - (b) 15 business days after the day on which the broker-dealer or investment adviser initially delayed the disbursement or transaction.
- (3) If an internal review described in Subsection (1) supports a reasonable belief that a person has engaged in or attempted to engage in the financial exploitation of an eligible adult, the division or Adult Protective Services may extend the delay of the disbursement or transaction under Subsection (1) as reasonably necessary.
- (4) A court of competent jurisdiction may enter an order terminating or extending a delay under this section or granting other protective relief.

Enacted by Chapter 159, 2018 General Session

61-1-205 Immunity for delaying disbursements or transactions.

A broker-dealer or investment adviser who, in good faith and exercising reasonable care, delays a disbursement or transaction in accordance with Section 61-1-204 is immune from administrative or civil liability that might otherwise arise from the delay.

Enacted by Chapter 159, 2018 General Session

61-1-206 Records.

- (1) Upon request, a broker-dealer or investment adviser shall provide access to or a copy of any record, including a historical record, that is relevant to the suspected or attempted financial exploitation of an eligible adult to Adult Protective Services or a law enforcement agency.
- (2) For purposes of Title 63G, Chapter 2, Government Records Access and Management Act, a record made available to Adult Protective Services or a law enforcement agency under this section is a protected record as defined in Section 63G-2-103.
- (3) Nothing in this section affects the authority of the division to access or examine the books or records of a broker-dealer or investment adviser as otherwise provided by law.

Enacted by Chapter 159, 2018 General Session