

# SENATE BILL 327

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(PRE-FILED)

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By: ~~Senator Waldstreicher~~ Senators Waldstreicher, Hettleman, Jackson, Lee, and West

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Civil Actions – Financial Exploitation of ~~Vulnerable~~ Susceptible Adults and**  
3 **Older Adults**  
4 **(Maryland SAFE Act)**

5 FOR the purpose of authorizing the Division of Consumer Protection in the Office of the  
6 Attorney General to bring certain actions on behalf of certain susceptible adults and  
7 older adults; authorizing the Securities Commissioner of the Division of Securities  
8 of the Office of the Attorney General to bring a civil action on behalf of certain  
9 susceptible adults and older adults; establishing a cause of action for certain  
10 financial exploitation of certain ~~vulnerable adults; authorizing a vulnerable adult~~  
11 susceptible adults and vulnerable adults; specifying that this Act does not apply to  
12 certain financial institutions; authorizing a susceptible adult, older adult, or certain  
13 individuals in certain representative capacities to bring an action under this Act  
14 under certain circumstances; providing that an action authorized under this Act is  
15 in addition to and cumulative with certain other claims, causes of action, and  
16 remedies and shall survive the death of the ~~vulnerable~~ susceptible adult or older  
17 adult; providing that a certain party in an action brought under this Act is entitled  
18 to recover certain damages and other relief under certain circumstances; authorizing  
19 the court to award reasonable attorney's fees and expenses to a party under certain  
20 circumstances; requiring an action under this Act to be brought within a certain  
21 period of time; providing for the purposes and construction of this Act; providing that  
22 this Act is not intended to alter or amend certain burdens of proof or certain  
23 presumptions; defining certain terms; providing for the application of this Act; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 generally relating to the financial exploitation of ~~vulnerable~~ susceptible adults and  
2 older adults.

3 BY repealing and reenacting, with amendments,  
4 Article – Commercial Law  
5 Section 13–204(a)(14) and (15)  
6 Annotated Code of Maryland  
7 (2013 Replacement Volume and 2020 Supplement)

8 BY adding to  
9 Article – Commercial Law  
10 Section 13–204(a)(16)  
11 Annotated Code of Maryland  
12 (2013 Replacement Volume and 2020 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Corporations and Associations  
15 Section 11–209  
16 Annotated Code of Maryland  
17 (2014 Replacement Volume and 2020 Supplement)

18 BY adding to  
19 Article – Estates and Trusts  
20 Section 13–601 through ~~13–608~~ 13–609 to be under the new subtitle “Subtitle 6.  
21 Financial Exploitation of ~~Vulnerable~~ Susceptible Adults and Older Adults”  
22 and the amended title “Title 13. Protection of Minors, Disabled Persons, ~~and~~  
23 ~~Vulnerable~~ Susceptible Adults, and Older Adults”  
24 Annotated Code of Maryland  
25 (2017 Replacement Volume and 2020 Supplement)

26 Preamble

27 WHEREAS, Financial exploitation of ~~vulnerable~~ susceptible adults and older adults  
28 over the age of ~~65~~ 67, including through theft, fraud, lottery scams, investment fraud, and  
29 unauthorized real estate transactions, is an endemic and growing problem in our society  
30 today; and

31 WHEREAS, Perpetrators of financial exploitation use a variety of actions and  
32 tactics, including deception, intimidation, isolation, and undue influence; and

33 WHEREAS, While most family members, caregivers, fiduciaries, and other trusted  
34 individuals provide needed and appropriate assistance to ~~vulnerable~~ susceptible adults and  
35 older adults, the perpetrator is often someone serving in one of these capacities; and

36 WHEREAS, Financial exploitation may cause a victim to lose well-earned financial  
37 security and drive the victim into poverty; and

1 WHEREAS, The consequences to the victim are not just limited to the financial  
2 impact but often include lasting emotional, mental, and physical harm; and

3 WHEREAS, Studies have shown that millions of ~~vulnerable~~ Americans over the age  
4 of ~~65~~ 67 may be targets annually, and the financial loss to victims of financial abuse is  
5 estimated to be several billion dollars each year; and

6 WHEREAS, These estimated financial losses increase exponentially when additional  
7 related costs to the victim, such as health care, social services, investigations, legal fees,  
8 and lost income, are taken into account; and

9 WHEREAS, Redress for victims of financial exploitation in Maryland is limited to  
10 adult protective services, criminal law enforcement, and costly civil remedies; and

11 WHEREAS, While adult protective services and the criminal justice system may  
12 offer victims some protection from further harm, victims' cases are rarely prosecuted and  
13 restitution, even when ordered, may never be paid; and

14 WHEREAS, The heightened burden of proving guilt beyond a reasonable doubt in a  
15 criminal case, the difficulty of proving exploitation when the victim may be older or infirm,  
16 and the limited remedies available to adult protective services and law enforcement further  
17 support the need for a solution under civil law to address the financial exploitation of  
18 ~~vulnerable~~ susceptible adults and older adults; now, therefore,

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
20 That the Laws of Maryland read as follows:

21 **Article – Commercial Law**

22 13–204.

23 (a) In addition to any other of its powers and duties, the Division has the powers  
24 and duties to:

25 (14) Maintain a list of nonprofit organizations that:

26 (i) Solely offer counseling or advice to homeowners in foreclosure or  
27 loan default; and

28 (ii) Are not directly or indirectly related to and do not contract for  
29 services with for-profit lenders or foreclosure purchasers, as defined in § 7–301 of the Real  
30 Property Article; [and]

31 (15) (i) Bring a civil action for damages or an action under this title  
32 against a person who violates § 8–801 of the Criminal Law Article on behalf of a victim of  
33 the offense or, if the victim is deceased, the victim's estate;

1 (ii) Recover damages under this item for property loss or damage;  
 2 and

3 (iii) If the Division prevails in an action brought under this item,  
 4 recover the costs of the action for the use of the Office of the Attorney General; AND

5 **(16) (I) BRING A CIVIL ACTION FOR DAMAGES OR AN ACTION UNDER**  
 6 **THIS TITLE ON BEHALF OF A SUSCEPTIBLE ADULT OR OLDER ADULT WHO IS**  
 7 **AUTHORIZED TO BRING A CAUSE OF ACTION UNDER § 13-603 OF THE ESTATES AND**  
 8 **TRUSTS ARTICLE; AND**

9 **(II) IF THE DIVISION PREVAILS IN AN ACTION BROUGHT UNDER**  
 10 **THIS ITEM, RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE OFFICE OF**  
 11 **THE ATTORNEY GENERAL.**

12 **Article – Corporations and Associations**

13 11-209.

14 (a) The Commissioner may:

15 (1) (I) Bring a civil action for damages against a person that violates §  
 16 8-801 of the Criminal Law Article on behalf of a victim of the violation or, if the victim is  
 17 deceased, the victim's estate;

18 [(2)] (II) Recover damages under this subsection for property loss or  
 19 damage; and

20 [(3)] (III) If the Commissioner prevails in an action brought under this  
 21 [subsection] PARAGRAPH, recover the costs of the action for the use of the Office of the  
 22 Attorney General; AND

23 **(2) (I) BRING A CIVIL ACTION FOR DAMAGES ON BEHALF OF A**  
 24 **SUSCEPTIBLE ADULT OR OLDER ADULT WHO IS AUTHORIZED TO BRING A CAUSE OF**  
 25 **ACTION UNDER § 13-603 OF THE ESTATES AND TRUSTS ARTICLE; AND**

26 **(II) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT**  
 27 **UNDER THIS PARAGRAPH, RECOVER THE COSTS OF THE ACTION FOR THE USE OF**  
 28 **THE OFFICE OF THE ATTORNEY GENERAL.**

29 (b) A conviction for a violation of § 8-801 of the Criminal Law Article is not a  
 30 prerequisite for maintenance of an action under subsection (a) of this section.

31 **Article – Estates and Trusts**

1 Title 13. Protection of Minors [and], Disabled Persons, ~~AND VULNERABLE~~  
2 SUSCEPTIBLE ADULTS, AND OLDER ADULTS.

3 SUBTITLE 6. FINANCIAL EXPLOITATION OF ~~VULNERABLE~~ SUSCEPTIBLE ADULTS  
4 AND OLDER ADULTS.

5 **13-601.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (B) "ACTIVITIES OF DAILY LIVING" MEANS BASIC ACTIVITIES OF DAILY  
9 LIVING AND INSTRUMENTAL ACTIVITIES OF DAILY LIVING.

10 (C) "BASIC ACTIVITIES OF DAILY LIVING" MEANS THE ROUTINE ACTIVITIES  
11 THAT PEOPLE DO EVERY DAY WITHOUT ASSISTANCE THAT INCLUDE:

12 (1) EATING;

13 (2) BATHING;

14 (3) DRESSING;

15 (4) TOILETING;

16 (5) MOBILITY; AND

17 (6) CONTINENCE.

18 (D) "DECEPTION" MEANS A MISREPRESENTATION OR CONCEALMENT OF A  
19 MATERIAL FACT RELATING TO SERVICES RENDERED, DISPOSITION OF PROPERTY,  
20 OR THE USE OF PROPERTY INTENDED TO BENEFIT A ~~VULNERABLE~~ SUSCEPTIBLE  
21 ADULT OR OLDER ADULT.

22 (E) (1) "FINANCIAL EXPLOITATION" MEANS AN ACT TAKEN BY A PERSON  
23 WHO:

24 (I) STANDS IN A POSITION OF TRUST AND CONFIDENCE WITH A  
25 ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT AND WHO KNOWINGLY  
26 OBTAINS OR USES, OR ENDEAVORS TO OBTAIN OR USE, A ~~VULNERABLE~~ SUSCEPTIBLE  
27 ADULT'S OR OLDER ADULT'S FUNDS, ASSETS, OR PROPERTY WITH THE INTENT TO  
28 TEMPORARILY OR PERMANENTLY DEPRIVE THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT  
29 OR OLDER ADULT OF THE USE, BENEFIT, OR POSSESSION OF THE FUNDS, ASSETS, OR  
30 PROPERTY FOR THE BENEFIT OF SOMEONE OTHER THAN THE ~~VULNERABLE~~

1 SUSCEPTIBLE ADULT OR OLDER ADULT, IN SUCH A MANNER THAT IS NOT FAIR AND  
2 REASONABLE;

3 (II) BY DECEPTION, FALSE PRETENSES, FALSE PROMISES,  
4 LARCENY, EMBEZZLEMENT, MISAPPLICATION, CONVERSION, INTIMIDATION,  
5 COERCION, ISOLATION, EXCESSIVE PERSUASION, OR SIMILAR ACTIONS AND  
6 TACTICS, OBTAINS OR USES, OR ENDEAVORS TO OBTAIN OR USE, A ~~VULNERABLE~~  
7 SUSCEPTIBLE ADULT'S OR OLDER ADULT'S FUNDS, ASSETS, OR PROPERTY WITH THE  
8 INTENT TO TEMPORARILY OR PERMANENTLY DEPRIVE THE ~~VULNERABLE~~  
9 SUSCEPTIBLE ADULT OR OLDER ADULT OF THE USE, BENEFIT, OR POSSESSION OF  
10 THE FUNDS, ASSETS, OR PROPERTY FOR THE BENEFIT OF SOMEONE OTHER THAN  
11 THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT; OR

12 (III) KNOWS OR SHOULD KNOW THAT A ~~VULNERABLE~~  
13 SUSCEPTIBLE ADULT OR OLDER ADULT LACKS CAPACITY TO CONSENT AND WHO  
14 OBTAINS OR USES, OR ENDEAVORS TO OBTAIN OR USE, THE ~~VULNERABLE~~  
15 SUSCEPTIBLE ADULT'S OR OLDER ADULT'S FUNDS, ASSETS, OR PROPERTY WITH THE  
16 INTENT TO TEMPORARILY OR PERMANENTLY DEPRIVE THE ~~VULNERABLE~~  
17 SUSCEPTIBLE ADULT OR OLDER ADULT OF THE USE, BENEFIT, OR POSSESSION OF  
18 THE FUNDS, ASSETS, OR PROPERTY FOR THE BENEFIT OF SOMEONE OTHER THAN  
19 THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT.

20 (2) "FINANCIAL EXPLOITATION" INCLUDES:

21 (I) BREACH OF A FIDUCIARY RELATIONSHIP RESULTING IN  
22 THE UNAUTHORIZED APPROPRIATION, SALE, OR TRANSFER OF PROPERTY;

23 (II) UNAUTHORIZED TAKING OF PERSONAL ASSETS;

24 (III) MISAPPROPRIATION, MISUSE, OR TRANSFER OF ASSETS  
25 BELONGING TO A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT FROM A  
26 PERSONAL OR JOINT ACCOUNT; AND

27 (IV) INTENTIONAL FAILURE TO EFFECTIVELY USE A  
28 ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S INCOME AND ASSETS FOR  
29 THE NECESSITIES REQUIRED FOR THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR  
30 OLDER ADULT'S SUPPORT AND MAINTENANCE.

31 (3) "FINANCIAL EXPLOITATION" DOES NOT INCLUDE AN  
32 INDIVIDUAL'S GOOD-FAITH USE OF A ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR  
33 OLDER ADULT'S ASSETS, INCLUDING FOR THE PURPOSES OF ESTABLISHING AND  
34 IMPLEMENTING AN ESTATE PLAN INTENDED TO REDUCE TAXES OR TO MAXIMIZE  
35 ELIGIBILITY FOR PUBLIC BENEFITS IN ORDER TO PRESERVE ASSETS FOR AN  
36 IDENTIFIED OR IDENTIFIABLE PERSON.

1 (F) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS THE SKILLS AND  
2 ABILITIES NEEDED TO PERFORM DAY-TO-DAY TASKS ASSOCIATED WITH AN  
3 INDEPENDENT LIFESTYLE, INCLUDING:

- 4 (1) USING THE TELEPHONE;
- 5 (2) DOING LAUNDRY AND DRESSING;
- 6 (3) SHOPPING AND RUNNING ERRANDS;
- 7 (4) SECURING TRANSPORTATION;
- 8 (5) PREPARING MEALS;
- 9 (6) MANAGING MEDICATIONS;
- 10 (7) HOUSEKEEPING; AND
- 11 (8) MANAGING FINANCES.

12 (G) "INTIMIDATION" MEANS A COMMUNICATION, BY WORD OR ACT, THAT A  
13 ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT WILL SUFFER PHYSICAL  
14 VIOLENCE OR EMOTIONAL INJURY OR WILL BE DEPRIVED OF FOOD, NUTRITION,  
15 CLOTHING, SHELTER, SUPERVISION, MEDICINE, MEDICAL SERVICES, MONEY,  
16 SOCIAL INTERACTION, OR EMOTIONAL OR FINANCIAL SUPPORT.

17 (H) "OBTAINS OR USES" MEANS ANY MANNER OF TAKING OR EXERCISING  
18 CONTROL OVER PROPERTY OR MAKING ANY USE, DISPOSITION, OR TRANSFER OF  
19 PROPERTY.

20 (I) "OLDER ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST 68 YEARS  
21 OLD.

22 ~~(H)~~ (J) "POSITION OF TRUST AND CONFIDENCE" MEANS A RELATIONSHIP,  
23 WHETHER FORMED BY A FORMAL OR INFORMAL AGREEMENT BETWEEN A  
24 ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT AND ANOTHER PERSON OR  
25 RECOGNIZED BY A FORMAL DECLARATION OR COURT ORDER, IN WHICH:

26 (1) A PERSON IS ENTRUSTED WITH THE USE OR MANAGEMENT OF THE  
27 PROPERTY OR ASSETS OF THE ~~VULNERABLE ADULT OR THE VULNERABLE~~  
28 SUSCEPTIBLE ADULT OR OLDER ADULT, OR THE SUSCEPTIBLE ADULT'S OR OLDER  
29 ADULT'S CARE; OR

1           **(2) THERE IS A SPECIAL CONFIDENCE OR TRUST PLACED IN A PERSON**  
 2 **WHO, IN EQUITY AND GOOD CONSCIENCE, IS BOUND TO ACT IN GOOD FAITH AND**  
 3 **WITH DUE REGARD TO THE INTERESTS OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT**  
 4 **OR OLDER ADULT.**

5           **~~(J)~~ (K) “~~VULNERABLE~~ SUSCEPTIBLE ADULT” MEANS AN ADULT WHO IS**  
 6 **UNABLE TO PERFORM, WITHOUT PROMPTING OR ASSISTANCE, ONE OR MORE**  
 7 **ACTIVITIES OF DAILY LIVING, IS UNABLE TO PROTECT THE ADULT’S RIGHTS, OR HAS**  
 8 **DIMINISHED EXECUTIVE FUNCTIONING, DUE TO:**

9           **(1) ADVANCED AGE;**

10           **(2) MENTAL, EMOTIONAL, SENSORY, OR PHYSICAL DISABILITY OR**  
 11 **DISEASE;**

12           **(3) IMPAIRED MOBILITY;**

13           **(4) HABITUAL DRUNKENNESS;**

14           **(5) ADDICTION TO DRUGS; OR**

15           **(6) HOSPITALIZATION.**

16 **13-602.**

17           **THE PURPOSES OF THIS SUBTITLE ARE TO:**

18           **(1) ESTABLISH A SEPARATE AND DISTINCT CIVIL CAUSE OF ACTION**  
 19 **BY A VICTIM, OR A REPRESENTATIVE OF THE VICTIM, OF FINANCIAL EXPLOITATION;**

20           **(2) PROVIDE A PATH TO REDRESS FINANCIAL EXPLOITATION**  
 21 **THROUGH THE RECOVERY OF PROPERTY AND ASSETS TAKEN FROM VICTIMS WHILE**  
 22 **DISCOURAGING PROTRACTED LITIGATION;**

23           **(3) PROVIDE ACCESS TO JUSTICE FOR VICTIMS AND THEIR FAMILIES**  
 24 **WHO ARE OTHERWISE UNABLE OR UNWILLING TO RETAIN COMPETENT LEGAL**  
 25 **ASSISTANCE DUE TO COST; AND**

26           **(4) STRONGLY DETER INDIVIDUALS SEEKING TO TAKE ADVANTAGE**  
 27 **OF ~~VULNERABLE~~ SUSCEPTIBLE ADULTS OR OLDER ADULTS.**

28 **13-603.**

29           **THIS SUBTITLE DOES NOT APPLY TO AN ACT TAKEN BY:**



1           **(1) ANY STATE OR FEDERAL BANK, TRUST COMPANY, CREDIT UNION,**  
2 **OR SAVINGS AND LOAN ASSOCIATION; OR**

3           **(2) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN**  
4 **ITEM (1) OF THIS SECTION.**

5 ~~13-603.~~ **13-604.**

6           A ~~VULNERABLE~~ **SUSCEPTIBLE ADULT OR OLDER ADULT** WHO HAS BEEN  
7 SUBJECTED TO FINANCIAL EXPLOITATION IN THE STATE OR, IN ACCORDANCE WITH  
8 **§ 13-604 13-605** OF THIS SUBTITLE, A PERSON ACTING ON THE ~~VULNERABLE~~  
9 **SUSCEPTIBLE ADULT'S OR OLDER ADULT'S BEHALF** MAY BRING A CAUSE OF ACTION  
10 AGAINST A PERSON WHO HAS COMMITTED FINANCIAL EXPLOITATION AGAINST THE  
11 ~~VULNERABLE~~ **SUSCEPTIBLE ADULT OR OLDER ADULT** TO RECOVER DAMAGES AND  
12 OBTAIN OTHER APPROPRIATE RELIEF AS SET FORTH UNDER THIS SUBTITLE.

13 ~~13-604.~~ **13-605.**

14           **(A) AN ACTION MAY BE BROUGHT UNDER THIS SUBTITLE BY A** ~~VULNERABLE~~  
15 **SUSCEPTIBLE ADULT OR OLDER ADULT** OR BY A PERSON SERVING IN ONE OR MORE  
16 **OF THE FOLLOWING REPRESENTATIVE CAPACITIES FOR A** ~~VULNERABLE~~  
17 **SUSCEPTIBLE ADULT OR OLDER ADULT:**

18           **(1) AN ATTORNEY IN FACT, GUARDIAN, TRUSTEE, OR OTHER**  
19 **FIDUCIARY ACTING ON BEHALF OF THE** ~~VULNERABLE~~ **SUSCEPTIBLE ADULT OR**  
20 **OLDER ADULT, OR A SUCCESSOR NAMED IN AN INSTRUMENT PROVIDING SUCH**  
21 **AUTHORIZATION;**

22           **(2) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR**  
23 **THE** ~~VULNERABLE~~ **SUSCEPTIBLE ADULT OR OLDER ADULT, OR A SUCCESSOR NAMED**  
24 **IN AN INSTRUMENT PROVIDING THE AUTHORIZATION;**

25           **(3) A SPOUSE, PARENT, OR DESCENDENT OF THE** ~~VULNERABLE~~  
26 **SUSCEPTIBLE ADULT OR OLDER ADULT;**

27           **(4) AN INDIVIDUAL WHO WOULD QUALIFY AS THE** ~~VULNERABLE~~  
28 **SUSCEPTIBLE ADULT'S OR OLDER ADULT'S PRESUMPTIVE HEIR;**

29           **(5) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY PROPERTY,**  
30 **BENEFIT, OR CONTRACTUAL RIGHT ON THE** ~~VULNERABLE~~ **SUSCEPTIBLE ADULT'S OR**  
31 **OLDER ADULT'S DEATH, INCLUDING A PERSON WHO WOULD BE A BENEFICIARY BUT**  
32 **FOR THE FINANCIAL EXPLOITATION;**

1           **(6) THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR**  
 2 **OF AN ESTATE OF A DECEASED ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER**  
 3 **ADULT; OR**

4           **(7) A GOVERNMENT AGENCY THAT OTHERWISE HAS AUTHORITY AND**  
 5 **JURISDICTION, INCLUDING:**

6                   **(I) THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE**  
 7 **OF THE ATTORNEY GENERAL; AND**

8                   **(II) THE SECURITIES COMMISSIONER OF THE DIVISION OF**  
 9 **SECURITIES IN THE OFFICE OF THE ATTORNEY GENERAL.**

10           **(B) A CAUSE OF ACTION AUTHORIZED UNDER THIS SUBTITLE:**

11           **(1) IS IN ADDITION TO AND CUMULATIVE WITH ANY OTHER CRIMINAL**  
 12 **OR ADMINISTRATIVE CLAIMS, CAUSES OF ACTION AT LAW OR IN EQUITY, OR**  
 13 **REMEDIES OTHERWISE AVAILABLE TO THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR**  
 14 **OLDER ADULT, INCLUDING AN ACTION UNDER § 13-204 OF THE COMMERCIAL LAW**  
 15 **ARTICLE AND § 11-209 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND**

16           **(2) SHALL SURVIVE THE DEATH OF THE ~~VULNERABLE~~ SUSCEPTIBLE**  
 17 **ADULT OR OLDER ADULT.**

18 ~~13-605, 13-606.~~

19           **(A) (1) A PLAINTIFF IN AN ACTION BROUGHT UNDER THIS SUBTITLE IS**  
 20 **ENTITLED TO RECOVER COMPENSATORY DAMAGES ~~AND, AS APPROPRIATE AND~~**  
 21 **~~SUBJECT TO SUBSECTION (B) OF THIS SECTION, PUNITIVE DAMAGES.~~**

22           **(2) THE DAMAGES AWARDED UNDER THIS SECTION ARE IN ADDITION**  
 23 **TO AND CUMULATIVE WITH OTHER LAWFUL AND ADMINISTRATIVE DAMAGES**  
 24 **AVAILABLE TO A PARTY.**

25           ~~**(B) A PARTY WHO BRINGS AN ACTION UNDER THIS SUBTITLE TO RECOVER**~~  
 26 ~~**FOR INJURY OR LOSS AND IS AWARDED COMPENSATORY DAMAGES MAY ALSO SEEK**~~  
 27 ~~**AND THE COURT MAY AWARD AN AMOUNT NOT EXCEEDING THREE TIMES THE**~~  
 28 ~~**COMPENSATORY DAMAGES AND PREJUDGMENT INTEREST.**~~

29           ~~**(B)**~~ **(1) IN ADDITION TO MONETARY DAMAGES, A PARTY WHO**  
 30 **BRINGS AN ACTION UNDER THIS SUBTITLE IS ALSO ENTITLED TO:**

31                   **(I) ANY OTHER APPROPRIATE RELIEF, INCLUDING**  
 32 **EMERGENCY, PRELIMINARY OR PERMANENT INJUNCTION, RESCISSION,**

1 RESTITUTION, ACCOUNTING, UNJUST ENRICHMENT, DECLARATORY RELIEF, AND  
2 CONSTRUCTIVE TRUST; AND

3 (II) EMERGENCY OR INTERIM INJUNCTIVE RELIEF TO  
4 PRESERVE THE ASSETS OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER  
5 ADULT, WITHOUT THE REQUIREMENT OF A BOND IN THE DISCRETION OF THE  
6 COURT.

7 (2) THE REMEDIES PROVIDED IN THIS SUBSECTION ARE IN ADDITION  
8 TO AND CUMULATIVE WITH OTHER LEGAL, EQUITABLE, AND ADMINISTRATIVE  
9 REMEDIES AVAILABLE TO A PARTY.

10 ~~(D)~~ (C) THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND  
11 EXPENSES TO ANY PERSON WHO BRINGS AN ACTION UNDER THIS SUBTITLE FOR  
12 INJURY OR LOSS AND IS AWARDED DAMAGES OR ANY OTHER REMEDY.

13 ~~(E)~~ (D) IF IT APPEARS TO THE SATISFACTION OF THE COURT, AT ANY  
14 TIME, THAT AN ACTION IS BROUGHT IN BAD FAITH OR IS OF A FRIVOLOUS NATURE,  
15 THE COURT MAY ORDER THE OFFENDING PARTY TO PAY TO THE OTHER PARTY  
16 REASONABLE ATTORNEY'S FEES AND EXPENSES.

17 ~~13-606.~~ 13-607.

18 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN ACTION  
19 UNDER THIS SUBTITLE SHALL BE COMMENCED WITHIN 5 YEARS AFTER THE  
20 ~~VULNERABLE ADULT OR THE VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT,  
21 OR THE SUSCEPTIBLE ADULT'S OR OLDER ADULT'S REPRESENTATIVE DISCOVERS  
22 OR, THROUGH THE EXERCISE OF REASONABLE DILIGENCE, SHOULD HAVE  
23 DISCOVERED THE FACTS CONSTITUTING FINANCIAL EXPLOITATION.

24 (B) (1) IF A CRIMINAL PROSECUTION IS COMMENCED THAT ARISES OUT  
25 OF THE SAME FACTS AS AN ACTION UNDER THIS SUBTITLE, THE TIME DURING WHICH  
26 THE PROSECUTION IS PENDING SHALL NOT BE COMPUTED AS PART OF THE PERIOD  
27 WITHIN WHICH THE ACTION UNDER THIS SUBTITLE MAY BE BROUGHT.

28 (2) AFTER THE CONCLUSION OF THE CRIMINAL PROSECUTION  
29 DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ACTION UNDER THIS  
30 SUBTITLE MAY BE BROUGHT WITHIN THE LATER OF:

31 (I) THE REMAINDER OF THE PERIOD SPECIFIED UNDER  
32 SUBSECTION (A) OF THIS SECTION; OR

33 (II) 1 YEAR.

1 ~~13-607.~~ 13-608.

2 (A) THIS SUBTITLE SHALL BE CONSTRUED AND APPLIED LIBERALLY TO  
 3 PROMOTE ITS PURPOSE OF DETERRING AND REMEDYING THE FINANCIAL  
 4 EXPLOITATION OF ~~VULNERABLE~~ SUSCEPTIBLE ADULTS AND OLDER ADULTS.

5 (B) THIS SUBTITLE IS NOT INTENDED TO ALTER OR AMEND THE BURDENS  
 6 OF PROOF OR PRESUMPTIONS REQUIRED BY LAW.

7 ~~13-608.~~ 13-609.

8 THIS SUBTITLE MAY BE CITED AS THE MARYLAND STATUTE AGAINST  
 9 FINANCIAL EXPLOITATION (SAFE) ACT.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
 11 apply only prospectively and may not be applied or interpreted to have any effect on or  
 12 application to any cause of action arising before the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 14 October 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.