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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2455 Session of  
2018

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INTRODUCED BY MENTZER, GREINER, STAATS, JAMES, DUNBAR, MILLARD,  
DRISCOLL, SAYLOR, B. MILLER, DeLUCA AND FEE, JUNE 6, 2018

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REFERRED TO COMMITTEE ON COMMERCE, JUNE 6, 2018

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, providing for vulnerable adult  
3 protection.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 23 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 64

9 VULNERABLE ADULT PROTECTION

10 Sec.

11 6401. Short title of chapter.

12 6402. Definitions.

13 6403. Governmental disclosures.

14 6404. Immunity for governmental disclosures.

15 6405. Third-party disclosures.

16 6406. Immunity for third-party disclosures.

17 6407. Delaying disbursements.

18 6408. Immunity for delaying disbursements.

1 6409. Access to records.

2 § 6401. Short title of chapter.

3 This chapter shall be known and may be cited as the Protect  
4 Vulnerable Adults from Financial Exploitation Act.

5 § 6402. Definitions.

6 The following words and phrases when used in this chapter  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Agent." As defined in section 102 of the act of December 5,  
10 1972 (P.L.1280, No.284), known as the Pennsylvania Securities  
11 Act of 1972.

12 "Broker-dealer." As defined in section 102 of the  
13 Pennsylvania Securities Act of 1972.

14 "Commission." The Banking and Securities Commission of the  
15 Commonwealth as established under Subarticle C of Article XI-A  
16 of the act of May 15, 1933 (P.L.565, No.111), known as the  
17 Department of Banking and Securities Code.

18 "Eligible adult." Any of the following:

19 (1) An individual who is 65 years of age or older.

20 (2) An individual who is subject to the act of October  
21 7, 2010 (P.L.484, No.70), known as the Adult Protective  
22 Services Act.

23 "Financial exploitation." Any of the following:

24 (1) The wrongful or unauthorized taking, withholding,  
25 appropriation or use of money, assets or property of an  
26 eligible adult.

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

30 (i) obtain control through deception, intimidation

1 or undue influence over the eligible adult's money,  
2 assets or property to deprive the eligible adult of the  
3 ownership, use, benefit or possession of the eligible  
4 adult's money, assets or property; or

5 (ii) convert the money, assets or property of the  
6 eligible adult to deprive the eligible adult of  
7 ownership, use, benefit or possession of the eligible  
8 adult's money, assets or property.

9 "Investment adviser." As defined in section 102 of the  
10 Pennsylvania Securities Act of 1972.

11 "Investment adviser representative." As defined in section  
12 102 of the Pennsylvania Securities Act of 1972.

13 "Qualified individual." An agent, investment adviser  
14 representative or person who serves in a supervisory, compliance  
15 or legal capacity for a broker-dealer or investment adviser.  
16 § 6403. Governmental disclosures.

17 If a qualified individual reasonably believes that financial  
18 exploitation of an eligible adult may have occurred, may have  
19 been attempted or is being attempted, the qualified individual  
20 may promptly notify the Department of Human Services or the  
21 Department of Aging, whichever is applicable, and the  
22 commission.

23 § 6404. Immunity for governmental disclosures.

24 A qualified individual that, in good faith and exercising  
25 reasonable care, makes a disclosure of information under section  
26 6403 (relating to governmental disclosures) shall be immune from  
27 administrative or civil liability that might otherwise arise  
28 from the disclosure or for any failure to notify a customer of  
29 the qualified individual of the disclosure.

30 § 6405. Third-party disclosures.

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

8 § 6406. Immunity for third-party disclosures.

9 A qualified individual that, in good faith and exercising  
10 reasonable care, complies with section 6405 (relating to third-  
11 party disclosures) shall be immune from any administrative or  
12 civil liability that might otherwise arise from the disclosure.

13 § 6407. Delaying disbursements.

14 (a) Delay.--A broker-dealer or investment adviser may delay  
15 a disbursement of funds from an account of an eligible adult or  
16 an account on which the eligible adult is a beneficiary if:

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

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

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

30 (ii) no more than two business days after the

1 requested disbursement of funds, provides notice of the  
2 delay and the reason for the delay to the Department of  
3 Human Services or the Department of Aging, whichever is  
4 applicable, and the commission; and

5 (iii) continues the internal review of the suspected  
6 or attempted financial exploitation of the eligible adult  
7 under paragraph (1), as necessary, and reports the  
8 investigation's results to the Department of Human  
9 Services or the Department of Aging, whichever is  
10 applicable, and the commission within seven business days  
11 after the requested disbursement of funds.

12 (b) Expiration.--Except as provided under subsection (c), a  
13 delay of the disbursement of funds under subsection (a) shall  
14 expire upon:

15 (1) a determination by the broker-dealer or investment  
16 adviser that the disbursement of funds will not result in  
17 financial exploitation of the eligible adult; or

18 (2) fifteen business days after the date of the delay of  
19 the disbursement of the funds, whichever is earlier.

20 (c) Extensions.--The following apply:

21 (1) The Department of Human Services, the Department of  
22 Aging or the commission may extend the delay of the  
23 disbursement of funds under subsection (b) (2). An extension  
24 under this paragraph shall expire no later 25 business days  
25 after the date of the delay under subsection (a), unless  
26 terminated earlier by the Department of Human Services, the  
27 Department of Aging, the commission or an order of a court of  
28 competent jurisdiction.

29 (2) A court of competent jurisdiction may enter an order  
30 extending the delay of the disbursement of funds under

1 subsection (b) (2) or may order other relief based on the  
2 petition of the Department of Human Services, the Department  
3 of Aging, the commission or the broker-dealer or the  
4 investment adviser that initiated the delay or other  
5 interested party.

6 § 6408. Immunity for delaying disbursements.

7 A broker-dealer or investment adviser that, in good faith and  
8 exercising reasonable care, complies with section 6407 (relating  
9 to delaying disbursements) shall be immune from any  
10 administrative or civil liability that may otherwise arise from  
11 the delay of disbursement of funds.

12 § 6409. Access to records.

13 (a) Access.--A broker-dealer or investment adviser shall  
14 provide access to or copies of records that are relevant to the  
15 suspected or attempted financial exploitation of an eligible  
16 adult to the Department of Human Services or the Department of  
17 Aging, whichever is applicable, the commission and law  
18 enforcement as part of a referral of the suspected or attempted  
19 financial exploitation or upon request. The records may include  
20 historical records or records of the most recent transactions  
21 that indicate financial exploitation of an eligible adult.

22 (b) Records.--A record made available under subsection (a)  
23 shall not be considered a public record as defined in section  
24 102 of the act of February 14, 2008 (P.L.6, No.3), known as the  
25 Right-to-Know Law.

26 (c) Construction.--Nothing in this section shall be  
27 construed to limit or otherwise impede the authority of the  
28 commission to access or examine the books and records of broker-  
29 dealers and investment advisers as otherwise provided by the  
30 laws of this Commonwealth.

1 Section 2. This act shall take effect in 60 days.