

115TH CONGRESS
1ST SESSION

S. 223

To provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2017

Ms. COLLINS (for herself, Mrs. MCCASKILL, Mr. ISAKSON, Mr. CASEY, Mr. TILLIS, Ms. KLOBUCHAR, Mr. WICKER, Mrs. SHAHEEN, Mrs. CAPITO, Mr. TESTER, Mr. BARRASSO, Mr. DONNELLY, Mr. HELLER, Mr. KING, and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “SeniorSafe Act of
5 2017”.

6 **SEC. 2. IMMUNITY.**

7 (a) DEFINITIONS.—In this Act—

1 (1) the term “Bank Secrecy Act officer” means
2 an individual responsible for ensuring compliance
3 with the requirements mandated by subchapter II of
4 chapter 53 of title 31, United States Code (com-
5 monly known as the “Bank Secrecy Act”);

6 (2) the term “broker-dealer” means a broker
7 and a dealer, as those terms are defined in section
8 3(a) of the Securities Exchange Act of 1934 (15
9 U.S.C. 78c(a));

10 (3) the term “covered agency” means—

11 (A) a State financial regulatory agency, in-
12 cluding a State securities or law enforcement
13 authority and a State insurance regulator;

14 (B) each of the entities represented in the
15 membership of the Federal Financial Institu-
16 tions Examination Council established under
17 section 1004 of the Federal Financial Institu-
18 tions Examination Council Act of 1978 (12
19 U.S.C. 3303);

20 (C) the Securities and Exchange Commis-
21 sion;

22 (D) a law enforcement agency; and

23 (E) a State or local agency responsible for
24 administering adult protective service laws;

1 (4) the term “covered financial institution”
2 means—

- 3 (A) a credit union;
- 4 (B) a depository institution;
- 5 (C) an investment adviser;
- 6 (D) a broker-dealer;
- 7 (E) an insurance company; and
- 8 (F) an insurance agency;

9 (5) the term “credit union” has the meaning
10 given the term in section 2 of the Dodd-Frank Wall
11 Street Reform and Consumer Protection Act (12
12 U.S.C. 5301);

13 (6) the term “depository institution” has the
14 meaning given the term in section 3(c) of the Fed-
15 eral Deposit Insurance Act (12 U.S.C. 1813(c));

16 (7) the term “exploitation” means the fraudu-
17 lent or otherwise illegal, unauthorized, or improper
18 act or process of an individual, including a caregiver
19 or a fiduciary, that—

20 (A) uses the resources of a senior citizen
21 for monetary or personal benefit, profit, or
22 gain; or

23 (B) results in depriving a senior citizen of
24 rightful access to or use of benefits, resources,
25 belongings, or assets;

1 (8) the term “insurance agency” means any
2 business entity that sells, solicits, or negotiates in-
3 surance coverage;

4 (9) the term “insurance company” has the
5 meaning given the term in section 2(a) of the Invest-
6 ment Company Act of 1940 (15 U.S.C. 80a-2(a));

7 (10) the term “insurance producer” means an
8 individual who is required under State law to be li-
9 censed in order to sell, solicit, or negotiate insurance
10 coverage;

11 (11) the term “investment adviser” has the
12 meaning given the term in section 202(a) of the In-
13 vestment Advisers Act of 1940 (15 U.S.C. 80b-
14 2(a));

15 (12) the term “investment adviser representa-
16 tive” means an individual who—

17 (A) is employed by or associated with an
18 investment adviser; and

19 (B) does not perform solely clerical or min-
20 isterial acts;

21 (13) the term “registered representative”
22 means an individual who represents a broker-dealer
23 in effecting or attempting to effect a purchase or
24 sale of securities;

1 (14) the term “senior citizen” means an indi-
2 vidual who is not younger than 65 years of age;

3 (15) the term “State” means each of the sev-
4 eral States, the District of Columbia, and any terri-
5 tory or possession of the United States;

6 (16) the term “State insurance regulator” has
7 the meaning given the term in section 315 of the
8 Gramm-Leach-Bliley Act (15 U.S.C. 6735); and

9 (17) the term “State securities or law enforce-
10 ment authority” has the meaning given the term in
11 section 24(f)(4) of the Securities Exchange Act of
12 1934 (15 U.S.C. 78x(f)(4)).

13 (b) IMMUNITY FROM SUIT.—

14 (1) IMMUNITY FOR INDIVIDUALS.—An indi-
15 vidual who has received the training described in
16 section 3 shall not be liable, including in any civil or
17 administrative proceeding, for disclosing the sus-
18 pected exploitation of a senior citizen to a covered
19 agency if the individual, at the time of the disclo-
20 sure—

21 (A) served as a supervisor or compliance
22 officer (including as a Bank Secrecy Act offi-
23 cer) for, or, in the case of a registered rep-
24 resentative, investment adviser representative,

1 or insurance producer, was affiliated or associ-
2 ated with, a covered financial institution; and

3 (B) made the disclosure—

4 (i) in good faith; and

5 (ii) with reasonable care.

6 (2) IMMUNITY FOR COVERED FINANCIAL INSTI-
7 TUTIONS.—A covered financial institution shall not
8 be liable, including in any civil or administrative pro-
9 ceeding, for a disclosure made by an individual de-
10 scribed in paragraph (1) if—

11 (A) the individual was employed by, or, in
12 the case of a registered representative, insur-
13 ance producer, or investment adviser represent-
14 ative, affiliated or associated with, the covered
15 financial institution at the time of the disclo-
16 sure; and

17 (B) before the time of the disclosure, each
18 individual described in section 3(a) received the
19 training described in section 3.

20 (3) RULE OF CONSTRUCTION.—Nothing in
21 paragraph (1) or (2) shall be construed to limit the
22 liability of an individual or a covered financial insti-
23 tution in a civil action for any act, omission, or
24 fraud that is not a disclosure described in paragraph
25 (1).

1 **SEC. 3. TRAINING.**

2 (a) IN GENERAL.—A covered financial institution or
 3 a third party selected by a covered financial institution
 4 may provide the training described in subsection (b)(1) to
 5 each officer or employee of, or registered representative,
 6 insurance producer, or investment adviser representative
 7 affiliated or associated with, the covered financial institu-
 8 tion who—

9 (1) is described in section 2(b)(1)(A);

10 (2) may come into contact with a senior citizen
 11 as a regular part of the professional duties of the in-
 12 dividual; or

13 (3) may review or approve the financial docu-
 14 ments, records, or transactions of a senior citizen in
 15 connection with providing financial services to a sen-
 16 ior citizen.

17 (b) CONTENT.—

18 (1) IN GENERAL.—The content of the training
 19 that a covered financial institution or a third party
 20 selected by the covered financial institution may pro-
 21 vide under subsection (a) shall—

22 (A) be maintained by the covered financial
 23 institution and made available to a covered
 24 agency with examination authority over the cov-
 25 ered financial institution, upon request, except
 26 that a covered financial institution shall not be

1 required to maintain or make available such
2 content with respect to any individual who is no
3 longer employed by or affiliated or associated
4 with the covered financial institution;

5 (B) instruct any individual attending the
6 training on how to identify and report the sus-
7 pected exploitation of a senior citizen internally
8 and, as appropriate, to government officials or
9 law enforcement authorities, including common
10 signs that indicate the financial exploitation of
11 a senior citizen;

12 (C) discuss the need to protect the privacy
13 and respect the integrity of each individual cus-
14 tomer of the covered financial institution; and

15 (D) be appropriate to the job responsibil-
16 ities of the individual attending the training.

17 (2) TIMING.—The training under subsection (a)
18 shall be provided—

19 (A) as soon as reasonably practicable; and

20 (B) with respect to an individual who be-
21 gins employment with or becomes affiliated or
22 associated with a covered financial institution
23 after the date of enactment of this Act, not
24 later than 1 year after the individual becomes
25 employed by or affiliated or associated with the

1 covered financial institution in a position de-
2 scribed in paragraph (1), (2), or (3) of sub-
3 section (a).

4 (3) RECORDS.—A covered financial institution
5 shall—

6 (A) maintain a record of each individual
7 who—

8 (i) is employed by or affiliated or as-
9 sociated with the covered financial institu-
10 tion in a position described in paragraph
11 (1), (2), or (3) of subsection (a); and

12 (ii) has completed the training under
13 subsection (a), regardless of whether the
14 training was—

15 (I) provided by the covered finan-
16 cial institution or a third party se-
17 lected by the covered financial institu-
18 tion;

19 (II) completed before the indi-
20 vidual was employed by or affiliated
21 or associated with the covered finan-
22 cial institution; and

23 (III) completed before, on, or
24 after the date of enactment of this
25 Act; and

1 (B) upon request, provide a record de-
2 scribed in subparagraph (A) to a covered agen-
3 cy with examination authority over the covered
4 financial institution.

5 **SEC. 4. RELATIONSHIP TO STATE LAW.**

6 Nothing in this Act shall be construed to preempt or
7 limit any provision of State law, except only to the extent
8 that section 2 provides a greater level of protection against
9 liability to an individual described in section 2(b)(1) or
10 to a covered financial institution described in section
11 2(b)(2) than is provided under State law.

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