

2018 Regular Session

SENATE BILL NO. 355

BY SENATOR MARTINY

FINANCIAL INSTITUTIONS. Provides relative to financial transactions attempting financial exploitation of certain adults. (8/1/18)

1 AN ACT  
2 To enact Part XIV of Subchapter A of Chapter 3 of Title 6 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 6:341 through 344, relative to financial institutions;  
4 to provide for definitions; to provide relative to financial exploitation of certain  
5 adults; to provide for immunity; to provide relative to procedures for financial  
6 exploitation; to provide for certain terms and conditions; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XIV of Subchapter A of Chapter 3 of Title 6, comprised of R.S.  
10 6:341 through 344, is hereby enacted to read as follows:

11 **PART XIV. PROTECTION OF ELIGIBLE ADULTS FROM FINANCIAL**  
12 **EXPLOITATION**

13 **§341. Definitions**

14 **The following definitions shall apply for the purposes of this Part:**

15 **(1) "Adult protection agency" means the office of elderly affairs in the**  
16 **office of the governor, for any individual sixty years of age or older in need of**  
17 **adult protective services as provided in this Part.**

1                   **(2) "Covered agency" means either of the following:**

2                   **(a) Any federal, state, or local law enforcement agency.**

3                   **(b) An adult protection agency.**

4                   **(3) "Covered financial institution" means any bank, credit union, savings**  
5 **bank, savings and loan association, or trust company operating in Louisiana.**

6                   **(4) "Eligible adult" means either of the following:**

7                   **(a) Any person sixty years of age or older.**

8                   **(b) Any person subject to the Adult Protective Services Act, R.S. 15:1503.**

9                   **(5) "Financial exploitation" means either of the following:**

10                  **(a) The wrongful or unauthorized taking, withholding, appropriation, or**  
11 **use of money, assets, or property of an eligible adult.**

12                  **(b) Any act or omission committed by a person in a representative**  
13 **capacity through power of attorney, act of procuration, contract of mandate, or**  
14 **letters of curatorship of an eligible adult, or by any other means, for any of the**  
15 **following purposes:**

16                   **(i) Obtaining control over, or depriving an eligible adult of ownership,**  
17 **use, benefit, or possession of their money, assets, or property by deception,**  
18 **intimidation, or undue influence.**

19                   **(ii) Converting money, assets, or property of an eligible adult.**

20                  **(6) "Financial transaction" means any of the following:**

21                  **(a) A transfer or request to transfer or disburse funds or assets in an**  
22 **account.**

23                  **(b) A request to initiate a wire transfer, initiate an automated clearing**  
24 **house transfer, or issue a money order, cashier's check, or official check.**

25                  **(c) A request to negotiate a check or other negotiable instrument.**

26                  **(d) A request to change the ownership of, or access to, an account.**

27                  **(e) A request to sell or transfer securities or other assets if the person**  
28 **selling or transferring the securities or assets is not required to register**  
29 **pursuant to the Louisiana Securities Law, R.S. 51:701 et seq.**

1 (f) A request for a loan, extension of credit, or draw on a line of credit.

2 (g) A request to encumber any movable or immovable property.

3 §342. Notices

4 A. On and after January 1, 2019, a director, officer, employee, attorney,  
5 accountant, or other agent of a covered financial institution, who is acting as a  
6 representative of the covered financial institution and has cause to believe that  
7 financial exploitation of an eligible adult who has requested a financial  
8 transaction involving the covered financial institution is occurring, has or may  
9 have occurred, or is being attempted, or has been, or may have been attempted,  
10 shall notify the financial institution of the suspected financial exploitation.

11 B. A covered financial institution may notify any covered agency if the  
12 covered financial institution believes that financial exploitation of an eligible  
13 adult is occurring, has or may have occurred, or is being attempted, or has  
14 been, or may have been attempted.

15 C.(1) A covered financial institution may notify any third party  
16 reasonably associated with the eligible adult if the covered financial institution  
17 believes that the financial exploitation of an eligible adult is occurring, has or  
18 may have occurred, or is being attempted, or has been, or may have been  
19 attempted.

20 (2) A covered financial institution may chose not to notify any third  
21 party if the covered financial institution believes the third party may be, or may  
22 have been engaged in financial exploitation of the eligible adult.

23 §343. Delaying financial transactions

24 A. A covered financial institution may delay completion or execution of  
25 a financial transaction involving an account of an eligible adult, an account on  
26 which an eligible adult is a beneficiary, or an account of a person suspected of  
27 perpetrating financial exploitation if either of the following applies:

28 (1) The covered financial institution reasonably believes that the  
29 requested financial transaction will result in financial exploitation of an eligible

1           adult.

2                   (2) A covered agency provides information demonstrating to the  
3                   financial institution that it is reasonable to believe that financial exploitation is  
4                   occurring, has or may have occurred, or is being attempted, or has been, or may  
5                   have been attempted.

6                   B. If a covered financial institution determines to delay a financial  
7                   transaction pursuant to Subsection A of this Section, the covered financial  
8                   institution shall, no later than two business days after the financial transaction  
9                   is delayed, provide written notification of the delay and the reason for the delay  
10                   to all parties authorized to transact business on the account, unless any such  
11                   party is reasonably believed to have engaged in attempted financial exploitation  
12                   of the eligible adult.

13                   C. If a covered financial institution determines to delay a financial  
14                   transaction pursuant to Subsection A of this Section, the covered financial  
15                   institution may provide notification of the delay, the reason for the delay, and  
16                   any additional information about the financial transaction to any covered  
17                   agency.

18                   D. Except as ordered by a court, a covered financial institution is not  
19                   required to delay a financial transaction when provided with information by a  
20                   covered agency alleging that financial exploitation is occurring, has or may have  
21                   occurred, or is being attempted, or has been, or may have been attempted, but  
22                   may use its discretion to determine whether to delay a financial transaction  
23                   based on the information available to the covered financial institution.

24                   E. Any delay of a financial transaction as authorized pursuant to this  
25                   Section shall expire or be terminated when the earliest of any of the following  
26                   circumstances occur:

27                   (1) The covered financial institution reasonably determines that the  
28                   financial transaction will not result in financial exploitation of the eligible adult.

29                   (2) Fifteen business days pass from the date on which the covered

1 financial institution first initiated the delay of the financial transaction, except  
2 that:

3 (a) A covered financial institution may extend the delay upon receiving  
4 a request to extend the delay from any covered agency, in which case the delay  
5 shall expire or be terminated no later than twenty-five business days from the  
6 date on which the covered financial institution first initiated the delay of the  
7 financial transaction.

8 (b) A covered financial institution may petition a court of competent  
9 jurisdiction to order the covered financial institution to do any of the following:

10 (i) Execute the requested financial transaction.

11 (ii) Extend the delay of the financial transaction.

12 (iii) Perform any duty necessary to accomplish any other protective  
13 relief.

14 (c) A court of competent jurisdiction may order the covered financial  
15 institution to do any of the following:

16 (i) Execute the requested financial transaction.

17 (ii) Extend the delay of the financial transaction.

18 (iii) Perform any duty necessary to accomplish any other protective relief  
19 based on the petition of any covered agency, the covered financial institution,  
20 or other interested party.

21 §344. Immunity

22 A. A covered financial institution, or any of its directors, officers,  
23 employees, attorneys, accountants, or other agents, shall be immune from all  
24 criminal, civil, and administrative liability for any act or failure to act pursuant  
25 to this Part. Nothing shall be construed to create any duty, obligation or  
26 mandate for a covered financial institution, or any of its directors, officers,  
27 employees, attorneys, accountants, or other agents.

28 B. No claim may be brought against any covered agency or the state of  
29 Louisiana in connection with the receipt of or response to any notice of financial

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**exploitation.**


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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

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DIGEST

SB 355 Original 2018 Regular Session Martiny

Proposed law provides relative to financial exploitation of eligible adults.

Proposed law defines "adult protection agency", covered agency, covered financial institution, eligible adult, financial exploitation, and financial transaction.

Proposed law provides that on and after January 1, 2019, certain persons who are acting as a representative of the covered financial institution and have cause to believe that financial exploitation of an eligible adult who has requested a financial transaction involving the covered financial institution is occurring, has or may have occurred, or is being attempted, or has been, or may have been attempted, shall notify the financial institution of the suspected financial exploitation.

Proposed law provides for notification of financial exploitation to a covered agency.

Proposed law provides for notification of financial exploitation to a third party.

Proposed law provides that the completion or execution of a transaction may be delayed if either of the following apply:

- (1) The covered financial institution reasonably believes that the requested financial transaction will result in financial exploitation of an eligible adult.
- (2) A covered agency provides information demonstrating to the financial institution that it is reasonable to believe that financial exploitation is occurring, has or may have occurred, or is being attempted, or has been, or may have been attempted.

Proposed law provides that if a transaction is delayed, no later than two business days after the delay, the financial institution shall provide written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any such party is reasonably believed to have engaged in attempted financial exploitation of an eligible adult.

Proposed law provides that if a covered financial institution determines to delay a financial transaction, the covered financial institution may provide notification of the delay, the reason for the delay, and any additional information about the financial transaction to any covered agency.

Proposed law provides that except as ordered by a court, a covered financial institution is not required to delay a financial transaction when provided with information by a covered agency alleging that financial exploitation is occurring, has or may have occurred, or is being attempted, or has been, or may have been attempted.

Proposed law provides that any delay of a financial transaction shall expire or be terminated when the earliest of any of the following circumstances occur:

- (1) The covered financial institution reasonably determines that the financial transaction will not result in financial exploitation of the eligible adult.
- (2) 15 business days pass from the date on which the covered financial institution first

initiated the delay of the financial transaction, except that:

- (a) A covered financial institution may extend the delay upon receiving a request to extend the delay from any covered agency, in which case the delay shall expire or be terminated no later than 25 business days from the date on which the covered financial institution first initiated the delay of the financial transaction.
- (b) A covered financial institution may petition a court of competent jurisdiction to order the covered financial institution to do any of the following:
  - (i) Execute the requested financial transaction.
  - (ii) Extend the delay of the financial transaction.
  - (iii) Perform any duty necessary to accomplish any other protective relief.
- (c) A court of competent jurisdiction may order the covered financial institution to do any of the following:
  - (i) Execute the requested financial transaction.
  - (ii) Extend the delay of the financial transaction.
  - (iii) Perform any duty necessary to accomplish any other protective relief based on the petition of any covered agency, the covered financial institution, or other interested party.

Proposed law provides for immunity.

Proposed law provides that no claim may be brought against any covered agency or the state of Louisiana in connection with the receipt of or response to any notice of financial exploitation.

Effective August 1, 2018.

(Adds R.S. 6:341-344)