AN ACT

To enact Chapter 20 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 6:1371 through 1376, relative to protecting eligible adults from financial exploitation; to provide for legislative intent; to provide for definitions; to provide for notices relative to covered financial institutions; to provide for the delay of financial transactions in instances of suspicion of financial exploitation; to provide for applicability; to provide for immunity; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 20 of Title 6 of the Louisiana Revised Statutes of 1950, comprised of R.S. 6:1371 through 1376, is hereby enacted to read as follows:

CHAPTER 20. PROTECTION OF ELIGIBLE ADULTS FROM FINANCIAL EXPLOITATION

§1371. Legislative intent

It is the intent of the legislature in enacting this Chapter to allow covered financial institutions the discretion to take actions to assist in detecting and
preventing financial exploitation without liability. The legislature recognizes that
covered financial institutions are in a unique position by conducting financial
transactions on behalf of and at the request of their customers. Covered financial
institutions have duties imposed by contract and duties imposed by both federal and
state law to conduct financial transactions requested by their customers faithfully and
timely in accordance with the customer's instructions. Further, covered financial
institutions do not have a duty to contravene the valid instructions of their customers,
nor to prevent criminal activity directed at their customers, and nothing in this
Chapter creates such a duty.

§1372. Definitions

As used in this Chapter, the following terms and phrases have the meanings
hereinafter ascribed to them:

(1) "Adult protection agency" has the same meaning as defined in R.S. 15:1503.

(2) "Covered agency" means any of the following:
(a) Any federal, state, or local law enforcement agency.
(b) An adult protection agency.

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

(4) "Eligible adult" means any of the following:
(a) Any person sixty years of age or older.
(b) Any person subject to the Adult Protective Services Act as provided in
R.S. 15:1501 et seq.

(5) "Financial exploitation" means any of the following:
(a) The wrongful or unauthorized taking, withholding, appropriation, or use
of money, assets, beneficial ownership interest, or property of an eligible adult.
(b) Any act or omission committed by a person in a representative capacity
through trust, power of attorney, act of procuration, contract of mandate, or letters
of curatorship of an eligible adult, or by any other means, for any of the following
purposes:
(i) Obtaining control over, or depriving an eligible adult of ownership, use, benefit, or possession of his money, assets, or property by deception, intimidation, or undue influence.

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

(6) "Financial transaction" means any of the following as applicable to services provided by a covered financial institution:

(a) A transfer or request to transfer or disburse funds or assets in an account.
(b) A request to initiate a wire transfer, initiate an automated clearing house (ACH) transfer, or issue a money order, cashier's check, or official check.
(c) A request to negotiate a check or other negotiable instrument.
(d) A request to change the ownership of, or access to, an account.
(e) A request to sell or transfer securities or other assets, or a request to affix a Medallion Stamp or provide any form of guarantee or endorsement in connection with an attempt to sell or transfer securities or other assets, if the person selling or transferring the securities or assets is not required to register pursuant to Louisiana Securities Law as provided in R.S. 51:701 et seq.
(f) A request for a loan, extension of credit, or draw on a line of credit.
(g) A request to encumber any movable or immovable property.
(h) A request to designate or change the designation of beneficiaries to receive any property, benefit, or contract right on the eligible adult's death.

§1373. Notices

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

B. A covered financial institution may notify any third party reasonably associated with the eligible adult if the covered financial institution believes that the financial exploitation of an eligible adult is occurring, has or may have occurred, or is being attempted, or has been, or may have been attempted. A third party
reasonably associated with the eligible adult includes but is not limited to all of the
following:

(1) A parent, spouse, adult child, sibling, or other known family member or
close associate of an eligible adult.

(2) An authorized contact provided by the eligible adult to the covered
financial institution.

(3) A co-owner, additional authorized signatory, or beneficiary on the
eligible adult's account.

C. A covered financial institution may choose not to notify any third party
reasonably associated with the eligible adult of suspected financial exploitation of
the eligible adult, if the covered financial institution believes such third party is, may
be, or may have been engaged in financial exploitation of the eligible adult.

D. A covered financial institution shall make a reasonable effort, at least
annually, to notify all employees of the covered financial institution of their ability
to report potential financial exploitation of an eligible adult to personnel within the
covered financial institution.

§1374. Delaying financial transactions

A. A covered financial institution may, but is not required to, delay
completion or execution of a financial transaction involving an account of an eligible
adult, an account on which an eligible adult is a beneficiary, or an account of a
person suspected of perpetrating financial exploitation if either of the following
conditions apply:

(1) The covered financial institution reasonably believes that the requested
financial transaction may 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.

B. If a covered financial institution determines to delay a financial
transaction pursuant to Subsection A of this Section, the covered financial institution
shall, no later than two business days after the financial transaction is delayed, send
written notification of the delay and the reason for the delay to all parties authorized
to transact business on the account for which the covered financial institution has
contact information, unless any such party is reasonably believed to have engaged
in attempted financial exploitation of the eligible adult. The notification described
in this Subsection may be provided by electronic means.

C. If a covered financial institution delays a financial transaction pursuant
to Subsection A of this Section, 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.

D. 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, but may
use its discretion to determine whether to delay a financial transaction based on the
information available to the covered financial institution.

E. Except as provided in Subsection F of this Section, any delay of a
financial transaction as authorized pursuant to this Section 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) Fifteen business days pass from the date on which the covered financial
institution first initiated the delay of the financial transaction.

F.(1) A covered financial institution may extend the delay provided for in
Subsection E of this Section 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
twenty-five business days from the date on which the covered financial institution
first initiated the delay of the financial transaction.
(2) A court of competent jurisdiction may enter an order extending or shortening a delay, or providing other relief, based on the petition of the covered financial institution, any covered agency, or other interested party.

§1375. Applicability of other laws

Notwithstanding the provisions of R.S. 6:333 or any other law to the contrary, a covered financial institution may act in accordance with the provisions of this Chapter.

§1376. Immunity

A. (1) A covered financial institution and its directors, officers, employees, attorneys, accountants, agents, and other representatives shall have no duty to act pursuant to this Chapter or otherwise to protect an eligible adult from financial exploitation by a third person.

(2) A covered financial institution and its directors, officers, employees, attorneys, accountants, agents, and other representatives shall be immune from all criminal, civil, and administrative liability for not taking action pursuant to this Chapter.

(3) A covered financial institution and its directors, officers, employees, attorneys, accountants, agents, or other representatives who choose to act pursuant to the authority granted in this Chapter shall be immune from all criminal, civil, and administrative liability for any act taken pursuant to this Chapter, unless such act of the financial institution or its representatives was grossly negligent and caused pecuniary loss to the eligible adult who was suspected of being a victim of financial exploitation.

B. No claim shall 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.

C. The immunity provided for in this Section shall not extend to any individual in a case when such individual is a principal, conspirator, or an accessory after the fact to a criminal offense involving the financial exploitation of an eligible adult.
Section 2. The provisions of this Act shall become effective October 1, 2018.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

CODING: Words in struck through type are deletions from existing law; words underscored are additions.