

2016 Regular Session

SENATE BILL NO. 338

BY SENATOR MARTINY

SECURITIES. Provides for the protection of vulnerable adults from financial exploitation.
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AN ACT

To enact R.S. 51:725 through 725.6, relative to trade and commerce; to provide certain protections for vulnerable adults from financial exploitation; to provide definitions, terms, conditions, requirements and procedures; to provide with regard to governmental disclosures and immunity; to provide for third party disclosures and immunity; to provide for delaying disbursements and immunity; to provide for receipt of notice; to provide with regard to record-keeping; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:725 through 725.6 are hereby enacted to read as follows:

§725. Short title

This Section and Sections 725.1 through 725.7 shall be known and may be cited as the "Louisiana Protection of Vulnerable Adults from Financial Exploitation Law".

§725.1. Definitions

As used in this Section the following terms shall have the respective meanings, unless the context clearly indicates otherwise:

1 **(1) "Adult protection agency" means:**

2 **(a) The Office of Elderly Affairs in the Office of the Governor, for any**
3 **individual sixty years of age or older in need of adult protective services.**

4 **(b) The Department of Health and Hospitals for any individual between**
5 **the ages of eighteen and fifty-nine in need of adult protective services.**

6 **(2) "Eligible adult" means:**

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

8 **(b) A person subject to the Adult Protective Services Act, R.S.**
9 **15:1503(3).**

10 **(3) "Financial exploitation" means:**

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

13 **(b) Any act or omission taken by a person, including through the use of**
14 **a power of attorney, guardianship, or conservatorship of an eligible adult, to do**
15 **any of the following:**

16 **(i) Obtain control, through deception, intimidation or undue influence**
17 **over an eligible adult's assets or property to deprive the eligible adult of the**
18 **ownership, use, benefit or possession of the eligible adult's money, assets or**
19 **property.**

20 **(ii) Convert money, assets or property of the eligible adult to deprive**
21 **such eligible adult of the ownership, use, benefit or possession of the eligible**
22 **adult's money, assets or property.**

23 **(4) "Qualified individual" means any sales, investment adviser**
24 **representative or person who serves in a supervisory, compliance or other legal**
25 **capacity for a dealer or investment advisor.**

26 **§725.2. Actions and immunities**

27 **A. Governmental disclosures and immunity.**

28 **(1) If a qualified individual reasonably believes that financial**
29 **exploitation of an eligible adult may have occurred, may have been attempted**

1 or is being attempted, the qualified individual may notify the appropriate adult
2 protective services entities and the commissioner of securities.

3 (2) A qualified individual that, in good faith and exercising reasonable
4 care, makes a disclosure of information pursuant to this Section shall be
5 immune from administrative or civil liability that might otherwise arise from
6 such disclosure or for any failure to notify the customer of the disclosure.

7 §725.3. Third party disclosures and immunity

8 A. If a qualified individual reasonably believes that financial exploitation
9 of an eligible adult may have occurred, may have been attempted or is being
10 attempted, a qualified individual may notify any third party previously
11 designated by the eligible adult.

12 B. Disclosure shall not be made to any designated third party who is
13 suspected of financial exploitation or other abuse of the eligible adult.

14 C. A qualified individual who in good faith and exercising reasonable
15 care, complies with this Section shall be immune from any administrative or
16 civil liability that might arise from such disclosure.

17 §725.4. Delaying disbursements and immunity

18 A. A dealer or investment advisor may delay disbursement from an
19 account of an eligible adult or an account on which an eligible adult is a
20 beneficiary, if all of the following conditions are met.

21 (1) The dealer, investment advisor or qualified individual reasonably
22 believes, after initiating an internal review of the requested disbursement, and
23 the suspected financial exploitation, that the requested disbursement will result
24 in financial exploitation of an eligible adult.

25 (2) The dealer or investment advisor shall meet at least one of the
26 following criteria:

27 (a) Immediately, but in no event more than two business days after the
28 requested disbursement, provide written notification of the delay and the reason
29 for the delay to all parties authorized to transact business on the account, unless

1 any such party is reasonably believed to have engaged in suspected or attempted
2 financial exploitation of the eligible adult.

3 (b) Immediately, but in no event more than two business days after the
4 requested disbursement, notify the adult protective services and the
5 commissioner or securities.

6 (c) Continue internal review of the suspected or attempted financial
7 exploitation of the eligible adult, as necessary, and report the investigation
8 results to the adult protective services and the commissioner of securities within
9 seven business days after the requested disbursement.

10 B. Any delay of a disbursement as authorized by this Section will expire
11 upon the sooner of the following:

12 (1) A determination by the dealer or investment advisor that the
13 disbursement will not result in financial exploitation of the eligible adult.

14 (2) Fifteen business days after the date on which the dealer or investment
15 advisor first delayed disbursement of the funds, unless either adult protective
16 services or the commissioner of securities request that the broker or investment
17 advisor extend the delay to no more than twenty-five business days after the
18 date on which the broker or investment advisor first delayed disbursement of
19 the funds, unless sooner termination by the broker, investment advisor or an
20 order by a court of competent jurisdiction.

21 C. A court of competent jurisdiction may enter an order extending the
22 delay of the disbursement of funds or may order other protective measures
23 based on the petition of the commissioner of securities, adult protective services,
24 the broker or other interested party.

25 D. A dealer or investment advisor that, in good faith and exercising
26 reasonable care, complies with this Section shall be immune from any
27 administrative or civil liability that might otherwise arise from such delay in a
28 disbursement.

29 §725.5. Receipt of notice and indemnity

Proposed law provides immunity for certain governmental disclosures made in accordance with this Act.

Proposed law provides for immunity for certain disclosures for third parties.

Proposed law provides for delaying disbursements in certain instances and for immunity with regard to those delays.

Proposed law provides for receipt of notice with regard to the keeping of certain records.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 51:725-725.6)