SB220
173880-3
By Senators Orr and Melson
RFD: Governmental Affairs
First Read: 11-FEB-16
ENROLLED, An Act,

Relating to the protection of vulnerable adults; to require that qualified individuals who reasonably believe that financial exploitation of a vulnerable adult may have occurred, been attempted, or is being attempted, to notify promptly the Department of Human Resources and the Alabama Securities Commission; to authorize the disclosure to third parties in certain instances where a vulnerable adult has some relationship; to prohibit disclosure to the third party if the qualified individual suspects the third party of the financial exploitation; to provide that broker-dealers and investment advisers may delay disbursing funds from a vulnerable adult's account; to provide immunity for administrative and civil actions based on certain actions of disclosure or delayed disbursements; and to require that broker-dealers and investment advisors to comply with certain requests for information.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Protection of Vulnerable Adults from Financial Exploitation Act.
Section 2. In this act, unless the context otherwise requires, the following words and terms shall have the following meanings:

(1) AGENT. The same meaning as in subdivision (2) of Section 8-6-2 of the Code of Alabama 1975.

(2) BROKER-DEALER. The same meaning as in subdivision (3) of Section 8-6-2 of the Code of Alabama 1975.

(3) COMMISSION. The Alabama Securities Commission.

(4) DEPARTMENT. The Department of Human Resources.

(5) FINANCIAL EXPLOITATION. Any of the following:

a. The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a vulnerable adult.

b. Any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of a vulnerable adult, to either of the following:

   1. Obtain control through deception, intimidation, or undue influence over the vulnerable adult's money, assets, or property to deprive the vulnerable adult of the ownership, use, benefit, or possession of his or her money, assets, or property.

   2. Convert money, assets, or property of the vulnerable adult to deprive the vulnerable adult of the
1 ownership, use, benefit, or possession of his or her money, 
2 assets, or property.
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4 (6) INVESTMENT ADVISER. The same meaning as in 
5 subdivision (18) of Section 8-6-2 of the Code of Alabama 1975.
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7 (7) INVESTMENT ADVISER REPRESENTATIVE. The same 
8 meaning as in subdivision (19) of Section 8-6-2 of the Code of 
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11 (8) QUALIFIED INDIVIDUAL. Any agent, investment 
12 adviser representative, or person who serves in a supervisory, 
13 compliance, legal, or associated member capacity of a 
14 broker-dealer or investment adviser.
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16 (9) REASONABLY ASSOCIATED INDIVIDUAL or ASSOCIATED 
17 MEMBER. An individual known to the investment adviser 
18 representative, broker-dealer, or firm who is reasonably 
19 associated with the account.
20
21 (10) VULNERABLE ADULT. Any of the following:
22 a. A person 65 years of age or older.
23 b. A protected person included and defined in 
24 Chapter 9, Title 38 of the Code of Alabama 1975.
25
26 Section 3. If a qualified individual reasonably 
27 believes that financial exploitation of a vulnerable adult may 
28 have occurred, may have been attempted, or is being attempted, 
29 the qualified individual shall promptly notify the department 
30 and the commission.
Section 4. A qualified individual that in good faith and exercising reasonable care makes a disclosure of information pursuant to Section 3 shall be immune from administrative or civil liability that might otherwise arise from such disclosure or for any failure to notify.

Section 5. If a qualified individual reasonably believes that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, the qualified individual may notify a reasonably associated individual, legal guardian, any third party previously designated by the vulnerable adult, conservator, co-trustee, successor trustee, or agent under a power of attorney of the vulnerable adult of such belief. Disclosure may not be made to a designated third party that is suspected of financial exploitation or other abuse of the vulnerable adult.

Section 6. A qualified individual that, in good faith and exercising reasonable care, complies with Section 5 shall be immune from any administrative or civil liability that might otherwise arise from such disclosure.

Section 7. (a) A broker-dealer or investment adviser may delay a disbursement from an account of a vulnerable adult or an account on which a vulnerable adult is a beneficiary if:

(1) The broker-dealer, investment adviser, or qualified individual reasonably believes, after initiating an internal review of the requested disbursement and the
suspected financial exploitation, that the requested
disbursement may result in financial exploitation of a
vulnerable adult; and

(2) The broker-dealer or investment adviser:

a. Immediately, but in no event more than two
business days after the requested disbursement, provides
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 suspected or attempted financial exploitation of the
vulnerable adult;

b. Immediately, but in no event more than two
business days after the requested disbursement, notifies the
department and commission; and

c. Continues its internal review of the suspected or
attempted financial exploitation of the vulnerable adult, as
necessary, and reports any additional results of the
investigation to the department and commission within seven
business days after the requested disbursement.

(b) Any delay of a disbursement as authorized by
this section expires upon the sooner of:

(1) A determination by the broker-dealer or
investment adviser that the disbursement will not result in
financial exploitation of the vulnerable adult.
(2) Fifteen business days after the date on which
the broker-dealer or investment adviser first delayed
disbursement of the funds, unless either the department or the
commission requests that the broker-dealer or investment
adviser extend the delay, in which case the delay shall expire
no more than 25 business days after the date on which the
broker-dealer or investment adviser first delayed disbursement
of the funds unless sooner terminated by either the department
or commission or an order of a court of competent
jurisdiction.

(c) A court of competent jurisdiction may enter an
order extending the delay of the disbursement of funds or may
order other protective relief based on the petition of the
commission, department, broker-dealer, or investment adviser
that initiated the delay under this section, or other
interested party.

Section 8. A broker-dealer or investment adviser
that, in good faith and exercising reasonable care, complies
with Section 7 shall be immune from any administrative or
civil liability that might otherwise arise from such delay in
a disbursement in accordance with this section.

Section 9. A broker-dealer or investment adviser
shall provide access to or copies of records that are relevant
to the suspected or attempted financial exploitation of a
vulnerable adult to agencies charged with administering state
adult protective services laws and to law enforcement, either
as part of a referral to the agency or to law enforcement, or
upon request of the agency or law enforcement pursuant to an
investigation. The records may include historical records as
well as records relating to the most recent transaction or
transactions that may comprise financial exploitation of a
vulnerable adult. All records made available to agencies under
this section are not a public record as defined in any state
public records law. Nothing in this section shall limit or
otherwise impede the authority of the commission to access or
examine the books and records of broker-dealers and investment
advisers as otherwise provided by law.

Section 10. The securities commission, from time to
time, may make, amend, and rescind such rules pursuant to the
Alabama Administrative Procedure Act and prescribe such forms
as are necessary and desirable to carry out the provisions of
this act. No rules or forms may be made or prescribed unless
the commission finds that the action is necessary or
appropriate in the public interest or for the protection of
vulnerable adults and those protected under the act and
consistent with the purposes fairly intended by the policy and
provisions of this act. In prescribing rules and forms, the
commission may cooperate with the securities administrators
and adult protective services agencies of the other states and
the United States Securities and Exchange Commission and FINRA.
with a view to effectuating the policy of this act to achieve general uniformity in the application of the act wherever practicable.

Section 11. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB220
Senate 10-MAR-16
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 12-APR-16

By: Senator Orr