

1 SB220
2 173880-3
3 By Senators Orr and Melson
4 RFD: Governmental Affairs
5 First Read: 11-FEB-16

1 SB220

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4 ENROLLED, An Act,

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

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall be known and may be cited
23 as the Protection of Vulnerable Adults from Financial
24 Exploitation Act.

1 Section 2. In this act, unless the context otherwise
2 requires, the following words and terms shall have the
3 following meanings:

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

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

8 (3) COMMISSION. The Alabama Securities Commission.

9 (4) DEPARTMENT. The Department of Human Resources.

10 (5) FINANCIAL EXPLOITATION. Any of the following:

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

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

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

23 2. Convert money, assets, or property of the
24 vulnerable adult to deprive the vulnerable adult of the

1 ownership, use, benefit, or possession of his or her money,
2 assets, or property.

3 (6) INVESTMENT ADVISER. The same meaning as in
4 subdivision (18) of Section 8-6-2 of the Code of Alabama 1975.

5 (7) INVESTMENT ADVISER REPRESENTATIVE. The same
6 meaning as in subdivision (19) of Section 8-6-2 of the Code of
7 Alabama 1975.

8 (8) QUALIFIED INDIVIDUAL. Any agent, investment
9 adviser representative, or person who serves in a supervisory,
10 compliance, legal, or associated member capacity of a
11 broker-dealer or investment adviser.

12 (9) REASONABLY ASSOCIATED INDIVIDUAL or ASSOCIATED
13 MEMBER. An individual known to the investment adviser
14 representative, broker-dealer, or firm who is reasonably
15 associated with the account.

16 (10) VULNERABLE ADULT. Any of the following:

17 a. A person 65 years of age or older.

18 b. A protected person included and defined in
19 Chapter 9, Title 38 of the Code of Alabama 1975.

20 Section 3. If a qualified individual reasonably
21 believes that financial exploitation of a vulnerable adult may
22 have occurred, may have been attempted, or is being attempted,
23 the qualified individual shall promptly notify the department
24 and the commission.

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

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

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

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

23 (1) The broker-dealer, investment adviser, or
24 qualified individual reasonably believes, after initiating an
25 internal review of the requested disbursement and the

1 suspected financial exploitation, that the requested
2 disbursement may result in financial exploitation of a
3 vulnerable adult; and

4 (2) The broker-dealer or investment adviser:

5 a. Immediately, but in no event more than two
6 business days after the requested disbursement, provides
7 written notification of the delay and the reason for the delay
8 to all parties authorized to transact business on the account,
9 unless any such party is reasonably believed to have engaged
10 in suspected or attempted financial exploitation of the
11 vulnerable adult;

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

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

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

22 (1) A determination by the broker-dealer or
23 investment adviser that the disbursement will not result in
24 financial exploitation of the vulnerable adult.

1 (2) Fifteen business days after the date on which
2 the broker-dealer or investment adviser first delayed
3 disbursement of the funds, unless either the department or the
4 commission requests that the broker-dealer or investment
5 adviser extend the delay, in which case the delay shall expire
6 no more than 25 business days after the date on which the
7 broker-dealer or investment adviser first delayed disbursement
8 of the funds unless sooner terminated by either the department
9 or commission or an order of a court of competent
10 jurisdiction.

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

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

22 Section 9. A broker-dealer or investment adviser
23 shall provide access to or copies of records that are relevant
24 to the suspected or attempted financial exploitation of a
25 vulnerable adult to agencies charged with administering state

1 adult protective services laws and to law enforcement, either
2 as part of a referral to the agency or to law enforcement, or
3 upon request of the agency or law enforcement pursuant to an
4 investigation. The records may include historical records as
5 well as records relating to the most recent transaction or
6 transactions that may comprise financial exploitation of a
7 vulnerable adult. All records made available to agencies under
8 this section are not a public record as defined in any state
9 public records law. Nothing in this section shall limit or
10 otherwise impede the authority of the commission to access or
11 examine the books and records of broker-dealers and investment
12 advisers as otherwise provided by law.

13 Section 10. The securities commission, from time to
14 time, may make, amend, and rescind such rules pursuant to the
15 Alabama Administrative Procedure Act and prescribe such forms
16 as are necessary and desirable to carry out the provisions of
17 this act. No rules or forms may be made or prescribed unless
18 the commission finds that the action is necessary or
19 appropriate in the public interest or for the protection of
20 vulnerable adults and those protected under the act and
21 consistent with the purposes fairly intended by the policy and
22 provisions of this act. In prescribing rules and forms, the
23 commission may cooperate with the securities administrators
24 and adult protective services agencies of the other states and
25 the United States Securities and Exchange Commission and FINRA

1 with a view to effectuating the policy of this act to achieve
2 general uniformity in the application of the act wherever
3 practicable.

4 Section 11. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

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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