

RÉSUMÉ DIGEST

ACT 434 (HB 503)

2018 Regular Session

Carmody

New law provides legislative intent and generally authorizes a covered financial institution to take certain actions, without liability, to assist in detecting and preventing financial exploitation of an eligible adult.

New law defines the following: "adult protection agency", "covered agency", "covered financial institution", "eligible adult", "financial exploitation", and "financial transaction".

New law authorizes a covered financial institution to notify a covered agency, or any third party reasonably associated with an eligible adult, if the covered financial institution believes financial exploitation of the eligible adult is being attempted, may have been attempted, or may have occurred.

New law provides that a covered financial institution may refuse to notify a party reasonably associated with individuals suspected of financial exploitation of eligible adults.

New law requires a covered financial institution to annually make a reasonable effort 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 financial institution.

New law authorizes a covered financial institution to delay completion or execution of a financial transaction involving the account of an eligible adult, or the account of a person suspected of perpetrating financial exploitation of the eligible adult, if certain conditions apply. Authorizes the covered financial institution to provide notice to certain persons regarding the delay.

New law provides if a covered financial institution delays a financial transaction regarding an eligible adult, the covered financial institution is required to send written notification of the delay, no later than two business days after 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. Authorizes the notification to be provided electronically.

Except as ordered by a court, new law does not require a covered financial institution to delay a financial transaction, when such institution is provided with information by a covered agency alleging that financial exploitation of an eligible adult is occurring, has or may have occurred, is being attempted, or has 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.

New law requires the delay of a financial transaction to expire when the earliest of either circumstances occurs:

- (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 from the date on which the covered financial institution first initiated the delay of the financial transaction.

New law authorizes a covered financial institution to extend the delay of a financial transaction upon receiving such a request from any covered agency, in which case the delay is required to 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.

New law authorizes a court of competent jurisdiction to 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.

New law provides that a covered financial institution and its directors, officers, employees, attorneys, accountants, agents, or other representatives have no duty to act pursuant to new law or otherwise to protect an eligible adult from financial exploitation by a third person.

New law provides for immunity from all criminal, civil, and administrative liability for actions not taken pursuant to new law.

New law provides if a covered financial institution or a representative acts in accordance with new law, such financial institution or representative is immune from all liability, unless the act was grossly negligent and caused pecuniary loss to the eligible adult suspected of being a victim of financial exploitation.

New law prohibits persons from bringing claims against any covered agency or the state of La. in connection with the receipt of or in response to any notice of financial exploitation.

The immunity from liability provided in new law does 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.

Effective October 1, 2018.

(Adds R.S. 6:1371-1376)