

GREEN SHEET REDIGEST

HB 503

2018 Regular Session

Carmody

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

**FINANCIAL INSTITUTIONS. Protects certain individuals from financial exploitation.**

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DIGEST

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

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

Proposed 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.

Proposed law authorizes a covered financial institution's discretion in refusing to notify a party reasonably associated with individuals who are suspected of financial exploitation of eligible adults.

Proposed law requires a covered financial institution to 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.

Proposed 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.

Proposed 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, proposed 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, or 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.

Proposed law requires the delay of a financial transaction to expire when the earliest of either circumstances apply:

- (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.

Proposed 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.

Proposed 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.

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

Proposed law provides for immunity from all criminal, civil, and administrative liability for not taking action pursuant to proposed law.

Proposed law provides that a covered financial institution and its directors, officers, employees, attorneys, accountants, agents, or other representatives who choose to act pursuant to proposed law shall be immune from all criminal, civil, and administrative liability for any action taken pursuant to proposed law, 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.

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

The immunity from liability provided in proposed 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 Oct. 1, 2018.

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

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes and language substitutions to improve clarity and readability.
2. Correct the citation relative to the Adult Protective Services Act.
3. Require a covered financial institution to notify employees of their ability to report potential financial exploitation of an eligible adult to personnel within the respective covered financial institution.
4. Require a covered financial institution delaying a financial transaction to send, within two business days of the delay, written notification of the delay and reasons therefor to all parties authorized to transact business on the account, unless any such party is reasonably believed to have engaged in attempted financial exploitation of the eligible adult. Notification may be made electronically.

5. Clarify the intent of prohibiting persons from bringing claims against any covered agency or the state in connection with the receipt of or in response to any notice of financial exploitation.
6. Change the effective date from January 1, 2019, to October 1, 2018.

The House Floor Amendments to the engrossed bill:

1. Provide that immunity from liability provided in proposed 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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the reengrossed bill

1. Adds provisions to the definitions of "financial exploitation" and "financial transaction".
2. Provides that if a covered financial institution acts in accordance with proposed law it shall be immune from all liability, unless such act of the financial institution was grossly negligent and caused pecuniary loss to the eligible adult who was suspected of being a victim of financial exploitation.