
DIGEST

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HB 668 Original

2016 Regular Session

Carmody

Abstract: Provides for the protection of vulnerable adults from financial exploitation and regulates the ability of covered financial institutions to delay disbursements of certain funds.

Proposed law enumerates definitions for the purposes of proposed law in order to provide for clarification.

Proposed law authorizes a covered financial institution to notify adult protective services and the commissioner of the office of financial institutions ("OFI") if the covered financial institution reasonably believes that the financial exploitation of an eligible adult is being attempted, may have been attempted, or may have occurred.

Proposed law authorizes a covered financial institution to notify any third party previously designated by the eligible adult if the covered financial institution reasonably believes that the financial exploitation of an eligible adult is being attempted, may have been attempted, or may have occurred. Proposed law clarifies with an exception that a disclosure shall not be made to any third party previously designated by the eligible adult who is suspected of financial exploitation or any other abuse of the eligible adult.

Proposed law authorizes a covered financial institution to delay a disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary when it meets the following requirements enumerated by proposed law:

- (1) The covered financial institution has initiated an internal review of a disbursement request and reasonably finds that the requested disbursement will result in financial exploitation of an eligible adult.
- (2) The covered financial institution immediately, but in no later than 2 business days after the requested disbursement, provides written notification of the delay and the reason for the delay to the following persons:
 - (a) 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 eligible adult.
 - (b) The adult protective services and the commissioner of OFI.
- (3) The covered financial institution continues its internal review of the suspected or attempted

financial exploitation of the eligible adult as necessary and, in no later than 7 business days after the requested disbursement, reports the results of the internal review to the adult protective services and the commissioner of OFI.

Proposed law requires that any delay of a disbursement as authorized by proposed law shall expire or be terminated when the earliest of any of the following circumstances occur:

(1) The covered financial institution reasonably determines that the disbursement will not result in financial exploitation of the eligible adult.

(2) 15 days pass from the date on which the covered financial institution first initiated the delay of the disbursement, unless any of the following occur:

(a) The commissioner of OFI or adult protective services requests the covered financial institution to extend the delay, in which case the delay shall 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 disbursement.

(b) A court of competent jurisdiction renders in open court or signs any order whereby the court orders the covered financial institution to do any of the following:

(i) Execute the requested disbursement.

(ii) Extend the delay of the disbursement.

(iii) Perform any duty necessary to accomplish any other protective relief based on the petition of the commissioner, adult protective services, covered financial institution, or other interested party.

Proposed law authorizes a covered financial institution to provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to a covered agency, as defined in proposed law, either as part of a referral to the covered agency or upon request of a covered agency pursuant to an investigation. Proposed law clarifies that the records may include historical records as well as any records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult.

Proposed law provides that any record made available pursuant to proposed law shall be kept strictly confidential and is not a public record as defined by present law (R.S. 44:1, et seq.).

Proposed law clarifies that nothing in proposed law shall limit or otherwise impede the authority of the commissioner of OFI to access or examine books and records of a covered financial institution as otherwise provided by present law.

Proposed law provides that a covered financial institution acting in good faith and exercising reasonable care that makes a disclosure of information pursuant to proposed law shall be immune from administrative or civil liability that may otherwise arise from the disclosure or for any failure

to notify the customer of the disclosure. Proposed law further clarifies that no claim may be brought against the commissioner of OFI, OFI, adult protective services, or the state of La. in connection with the receipt of or response to any notice of financial exploitation.

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

(Adds R.S. 6:341-346)