



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB3621

Introduced 7/25/2018, by Sen. Chris Nybo

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Protect Vulnerable Adults from Financial Exploitation Act. Provides that any investment adviser, salesperson, or other financial personnel who reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted shall promptly notify the Securities Director of the Securities Department and may also notify any third party previously designated by the eligible adult. Grants such persons immunity from any administrative or civil liability that might arise from such governmental or third-party disclosures. Provides that an investment adviser, salesperson, or other financial personnel may delay the disbursement of funds from the account of an eligible adult or any account that an eligible adult is a beneficiary of if financial exploitation is suspected. Provides that any delayed disbursement of funds shall expire upon the sooner of: (i) a determination that the disbursement will not result in financial exploitation of the eligible adult; or (ii) 15 business days after the date upon which the funds were first delayed, unless the Securities Director requests an extension. Permits a court to enter an order extending the delay of the disbursement of funds or to order other protective relief. Grants immunity to any investment adviser, salesperson, or other financial personnel from any administrative or civil liability that might arise from a delay in the disbursement of funds. Requires an investment adviser, salesperson, or other financial personnel to provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to State agencies charged with administering State adult protective services laws and to law enforcement. Defines terms. Effective immediately.

LRB100 22503 KTG 41396 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Protect Vulnerable Adults from Financial Exploitation Act.

6 Section 5. Definitions. In this Act:

7 "Dealer" has the meaning ascribed to that term in the  
8 Illinois Securities Law of 1953.

9 "Eligible adult" has the meaning ascribed to that term in  
10 the Adult Protective Services Act and also includes a person 65  
11 years of age or older.

12 "Financial exploitation" means:

13 (1) the wrongful or unauthorized taking, withholding,  
14 appropriation, or use of money, assets, or property of an  
15 eligible adult; or

16 (2) any act or omission taken by a person, including  
17 through the use of a power of attorney, guardianship, or  
18 conservatorship of an eligible adult, to:

19 (A) obtain control, through deception,  
20 intimidation, or undue influence, over the eligible  
21 adult's money, assets, or property to deprive the  
22 eligible adult of the ownership, use, benefit, or  
23 possession of his or her money, assets, or property; or

1           (B) convert money, assets, or property of the  
2           eligible adult to deprive such eligible adult of the  
3           ownership, use, benefit, or possession of his or her  
4           money, assets, or property.

5           "Investment adviser" has the meaning ascribed to that term  
6           in the Illinois Securities Law of 1953.

7           "Investment adviser representative" has the meaning  
8           ascribed to that term in the Illinois Securities Law of 1953.

9           "Qualified individual" means any salesperson, investment  
10          adviser representative, or person who serves in a supervisory,  
11          compliance, or legal capacity for a dealer or investment  
12          adviser and also includes a "principal of a dealer" and a  
13          "principal of an investment adviser" as those terms are defined  
14          in the Illinois Securities Law of 1953.

15          "Salesperson" has the meaning ascribed to that term in the  
16          Illinois Securities Law of 1953.

17          "Securities Director" has the meaning ascribed to that term  
18          in the Illinois Securities Law of 1953.

19          Section 10. Governmental disclosures. If a qualified  
20          individual reasonably believes that financial exploitation of  
21          an eligible adult may have occurred, may have been attempted,  
22          or is being attempted, the qualified individual shall promptly  
23          notify the Securities Director.

24          Section 15. Immunity for governmental disclosures. A

1 qualified individual who in good faith and exercising  
2 reasonable care makes a disclosure of information pursuant to  
3 Section 10 is immune from administrative or civil liability  
4 that might otherwise arise from such disclosure or for any  
5 failure to notify the customer of the disclosure.

6 Section 20. Third-party disclosures. If a qualified  
7 individual reasonably believes that financial exploitation of  
8 an eligible adult may have occurred, may have been attempted,  
9 or is being attempted, the qualified individual may notify any  
10 third party previously designated by the eligible adult.  
11 Disclosure may not be made to any designated third party that  
12 is suspected of financial exploitation or other abuse of the  
13 eligible adult.

14 Section 25. Immunity for third-party disclosures. A  
15 qualified individual who, in good faith and exercising  
16 reasonable care, complies with Section 20 is immune from any  
17 administrative or civil liability that might otherwise arise  
18 from such disclosure.

19 Section 30. Delaying disbursements.

20 (a) A qualified individual may delay a disbursement from an  
21 account of an eligible adult or an account on which an eligible  
22 adult is a beneficiary if:

23 (1) the qualified individual reasonably believes,

1 after initiating an internal review of the requested  
2 disbursement and the suspected financial exploitation,  
3 that the requested disbursement may result in financial  
4 exploitation of an eligible adult; and

5 (2) the qualified individual:

6 (A) immediately, but in no event more than 2  
7 business days after the requested disbursement,  
8 provides written notification of the delay and the  
9 reason for the delay to all parties authorized to  
10 transact business on the account, unless any such party  
11 is reasonably believed to have engaged in suspected or  
12 attempted financial exploitation of the eligible  
13 adult;

14 (B) immediately, but in no event more than 2  
15 business days after the requested disbursement,  
16 notifies the Securities Director; and

17 (C) continues its internal review of the suspected  
18 or attempted financial exploitation of the eligible  
19 adult, as necessary, and reports the investigation's  
20 results to the Securities Director within 7 business  
21 days after the requested disbursement.

22 (b) Any delay of a disbursement as authorized by this  
23 Section shall expire upon the sooner of:

24 (1) a determination by the qualified individual that  
25 the disbursement will not result in financial exploitation  
26 of the eligible adult; or

1           (2) 15 business days after the date on which the  
2           qualified individual first delayed disbursement of the  
3           funds, unless the Securities Director requests that the  
4           qualified individual extend the delay, in which case the  
5           delay shall expire no more than 25 business days after the  
6           date on which the qualified individual first delayed  
7           disbursement of the funds unless sooner terminated by the  
8           Securities Director or an order of a court.

9           (c) A court may enter an order extending the delay of the  
10          disbursement of funds or may order other protective relief  
11          based on the petition of the Securities Director, qualified  
12          individual who initiated the delay under this Section, or other  
13          interested party.

14          Section 35. Immunity for delaying disbursements. A  
15          qualified individual who, in good faith and exercising  
16          reasonable care, complies with Section 30 is immune from any  
17          administrative or civil liability that might otherwise arise  
18          from such delay in a disbursement in accordance with Section  
19          30.

20          Section 40. Records. A qualified individual shall provide  
21          access to or copies of records that are relevant to the  
22          suspected or attempted financial exploitation of an eligible  
23          adult to State agencies charged with administering State adult  
24          protective services laws and to law enforcement, either as part

1 of a referral to the agency or to law enforcement, or upon  
2 request of the agency or law enforcement pursuant to an  
3 investigation. The records may include historical records as  
4 well as records relating to the most recent transaction or  
5 transactions that may comprise financial exploitation of an  
6 eligible adult. All records made available to agencies under  
7 this Section shall not be considered public records as defined  
8 in the Freedom of Information Act. Nothing in this Section  
9 shall limit or otherwise impede the authority of the Securities  
10 Director to access or examine the books and records of  
11 salespersons and investment advisers as otherwise provided by  
12 law.

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.