

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2064 Session of 2024

INTRODUCED BY HOGAN, LABS, MARCELL, STAATS, TOMLINSON, JOZWIAK, MOUL, HEFFLEY, GILLEN, SCHEUREN, GROVE, GREEN, McNEILL, MULLINS, MENTZER AND MADSEN, FEBRUARY 27, 2024

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 1, 2024

AN ACT

1 Amending the act of November 6, 1987 (P.L.381, No.79), entitled
2 "An act relating to the protection of the abused, neglected,
3 exploited or abandoned elderly; establishing a uniform
4 Statewide reporting and investigative system for suspected
5 abuse, neglect, exploitation or abandonment of the elderly;
6 providing protective services; providing for funding; and
7 making repeals," providing for financial institutions and
8 fiduciaries. <--

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The act of November 6, 1987 (P.L.381, No.79),
12 known as the Older Adults Protective Services Act, is amended by
13 adding a chapter to read:

CHAPTER 6

FINANCIAL INSTITUTIONS AND FIDUCIARIES <--

16 Section 601. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "A person reasonably associated with the older adult." The

1 term includes:

2 (1) an authorized contact provided by an older adult to
3 a financial institution;

4 (2) a fiduciary authorized to manage some or all of the
5 financial affairs of the older adult;

6 (3) a co-owner, additional authorized signatory or
7 beneficiary on an older adult's account;

8 (4) an attorney or financial professional known to
9 represent or have represented, or to assist in the management
10 of the financial affairs of the older adult;

11 (5) a parent, spouse, adult child, sibling or other
12 known family member or close associate of an older adult; or

13 (6) any other person in a position of trust with respect
14 to the older adult as provided by 18 Pa.C.S. § 3922.1(f)
15 (relating to financial exploitation of an older adult or
16 care-dependent person).

17 ~~"Designated representative of a financial institution." An <--~~
18 ~~individual provided immunity from suit for disclosing suspected~~
19 ~~financial exploitation by 12 U.S.C. § 3423 (relating to immunity~~
20 ~~from suit for disclosure of financial exploitation of senior~~
21 ~~citizens).~~

22 ~~"Fiduciary." A guardian, custodian, trustee, agent, personal~~
23 ~~representative or other person authorized or required to act on~~
24 ~~behalf of an older adult.~~

25 ~~"DESIGNATED REPRESENTATIVE OF A FINANCIAL INSTITUTION." AN <--~~
26 ~~INDIVIDUAL PROVIDED IMMUNITY FROM SUIT FOR DISCLOSING SUSPECTED~~
27 ~~FINANCIAL EXPLOITATION BY 12 U.S.C. § 3423 (RELATING TO IMMUNITY~~
28 ~~FROM SUIT FOR DISCLOSURE OF FINANCIAL EXPLOITATION OF SENIOR~~
29 ~~CITIZENS) WHO IS DESIGNATED BY A FINANCIAL INSTITUTION AS THE~~
30 ~~INDIVIDUAL RESPONSIBLE FOR PROVIDING INFORMATION TO AN AREA~~

1 AGENCY ON AGING AND A LAW ENFORCEMENT AGENCY OR THE DEPARTMENT.

2 "Financial exploitation." As defined in 18 Pa.C.S. § 3922.1.

3 ~~"Financial institution." Any person defined as a "financial~~ <--
4 ~~institution" under 31 CFR Subt. B Ch. X (relating to Financial~~
5 ~~Crimes Enforcement Network, Department of the Treasury) that is~~
6 ~~required to file suspicious activity reports.~~

7 "FINANCIAL INSTITUTION." A COVERED FINANCIAL INSTITUTION AS <--
8 DEFINED IN 12 U.S.C. § 3423(A)(1)(D).

9 "FINANCIAL INSTITUTION EMPLOYEE." AN EMPLOYEE OF A FINANCIAL
10 INSTITUTION THAT HAS EITHER:

11 (1) DIRECT CONTACT WITH AN OLDER ADULT; OR

12 (2) ACCESS TO OR DIRECT KNOWLEDGE OF AN OLDER ADULT'S
13 FINANCIAL RECORDS OR ACCOUNTS WITH THE FINANCIAL INSTITUTION.

14 "LAW ENFORCEMENT AGENCY." THE OFFICE OF ATTORNEY GENERAL, A
15 DISTRICT ATTORNEY'S OFFICE OR AN AGENCY THAT EMPLOYS A LAW
16 ENFORCEMENT OFFICER.

17 "LAW ENFORCEMENT OFFICER." A MEMBER OF THE PENNSYLVANIA
18 STATE POLICE, AN INDIVIDUAL EMPLOYED AS A POLICE OFFICER WHO
19 HOLDS A CURRENT CERTIFICATE UNDER 53 PA.C.S. CH. 21 SUBCH. D
20 (RELATING TO MUNICIPAL POLICE EDUCATION AND TRAINING), A SHERIFF
21 OR A DEPUTY SHERIFF.

22 ~~Section 602. Voluntary reporting of financial exploitation.~~ <--

23 DUTIES OF FINANCIAL INSTITUTIONS. <--

24 (a) Reporting.--Notwithstanding any law limiting or <--

25 ~~prohibiting disclosure, a fiduciary or designated representative~~

26 ~~of a financial institution having~~ OTHER PROVISION OF LAW, IF A <--

27 FINANCIAL INSTITUTION EMPLOYEE HAS reasonable cause to believe

28 that financial exploitation of an older adult may have occurred,

29 may have been attempted or is being attempted, may A DESIGNATED <--

30 REPRESENTATIVE OF THE FINANCIAL INSTITUTION SHALL PROMPTLY, BUT

1 NOT LATER THAN FIVE BUSINESS DAYS, report such information to
2 the agency which is the local provider of protective services, <--
3 or may AND SHALL report the information to a law enforcement <--
4 agency or the department. A report made to an agency under this <--
5 subsection shall provide:

6 (1) the name, age and address of the older adult;

7 (2) the name and address, if known, of the older adult's
8 guardian or next of kin;

9 (3) the name and address of the financial institution or
10 fiduciary and contact information for the individual
11 submitting the report;

12 (4) the nature of the suspected financial exploitation
13 of the older adult; and

14 (5) any specific comments, observations or other
15 information directly related to the alleged incident, the
16 older adult and suspected perpetrator of the financial
17 exploitation the financial institution or fiduciary
18 determines is needed to facilitate investigation of the
19 report.

20 (b) Assistance by persons reasonably associated with an
21 older adult. At the same time a report is made under subsection
22 (a) regarding the older adult, notwithstanding any law limiting
23 or prohibiting disclosure, the fiduciary or designated
24 representative may provide information regarding the report to a
25 person reasonably associated with the older adult sufficient to
26 enable the person to consult with or assist the older adult in
27 avoiding or remedying the suspected financial exploitation, or
28 exercise any fiduciary powers it possesses to protect the older
29 adult, unless the financial institution has reason to believe
30 the person is knowingly engaged in or facilitating the financial

1 ~~exploitation of the older adult.~~

2 ~~(c) Access to records. Notwithstanding the provisions of~~
3 ~~section 304:~~

4 ~~(1) A report authorized by this section may include, or~~
5 ~~may be subsequently supplemented by, records of the older~~
6 ~~adult the financial institution or fiduciary believes are~~
7 ~~needed to provide protective services to the older adult.~~

8 ~~(2) If records needed to determine if an older adult~~
9 ~~subject to a report as authorized by this section are~~
10 ~~provided by a financial institution or fiduciary as~~
11 ~~authorized by paragraph (1), and the older adult, or a~~
12 ~~fiduciary acting on behalf of the older adult, does not~~
13 ~~provide consent to the agency to access such records, the~~
14 ~~agency may issue an order, subject to 2 Pa.C.S. Chs. 5 Subch.~~
15 ~~A (relating to practice and procedure of Commonwealth~~
16 ~~agencies) and 7 Subch. A (relating to judicial review of~~
17 ~~Commonwealth agency action), directing the production of such~~
18 ~~records that relate to the financial transactions of the~~
19 ~~older adult for a period of time up to 60 days prior to the~~
20 ~~date of the report and the first reported incident of actual~~
21 ~~or suspected financial exploitation. Other records shall only~~
22 ~~be available to the extent provided by section 304. THE~~ <--

23 ~~FOLLOWING SHALL APPLY:~~

24 ~~(1) IF A FINANCIAL INSTITUTION EMPLOYEE HAS REASONABLE~~
25 ~~CAUSE TO BELIEVE THAT FINANCIAL EXPLOITATION OF AN OLDER~~
26 ~~ADULT MAY HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED OR IS BEING~~
27 ~~ATTEMPTED, THAT FINANCIAL INSTITUTION EMPLOYEE SHALL~~
28 ~~IMMEDIATELY FOLLOW THE FINANCIAL INSTITUTION'S COMPLIANCE~~
29 ~~POLICIES, PROGRAMS, PLANS AND PROCEDURES TO REPORT THE~~
30 ~~SUSPECTED FINANCIAL EXPLOITATION TO THE DESIGNATED~~

1 REPRESENTATIVE OF THE FINANCIAL INSTITUTION. A FINANCIAL
2 INSTITUTION SHALL COMPLY WITH ALL FEDERAL AND STATE LAWS
3 GOVERNING THE REPORTING OF OLDER ADULT FINANCIAL EXPLOITATION
4 AND SHARING OF RELEVANT RECORDS WITH THE AREA AGENCY ON
5 AGING.

6 (2) A REPORT MADE TO AN AGENCY UNDER THIS SUBSECTION
7 SHALL PROVIDE:

8 (I) THE NAME, AGE AND ADDRESS OF THE OLDER ADULT;

9 (II) THE NAME AND ADDRESS, IF KNOWN, OF THE OLDER
10 ADULT'S GUARDIAN OR NEXT OF KIN;

11 (III) THE NAME AND ADDRESS OF THE FINANCIAL
12 INSTITUTION AND CONTACT INFORMATION FOR THE INDIVIDUAL
13 SUBMITTING THE REPORT;

14 (IV) THE NATURE OF THE SUSPECTED FINANCIAL
15 EXPLOITATION OF THE OLDER ADULT; AND

16 (V) ANY SPECIFIC COMMENTS, OBSERVATIONS OR OTHER
17 INFORMATION DIRECTLY RELATED TO THE ALLEGED INCIDENT, THE
18 OLDER ADULT AND SUSPECTED PERPETRATOR OF THE FINANCIAL
19 EXPLOITATION THE FINANCIAL INSTITUTION DETERMINES IS
20 NEEDED TO FACILITATE INVESTIGATION OF THE REPORT.

21 (B) HOLD ON PROPOSED TRANSACTIONS.--IF A FINANCIAL
22 INSTITUTION EMPLOYEE HAS REASONABLE CAUSE TO BELIEVE THAT
23 FINANCIAL EXPLOITATION OF AN OLDER ADULT MAY HAVE OCCURRED, MAY
24 HAVE BEEN ATTEMPTED OR IS BEING ATTEMPTED, THE FINANCIAL
25 INSTITUTION MAY PLACE A HOLD ON A PROPOSED TRANSACTION FOR A
26 PERIOD OF UP TO SEVEN BUSINESS DAYS AS NECESSARY TO DETERMINE
27 THE LEGITIMACY OF THE TRANSACTION. IF A FINANCIAL INSTITUTION
28 PLACES A HOLD ON A PROPOSED TRANSACTION, THE FINANCIAL
29 INSTITUTION MUST FILE A REPORT UNDER SUBSECTION (A) NO LATER
30 THAN THE NEXT BUSINESS DAY. A FINANCIAL INSTITUTION MAY HOLD A

1 PROPOSED TRANSACTION FOR AN ADDITIONAL 15 BUSINESS DAYS AT THE
2 REQUEST OF AN AREA AGENCY ON AGING, A LAW ENFORCEMENT AGENCY OR
3 A LEGAL REPRESENTATIVE OF THE OLDER ADULT OR IF THE FINANCIAL
4 INSTITUTION HAS NOT RECEIVED A RESPONSE FROM AN AREA AGENCY ON
5 AGING, A LAW ENFORCEMENT OFFICIAL OR A LEGAL REPRESENTATIVE OF
6 THE OLDER ADULT. A REQUEST BY AN AREA AGENCY ON AGING, A LAW
7 ENFORCEMENT AGENCY OR A LEGAL REPRESENTATIVE OF AN OLDER ADULT
8 TO HOLD OR AUTHORIZE A TRANSACTION SHALL REQUIRE CAUSE AND BE
9 DOCUMENTED IN WRITING.

10 (C) NOTIFICATION.--EXCEPT AS PROVIDED UNDER FEDERAL OR STATE
11 LAW, IF A FINANCIAL INSTITUTION PLACES A HOLD ON A PROPOSED
12 TRANSACTION TO PROTECT AN OLDER ADULT FROM FINANCIAL
13 EXPLOITATION, A DESIGNATED REPRESENTATIVE OF THE FINANCIAL
14 INSTITUTION SHALL HAVE THE FOLLOWING DUTIES:

15 (1) WITHIN ONE BUSINESS DAY, NOTIFY THE OLDER ADULT AND
16 EACH PERSON AUTHORIZED TO TRANSACT BUSINESS ON THE ACCOUNT,
17 EXCEPT FOR A PERSON REASONABLY BELIEVED TO HAVE ENGAGED IN
18 SUSPECTED OR ATTEMPTED FINANCIAL EXPLOITATION OF THE OLDER
19 ADULT. THE NOTIFICATION UNDER THIS PARAGRAPH SHALL:

20 (I) STATE THE FINANCIAL INSTITUTION HAS TEMPORARILY
21 BLOCKED THE DISBURSEMENT OF MONEY OR DELAYED THE
22 EXECUTION OF TRANSACTIONS AS AUTHORIZED BY THIS SECTION
23 TO PROTECT THE OLDER ADULT FROM FINANCIAL EXPLOITATION;

24 (II) PROVIDE THE NAME OF THE FINANCIAL INSTITUTION
25 AND THE NAME AND TELEPHONE NUMBER OF A CONTACT PERSON
26 REPRESENTING THE FINANCIAL INSTITUTION; AND

27 (III) IDENTIFY THE ACCOUNT OR TRANSACTION TO WHICH
28 THE NOTIFICATION APPLIES.

29 (2) WITHIN FIVE BUSINESS DAYS, NOTIFY EACH PERSON THAT
30 HAS BEEN AUTHORIZED BY THE OLDER ADULT TO RECEIVE

1 NOTIFICATIONS REGARDING ACCOUNT ACTIVITY, EXCEPT FOR A PERSON
2 REASONABLY BELIEVED TO HAVE ENGAGED IN SUSPECTED OR ATTEMPTED
3 FINANCIAL EXPLOITATION OF THE OLDER ADULT. THE NOTIFICATION
4 UNDER THIS PARAGRAPH SHALL INCLUDE THE INFORMATION SPECIFIED
5 UNDER PARAGRAPH (1).

6 (D) ASSISTANCE BY PERSONS REASONABLY ASSOCIATED WITH OLDER
7 ADULT.--NOTWITHSTANDING ANY OTHER PROVISION OF LAW LIMITING OR
8 PROHIBITING DISCLOSURE, A DESIGNATED REPRESENTATIVE OF A
9 FINANCIAL INSTITUTION MAY PROVIDE INFORMATION TO A PERSON
10 REASONABLY ASSOCIATED WITH THE OLDER ADULT SUFFICIENT TO ENABLE
11 THE PERSON TO CONSULT WITH OR ASSIST THE OLDER ADULT IN AVOIDING
12 OR REMEDYING SUSPECTED FINANCIAL EXPLOITATION OR TO ENABLE THE
13 PERSON TO EXERCISE THE PERSON'S AUTHORITY TO PROTECT THE OLDER
14 ADULT, UNLESS THE FINANCIAL INSTITUTION HAS REASON TO BELIEVE
15 THE PERSON IS KNOWINGLY ENGAGED IN OR FACILITATING THE FINANCIAL
16 EXPLOITATION OF THE OLDER ADULT. EXCEPT WHEN CONTACTING AN
17 AUTHORIZED CONTACT PROVIDED BY AN OLDER ADULT TO A FINANCIAL
18 INSTITUTION, A FIDUCIARY AUTHORIZED TO MANAGE SOME OR ALL OF THE
19 FINANCIAL AFFAIRS OF THE OLDER ADULT OR A CO-OWNER, ADDITIONAL
20 AUTHORIZED SIGNATORY OR OTHER PERSON AUTHORIZED TO TRANSACT
21 BUSINESS ON THE OLDER ADULT'S ACCOUNT, A DESIGNATED
22 REPRESENTATIVE OF A FINANCIAL INSTITUTION:

23 (1) MAY DISCLOSE ONLY THAT THERE IS REASONABLE CAUSE TO
24 SUSPECT THAT THE OLDER ADULT MAY BE A VICTIM OR TARGET OF
25 FINANCIAL EXPLOITATION AND THE NATURE OF THE SUSPECTED
26 FINANCIAL EXPLOITATION; AND

27 (2) MAY NOT DISCLOSE OTHER DETAILS OR CONFIDENTIAL
28 PERSONAL INFORMATION REGARDING THE FINANCIAL AFFAIRS OF THE
29 OLDER ADULT.

30 Section 603. ~~(Reserved)~~ ACCESS TO RECORDS.

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1 ~~Section 604. Voluntary refusal of disbursements and~~
2 ~~transactions.~~

3 ~~(a) Reasonable belief. If a designated representative or~~
4 ~~other employee of a financial institution or a fiduciary~~
5 ~~reasonably believes, after initiating an internal review of a~~
6 ~~disbursement or transaction, that financial exploitation of an~~
7 ~~older adult may have occurred, may have been attempted or is~~
8 ~~being attempted, the financial institution or fiduciary may~~
9 ~~refuse to disburse money, or engage in a transaction, to prevent~~
10 ~~financial exploitation of an older adult with respect to:~~

- 11 ~~(1) an account of the older adult;~~
- 12 ~~(2) an account on which the older adult is a~~
13 ~~beneficiary, including a trust or guardianship account; and~~
- 14 ~~(3) an account of a person suspected of perpetrating~~
15 ~~financial exploitation of an older adult.~~

16 ~~(b) Request by area agency on aging or law enforcement~~
17 ~~agency. In addition to the authorization provided under~~
18 ~~subsection (a), a financial institution or fiduciary may refuse~~
19 ~~to disburse money or engage in a transaction with respect to the~~
20 ~~accounts designated in subsection (a) if an area agency on aging~~
21 ~~or law enforcement official requests the financial institution~~
22 ~~or fiduciary to do so or provides information to the financial~~
23 ~~institution or fiduciary demonstrating that it is reasonable to~~
24 ~~believe that financial exploitation of an older adult may have~~
25 ~~occurred, may have been attempted or is being attempted.~~

26 ~~(c) Discretion. A financial institution or fiduciary is not~~
27 ~~required to refuse to disburse money or engage in a transaction~~
28 ~~as authorized under subsection (a) or (b), but may use its sole~~
29 ~~discretion to determine whether to refuse to disburse money~~
30 ~~based on the information available to the financial institution~~

1 ~~or fiduciary.~~

2 ~~(d) Duties. Except as provided under Federal or State law,~~
3 ~~if a financial institution or fiduciary refuses to disburse~~
4 ~~money or engage in a transaction as authorized by this section~~
5 ~~to protect an older adult, the designated representative of the~~
6 ~~financial institution or the fiduciary shall:~~

7 ~~(1) make an immediate oral report and file a written~~
8 ~~report containing the information required for a voluntary~~
9 ~~report under section 602(a) within two business days;~~

10 ~~(2) notify the older adult, and if requested provide~~
11 ~~additional information, in the manner provided for~~
12 ~~notification by an agency under section 308(a); and~~

13 ~~(3) within two business days, make a reasonable effort~~
14 ~~to notify, orally or in writing, each person authorized to~~
15 ~~transact business on the account or that has been authorized~~
16 ~~by the older adult to receive notifications regarding account~~
17 ~~activity, except for a person reasonably believed to have~~
18 ~~engaged in suspected or attempted financial exploitation of~~
19 ~~the older adult or a payable on death beneficiary designated~~
20 ~~not to be notified prior to the death of the older adult.~~

21 ~~(e) Notice of refused disbursement or transaction. A~~
22 ~~notification required by subsection (d)(3) shall be sufficient~~
23 ~~if it:~~

24 ~~(1) states that the financial institution or fiduciary~~
25 ~~has temporarily blocked the disbursement of money or delayed~~
26 ~~the execution of transactions as authorized by this section~~
27 ~~to protect an older adult from financial exploitation;~~

28 ~~(2) provides the name of the financial institution or~~
29 ~~fiduciary and the name and telephone number of a contact~~
30 ~~person representing the financial institution or fiduciary;~~

1 ~~and~~

2 ~~(3) identifies the account or transaction to which the~~
3 ~~notification applies.~~

4 ~~(f) Expiration. Except as provided under subsection (h), a~~
5 ~~refusal to disburse money or engage in a transaction as~~
6 ~~authorized by this section shall expire upon the sooner of the~~
7 ~~following:~~

8 ~~(1) issuance of a court order directing the financial~~
9 ~~institution or fiduciary to make the disbursement or engage~~
10 ~~in the transaction;~~

11 ~~(2) a determination by the financial institution or~~
12 ~~fiduciary based on its sole review and discretion to~~
13 ~~authorize the disbursement or transaction; or~~

14 ~~(3) seven business days after the financial institution~~
15 ~~or fiduciary first refused to disburse the money or engage in~~
16 ~~the transaction.~~

17 ~~(g) Extension of expiration. A financial institution or~~
18 ~~fiduciary may extend the expiration date of its refusal as~~
19 ~~provided in subsection (f) (3) by an additional 15 business days~~
20 ~~if a request is made for a court order as authorized by~~
21 ~~subsection (h) by a financial institution or fiduciary, or by~~
22 ~~the local agency on aging, the department or a law enforcement~~
23 ~~agency to block or extend the refused disbursement or~~
24 ~~transaction.~~

25 ~~(h) Order. A court of competent jurisdiction may enter an~~
26 ~~order blocking a disbursement or transaction, or further~~
27 ~~delaying a disbursement or transaction, to protect an older~~
28 ~~adult from suspected financial exploitation or order other~~
29 ~~actions to protect the older adult.~~

30 ~~(i) Recordkeeping. A request of an area agency on aging or~~

1 ~~a law enforcement official to terminate or extend a refusal to~~
2 ~~disburse money or engage in a transaction as authorized by this~~
3 ~~section shall be documented in writing.~~

4 ~~Section 605. Standing of financial institutions and~~
5 ~~fiduciaries.~~

6 ~~(a) Initiation of proceedings. If a financial institution~~
7 ~~or fiduciary has a reasonable cause to believe an older adult is~~
8 ~~subject to an imminent and substantial risk of financial~~
9 ~~exploitation, the financial institution or fiduciary may~~
10 ~~initiate a proceeding in a court of competent jurisdiction to:~~

11 ~~(1) extend the period of time the disbursement of money~~
12 ~~or transactions may be refused under section 604, or prohibit~~
13 ~~specific disbursements or transactions;~~

14 ~~(2) request an order necessary to protect the accounts~~
15 ~~or assets of an older adult, or in which the older adult has~~
16 ~~interests;~~

17 ~~(3) request the appointment of a conservator or guardian~~
18 ~~of the estate of an older adult;~~

19 ~~(4) remove the powers of a fiduciary engaged in the~~
20 ~~financial exploitation of an older adult;~~

21 ~~(5) modify an order issued by an area agency on aging or~~
22 ~~the department issued under this act or other law to protect~~
23 ~~an older adult from suspected financial exploitation; or~~

24 ~~(6) grant other appropriate relief.~~

25 ~~(b) Notice to area agency on aging. Prior to initiating a~~
26 ~~proceeding under this subsection, at least 24 hours' prior~~
27 ~~notice must be given to the area agency on aging for the county~~
28 ~~in which the proceeding is initiated and an offer made to~~
29 ~~consult with the agency regarding the proceeding, unless~~
30 ~~delaying the initiation of the proceeding will threaten an older~~

1 ~~adult with immediate and irreparable injury pursuant to the~~
2 ~~standards applicable for an application for special relief~~
3 ~~before notice of a hearing under Pa.R.C.P Rule 1531 (relating to~~
4 ~~special relief, injunctions). A copy of a petition initiating a~~
5 ~~proceeding under this section shall be provided to the area~~
6 ~~agency on aging for the county in which a proceeding is~~
7 ~~initiated.~~

8 ~~(c) Intervention.~~

9 ~~(1) The area agency on aging in the county in which a~~
10 ~~petition is filed under this section and the department~~
11 ~~shall have a right to intervene as a party to the~~
12 ~~proceeding.~~

13 ~~(2) A financial institution or fiduciary shall have the~~
14 ~~right to intervene as a party to a proceeding initiated by~~
15 ~~an area agency on aging or the department under this act to~~
16 ~~provide protective services to an older adult customer of a~~
17 ~~financial institution or to an individual to whom a~~
18 ~~fiduciary owns a duty of care.~~

19 ~~Section 606. Access to reports and communications regarding~~
20 ~~investigations.~~

21 ~~Notwithstanding the requirements of section 304, an area~~
22 ~~agency on aging may disclose and discuss with a financial~~
23 ~~institution or fiduciary reports of the suspected financial~~
24 ~~exploitation of an older adult and the results of the~~
25 ~~investigation of such reports to the extent reasonably necessary~~
26 ~~to facilitate the financial institution's or fiduciary's~~
27 ~~decision under section 604 to refuse to disburse money or engage~~
28 ~~in a transaction or to terminate or seek an extension of its~~
29 ~~refusal to do so.~~

30 ~~Section 607. Immunity and defenses.~~

1 ~~(a) Immunity. Except as provided under subsection (c), a~~
2 ~~financial institution or fiduciary and its directors, officers,~~
3 ~~designated representatives, employees or agents shall not be~~
4 ~~subject to a claim for damages or other civil or criminal~~
5 ~~liability for taking or failing to take any action authorized,~~
6 ~~but not required by this chapter, to:~~

7 ~~(1) identify and report financial exploitation under~~
8 ~~section 602(a);~~

9 ~~(2) notify a person reasonably associated with an older~~
10 ~~adult under section 602(b);~~

11 ~~(3) provide access to records and information under~~
12 ~~sections 602(c)(1) and (2) and 606;~~

13 ~~(4) refuse to allow the disbursement of funds or a~~
14 ~~transaction under section 604; or~~

15 ~~(5) initiate or participate in judicial proceedings~~
16 ~~under section 605.~~

17 ~~(b) Additional immunities and defenses. Notwithstanding any~~
18 ~~other law to the contrary:~~

19 ~~(1) The refusal by a financial institution to engage in~~
20 ~~a transaction authorized under this chapter shall not~~
21 ~~constitute the wrongful dishonor of an item under 13 Pa.C.S.~~
22 ~~§ 4402 (relating to liability of bank to customer for~~
23 ~~wrongful dishonor; time of determining insufficiency of~~
24 ~~account).~~

25 ~~(2) A reasonable belief that payment of a check will~~
26 ~~facilitate the financial exploitation of an older adult shall~~
27 ~~constitute reasonable grounds to doubt the collectability of~~
28 ~~the item for purposes of 12 U.S.C. Chs. 41 (relating to~~
29 ~~expedited funds availability) and 50 (relating to check~~
30 ~~truncation) and 12 CFR Pt. 229 (relating to availability of~~

1 ~~funds and collection of checks).~~

2 ~~(c) Limitation. The immunities and defenses provided under~~
3 ~~this section shall not apply to a financial institution or~~
4 ~~fiduciary or a director, officer, designated representative,~~
5 ~~employee or agent of a financial institution or fiduciary that~~
6 ~~intentionally or knowingly engages in the financial exploitation~~
7 ~~of an older adult.~~

8 ~~Section 608. Electronic records and signatures.~~

9 ~~Any requirements of this chapter requiring a written request,~~
10 ~~authorization or report may be satisfied by the use of~~
11 ~~electronic records and signatures as authorized by the act of~~
12 ~~December 16, 1999 (P.L.971, No.69), known as the Electronic~~
13 ~~Transactions Act.~~

14 A FINANCIAL INSTITUTION SHALL PROVIDE, AT NO COST, ACCESS TO <--
15 OR COPIES OF RECORDS THAT ARE RELEVANT TO THE SUSPECTED
16 FINANCIAL EXPLOITATION OR ATTEMPTED FINANCIAL EXPLOITATION OF AN
17 OLDER ADULT TO AN AREA AGENCY ON AGING, A LAW ENFORCEMENT AGENCY
18 OR THE DEPARTMENT, EITHER AS PART OF A REFERRAL OR UPON WRITTEN
19 REQUEST OF THE AREA AGENCY ON AGING, LAW ENFORCEMENT AGENCY OR
20 DEPARTMENT, FOR THE PURPOSE OF PERFORMING AN INVESTIGATION OF
21 THE SUSPECTED FINANCIAL EXPLOITATION OR ATTEMPTED FINANCIAL
22 EXPLOITATION. A FINANCIAL INSTITUTION SHALL PROVIDE ACCESS TO OR
23 COPIES OF RECORDS UNDER THIS SECTION WITHIN TWO BUSINESS DAYS.
24 RECORDS UNDER THIS SECTION MAY INCLUDE HISTORICAL RECORDS AND
25 RECORDS REGARDING THE MOST RECENT TRANSACTION OR TRANSACTIONS
26 THAT MAY CONSTITUTE FINANCIAL EXPLOITATION, NOT TO EXCEED 60
27 CALENDAR DAYS PRIOR TO THE FIRST TRANSACTION THAT WAS REPORTED
28 OR 60 CALENDAR DAYS AFTER THE LAST TRANSACTION THAT WAS
29 REPORTED. RECORDS UNDER THIS SECTION MAY ALSO INCLUDE, OR MAY BE
30 SUBSEQUENTLY SUPPLEMENTED BY, RECORDS OF THE OLDER ADULT THAT A

1 FINANCIAL INSTITUTION BELIEVES, UPON CONSULTATION WITH AN AREA
2 AGENCY ON AGING, ARE NEEDED TO PROVIDE PROTECTIVE SERVICES TO
3 THE OLDER ADULT.

4 SECTION 604. COMPLIANCE POLICIES OF FINANCIAL INSTITUTIONS.

5 A FINANCIAL INSTITUTION SHALL CREATE AND IMPLEMENT INTERNAL
6 COMPLIANCE POLICIES, PROGRAMS, PLANS AND PROCEDURES TO COMPLY
7 WITH THIS CHAPTER.

8 SECTION 605. MODEL TRAINING PROGRAM.

9 THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
10 BANKING AND SECURITIES AND REPRESENTATIVES OF THE FINANCIAL
11 SERVICES INDUSTRY, MAY JOINTLY DEVELOP A MODEL TRAINING PROGRAM
12 FOR FINANCIAL INSTITUTION EMPLOYEES AND DESIGNATED
13 REPRESENTATIVES OF FINANCIAL INSTITUTIONS REGARDING THE
14 IDENTIFICATION OF ACTIVITIES THAT CONSTITUTE FINANCIAL
15 EXPLOITATION OF OLDER ADULTS.

16 SECTION 606. ENFORCEMENT.

17 (A) AUTHORIZATION.--THE ATTORNEY GENERAL AND THE DEPARTMENT
18 SHALL ENFORCE THE PROVISIONS OF THIS CHAPTER. THE ATTORNEY
19 GENERAL OR THE DEPARTMENT MAY BRING AN ACTION BEFORE A COURT
20 WITH COMPETENT JURISDICTION TO ENFORCE THE PROVISIONS OF THIS
21 CHAPTER. FOR A VIOLATION OF THIS CHAPTER THAT RESULTS IN A
22 FINANCIAL LOSS TO AN OLDER ADULT, A COURT MAY ORDER A FINANCIAL
23 INSTITUTION TO PAY A CIVIL PENALTY NOT TO EXCEED \$10,000 PER
24 VIOLATION TO THE COMMONWEALTH. A COURT MAY ORDER A FINANCIAL
25 INSTITUTION TO RESTORE TO ANY PERSON INTEREST FOR LOSSES THAT
26 RESULT FROM A VIOLATION OF THIS CHAPTER, AS FOLLOWS:

27 (1) FOR A VIOLATION OF SECTION 602(A)(1), AN AMOUNT NOT
28 TO EXCEED ACTUAL DAMAGES UP TO \$10,000.

29 (2) FOR ANY OTHER VIOLATION OF THIS ACT, AN AMOUNT OF
30 ACTUAL DAMAGES UP TO A MAXIMUM OF THE DEPOSIT INSURANCE LIMIT

1 APPLICABLE TO THE OWNER OF AN OLDER ADULT'S ACCOUNT AT THE
2 FINANCIAL INSTITUTION IN ACCORDANCE WITH 12 U.S.C. § 1821(A)
3 (RELATING TO INSURANCE FUNDS).

4 (B) LIABILITY.--A FINANCIAL INSTITUTION SHALL BE LIABLE TO
5 AN OLDER ADULT AND THE OLDER ADULT'S JOINT ACCOUNT HOLDERS, IF
6 ANY, FOR FINANCIAL LOSSES SUFFERED BY THE OLDER ADULT DUE TO
7 FINANCIAL EXPLOITATION UP TO A MAXIMUM OF THE DEPOSIT INSURANCE
8 LIMIT APPLICABLE TO THE OWNER OF THE OLDER ADULT'S ACCOUNT AT
9 THE FINANCIAL INSTITUTION IN ACCORDANCE WITH 12 U.S.C. §
10 1821(A)M (RELATING TO INSURANCE FUNDS) IF ALL OF THE FOLLOWING
11 CONDITIONS ARE MET:

12 (1) A DESIGNATED REPRESENTATIVE OF THE FINANCIAL
13 INSTITUTION KNEW OR HAD REASONABLE CAUSE TO BELIEVE THAT THE
14 OLDER ADULT WAS SUBJECT TO PAST, CURRENT OR ATTEMPTED
15 FINANCIAL EXPLOITATION.

16 (2) DESPITE THE DESIGNATED REPRESENTATIVE OF THE
17 FINANCIAL INSTITUTION KNOWING OR HAVING REASONABLE CAUSE TO
18 BELIEVE THAT THE OLDER ADULT WAS SUBJECT TO PAST, CURRENT OR
19 ATTEMPTED FINANCIAL EXPLOITATION, THE DESIGNATED
20 REPRESENTATIVE FAILED TO HOLD A PROPOSED TRANSACTION UNDER
21 SECTION 602(B).

22 (3) BEGINNING NO LATER THAN 60 DAYS OF THE DESIGNATED
23 REPRESENTATIVE FAILING TO HOLD A PROPOSED TRANSACTION UNDER
24 SECTION 602(B), FUNDS OR SECURITIES WORTH MORE THAN \$10,000
25 IN THE AGGREGATE WERE TRANSFERRED FROM THE OLDER ADULT'S
26 ACCOUNT HELD BY THE FINANCIAL INSTITUTION DUE TO FINANCIAL
27 EXPLOITATION, OVER A PERIOD OF 31 DAYS OR LESS.

28 (4) WITHIN 180 DAYS OF THE LAST TRANSFER UNDER PARAGRAPH
29 (3), THE FINANCIAL INSTITUTION WAS NOTIFIED IN WRITING BY THE
30 OLDER ADULT OR THE OLDER ADULT'S LEGALLY AUTHORIZED

1 REPRESENTATIVE, AN AREA AGENCY ON AGING OR A LAW ENFORCEMENT
2 AGENCY THAT THE TRANSFER WAS THE RESULT OF FINANCIAL
3 EXPLOITATION. THE WRITTEN NOTICE SHALL CONTAIN A SIGNED
4 DECLARATION NOT GIVEN UNDER OATH BUT GIVEN UNDER PENALTY OF
5 PERJURY IN ACCORDANCE WITH 42 PA.C.S. CH. 62 (RELATING TO
6 UNIFORM UNSWORN DECLARATIONS ACT).

7 (C) ASSESSMENT.--IN ASSESSING THE DAMAGES FOR A FAILURE TO
8 COMPLY WITH THIS CHAPTER, A COURT SHALL ASSESS DAMAGES USING
9 EITHER THE LIABILITY SPECIFIED UNDER SUBSECTION (A) OR (B), BUT
10 NOT BOTH SUBSECTIONS (A) AND (B).

11 (D) CLASS ACTION PROHIBITED.--ONLY AN INDIVIDUAL ACTION MAY
12 BE BROUGHT UNDER THIS SECTION. A CLASS ACTION MAY NOT BE BROUGHT
13 UNDER THIS SECTION.

14 SECTION 607. IMMUNITY.

15 A PERSON ACTING IN GOOD FAITH IN ACCORDANCE WITH THIS CHAPTER
16 SHALL HAVE IMMUNITY FROM LIABILITY SOLELY FOR PROVIDING ACCESS
17 TO RECORDS OR HOLDING A TRANSACTION THAT MIGHT OTHERWISE EXIST.

18 Section 2. This act shall take effect ~~in 60 days.~~ AS

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19 FOLLOWS:

20 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

21 (2) THE ADDITION OF SECTION 604 OF THE ACT SHALL TAKE
22 EFFECT IN 90 DAYS.

23 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 180
24 DAYS.