

[Second Reprint]
ASSEMBLY, No. 5091

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 25, 2019

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator TROY SINGLETON

District 7 (Burlington)

Co-Sponsored by:

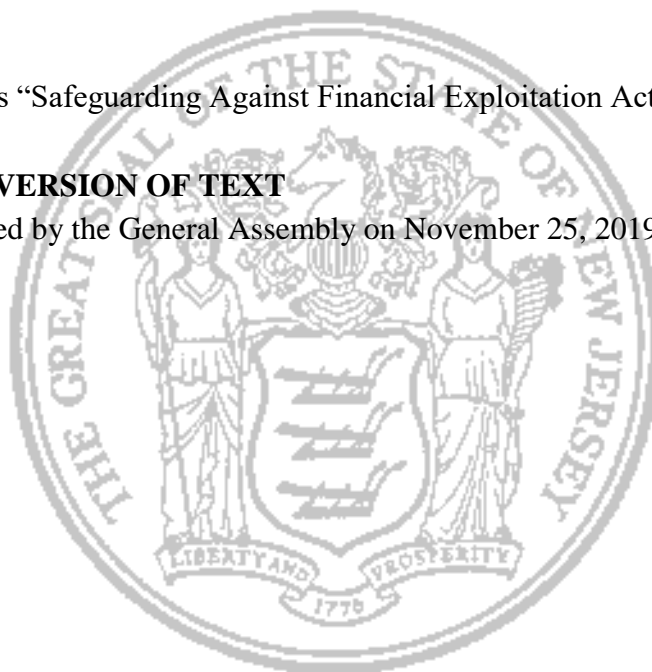
Assemblywomen McKnight, Lopez and Senator Cardinale

SYNOPSIS

Establishes “Safeguarding Against Financial Exploitation Act.”

CURRENT VERSION OF TEXT

As amended by the General Assembly on November 25, 2019.



(Sponsorship Updated As Of: 12/17/2019)

1 AN ACT concerning financial exploitation of vulnerable adults and
2 supplementing P.L.1967, c.93 (C.49:3-47 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the
8 “Safeguarding Against Financial Exploitation Act.”

9
10 2. As used in this act:

11 “Applicable county adult services provider” means the county
12 adult services provider that services the county of residence of the
13 eligible adult.

14 “County adult protective services provider” has the meaning in
15 section 2 of P.L.1993, c.249 (C.52:27D-407).

16 “Eligible adult” means:

17 (1) a person 65 years of age or older; or

18 (2) a person subject to the “Adult Protective Services Act,”
19 P.L.1993, c.249 (C.52:27D-406 et seq.).

20 “Financial exploitation” means:

21 (1) the wrongful or unauthorized taking, withholding,
22 appropriation, or use of money, assets or property of an eligible
23 adult; or

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

27 (a) obtain control, through deception, intimidation or undue
28 influence, over the eligible adult’s money, assets or property to
29 deprive the eligible adult of the ownership, use, benefit or
30 possession of his or her money, assets or property; or

31 (b) convert money, assets or property of the eligible adult to
32 deprive such eligible adult of the ownership, use, benefit or
33 possession of his or her money, assets or property.

34 “Qualified individual” means ¹**[any agent]** ²**[a]** any² broker-
35 dealer¹, ²agent, investment adviser,² investment adviser
36 ¹**[representative]** ²**representative**² or other person who serves in a
37 supervisory, compliance, ¹**[or]**¹ legal ¹, or senior investor
38 protection¹ capacity for a broker-dealer or investment adviser.

39
40 3. a. If a qualified individual reasonably believes that financial
41 exploitation of an eligible adult may have occurred, may have been
42 attempted, or is being attempted, the ²**[qualified individual]** broker-
43 dealer or investment adviser² shall promptly notify the bureau and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted March 25, 2019.

²Assembly floor amendments adopted November 25, 2019.

1 the applicable county adult protective services provider.

2 b. A qualified individual who, in good faith and exercising
3 reasonable care, makes a disclosure in compliance with this section
4 shall be immune from administrative ²~~[,] or~~² civil ²~~[or criminal]~~²
5 liability that might otherwise arise from such disclosure or for any
6 failure to notify the ¹~~[customer]~~ eligible adult¹ of the disclosure.

7 ²~~[~~¹c. Following a notification to the bureau from a qualified
8 individual pursuant to this section, the bureau shall respond to
9 reasonable inquiries from the qualified individual as to the status of
10 any investigation by the bureau, and upon conclusion of any
11 investigation, the bureau shall issue a statement of findings to the
12 qualified individual.¹²

13

14 4. a. If a qualified individual reasonably believes that financial
15 exploitation of an eligible adult may have occurred, may have been
16 attempted, or is being attempted, a qualified individual ¹~~[shall]~~
17 ²~~[may¹]~~ shall² notify any third party previously designated by ¹,
18 ²~~[or]~~ and may notify any third party² reasonably associated with,¹
19 the eligible adult, provided that disclosure may not be made to any
20 ²~~[designated]~~² third party that is suspected of financial exploitation
21 or other abuse of the eligible adult.

22 b. A qualified individual who, in good faith and exercising
23 reasonable care, makes a disclosure in compliance with this section
24 shall be immune from any administrative ²~~[,] or~~² civil ²~~[or~~
25 ~~criminal]~~² liability that might otherwise arise from such disclosure.

26

27 5. a. A broker-dealer or investment adviser may delay a
28 ¹transaction in connection with, or a¹ disbursement from ¹,¹ an
29 account of an eligible adult or an account on which an eligible adult
30 is a beneficiary if:

31 (1) the ²~~[broker-dealer, investment adviser, or]~~² qualified
32 individual reasonably believes, after initiating an internal review of
33 the requested ¹transaction or¹ disbursement and the suspected
34 financial exploitation, that the requested ¹transaction or¹
35 disbursement may result in financial exploitation of an eligible
36 adult; and

37 (2) the broker-dealer or investment adviser:

38 (a) immediately, but in no event more than two business days
39 after the ²~~[requested]~~ date on which the² ¹transaction or¹
40 disbursement ²was first delayed², provides written notification of
41 the delay and the reason for the delay to all parties authorized to
42 transact business on the account, unless any such party is
43 reasonably believed to have engaged in suspected or attempted
44 financial exploitation of the eligible adult;

45 (b) immediately, but in no event more than two business days
46 after the ²~~[requested]~~ date on which the² ¹transaction or¹

1 disbursement ²was first delayed², notifies the bureau and the
2 applicable county adult protective services provider; and

3 (c) continues the internal review of the suspected or attempted
4 financial exploitation of the eligible adult, as necessary, and
5 ²reports the investigation's results ²provides updates² to the
6 bureau ²and ²or² the applicable county adult protective services
7 provider ¹within seven business days after the requested
8 disbursement ¹upon request¹ ², but no later than seven business
9 days after the completion of the review².

10 b. Any delay of a ¹transaction or¹ disbursement as authorized
11 by this section shall expire upon the sooner of:

12 (1) a determination by the broker-dealer or investment adviser
13 that the ¹transaction or¹ disbursement will not result in financial
14 exploitation of the eligible adult; or

15 (2) 15 business days after the date on which the broker-dealer or
16 investment adviser first delayed ¹the transaction or¹ disbursement
17 of the funds, unless either the bureau or the applicable county adult
18 protective services provider requests that the broker-dealer or
19 investment adviser extend the delay, in which case the delay shall
20 expire no more than 25 business days after the date on which the
21 broker-dealer or investment adviser first delayed ¹the transaction
22 or¹ disbursement of the funds, unless ¹sooner ¹otherwise¹
23 terminated ¹or further extended¹ by either of the agencies or an
24 order of a court of competent jurisdiction.

25 c. A court of competent jurisdiction may enter an order
26 extending the delay of the ¹transaction or¹ disbursement of funds or
27 may order other protective relief based on the petition of the bureau,
28 the applicable county adult protective services provider, the broker-
29 dealer or investment adviser that initiated the delay under this
30 section, or other interested party.

31 d. A broker-dealer or investment adviser who, in good faith and
32 exercising reasonable care, acts in compliance with this section
33 shall be immune from any administrative ²liability ²or² civil ²or²
34 criminal² liability that might otherwise arise from such delay in a
35 ¹transaction or¹ disbursement in accordance with this section.

36 ²e. Notwithstanding any provision of law to the contrary, the
37 bureau or the applicable county adult services provider may
38 disclose to any notifying broker-dealer or investment adviser
39 reasonable information regarding the general status or final
40 disposition of any investigation that arose from a report made by
41 the qualified person in connection with an extension under this
42 section or reasonable efforts to protect an eligible adult from
43 financial exploitation or other abuse.²

44

45 6. ¹a.¹ A broker-dealer or investment adviser shall provide
46 access to, or copies of records that are relevant to the suspected or

1 attempted financial exploitation of an eligible adult to agencies
2 charged with administering State adult protective services laws and
3 to law enforcement, either as part of a referral to the agency or to
4 law enforcement, or upon request of the agency or law enforcement
5 pursuant to an investigation. The records may include historical
6 records as well as records relating to the most recent transaction or
7 transactions that may comprise financial exploitation of an eligible
8 adult. All records made available to agencies under this section
9 shall not be deemed to be a public record pursuant to P.L.1963, c.73
10 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et seq.). Nothing
11 in this section shall limit or otherwise impede the authority of the
12 bureau to access or examine the books and records of broker-dealers
13 and investment advisers as otherwise provided by law.

14 ¹b. A broker-dealer or investment ²**[advisor]** adviser² who, in
15 good faith and exercising reasonable care, acts in compliance with
16 this section shall be immune from any administrative ²**[.]** or² civil
17 ²**[or criminal]**² liability that might otherwise arise from providing
18 access in accordance with this section.¹

19

20 7. This act shall take effect on the 90th day next following the
21 date of enactment.