

§§1-6 -
C.49:3-84 to
49:3-89
§7 - Note

P.L. 2019, CHAPTER 340, *approved January 13, 2020*
Assembly, No. 5091 (*Second Reprint*)

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]**¹ ²representative² or other person who serves in a

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 supervisory, compliance, ¹~~or~~¹ legal ¹, or senior investor
2 protection¹ capacity for a broker-dealer or investment adviser.

3
4 3. a. If a qualified individual reasonably believes that financial
5 exploitation of an eligible adult may have occurred, may have been
6 attempted, or is being attempted, the ²~~qualified individual~~² broker-
7 dealer or investment adviser² shall promptly notify the bureau and
8 the applicable county adult protective services provider.

9 b. A qualified individual who, in good faith and exercising
10 reasonable care, makes a disclosure in compliance with this section
11 shall be immune from administrative ²~~,~~² or² civil ²~~or criminal~~²
12 liability that might otherwise arise from such disclosure or for any
13 failure to notify the ¹~~customer~~¹ eligible adult¹ of the disclosure.

14 ²~~c. Following a notification to the bureau from a qualified~~
15 individual pursuant to this section, the bureau shall respond to
16 reasonable inquiries from the qualified individual as to the status of
17 any investigation by the bureau, and upon conclusion of any
18 investigation, the bureau shall issue a statement of findings to the
19 qualified individual.¹²

20
21 4. a. If a qualified individual reasonably believes that financial
22 exploitation of an eligible adult may have occurred, may have been
23 attempted, or is being attempted, a qualified individual ¹~~shall~~¹
24 ²~~may~~¹ shall² notify any third party previously designated by ¹,
25 ²~~or~~² and may notify any third party² reasonably associated with,¹
26 the eligible adult, provided that disclosure may not be made to any
27 ²~~designated~~² third party that is suspected of financial exploitation
28 or other abuse of the eligible adult.

29 b. A qualified individual who, in good faith and exercising
30 reasonable care, makes a disclosure in compliance with this section
31 shall be immune from any administrative ²~~,~~² or² civil ²~~or criminal~~²
32 liability that might otherwise arise from such disclosure.

33
34 5. a. A broker-dealer or investment adviser may delay a
35 transaction in connection with, or a¹ disbursement from ¹,¹ an
36 account of an eligible adult or an account on which an eligible adult
37 is a beneficiary if:

38 (1) the ²~~broker-dealer, investment adviser, or~~² qualified
39 individual reasonably believes, after initiating an internal review of
40 the requested transaction or¹ disbursement and the suspected
41 financial exploitation, that the requested transaction or¹
42 disbursement may result in financial exploitation of an eligible
43 adult; and

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

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

1 disbursement ²was first delayed², provides written notification of
2 the delay and the reason for the delay to all parties authorized to
3 transact business on the account, unless any such party is
4 reasonably believed to have engaged in suspected or attempted
5 financial exploitation of the eligible adult;

6 (b) immediately, but in no event more than two business days
7 after the ²**[requested]** date on which the² ¹transaction or¹
8 disbursement ²was first delayed², notifies the bureau and the
9 applicable county adult protective services provider; and

10 (c) continues the internal review of the suspected or attempted
11 financial exploitation of the eligible adult, as necessary, and
12 ²**[reports the investigation's results]** provides updates² to the
13 bureau ²**[and]** or² the applicable county adult protective services
14 provider ¹**[within seven business days after the requested**
15 **disbursement]** upon request¹ ², but no later than seven business
16 days after the completion of the review².

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

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

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

32 c. A court of competent jurisdiction may enter an order
33 extending the delay of the ¹transaction or¹ disbursement of funds or
34 may order other protective relief based on the petition of the bureau,
35 the applicable county adult protective services provider, the broker-
36 dealer or investment adviser that initiated the delay under this
37 section, or other interested party.

38 d. A broker-dealer or investment adviser who, in good faith and
39 exercising reasonable care, acts in compliance with this section
40 shall be immune from any administrative ²**[,]** or² civil ²**[or**
41 **criminal]**² liability that might otherwise arise from such delay in a
42 ¹transaction or¹ disbursement in accordance with this section.

43 ²e. Notwithstanding any provision of law to the contrary, the
44 bureau or the applicable county adult services provider may
45 disclose to any notifying broker-dealer or investment adviser
46 reasonable information regarding the general status or final

1 disposition of any investigation that arose from a report made by
2 the qualified person in connection with an extension under this
3 section or reasonable efforts to protect an eligible adult from
4 financial exploitation or other abuse.²

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

21 ¹b. A broker-dealer or investment ²**[adviser]** ²adviser² who, in
22 good faith and exercising reasonable care, acts in compliance with
23 this section shall be immune from any administrative ²**[.]** or² civil
24 ²**[or criminal]**² liability that might otherwise arise from providing
25 access in accordance with this section.¹

26
27 7. This act shall take effect on the 90th day next following the
28 date of enactment.

29
30
31 _____
32
33 Establishes "Safeguarding Against Financial Exploitation Act."