

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 566

H.P. 410

House of Representatives, February 5, 2019

An Act To Protect Vulnerable Adults from Financial Exploitation

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.
Cosponsored by Senator FOLEY of York and
Representatives: BABINE of Scarborough, COREY of Windham, FAY of Raymond,
MASTRACCIO of Sanford, PRESCOTT of Waterboro, TEPLER of Topsham, TUELL of East
Machias, Senator: SANBORN, H. of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 32 MRSA c. 135, sub-c. 8** is enacted to read:

3 **SUBCHAPTER 8**

4 **PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL**
5 **EXPLOITATION**

6 **§16801. Definitions**

7 As used in this subchapter, unless the context otherwise indicates, the following
8 terms have the following meanings.

9 **1. Eligible adult.** "Eligible adult" means:

10 A. An individual 65 years of age or older; or

11 B. An individual protected under the Adult Protective Services Act.

12 **2. Financial exploitation.** "Financial exploitation" means:

13 A. The wrongful or unauthorized taking, withholding, appropriation or use of
14 money, assets or property of an eligible adult; or

15 B. Any act or omission made by a person, including through the use of a power of
16 attorney, guardianship or conservatorship of an eligible adult, to:

17 (1) Obtain control, through deception, intimidation or undue influence, over the
18 eligible adult's money, assets or property to deprive the eligible adult of the
19 ownership, use, benefit or possession of the eligible adult's money, assets or
20 property; or

21 (2) Convert money, assets or property of the eligible adult to deprive the eligible
22 adult of the ownership, use, benefit or possession of the eligible adult's money,
23 assets or property.

24 **3. Qualified individual.** "Qualified individual" means an agent, investment adviser
25 representative or individual who serves in a supervisory, compliance or legal capacity for
26 a broker-dealer or investment adviser.

27 **§16802. Governmental disclosures**

28 If a qualified individual reasonably believes that financial exploitation of an eligible
29 adult may have occurred, may have been attempted or is being attempted, the qualified
30 individual shall promptly notify the Department of Health and Human Services and the
31 administrator.

1 **§16803. Immunity for governmental disclosures**

2 A qualified individual who in good faith and exercising reasonable care makes a
3 disclosure of information pursuant to section 16802 is immune from any administrative or
4 civil liability that might otherwise arise from the disclosure or for a failure to notify the
5 eligible adult of the disclosure.

6 **§16804. Third-party disclosures**

7 If a qualified individual reasonably believes that financial exploitation of an eligible
8 adult may have occurred, may have been attempted or is being attempted, the qualified
9 individual may notify any 3rd party previously designated by the eligible adult.
10 Disclosure may not be made to any designated 3rd party that is suspected of financial
11 exploitation or other abuse of the eligible adult.

12 **§16805. Immunity for 3rd-party disclosures**

13 A qualified individual who in good faith and exercising reasonable care complies
14 with section 16804 is immune from any administrative or civil liability that might
15 otherwise arise from a disclosure under section 16804.

16 **§16806. Delaying disbursements**

17 A broker-dealer or investment adviser may delay disbursements in accordance with
18 this section.

19 **1. Disbursement delay authorized.** A broker-dealer or investment adviser may
20 delay a disbursement from an account of an eligible adult or an account on which an
21 eligible adult is a beneficiary if the broker-dealer or investment adviser or a qualified
22 individual reasonably believes, after initiating an internal review of the requested
23 disbursement and the suspected financial exploitation, that the requested disbursement
24 may result in financial exploitation of the eligible adult. If a broker-dealer or investment
25 adviser delays a disbursement under this subsection, the broker-dealer or investment
26 adviser shall:

27 A. Within 2 business days after the requested disbursement, provide written
28 notification of the delay and the reason for the delay to all parties authorized to
29 transact business on the account, except that notification may not be provided to a 3rd
30 party reasonably believed to have engaged in suspected or attempted financial
31 exploitation of the eligible adult;

32 B. Within 2 business days after the requested disbursement, notify the Department of
33 Health and Human Services and the administrator; and

34 C. Continue the broker-dealer's or investment adviser's internal review of the
35 suspected or attempted financial exploitation of the eligible adult, as necessary, and
36 report the results of the internal review to the Department of Health and Human
37 Services and the administrator within 7 business days after the requested
38 disbursement.

1 adviser representative and a person who serves in a supervisory, compliance or legal
2 capacity for a broker-dealer or investment adviser. The bill also:

3 1. Authorizes broker-dealers and investment advisers who suspect financial
4 exploitation to delay disbursing funds from a vulnerable adult's account;

5 2. Authorizes disclosure by qualified individuals to 3rd parties in certain instances in
6 which a vulnerable adult has previously designated the 3rd party;

7 3. Prohibits disclosure to the 3rd party if the qualified individual suspects the 3rd
8 party of the financial exploitation;

9 4. Provides immunity from administrative and civil liability for actions taken
10 consistent with the law; and

11 5. Requires that broker-dealers and investment advisers comply with certain requests
12 for information.