

1 AN ACT relating to elder abuse prevention in brokerage-financial accounts.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section, unless the context requires otherwise:

6 (a) "Eligible adult" means:

7 1. A person sixty-five (65) years of age or older; or

8 2. An adult as defined by KRS 209.020.

9 (b) "Financial exploitation" means:

10 1. The wrongful or unauthorized taking, withholding, appropriation, or
11 use of money, assets, or property of an eligible adult; or

12 2. Any act or omission taken by a person, including through the use of a
13 power of attorney, guardianship, or conservatorship of an eligible
14 adult, to:

15 a. Obtain control, through deception, intimidation, or undue
16 influence, over the eligible adult's money, assets, or property to
17 deprive the eligible adult of the ownership, use, benefit, or
18 possession of the eligible adult's money, assets, or property ; or

19 b. Convert money, assets, or property of the eligible adult to deprive
20 the eligible adult of the ownership, use, benefit, or possession of
21 the eligible adult's money, assets, or property; and

22 (c) "Qualified individual" means any agent, investment adviser, representative,
23 or person who serves in a supervisory, compliance, or legal capacity for a
24 broker-dealer or investment adviser.

25 (2) If a qualified individual reasonably believes that financial exploitation of an
26 eligible adult may have occurred, may have been attempted, or is being attempted,
27 the qualified individual shall promptly notify the Cabinet for Health and Family

1 Services and the commissioner.

2 (3) A qualified individual who, in good faith and exercising reasonable care,
3 discloses information described in subsection (2) of this section shall be immune
4 from administrative or civil liability that might otherwise arise from a disclosure
5 or for any failure to notify the customer of the disclosure.

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

11 (5) A qualified individual who, in good faith and exercising reasonable care,
12 complies with subsection (4) of this section shall be immune from any
13 administrative or civil liability that might otherwise arise from the disclosure.

14 (6) (a) A broker-dealer or investment adviser may delay a disbursement from an
15 account of an eligible adult or an account on which an eligible adult is a
16 beneficiary if:

17 1. The broker-dealer, investment adviser, or qualified individual
18 reasonably believes, after initiating an internal review of the requested
19 disbursement and the suspected financial exploitation, that the
20 requested disbursement may result in financial exploitation of an
21 eligible adult; and

22 2. The broker-dealer or investment adviser:

23 a. Immediately, but in no event more than two (2) business days
24 after the requested disbursement, provides written notification of
25 the delay and the reason for the delay to all parties authorized to
26 transact business on the account, unless any such party is
27 reasonably believed to have engaged in suspected or attempted

- 1 financial exploitation of the eligible adult;
2 b. Immediately, but in no event more than two (2) business days
3 after the requested disbursement, notifies the Cabinet for Health
4 and Family Services and the commissioner; and
5 c. Continues its internal review of the suspected or attempted
6 financial exploitation of the eligible adult, as necessary, and
7 reports the investigation's results to the Cabinet for the Health
8 and Family Services and the commissioner within seven (7)
9 business days after the requested disbursement.

10 (b) Any delay of a disbursement as authorized by this section will expire upon
11 the sooner occurrence of either:

- 12 1. A determination by the broker-dealer or investment adviser that the
13 disbursement will not result in financial exploitation of the eligible
14 adult; or
15 2. Fifteen (15) business days after the date on which the broker-dealer or
16 investment adviser first delayed disbursement of the funds, unless
17 either the Cabinet for Health and Family Services or the
18 commissioner requests that the broker-dealer or investment adviser
19 extend the delay, in which case the delay shall expire no more than
20 twenty-five (25) business days after the date on which the broker-
21 dealer or investment adviser first delayed disbursement of the funds
22 unless sooner terminated by either the Cabinet for Health and Family
23 Services or the commissioner, or an order of a court of competent
24 jurisdiction.

25 (c) A court of competent jurisdiction may enter an order extending the delay of
26 the disbursement of funds or may order other protective relief based on the
27 petition of the commissioner, the Cabinet for Health and Family Services,

1 the broker-dealer or investment adviser that initiated the disbursement
2 delay, or other interested party.

3 (7) A broker-dealer or investment adviser who, in good faith and exercising
4 reasonable care, complies with subsection (6) of this section shall be immune
5 from any administrative or civil liability that might otherwise arise from the delay
6 in a disbursement in accordance with this section.

7 (8) A broker-dealer or investment adviser shall provide access to or copies of records
8 that are relevant to the suspected or attempted financial exploitation of an eligible
9 adult to the Cabinet for Health and Family Services, to the commissioner, and to
10 law enforcement officials, either as part of a referral to the agency or to law
11 enforcement, or upon request of the investigating official. The records may
12 include historical records as well as records relating to the most recent
13 transaction or transactions that may comprise financial exploitation of an
14 eligible adult. Any record made available under this subsection shall not be
15 considered a public record as defined in KRS 61.870. Nothing in this subsection
16 shall limit or otherwise impede the authority of the commissioner to access or
17 examine the records of broker-dealers and investment advisers as otherwise
18 provided by law.