S T A T E  O F  N E W  Y O R K

5779--A

2013-2014 Regular Sessions

I N  S E N A T E

June 14, 2013

Introduced by Sens. ADAMS, KLEIN, DIAZ, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law and the banking law, in relation to authorizing banking institutions to refuse to disburse moneys in circumstances of the financial exploitation of a vulnerable adult

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 473 of the social services law is amended by adding a new subdivision 8 to read as follows:

8. (A) AS USED IN THIS SUBDIVISION:

(I) "BANKING INSTITUTION" MEANS ANY STATE OR FEDERALLY CHARTERED BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION OR, CREDIT UNION.

(II) "VULNERABLE ADULT" MEANS AN INDIVIDUAL WHO BECAUSE OF MENTAL AND/OR PHYSICAL IMPAIRMENT, IS UNABLE TO MANAGE HIS OR HER OWN RESOURCES, OR PROTECT HIMSELF OR HERSELF FROM FINANCIAL EXPLOITATION.

(B) IF A BANKING INSTITUTION, SOCIAL SERVICES OFFICIAL OR LAW ENFORCEMENT AGENCY REASONABLY BELIEVES THAT FINANCIAL EXPLOITATION OF A VULNERABLE ADULT HAS OCCURRED OR MAY OCCUR, THE BANKING INSTITUTION MAY, BUT SHALL NOT BE REQUIRED TO, REFUSE ANY TRANSACTION REQUIRING THE DISBURSAL OF MONEYS IN THE ACCOUNT OF:

(I) A VULNERABLE ADULT;

(II) WHICH A VULNERABLE ADULT IS A BENEFICIARY, INCLUDING TRUST AND GUARDIANSHIP ACCOUNTS; AND

(III) A PERSON WHO IS SUSPECTED OF ENGAGING IN THE FINANCIAL EXPLOITATION OF A VULNERABLE ADULT.

(C) A BANKING INSTITUTION MAY ALSO REFUSE TO DISBURSE MONEYS PURSUANT TO THIS SUBDIVISION IF A SOCIAL SERVICES OFFICIAL OR LAW ENFORCEMENT AGENCY PROVIDES INFORMATION TO SUCH INSTITUTION DEMONSTRATING THAT IT IS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD11512-02-3

REASONABLE TO BELIEVE THAT FINANCIAL EXPLOITATION OF A VULNERABLE ADULT HAS OCCURRED OR MAY OCCUR.

(D) A BANKING INSTITUTION SHALL NOT BE REQUIRED TO REFUSE TO DISBURSE FUNDS PURSUANT TO THIS SECTION. SUCH A REFUSAL SHALL BE IN THE BANKING INSTITUTION'S DISCRETION, BASED ON THE INFORMATION AVAILABLE TO SUCH INSTITUTION.

(E) ANY BANKING INSTITUTION WHICH REFUSES TO DISBURSE MONEYS PURSUANT TO THIS SUBDIVISION SHALL:

(I) MAKE A REASONABLE EFFORT TO PROVIDE NOTICE, ORALLY OR IN WRITING, TO ALL PARTIES AUTHORIZED TO TRANSACT BUSINESS ON THE ACCOUNT FROM WHICH DISBURSEMENT WAS REFUSED; AND

(II) REPORT THE INCIDENT TO THE SOCIAL SERVICES OFFICIAL RESPONSIBLE FOR ADMINISTERING ADULT PROTECTIVE SERVICES PURSUANT TO THIS ARTICLE FOR THE AFFECTED VULNERABLE ADULT.

(F) THE REFUSAL TO DISBURSE MONEYS PURSUANT TO THIS SUBDIVISION SHALL TERMINATE UPON THE EARLIER OF:

(I) THE TIME AT WHICH THE BANKING INSTITUTION IS SATISFIED THAT THE DISBURSEMENT WILL NOT RESULT IN THE FINANCIAL EXPLOITATION OF A VULNERABLE ADULT; OR

(II) THE ISSUANCE OF AN ORDER BY A COURT OF COMPETENT JURISDICTION, DIRECTING THE DISBURSAL OF THE MONEYS.

(G) A BANKING INSTITUTION MAY PROVIDE ACCESS TO OR COPIES OF RECORDS RELEVANT TO SUSPECTED FINANCIAL EXPLOITATION OF A VULNERABLE ADULT TO LAW ENFORCEMENT AGENCIES AND SOCIAL SERVICES OFFICIALS RESPONSIBLE FOR ADMINISTERING THE PROVISIONS OF THIS ARTICLE. SUCH RECORDS MAY INCLUDE RELEVANT HISTORICAL RECORDS AND RECENT TRANSACTIONS RELATING TO SUSPECTED FINANCIAL EXPLOITATION.

(H) A BANKING INSTITUTION OR AN EMPLOYEE OF SUCH AN INSTITUTION SHALL BE IMMUNE FROM CRIMINAL, CIVIL OR ADMINISTRATIVE LIABILITY FOR REFUSING TO DISBURSE MONEYS OR DISBURSING MONEYS PURSUANT TO THIS SUBDIVISION, AND FOR ACTIONS TAKEN IN FURTHERANCE OF THAT DETERMINATION, INCLUDING THE MAKING OF A REPORT OR THE PROVIDING OF ACCESS TO OR COPIES OF RELEVANT RECORDS TO A SOCIAL SERVICES OFFICIAL OR LAW ENFORCEMENT AGENCY, IF SUCH DETERMINATIONS AND ACTIONS WERE MADE IN GOOD FAITH AND IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

S 2. Section 4 of the banking law is amended by adding a new subdivision 4 to read as follows:

4. A BANKING INSTITUTION OR AN EMPLOYEE OF SUCH AN INSTITUTION SHALL BE IMMUNE FROM CRIMINAL, CIVIL OR ADMINISTRATIVE LIABILITY FOR REFUSING TO DISBURSE MONEYS OR DISBURSING MONEYS PURSUANT TO SUBDIVISION EIGHT OF SECTION FOUR HUNDRED SEVENTY-THREE OF THE SOCIAL SERVICES LAW, AND FOR ACTIONS TAKEN IN FURTHERANCE OF THAT DETERMINATION, INCLUDING THE MAKING OF A REPORT OR THE PROVIDING OF ACCESS TO OR COPIES OF RELEVANT RECORDS TO A SOCIAL SERVICES OFFICIAL OR LAW ENFORCEMENT AGENCY, IF SUCH DETERMINATIONS AND ACTIONS WERE MADE IN GOOD FAITH AND IN ACCORDANCE WITH SUBDIVISION EIGHT OF SECTION FOUR HUNDRED SEVENTY-THREE OF THE SOCIAL SERVICES LAW. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "BANKING INSTITUTION" SHALL MEAN ANY STATE OR FEDERALLY CHARTERED BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION OR, CREDIT UNION.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.