

6221

I N   S E N A T E

(PREFILED)

January 8, 2014

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Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

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:

1     Section 1. Section 473 of the social services law is amended by adding  
2 a new subdivision 9 to read as follows:  
3     9. (A) AS USED IN THIS SUBDIVISION:  
4     (I) "BANKING INSTITUTION" MEANS ANY STATE OR FEDERALLY CHARTERED BANK,  
5 TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION OR, CREDIT  
6 UNION.  
7     (II) "VULNERABLE ADULT" MEANS AN INDIVIDUAL WHO BECAUSE OF MENTAL  
8 AND/OR PHYSICAL IMPAIRMENT, IS UNABLE TO MANAGE HIS OR HER OWN  
9 RESOURCES, OR PROTECT HIMSELF OR HERSELF FROM FINANCIAL EXPLOITATION.  
10     (B) IF A BANKING INSTITUTION, SOCIAL SERVICES OFFICIAL OR LAW ENFORCE-  
11 MENT AGENCY REASONABLY BELIEVES THAT FINANCIAL EXPLOITATION OF A VULNER-  
12 ABLE ADULT HAS OCCURRED OR MAY OCCUR, THE BANKING INSTITUTION MAY, BUT  
13 SHALL NOT BE REQUIRED TO, REFUSE ANY TRANSACTION REQUIRING THE DISBURSAL  
14 OF MONEYS IN THE ACCOUNT OF:  
15     (I) A VULNERABLE ADULT;  
16     (II) WHICH A VULNERABLE ADULT IS A BENEFICIARY, INCLUDING TRUST AND  
17 GUARDIANSHIP ACCOUNTS; AND  
18     (III) A PERSON WHO IS SUSPECTED OF ENGAGING IN THE FINANCIAL EXPLOITA-  
19 TION OF A VULNERABLE ADULT.  
20     (C) A BANKING INSTITUTION MAY ALSO REFUSE TO DISBURSE MONEYS PURSUANT  
21 TO THIS SUBDIVISION IF A SOCIAL SERVICES OFFICIAL OR LAW ENFORCEMENT  
22 AGENCY PROVIDES INFORMATION TO SUCH INSTITUTION DEMONSTRATING THAT IT IS  
23 REASONABLE TO BELIEVE THAT FINANCIAL EXPLOITATION OF A VULNERABLE ADULT  
24 HAS OCCURRED OR MAY OCCUR.  
25     (D) A BANKING INSTITUTION SHALL NOT BE REQUIRED TO REFUSE TO DISBURSE  
26 FUNDS PURSUANT TO THIS SECTION. SUCH A REFUSAL SHALL BE IN THE BANKING

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

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1 INSTITUTION'S DISCRETION, BASED ON THE INFORMATION AVAILABLE TO SUCH  
2 INSTITUTION.

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

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

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

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

13 (I) THE TIME AT WHICH THE BANKING INSTITUTION IS SATISFIED THAT THE  
14 DISBURSEMENT WILL NOT RESULT IN THE FINANCIAL EXPLOITATION OF A VULNER-  
15 ABLE ADULT; OR

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

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

24 (H) A BANKING INSTITUTION OR AN EMPLOYEE OF SUCH AN INSTITUTION SHALL  
25 BE IMMUNE FROM CRIMINAL, CIVIL OR ADMINISTRATIVE LIABILITY FOR REFUSING  
26 TO DISBURSE MONEYS OR DISBURSING MONEYS PURSUANT TO THIS SUBDIVISION,  
27 AND FOR ACTIONS TAKEN IN FURTHERANCE OF THAT DETERMINATION, INCLUDING  
28 THE MAKING OF A REPORT OR THE PROVIDING OF ACCESS TO OR COPIES OF RELE-  
29 VANT RECORDS TO A SOCIAL SERVICES OFFICIAL OR LAW ENFORCEMENT AGENCY, IF  
30 SUCH DETERMINATIONS AND ACTIONS WERE MADE IN GOOD FAITH AND IN ACCORD-  
31 ANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

32 S 2. Section 4 of the banking law is amended by adding a new subdivi-  
33 sion 4 to read as follows:

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

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