

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:

1 Section 1. Section 473 of the social services law is amended by adding
2 a new subdivision 8 to read as follows:
3 8. (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

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

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

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

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

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

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

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

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

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

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

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

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

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

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