

HOUSE BILL No. 5949

May 9, 2018, Introduced by Rep. Lucido and referred to the Committee on Law and Justice.

A bill to permit depository institutions to refuse to disburse money from the accounts of financially endangered adults under certain circumstances; to permit depository institutions to provide information to immediate family members of or other individuals with certain relationships with financially endangered adults under certain circumstances; and to provide immunity from criminal, civil, or administrative liability to depository institutions and their qualified representatives for actions taken under this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "financial safeguard security act".

1 Sec. 3. As used in this act:

2 (a) "Depository institution" means any of the following:

3 (i) A state chartered bank, savings bank, or credit union.

4 (ii) A national bank or federally chartered savings bank,
5 savings and loan association, credit union, or trust company.

6 (b) "Financial exploitation" means 1 or more of the following:

7 (i) A wrongful or unauthorized taking, withholding, or use of
8 money, assets, or property of a financially endangered adult.

9 (ii) An act or omission by an individual, including through
10 the use of a power of attorney, guardianship, or conservatorship of
11 a financially endangered adult, to do any of the following:

12 (A) Obtain control, through deception, intimidation, or undue
13 influence, over the financially endangered adult's money, assets,
14 or property to deprive the financially endangered adult of the
15 ownership, use, benefit, or possession of his or her money, assets,
16 or property.

17 (B) Convert money, assets, or property of a financially
18 endangered adult to deprive him or her of the ownership, use,
19 benefit, or possession of his or her money, assets, or property.

20 (c) "Financially endangered adult" means any of the following:

21 (i) An individual who is 65 years of age or older.

22 (ii) An adult in need of protective services, as defined in
23 section 11 of the social welfare act, 1939 PA 280, MCL 400.11.

24 (d) "Immediate family member" means a spouse, child, parent,
25 or sibling.

26 (e) "Qualified representative" means an officer of a
27 depository institution or any other individual who serves in a

1 supervisory, compliance, or legal capacity for a depository
2 institution.

3 Sec. 5. (1) If a qualified representative reasonably believes
4 that financial exploitation of a financially endangered adult may
5 have occurred, may have been attempted, or is being attempted, the
6 qualified representative may notify any of the following
7 individuals concerning the qualified representative's belief unless
8 the qualified representative reasonably suspects that the
9 individual has engaged in financial exploitation or other abuse of
10 the financially endangered adult:

11 (a) An immediate family member of the financially endangered
12 adult.

13 (b) A legal guardian of the financially endangered adult.

14 (c) A conservator of the financially endangered adult.

15 (d) A trustee, cotrustee, or successor trustee of the account
16 of the financially endangered adult.

17 (e) An agent under a power of attorney of the financially
18 endangered adult.

19 (f) Any individual previously designated by the financially
20 endangered adult in a customer agreement.

21 (g) Any other person to which notification is permitted under
22 law.

23 (2) A qualified representative who, in good faith and
24 exercising reasonable care, complies with subsection (1) is immune,
25 and the depository institution is immune, from any criminal, civil,
26 or administrative liability that might otherwise arise from the
27 disclosure.

1 Sec. 7. (1) A qualified representative may delay a
2 disbursement from an account of a financially endangered adult or
3 an account on which a financially endangered adult is a beneficiary
4 if all of the following are met:

5 (a) The qualified representative reasonably believes, after
6 initiating an internal review of the requested disbursement and the
7 suspected financial exploitation, that the requested disbursement
8 may result in financial exploitation of a financially endangered
9 adult.

10 (b) Immediately, but in no event more than 2 business days
11 after the requested disbursement, the qualified representative
12 provides written notification of the delay and the reason for the
13 delay to each individual who is authorized to transact business on
14 the account, except any of those individuals who are reasonably
15 believed to have engaged in suspected or attempted financial
16 exploitation of the financially endangered adult.

17 (2) A delay of a disbursement that is authorized under
18 subsection (1) expires when the earlier of the following is met:

19 (a) The date the qualified representative makes a
20 determination that the disbursement will not result in financial
21 exploitation of the financially endangered adult.

22 (b) A period of 15 business days after the date on which the
23 qualified representative first delayed disbursement of the funds
24 has expired.

25 (3) A court of competent jurisdiction may enter an order
26 extending the delay of the disbursement of funds under this section
27 or may order other protective relief based on the petition of the

1 department of health and human services, the qualified
2 representative who initiated the delay under this section, or
3 another interested party.

4 (4) A qualified representative who, in good faith and
5 exercising reasonable care, complies with this section is immune,
6 and the depository institution is immune, from any criminal, civil,
7 or administrative liability that might otherwise arise from a delay
8 in a disbursement that is authorized under this section.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.