

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 1672

INTRODUCER: Senator Broxson

SUBJECT: Protection of Vulnerable Investors

DATE: January 27, 2020

REVISED: \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1672 provides additional protections for investors who are specified adults (age 65 years or older) or vulnerable adults who may be victims of suspected financial exploitation. A vulnerable adult is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. In Florida an estimated 20 percent (or 4,129,854) of the population is age 65 or older.<sup>1</sup> Studies show that financial exploitation is the most common form of elder abuse and yet few incidents are reported. Estimates of annual losses to older adults have ranged from \$2.9 billion to \$36.5 billion in the United States.

The bill explicitly requires securities dealers, investment advisers, and associated persons to report knowledge or suspicion of abuse, neglect, or exploitation of vulnerable adults to the Department of Children and Families' central abuse hotline immediately. Current law requires *any person* who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately. The bill also allows securities dealers and investment advisers to delay disbursements or transaction of funds or securities from an account of a specified adult or a vulnerable adult if the following conditions apply:

- The dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser provides written notification to all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided

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<sup>1</sup> Department of Elder Affairs, *Profile of Older Floridians, 2018 Projections* at [http://elderaffairs.state.fl.us/doea/pubs/stats/County\\_2018\\_projections/Counties/Florida.pdf](http://elderaffairs.state.fl.us/doea/pubs/stats/County_2018_projections/Counties/Florida.pdf) (last viewed Jan. 23, 2020).

on the account, unless the dealer or investment adviser believes that any of the parties are involved in the suspected exploitation. The notice must provide the reason for the delay.

- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser notifies the Office of Financial Regulation (OFR) of the delay by telephone using a number designated by the OFR for such purpose or electronically on a form prescribed by commission rule. The notice must identify the dealer or investment adviser that made the delay, the name of the person who authorized the delay, and the date on which the delay was made.
- The dealer or investment adviser immediately initiates an internal review of the facts and circumstances that caused the dealer or investment adviser to reasonably believe that the financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted.

A delay in disbursement or transaction of funds or securities expires in 15 business days, and may be extended for an additional 10 business days. A court of competent jurisdiction may shorten or extend the length of any delay.

The bill grants immunity from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction to any dealer, investment adviser, or associated person who in good faith and exercising reasonable care complies with the provisions of s. 517.34, F.S. The bill does not alter the obligation of a dealer, investment adviser, or associated person to comply with instructions from a client absent a reasonable belief of financial exploitation.

The bill does not create new rights or obligations of a dealer, investment adviser, or associated person under other applicable laws or rules. The bill does not limit the right of a dealer, investment adviser, or associated person to refuse to place a delay on a transaction or disbursement under other laws or rules or under a customer agreement

The bill has indeterminate fiscal impact on the Office of Financial Regulation.

## II. Present Situation:

In Florida an estimated 20 percent (or 4,129,854) of the population is age 65 or older.<sup>2</sup> Since 2013, financial institutions have reported to the federal government over 180,000 suspicious activities targeting older adults, involving a total of more than \$6 billion. These reports indicate that financial exploitation of older adults by scammers, family members, caregivers, and others is widespread in the United States.<sup>3</sup> Studies show that financial exploitation is the most common form of elder abuse and yet few incidents are reported.<sup>4</sup> Estimates of annual losses to older adults have ranged from \$2.9 billion to \$36.5 billion.<sup>5</sup>

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<sup>2</sup> Department of Elder Affairs, *Profile of Older Floridians, 2018 Projections* at [http://elderaffairs.state.fl.us/doea/pubs/stats/County\\_2018\\_projections/Counties/Florida.pdf](http://elderaffairs.state.fl.us/doea/pubs/stats/County_2018_projections/Counties/Florida.pdf) (last viewed Jan. 23, 2020).

<sup>3</sup> Consumer Financial Protection Bureau, *Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends* (Feb. 2019) at [https://files.consumerfinance.gov/f/documents/cfpb\\_suspicious-activity-reports-elder-financial-exploitation\\_report.pdf](https://files.consumerfinance.gov/f/documents/cfpb_suspicious-activity-reports-elder-financial-exploitation_report.pdf) (last viewed Jan. 18, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Financial exploitation occurs when a person misuses or takes the assets of a vulnerable adult for his or her own personal benefit. This frequently occurs without the knowledge or consent of a senior or disabled adult, depriving him or her of financial resources for personal needs. Assets are taken commonly by deception, false pretenses, coercion, harassment, duress and threats. The following is a list of commonly reported forms of financial exploitation reported to adult protective services in the United States:<sup>6</sup>

- Investment - includes investments made without knowledge or consent and may include high-fee funds (front or back-loaded) or excessive trading activity to generate commissions for financial advisors.
- Theft - involves taking assets without knowledge, consent or authorization and may include taking of cash, valuables, medications, or other personal property.
- Fraud - involves acts of dishonesty by persons entrusted to manage assets and may include falsification of records, forgeries, unauthorized check-writing, and Ponzi-type financial schemes.
- Real Estate - involves unauthorized sales, transfers or changes to property, and may include unauthorized or invalid changes to estate documents.
- Contractor - includes building contractors who receive payment for building repairs, but fail to initiate or complete the project and may include invalid liens by contractors.
- Lottery scams - involves payments to collect unclaimed property or “prizes” from lotteries or sweepstakes.
- Electronic - includes “phishing” e-mail messages to trick persons into unwittingly surrendering bank passwords and may include faxes, wire transfers, telephonic communications.
- Mortgage - includes financial products, which are unaffordable or out-of-compliance with regulatory requirements and may include loans issued against property by unauthorized parties.
- Insurance - involves sales of inappropriate products, such as a 30-year annuity for an elderly person and may include unauthorized trading of life insurance policies.

Social isolation and mental impairment have been identified as two factors that make older adults vulnerable to abuse. Recent studies show that nearly half of those with dementia experienced abuse or neglect. Interpersonal violence also occurs at disproportionately higher rates among adults with disabilities.<sup>7</sup>

### **Mandatory Reporting for Abuse or Exploitation of Vulnerable Adults in Florida**

The Adult Protective Services Act (ch. 415, F.S.) defines abuse as any willful act or threatened act by a relative, caregiver, or household member, which harms or is likely to harm a vulnerable adult’s physical, mental, or emotional health.<sup>8</sup> The Adult Protective Services program is located within the Department of Children and Families, and is responsible for investigating allegations

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<sup>6</sup> National Adult Protective Services Association website, see <http://www.napsa-now.org/get-informed/what-is-financial-exploitation/> (last viewed Jan. 20, 2020). Definitions of financial exploitation vary from jurisdiction to jurisdiction.

<sup>7</sup> National Council on Aging, *Elder Abuse Facts*, at <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/> (last viewed Jan. 23, 2020).

<sup>8</sup> Section 415.102, F.S.

of abuse, neglect or exploitation, as provided in the Adult Protective Services Act.<sup>9</sup> Section 415.1034, F.S., requires any person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately. Any person reporting or that participates in a judicial proceeding is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any civil or criminal liability that otherwise might be incurred or imposed.<sup>10</sup>

For purposes of the Adult Protective Services Act, the following terms apply:

- A “vulnerable adult” is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.<sup>11</sup>
- “Exploitation” means a person who:<sup>12</sup>
  - Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
  - Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.
- “Exploitation” may include, but is not limited to:<sup>13</sup>
  - Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;
  - Unauthorized taking of personal assets;
  - Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or
  - Intentional or negligent failure to effectively use a vulnerable adult’s income and assets for the necessities required for that person’s support and maintenance.

Once a person reports to the central abuse hotline, the department must initiate a protective investigation within 24 hours.<sup>14</sup> If a caregiver refuses to allow the department to begin a protective investigation or interferes with the investigation, the department can contact the appropriate law enforcement agency for assistance. If, during the course of the investigation, the department has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate law enforcement agency and state attorney must be notified. The

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<sup>9</sup> Sections 415.101-415.113, F.S.

<sup>10</sup> Section 415.106, F.S.

<sup>11</sup> See s. 415.102(28), F.S.

<sup>12</sup> See s. 415.102(8), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 415.104, F.S.

department shall make a preliminary written report to the law enforcement agencies within 5 working days after the oral report and complete the investigation within 60 days.<sup>15</sup>

## Regulation of Securities

### *Federal Oversight*

The Securities and Exchange Commission (SEC), created by the federal Securities Act of 1934 ('34 Act), has broad authority over all aspects of the securities industry, including the power to register, regulate, and oversee broker-dealers, brokerage firms, transfer agents, and clearing agencies, as well as the nation's securities self-regulatory organizations (SROs).<sup>16</sup> The '34 Act broadly defined "broker" as "any person engaged in the business of effecting transactions in securities for the account of others," which the SEC has interpreted to persons involved in any of the key aspects of a securities transaction, such as solicitation, negotiation, and execution.<sup>17</sup> A "dealer" is "any person engaged in the business of buying and selling securities... for such person's own account through a broker or otherwise."<sup>18</sup> In addition to being registered with the SEC, broker-dealers must comply with state registration requirements.

The Financial Industry Regulatory Authority (FINRA) is a SRO. Most broker-dealers in the United States are members of FINRA. As members, such broker-dealers are subject to FINRA rules and examination by FINRA. In an effort to address financial exploitation of seniors, FINRA implemented rules to allow FINRA members to place temporary holds on disbursements of funds or securities held in accounts of specified adults where there is a reasonable belief of financial exploitation of these customers is occurring, has been attempted, or will be attempted.

The FINRA Rule 2165<sup>19</sup> defines a specified adult as:

- A natural person age 65 and older; or
- A natural person age 18 and older who the member reasonably believes has a mental or physical impairment that renders the individual unable to protect his or her own interests.<sup>20</sup>

Further, the rule defines the term, "financial exploitation" to mean:

- The wrongful or unauthorized taking, withholding, appropriation, or use of a specified adult's funds or securities; or
- Any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a specified adult, to:

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<sup>15</sup> *Id.*

<sup>16</sup> 15 U.S.C. ss. 78c(4) and 78o; U.S. SECURITIES AND EXCHANGE COMMISSION, *Guide to Broker-Dealer Registration*, <http://www.sec.gov/divisions/marketreg/bdguide.htm#II> (last visited Feb. 19, 2018).

<sup>17</sup> *Id.*

<sup>18</sup> 15 U.S.C. s. 78c(5). Certain entities in the securities industry are referred to as "broker-dealers" because the institution is a "broker" when executing trades on behalf of a customer, but is a "dealer" when executing trades for its own account.

<sup>19</sup> FINRA, Financial Exploitation of Specified Adults, Rule 2165, at [http://finra.complinet.com/en/display/display\\_main.html?rbid=2403&element\\_id=12784](http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=12784) and FINRA, Frequently Asked Questions Regarding FINRA Rules Relating to Financial Exploitation of Seniors, available at <http://www.finra.org/industry/frequently-asked-questions-regarding-finra-rules-relating-financial-exploitation-seniors> (last viewed Jan. 19, 2020).

<sup>20</sup> *Id.*

- Obtain control, through deception, intimidation or undue influence, over the Specified Adult's money, assets or property; or
- Convert the specified adult's money, assets or property.<sup>21</sup>

Under the rules, FINRA members have the ability to contact a customer's designated trusted contact person and, when appropriate, place a temporary hold on a disbursement of funds or securities from a customer's account.<sup>22</sup> The temporary hold expires after 15 business days, but the FINRA member may extend the hold by up to an additional 10 business days if the member's internal review of facts and circumstances supports its reasonable belief that the financial exploitation has occurred, is occurring, has been attempted, or will be attempted.<sup>23</sup>

Rule 2165 became effective February 5, 2018. However, the rule does not apply to broker-dealers and investment advisers who are not members of FINRA.

### ***Florida Oversight***

In addition to federal securities laws, "Blue Sky Laws" are state laws that protect the investing public through registration requirements for both broker-dealers and securities offerings, merit review of offerings, and various investor remedies for fraudulent sales practices and activities.<sup>24</sup>

In Florida, the Office of Financial Regulation (OFR)<sup>25</sup> administers the Securities and Investor Protection Act, ch. 517, F.S., (act). The OFR regulates and registers the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms in accordance with the act. There are 2,577 dealers, 6,307 investment advisers, 10,479 branches, and 325,939 associated persons (or stockbrokers) registered in Florida.<sup>26</sup>

The act requires the following individuals or businesses to be registered with the OFR under s. 517.12, F.S., in order to sell or offer to sell any securities in or from offices in this state, or to sell securities to persons in this state from offices outside this state:<sup>27</sup>

- "Dealer," includes any person, other than an associated person registered under ch. 517, F.S., who engages, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person. The term, "Dealer," also includes any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities, which are issued or are proposed to be issued by the issuer.<sup>28</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> U.S. Securities and Exchange Commission, *Blue Sky Laws*, <http://www.sec.gov/answers/bluesky.htm> (last visited Feb. 19, 2018).

<sup>25</sup> The OIR reports to the Financial Services Commission, which is comprised of the Governor, Attorney General, Chief Financial Officer, and the Commissioner of Agriculture and Consumer Services. Section 20.121, F.S.

<sup>26</sup> Office of Financial Regulation, *Fast Facts* (2018 Edition) at <https://www.flofr.com/sitePages/documents/FastFacts.pdf> (last viewed Jan. 20, 2020).

<sup>27</sup> Section 517.12(1), F.S.

<sup>28</sup> Section 517.021(6)(a), F.S. The term "dealer," as defined under Florida law, encompasses the definitions of "broker" and "dealer" under federal law. See also s. 517.12(22)(a)1., F.S.

- “Investment adviser,” includes any person who receives compensation, directly or indirectly, and engages for all or part of her or his time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services.<sup>29</sup> The term, does not include a “federal covered adviser.”<sup>30</sup>
- “Associated persons,” with respect to a federal covered adviser, includes any person who is an investment adviser representative and who has a place of business in this state, and with respect to a dealer or investment adviser, includes any of the following:
  - Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;
  - Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or
  - Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in s. 517.021, F.S.<sup>31</sup>

### **North American Securities Administrators Association**

The North American Securities Administrators Association (NASAA) is an international organization devoted to investor protection. Its membership consists of securities administrators. The NASAA approved model “Legislation to Protect Vulnerable Adults from Financial Exploitation” (Model Act) on January 22, 2016.<sup>32</sup> The Model Act focuses on the reporting and prevention of senior financial exploitation. The Model Act contains the following:

- A mandatory reporting requirement applicable to qualified individuals of broker-dealers and investment advisers;
- Notification to third-parties of potential financial exploitation with advance consent of the investor;
- Authority to temporarily delay disbursement of funds;
- Immunity from civil and administrative liability for reporting, notifications, delays; and
- Mandatory sharing of records related to exploitation with law enforcement and state adult protective services agencies.

As of January 1, 2019, twenty five states have adopted legislation or regulations consistent with the Model Act.<sup>33</sup>

<sup>29</sup> Section 517.021(14)(a), F.S.

<sup>30</sup> Section 517.021(9) and (14)(b)9., F.S. A federal covered adviser must be registered under federal law and must provide a notice filing to the OFR. Sections 517.021 and 517.1201, F.S.

<sup>31</sup> Section 517.021(2), F.S.

<sup>32</sup> NASAA Adopt Model Act to Protect Seniors and Vulnerable Adults at <http://serveourseniors.org/about/policy-makers/nasaa-model-act/> (last viewed Jan. 20, 2020).

<sup>33</sup> NASAA Model Act to Protect Vulnerable Adults From Financial Exploitation Update Center at <http://serveourseniors.org/about/policy-makers/nasaa-model-act/update/> (last viewed Jan. 22, 2020).



### III. Effect of Proposed Changes:

#### **Mandatory Reporting of Suspected Financial Exploitation**

**Section 1** amends s. 415.1034, F.S., to specify that a dealer, an investment adviser, or an associated person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report such information or suspicion to Adult Protective Services within the Department of Children and Families through the central abuse hotline. Currently, s. 415.1034, F.S., requires *any person* who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately.

#### **Conditions for Delaying a Disbursement or Transaction of Funds or Securities**

**Section 2** creates s. 517.34, F.S., to allow a dealer or investment adviser to delay a disbursement or transaction of funds or securities from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner.

The bill defines the following terms:

- A “specified adult” is an individual who is age 65 or older or who meets the definition of “vulnerable adult” pursuant to s. 415.1034, F.S., the Adult Protective Services Act.
- “Financial exploitation” means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:
  - Obtain control over the specified adult’s money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or
  - Convert the specified adult’s money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.
- “Trusted contact” means a natural person 18 years of age or older who the account owner has expressly identified and who is recorded in the books and records of a dealer or an investment adviser as the person who may be contacted about the account.

An investment adviser or dealer may delay a disbursement or transaction if the following conditions are met:

- The dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser notifies in writing all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided on the account, unless the dealer or investment adviser believes that any of the parties are involved in the suspected exploitation. The notice, which may be provided electronically, must provide the reason for the delay.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser notifies the OFR of the delay by telephone using a number designated by



the OFR for such purpose or electronically on a form prescribed by commission rule. The notice must identify the dealer or investment adviser that made the delay, the name of the person who authorized the delay, and the date on which the delay was made.

- The dealer or investment adviser immediately initiates an internal review of the facts and circumstances that caused the dealer or investment adviser to reasonably believe that the financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted.

Such a delay in a disbursement or transaction expires within 15 business days after the date on which the delay was first placed. However, the delay may be extended for up to 10 additional business days if the dealer's or investment adviser's review of the available facts or circumstances continues to support such dealer's or investment adviser's reasonable belief that financial exploitation of the specified adult has occurred. A dealer or broker must notify the OFR of any extension of a delay. A court of competent jurisdiction may shorten or extend the length of any delay.

### **Legislative Findings and Intent**

The Legislature finds that many persons in this state, because of age or disability, are at increased risk of financial exploitation and loss of their assets, funds, investments, and investment accounts. The Legislature further finds that senior investors in this state are at a statistically higher risk of being targeted for financial exploitation, regardless of diminished capacity or other disability, because of their accumulation of substantial assets and wealth compared to younger age groups. In enacting this section, the Legislature recognizes the freedom of specified adults to manage their assets, make investment choices, and spend their funds, and intends that such rights may not be infringed absent a reasonable belief of financial exploitation as provided in this section.

The Legislature therefore intends to provide for the prevention of financial exploitation of such persons. The Legislature intends to encourage the constructive involvement of securities dealers, investment advisers, and associated persons who take action based upon the reasonable belief that specified adults with investment accounts have been or are the subject of financial exploitation, and to provide securities dealers, investment advisers, and associated persons immunity from liability for taking actions as authorized by the bill. The Legislature intends to balance the rights of specified adults to direct and control their assets, funds, and investments and exercise their constitutional rights consistent with due process with the need to provide securities dealers, investment advisers, and associated persons the ability to place narrow, time-limited restrictions on these rights in an effort to decrease specified adults' risk of loss due to abuse, neglect, or financial exploitation.

### **Immunity**

The bill grants immunity from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction to any dealer, investment adviser, or associated person who in good faith and exercising reasonable care complies with the provisions of s. 517.34, F.S. This provision does not supersede or diminish any immunity granted under ch. 415, F.S.

### **Obligations and Rights of a Dealer, Investment Adviser, or an Associated Person**

The bill does not alter the obligation of a dealer, an investment adviser, or an associated person to comply with instructions from a client absent a reasonable belief of financial exploitation. The bill does not create new rights or obligations of a dealer, investment adviser, or associated person under other applicable laws or rules. The bill does not limit the right of a dealer, investment adviser, or associated person to refuse to place a delay on a transaction or disbursement under other laws or rules or under a customer agreement.

### **Training, Policies, and Procedures**

Prior to placing a delay on a disbursement or transaction, a dealer or investment adviser must comply with the following:

- Develop training policies or programs reasonably designed to educate associated persons on issues pertaining to financial exploitation;
- Conduct training for all associated persons at least annually and maintain a written record of all trainings conducted; and
- Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

### **Effective Date**

**Section 3** provides the bill takes effect July 1, 2020.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Indeterminate. However, the bill will provide additional tools for dealers, investment advisers, and associated persons to protect individuals 65 years of age or older and vulnerable adults from alleged financial exploitation in a more effective and expedient manner.

**C. Government Sector Impact:**

The fiscal impact to the OFR is indeterminate and depends on the number of reports of delays or extensions received from OFR licensees. The OIR will review these delays to determine whether they are proper and whether the delays comply with the requirements of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 415.1034 of the Florida Statutes.

This bill creates section 517.34 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.