

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative McClure offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove lines 76-184 and insert:

7 Section 2. Section 517.34, Florida Statutes, is created to  
 8 read:

9 517.34 Protection of specified adults.-

10 (1) As used in this section, the term:

11 (a) "Financial exploitation" means the wrongful or  
 12 unauthorized taking, withholding, appropriation, or use of  
 13 money, assets, or property of a specified adult; or any act or  
 14 omission by a person, including through the use of a power of  
 15 attorney, guardianship, or conservatorship of a specified adult,  
 16 to:

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17 1. Obtain control over the specified adult's money,  
18 assets, or property through deception, intimidation, or undue  
19 influence to deprive him or her of the ownership, use, benefit,  
20 or possession of the money, assets, or property; or

21 2. Convert the specified adult's money, assets, or  
22 property to deprive him or her of the ownership, use, benefit,  
23 or possession of the money, assets, or property.

24 (b) "Specified adult" means a natural person 65 years of  
25 age or older, or a vulnerable adult as defined in s. 415.102.

26 (c) "Trusted contact" means a natural person 18 years of  
27 age or older who the account owner has expressly identified and  
28 who is recorded in a dealer's or investment adviser's books and  
29 records as the person who may be contacted about the account.

30 (2) The Legislature finds that many persons in this state,  
31 because of age or disability, are at increased risk of financial  
32 exploitation and loss of their assets, funds, investments, and  
33 investment accounts. The Legislature further finds that senior  
34 investors in this state are at a statistically higher risk of  
35 being targeted for financial exploitation, regardless of  
36 diminished capacity or other disability, because of their  
37 accumulation of substantial assets and wealth compared to  
38 younger age groups. In enacting this section, the Legislature  
39 recognizes the freedom of specified adults to manage their  
40 assets, make investment choices, and spend their funds, and  
41 intends that such rights may not be infringed absent a

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42 reasonable belief of financial exploitation as provided in this  
43 section. The Legislature therefore intends to provide for the  
44 prevention of financial exploitation of such persons. The  
45 Legislature intends to encourage the constructive involvement of  
46 securities dealers, investment advisers, and associated persons  
47 who take action based upon the reasonable belief that specified  
48 adults with investment accounts have been or are the subject of  
49 financial exploitation, and to provide securities dealers,  
50 investment advisers, and associated persons immunity from  
51 liability for taking actions as authorized herein. The  
52 Legislature intends to balance the rights of specified adults to  
53 direct and control their assets, funds, and investments and  
54 exercise their constitutional rights consistent with due process  
55 with the need to provide securities dealers, investment  
56 advisers, and associated persons the ability to place narrow,  
57 time-limited restrictions on these rights in an effort to  
58 decrease specified adults' risk of loss due to abuse, neglect,  
59 or financial exploitation.

60 (3) A dealer or investment adviser may delay a  
61 disbursement or transaction of funds or securities from an  
62 account of a specified adult or an account for which a specified  
63 adult is a beneficiary or beneficial owner if all of the  
64 following apply:

65 (a) The dealer or investment adviser reasonably believes  
66 that financial exploitation of the specified adult has occurred,

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67 is occurring, has been attempted, or will be attempted in  
68 connection with the disbursement or transaction.

69 (b) Not later than 3 business days after the date on which  
70 the delay was first placed, the dealer or investment adviser  
71 notifies in writing all parties authorized to transact business  
72 on the account and any trusted contact on the account, using the  
73 contact information provided for the account, with the exception  
74 of any party the dealer or investment adviser reasonably  
75 believes has engaged in, is engaging in, has attempted to engage  
76 in, or will attempt to engage in the suspected financial  
77 exploitation of the specified adult. The notice, which may be  
78 provided electronically, must provide the reason for the delay.

79 (c) Not later than 3 business days after the date on which  
80 the delay was first placed, the dealer or investment adviser  
81 notifies the office of the delay by telephone using a number  
82 designated by the office for such purpose or electronically on a  
83 form prescribed by commission rule. The notice must identify the  
84 dealer or investment adviser that made the delay, the name of  
85 the person who authorized the delay, and the date on which the  
86 delay was made.

87 (d) The dealer or investment adviser immediately initiates  
88 an internal review of the facts and circumstances that caused  
89 the dealer or investment adviser to reasonably believe that the  
90 financial exploitation of the specified adult has occurred, is  
91 occurring, has been attempted, or will be attempted.

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92           (4) A delay on a disbursement or transaction under  
93 subsection (3) expires 15 business days after the date on which  
94 the delay was first placed. However, the dealer or investment  
95 adviser may extend the delay for up to 10 additional business  
96 days if the dealer's or investment adviser's review of the  
97 available facts and circumstances continues to support such  
98 dealer's or investment adviser's reasonable belief that  
99 financial exploitation of the specified adult has occurred, is  
100 occurring, has been attempted, or will be attempted. A dealer or  
101 investment adviser who extends a delay shall notify the office  
102 in accordance with paragraph (3) (c) not later than 3 business  
103 days after the date on which the extension was applied. The  
104 notice must identify the dealer or investment adviser that  
105 extended the delay and the date on which the delay was  
106 originally made. The length of the delay may be shortened or  
107 extended at any time by a court of competent jurisdiction. This  
108 subsection does not prevent a dealer or investment adviser from  
109 terminating a delay after communication with the parties  
110 authorized to transact business on the account and any trusted  
111 contact on the account.

112           (5) A dealer or investment adviser must make available to  
113 the office, upon request, all records relating to a delay made  
114 by the dealer or investment adviser pursuant to this section, as  
115 prescribed by commission rule.

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116 (6) A dealer, an investment adviser, or an associated  
117 person who in good faith and exercising reasonable care complies  
118 with this section is immune from any administrative or civil  
119 liability that might otherwise arise from such delay in a  
120 disbursement or transaction in accordance with this section.  
121 This subsection does not supersede or diminish any immunity  
122 granted under chapter 415.

123 (7) Before placing a delay on a disbursement or  
124 transaction pursuant to this section, a dealer or an investment  
125 adviser shall do all of the following:

126 (a) Develop training policies or programs reasonably  
127 designed to educate associated persons on issues pertaining to  
128 financial exploitation.

129 (b) Conduct training for all associated persons at least  
130 annually and maintain a written record of all trainings  
131 conducted.

132 (c) Develop, maintain, and enforce written procedures  
133 regarding the manner in which suspected financial exploitation  
134 is reviewed internally, including, if applicable, the manner in  
135 which suspected financial exploitation is required to be  
136 reported to supervisory personnel.

137 (8) Absent a reasonable belief of financial exploitation  
138 as provided in this section, this section does not alter a  
139 dealer's, an investment adviser's, or an associated person's  
140 obligation to comply with instructions from a client to buy or

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141 sell securities, disburse funds or transfer securities from an  
142 account, close an account, or transfer an account to another  
143 dealer, investment adviser, or associated person.

144 (9) This section does not create new rights for or impose  
145 new obligations on a dealer, an investment adviser, or an  
146 associated person under other applicable law. This section does  
147 not limit the right of a dealer, an investment adviser, or an  
148 associated person to otherwise refuse or place a delay on a  
149 disbursement or transaction under other applicable law or under  
150 an applicable customer agreement.

151 -----  
152 **T I T L E A M E N D M E N T**

153 Remove lines 9-36 and insert:

154 F.S.; providing definitions; providing legislative  
155 intent; authorizing dealers and investment advisers to  
156 delay certain disbursements or transactions based on a  
157 reasonable belief of financial exploitation of a  
158 specified adult; requiring a dealer or investment  
159 adviser to notify certain persons and the Office of  
160 Financial Regulation of such delays within a specified  
161 timeframe; requiring a dealer or investment adviser to  
162 review the basis for a reasonable belief of financial  
163 exploitation of a specified adult; specifying the  
164 expiration of such delays; authorizing a dealer or  
165 investment adviser to extend a delay under certain

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166 | circumstances; requiring a dealer or investment  
167 | adviser to notify the office within a specified  
168 | timeframe after such extension begins; providing that  
169 | the length of such delays may be shortened or extended  
170 | by a court of competent jurisdiction; providing that  
171 | delays may be terminated by dealers or investment  
172 | advisers under certain circumstances; requiring that  
173 | certain records be made available to the office;  
174 | providing immunity from administrative and civil  
175 | liability for dealers, investment advisers, and  
176 | associated persons who in good faith and exercising  
177 | reasonable care comply with s. 517.34, F.S.; requiring  
178 | dealers and investment advisers to develop and conduct  
179 | annual training for associated persons and maintain  
180 | written records of compliance with such requirement;  
181 | requiring dealers and investment advisers to review  
182 | suspected financial exploitation; providing  
183 | construction; providing an