

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 221
SENATE BILL 1483

AN ACT

AMENDING TITLE 46, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO VULNERABLE ADULTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 46, chapter 4, Arizona Revised Statutes, is
3 amended by adding article 2, to read:

4 ARTICLE 2. FINANCIAL EXPLOITATION

5 46-471. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "BROKER-DEALER" HAS THE SAME MEANING AS DEALER PRESCRIBED IN
8 SECTION 44-1801.

9 2. "ELIGIBLE ADULT" MEANS EITHER OF THE FOLLOWING:

10 (a) A PERSON WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER.

11 (b) A PERSON WHO IS A VULNERABLE ADULT.

12 3. "FINANCIAL EXPLOITATION" MEANS EITHER OF THE FOLLOWING:

13 (a) THE WRONGFUL OR UNAUTHORIZED TAKING, WITHHOLDING, APPROPRIATING
14 OR USE OF MONEY, ASSETS OR PROPERTY OF AN ELIGIBLE ADULT.

15 (b) ANY ACT OR OMISSION TAKEN BY A PERSON, INCLUDING THROUGH THE
16 USE OF A POWER OF ATTORNEY, GUARDIANSHIP OR CONSERVATORSHIP OF AN ELIGIBLE
17 ADULT, TO EITHER:

18 (i) OBTAIN CONTROL THROUGH DECEPTION, INTIMIDATION OR UNDUE
19 INFLUENCE OVER THE ELIGIBLE ADULT'S MONEY, ASSETS OR PROPERTY TO DEPRIVE
20 THE ELIGIBLE ADULT OF THE OWNERSHIP, USE, BENEFIT OR POSSESSION OF THE
21 ELIGIBLE ADULT'S MONEY, ASSETS OR PROPERTY.

22 (ii) CONVERT MONEY, ASSETS OR PROPERTY OF THE ELIGIBLE ADULT TO
23 DEPRIVE THE ELIGIBLE ADULT OF THE OWNERSHIP, USE, BENEFIT OR POSSESSION OF
24 THE ELIGIBLE ADULT'S MONEY, ASSETS OR PROPERTY.

25 4. "INVESTMENT ADVISER" MEANS A PERSON WHO IS LICENSED OR EXEMPT
26 FROM LICENSURE AS AN INVESTMENT ADVISOR PURSUANT TO TITLE 44, CHAPTER 13.

27 5. "INVESTMENT ADVISER REPRESENTATIVE" MEANS A PERSON WHO IS
28 LICENSED OR EXEMPT FROM LICENSURE AS AN INVESTMENT ADVISOR REPRESENTATIVE
29 PURSUANT TO TITLE 44, CHAPTER 13.

30 6. "QUALIFIED INDIVIDUAL" MEANS A BROKER-DEALER, INVESTMENT ADVISER
31 OR PERSON WHO SERVES IN A SUPERVISORY, COMPLIANCE, LEGAL OR SENIOR
32 INVESTOR PROTECTION CAPACITY FOR A BROKER-DEALER OR INVESTMENT ADVISER.

33 46-472. Disclosures; immunity; third-party disclosures

34 A. NOTWITHSTANDING SECTION 46-454, IF A QUALIFIED INDIVIDUAL
35 REASONABLY BELIEVES THAT FINANCIAL EXPLOITATION OF AN ELIGIBLE ADULT MAY
36 HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED OR IS BEING ATTEMPTED, THE
37 QUALIFIED INDIVIDUAL MAY NOTIFY ADULT PROTECTIVE SERVICES AND THE
38 CORPORATION COMMISSION.

39 B. A QUALIFIED INDIVIDUAL WHO IN GOOD FAITH AND EXERCISING
40 REASONABLE CARE MAKES A DISCLOSURE OF INFORMATION PURSUANT TO SUBSECTION A
41 OF THIS SECTION IS IMMUNE FROM ADMINISTRATIVE OR CIVIL LIABILITY THAT
42 MIGHT OTHERWISE ARISE FROM THE DISCLOSURE OR FOR ANY FAILURE TO NOTIFY THE
43 CUSTOMER OF THE DISCLOSURE.

44 C. IF A QUALIFIED INDIVIDUAL REASONABLY BELIEVES THAT FINANCIAL
45 EXPLOITATION OF AN ELIGIBLE ADULT MAY HAVE OCCURRED, MAY HAVE BEEN

1 ATTEMPTED OR IS BEING ATTEMPTED, A QUALIFIED INDIVIDUAL MAY NOTIFY ANY
2 THIRD PARTY PREVIOUSLY DESIGNATED BY OR REASONABLY ASSOCIATED WITH THE
3 ELIGIBLE ADULT. A QUALIFIED INDIVIDUAL MAY NOT NOTIFY ANY DESIGNATED THIRD
4 PARTY THAT IS SUSPECTED OF FINANCIAL EXPLOITATION OR OTHER ABUSE OF THE
5 ELIGIBLE ADULT.

6 D. A QUALIFIED INDIVIDUAL WHO IN GOOD FAITH AND EXERCISING
7 REASONABLE CARE MAKES A DISCLOSURE PURSUANT TO SUBSECTION C OF THIS
8 SECTION IS IMMUNE FROM ANY ADMINISTRATIVE OR CIVIL LIABILITY THAT MIGHT
9 OTHERWISE ARISE FROM THE DISCLOSURE.

10 46-473. Delaying disbursements or transactions: immunity

11 A. A BROKER-DEALER OR INVESTMENT ADVISER MAY DELAY A DISBURSEMENT
12 OR TRANSACTION FROM AN ACCOUNT OF AN ELIGIBLE ADULT OR AN ACCOUNT ON WHICH
13 AN ELIGIBLE ADULT IS A BENEFICIARY IF BOTH:

14 1. THE BROKER-DEALER, INVESTMENT ADVISER OR QUALIFIED INDIVIDUAL
15 REASONABLY BELIEVES, AFTER INITIATING AN INTERNAL REVIEW OF THE REQUESTED
16 DISBURSEMENT OR TRANSACTION AND THE SUSPECTED FINANCIAL EXPLOITATION, THAT
17 THE REQUESTED DISBURSEMENT OR TRANSACTION MAY RESULT IN FINANCIAL
18 EXPLOITATION OF AN ELIGIBLE ADULT.

19 2. THE BROKER-DEALER OR INVESTMENT ADVISER DOES ALL OF THE
20 FOLLOWING:

21 (a) IMMEDIATELY, BUT NOT MORE THAN TWO BUSINESS DAYS AFTER THE
22 DELAYED DISBURSEMENT OR TRANSACTION, PROVIDES WRITTEN NOTIFICATION OF THE
23 DELAY AND THE REASON FOR THE DELAY TO ALL PARTIES AUTHORIZED TO TRANSACT
24 BUSINESS ON THE ACCOUNT, UNLESS ANY PARTY IS REASONABLY BELIEVED TO HAVE
25 ENGAGED IN SUSPECTED OR ATTEMPTED FINANCIAL EXPLOITATION OF THE ELIGIBLE
26 ADULT.

27 (b) IMMEDIATELY, BUT NOT MORE THAN TWO BUSINESS DAYS AFTER THE
28 DELAYED DISBURSEMENT OR TRANSACTION, NOTIFIES ADULT PROTECTIVE SERVICES
29 AND THE CORPORATION COMMISSION.

30 (c) CONTINUES ITS INTERNAL REVIEW OF THE SUSPECTED OR ATTEMPTED
31 FINANCIAL EXPLOITATION OF THE ELIGIBLE ADULT, AS NECESSARY, AND REPORTS
32 THE INVESTIGATION'S RESULTS TO ADULT PROTECTIVE SERVICES AND THE
33 CORPORATION COMMISSION ON REQUEST.

34 B. A DELAYED DISBURSEMENT OR TRANSACTION EXPIRES ON THE EARLIER OF:

35 1. A DETERMINATION BY THE BROKER-DEALER OR INVESTMENT ADVISER THAT
36 THE DISBURSEMENT OR TRANSACTION WILL NOT RESULT IN FINANCIAL EXPLOITATION
37 OF THE ELIGIBLE ADULT.

38 2. FIFTEEN BUSINESS DAYS AFTER THE DATE ON WHICH THE BROKER-DEALER
39 OR INVESTMENT ADVISER FIRST DELAYED DISBURSEMENT OR TRANSACTION OF THE
40 MONIES, UNLESS EITHER ADULT PROTECTIVE SERVICES OR THE CORPORATION
41 COMMISSION REQUESTS THAT THE BROKER-DEALER OR INVESTMENT ADVISER EXTEND
42 THE DELAY, IN WHICH CASE THE DELAY SHALL EXPIRE NOT MORE THAN TWENTY-FIVE
43 BUSINESS DAYS AFTER THE DATE ON WHICH THE BROKER-DEALER OR INVESTMENT
44 ADVISER FIRST DELAYED DISBURSEMENT OR TRANSACTION OF THE MONIES UNLESS
45 OTHERWISE TERMINATED OR FURTHER EXTENDED BY EITHER ADULT PROTECTIVE

1 SERVICES OR THE CORPORATION COMMISSION OR AN ORDER OF A COURT OF COMPETENT
2 JURISDICTION.

3 C. A COURT OF COMPETENT JURISDICTION MAY ENTER AN ORDER EXTENDING
4 THE DELAY OF THE DISBURSEMENT OR TRANSACTION OF MONIES OR MAY ORDER OTHER
5 PROTECTIVE RELIEF BASED ON THE PETITION OF THE CORPORATION COMMISSION,
6 ADULT PROTECTIVE SERVICES, THE BROKER-DEALER OR THE INVESTMENT ADVISER
7 THAT INITIATED THE DELAY OR ANOTHER INTERESTED PARTY.

8 D. A BROKER-DEALER OR INVESTMENT ADVISER WHO IN GOOD FAITH AND
9 EXERCISING REASONABLE CARE DELAYS A DISBURSEMENT OR TRANSACTION IS IMMUNE
10 FROM ADMINISTRATIVE OR CIVIL LIABILITY THAT MIGHT OTHERWISE ARISE FROM A
11 DELAY IN A DISBURSEMENT OR TRANSACTION IN ACCORDANCE WITH THIS SECTION.

12 46-474. Records; disclosure; exemption

13 A. A BROKER-DEALER OR INVESTMENT ADVISER SHALL PROVIDE ACCESS TO OR
14 COPIES OF RECORDS THAT ARE RELEVANT TO THE SUSPECTED OR ATTEMPTED
15 FINANCIAL EXPLOITATION OF AN ELIGIBLE ADULT TO ADULT PROTECTIVE SERVICES
16 AND LAW ENFORCEMENT, EITHER AS PART OF A REFERRAL TO ADULT PROTECTIVE
17 SERVICES OR LAW ENFORCEMENT, OR ON REQUEST OF ADULT PROTECTIVE SERVICES OR
18 LAW ENFORCEMENT PURSUANT TO AN INVESTIGATION. THE RECORDS MAY INCLUDE
19 HISTORICAL RECORDS AND RECORDS RELATING TO THE MOST RECENT TRANSACTION OR
20 TRANSACTIONS THAT MAY COMPRISE FINANCIAL EXPLOITATION OF AN ELIGIBLE
21 ADULT. ALL RECORDS MADE AVAILABLE TO ADULT PROTECTIVE SERVICES OR LAW
22 ENFORCEMENT UNDER THIS SECTION ARE NOT PUBLIC RECORDS AND ARE NOT SUBJECT
23 TO TITLE 39, CHAPTER 1, ARTICLE 2.

24 B. THIS SECTION DOES NOT LIMIT OR OTHERWISE IMPEDE THE AUTHORITY OF
25 THE CORPORATION COMMISSION TO ACCESS OR EXAMINE THE BOOKS AND RECORDS OF
26 BROKER-DEALERS AND INVESTMENT ADVISERS AS OTHERWISE PROVIDED BY LAW.

APPROVED BY THE GOVERNOR MAY 13, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2019.