

Comments of Gary M. Berne Regarding House Bill 2622
May 8, 2017 Hearing
Before the Senate Judiciary Committee

Chair and Members of the Committee, thank you for the opportunity to submit these comments to the Committee. My name is Gary Berne and I am a lawyer with the law firm of Stoll Berne in Portland. I would like to make the Committee aware of my concerns House Bill 2622.

I have been in the private practice of law for almost forty years. Much of my practice has included representing investors who have been the victims of various forms of wrongdoing, including securities fraud, breach of fiduciary duty, and elder abuse. In my view, there has not been any decline in the amount of wrongdoing where elderly people have been victims, and, in fact, the sophistication of the scammers and the opportunity for abuse has only increased with the internet and the easy with which money can be moved.

I note the following matters regarding HB 2622:

1. HB 2622 permits a financial institution to delay a transaction or to stop it entirely. However, the financial institution only has to report the transaction to the people on the account, who may be the victim and the wrongdoers. The financial institution can, in certain instances, not notify anyone. Yet, HB 2622 grants the financial institution immunities from liability.
2. So far as I can tell, HB 2622 would make Oregon the only state that provides for immunity but does not require reporting.
3. SB 95, similar legislation that applies to securities transactions, does require reporting when a broker-dealer delays a transaction. The report will be to DCBS which will then notify DHS. DHS indicated in a conference with people interested in SB 95 that DHS has the capacity to handle the calls.

4. RCW 74.34.215, a Washington statute similar to HB 2622, does require financial institutions to report when they delay a transaction. A similar bill in the New York Assembly does likewise.
5. Financial institutions or a subset thereof are mandatory reporters in about half of the states according to the Consumer Finance Protection Bureau.
http://files.consumerfinance.gov/f/201603_cfpb_recommendations-and-report-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf at p. 23-24.
6. I think it is fair that most people involved in elder abuse prevention believe that financial institutions should be mandatory reporters. Reporting is easy and confidential and can be done via a telephone call. Reporting may prevent present and future harm to an elderly person.

In summary, I would urge the Committee to reject HB 2622, at least in its present form, because it does not include a reporting requirements while at the same time granting immunities.

Thank you.