

House Bill 2622

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes financial institution to refuse certain financial transactions when financial institution reasonably believes financial exploitation of vulnerable person may have occurred, may have been attempted or is being attempted.

Requires financial institution to provide notice of action or refusal to act to parties authorized to transact business on account of vulnerable person.

Becomes operative October 1, 2017.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to abuse prevention; creating new provisions; amending ORS 124.115; and declaring an
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in this section and section 3 of this 2017 Act:**

6 (1) **"Financial exploitation" has the meaning given that term in ORS 124.050.**

7 (2) **"Financial institution" means a financial institution or a trust company as those**
8 **terms are defined in ORS 706.008, or a broker-dealer or an investment advisor representative**
9 **as those terms are defined in ORS 59.015.**

10 (3) **"Law enforcement agency" has the meaning given that term in ORS 124.050.**

11 (4) **"Security" has the meaning given that term in ORS 59.015.**

12 (5) **"Vulnerable person" has the meaning given that term in ORS 124.100.**

13 (6) **"Vulnerable person's account" means a contract of deposit of funds between a**
14 **depositor and a financial institution where:**

15 (a) **The account is owned by a vulnerable person, whether individually or with one or**
16 **more other persons; or**

17 (b) **A vulnerable person is a beneficiary of the account, including of a formal or informal**
18 **trust account, a payable on death account, a conservatorship account or a guardianship ac-**
19 **count.**

20 **SECTION 3. (1) When a financial institution reasonably believes, or has received infor-**
21 **mation from the Department of Human Services, a law enforcement agency, or a district**
22 **attorney's office demonstrating that it is reasonable to believe, that financial exploitation**
23 **of a vulnerable person may have occurred, may have been attempted or is being attempted,**
24 **and pending an investigation by the financial institution, the department, the law enforce-**
25 **ment agency or the district attorney's office, the financial institution may but is not required**
26 **to:**

27 (a) **Refuse a transaction with or involving the vulnerable person;**

28 (b) **Refuse to permit the withdrawal or disbursement of funds contained in a vulnerable**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **person's account;**

2 **(c) Prevent a change in ownership of a vulnerable person's account;**

3 **(d) Prevent a transfer of funds from a vulnerable person's account to an account owned**
4 **wholly or partially by another person; or**

5 **(e) Refuse to comply with instructions given to the financial institution by an agent or**
6 **attorney-in-fact under a power of attorney signed or purported to have been signed by the**
7 **vulnerable person.**

8 **(2) A financial institution is not required to act under subsection (1) of this section when**
9 **provided with information alleging that financial exploitation may have occurred, may have**
10 **been attempted or is being attempted, but may use the financial institution's discretion to**
11 **determine whether or not to act under subsection (1) of this section based on the informa-**
12 **tion available to the financial institution at the time.**

13 **(3)(a) Except as provided in paragraph (b) of this subsection, a financial institution that**
14 **acts under subsection (1) of this section shall make a reasonable effort to notify, orally or**
15 **in writing, all parties currently authorized to transact business on the account concerning**
16 **the financial institution's action.**

17 **(b) A financial institution is not required to provide the notice described in paragraph (a)**
18 **of this subsection when the financial institution, in the financial institution's discretion, de-**
19 **termines that providing notice could compromise an investigation of or response to the sus-**
20 **pected financial exploitation.**

21 **(4) The authority granted to a financial institution under subsection (1) of this section**
22 **will expire upon the sooner of:**

23 **(a) If the transaction involved the sale or offer of sale of a security, 10 business days**
24 **after the date on which the financial institution first acted under subsection (1) of this sec-**
25 **tion;**

26 **(b) If the transaction did not involve the sale or offer of sale of a security, 15 business**
27 **days after the date on which the financial institution first acted under subsection (1) of this**
28 **section;**

29 **(c) When the financial institution is satisfied that the transaction or act will not result**
30 **in financial exploitation of a vulnerable person; or**

31 **(d) Upon termination by an order of a court of competent jurisdiction.**

32 **(6) Unless otherwise directed by order of a court of competent jurisdiction, a financial**
33 **institution may extend the duration under subsection (5) of this section based on a reason-**
34 **able belief that the financial exploitation of a vulnerable person may continue to occur or**
35 **be attempted.**

36 **(7) A financial institution and all employees of a financial institution are immune from**
37 **criminal, civil and administrative liability for actions taken under subsection (1) of this sec-**
38 **tion if the actions were taken in good faith.**

39 **SECTION 4.** ORS 124.115 is amended to read:

40 124.115. (1) Except as provided by subsection (2) of this section, an action under ORS 124.100
41 may not be brought against:

42 (a) Financial institutions **or trust companies**, as defined by ORS 706.008;

43 (b) A health care facility, as defined in ORS 442.015;

44 (c) Any facility licensed or registered under ORS chapter 443; or

45 (d) Broker-dealers licensed under ORS 59.005 to 59.451.

1 (2) An action may be brought under ORS 124.100 against a person listed in subsection (1) of this
2 section if:

3 (a) The person is convicted of one of the crimes specified in ORS 124.105 (1); or

4 (b) The person engages in conduct constituting financial abuse as described in ORS 124.110, and
5 the person is convicted of a crime by reason of the conduct.

6 **SECTION 5. Sections 2 and 3 of this 2017 Act and the amendments to ORS 124.115 by**
7 **section 4 of this 2017 Act become operative on October 1, 2017.**

8 **SECTION 6. This 2017 Act being necessary for the immediate preservation of the public**
9 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
10 **on its passage.**

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