

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO  
SENATE BILL 95**

1 On page 1 of the printed bill, line 2, after “abuse” insert “; creating new  
2 provisions; and amending ORS 59.991”.

3 Delete lines 4 through 27 and delete pages 2 and 3 and insert:

4 **“SECTION 1. Sections 2 to 7 of this 2017 Act are added to and made  
5 a part of ORS 59.005 to 59.451.**

6 **“SECTION 2. As used in sections 2 to 7 of this 2017 Act:**

7 **“(1) ‘Financial exploitation’ has the meaning given that term in  
8 ORS 124.050.**

9 **“(2) ‘Financial institution’ has the meaning given that term in ORS  
10 706.008.**

11 **“(3) ‘Qualified individual’ means an individual who is:**

12 **“(a) A salesperson;**

13 **“(b) An investment adviser representative; or**

14 **“(c) A person who serves in a supervisory, compliance or legal ca-  
15 pacity for a broker-dealer or state investment adviser, or who is oth-  
16 erwise identified in the written supervisory procedures of a  
17 broker-dealer or state investment adviser.**

18 **“(4) ‘Trust company’ has the meaning given that term in ORS  
19 706.008.**

20 **“(5) ‘Vulnerable person’ has the meaning given that term in ORS  
21 124.100.**

1       **“SECTION 3. (1) Except as provided in subsection (4) of this section,**  
2 **a qualified individual who has reasonable cause to believe that finan-**  
3 **cial exploitation of a vulnerable person with whom the qualified indi-**  
4 **vidual comes into contact has occurred, has been attempted or is being**  
5 **attempted shall immediately notify, orally or in writing, the Depart-**  
6 **ment of Consumer and Business Services.**

7       **“(2) A notification made under subsection (1) of this section must**  
8 **include the following information, if known:**

9       **“(a) The identity and address of the vulnerable person;**

10       **“(b) The identity of all persons that the qualified individual believes**  
11 **are responsible for the suspected or attempted financial exploitation;**  
12 **and**

13       **“(c) The nature and extent of the suspected or attempted financial**  
14 **exploitation.**

15       **“(3) Upon receipt of a notification under subsection (1) of this sec-**  
16 **tion, the department shall:**

17       **“(a) Immediately forward the notification to the Department of**  
18 **Human Services;**

19       **“(b) If it reasonably appears that a violation of the Oregon Securi-**  
20 **ties Law or rules adopted thereunder has occurred or is occurring,**  
21 **promptly investigate the suspected or attempted financial exploitation;**  
22 **and**

23       **“(c) If it reasonably appears that a crime has been committed or**  
24 **attempted, promptly notify a law enforcement agency.**

25       **“(4) Subsection (1) of this section does not apply to a qualified in-**  
26 **dividual who is employed by a financial institution or trust company.**

27       **“SECTION 4. (1) If a qualified individual has reasonable cause to**  
28 **believe that financial exploitation of a vulnerable person with whom**  
29 **the qualified individual comes into contact has occurred, has been at-**  
30 **tempted or is being attempted, the qualified individual may notify any**

1 third party who was previously designated by the vulnerable person to  
2 receive information from the qualified individual regarding the vul-  
3 nerable person, or whom the qualified individual is otherwise permit-  
4 ted to notify under state or federal law or customer agreement.

5 “(2) Disclosure may not be made under this section to any third  
6 party that is suspected of actual or attempted financial exploitation  
7 or other abuse of the vulnerable person.

8 **“SECTION 5. (1) A broker-dealer or state investment adviser may**  
9 **delay a disbursement from an account of a vulnerable person or an**  
10 **account on which a vulnerable person is a beneficiary if:**

11 “(a) The broker-dealer, the state investment adviser or a qualified  
12 individual reasonably believes that the requested disbursement might  
13 result in financial exploitation of a vulnerable person; and

14 “(b) The broker-dealer or state investment adviser:

15 “(A) Within two business days of the request for disbursement,  
16 provides written notification of the delay and the reason for the delay  
17 to all parties authorized to transact business on the account, except  
18 to any party that is suspected to have engaged in actual or attempted  
19 financial exploitation of the vulnerable person;

20 “(B) Within two business days of the request for disbursement, no-  
21 tifies the Department of Consumer and Business Services and the De-  
22 partment of Human Services of the delay and the reason for the delay;  
23 and

24 “(C) Conducts an internal review of the suspected financial exploi-  
25 tation and reports the results of the review to the Department of  
26 Consumer and Business Services and the Department of Human Ser-  
27 vices.

28 “(2) A delay of a disbursement under this section may not extend  
29 beyond the earlier of:

30 “(a) Fifteen business days after the date on which the broker-dealer

1 or state investment adviser first delayed disbursement of the funds;  
2 or

3 “(b) The date on which a determination is made by the broker-  
4 dealer or state investment adviser that the disbursement will not re-  
5 sult in financial exploitation of the vulnerable person.

6 “(3) Notwithstanding subsection (2) of this section, upon request of  
7 the Department of Consumer and Business Services, a delay of a dis-  
8 bursement under this section may extend beyond 15 business days af-  
9 ter the date on which the broker-dealer or state investment adviser  
10 first delayed disbursement of the funds, but not beyond the earliest  
11 of:

12 “(a) Twenty-five business days after the date on which the broker-  
13 dealer or state investment adviser first delayed disbursement of the  
14 funds;

15 “(b) The date on which an order terminating the delay is entered  
16 by a court of competent jurisdiction; or

17 “(c) The date on which the department issues an order terminating  
18 the delay.

19 “(4) The department or a broker-dealer or state investment adviser  
20 that initiated a delay of a disbursement under this section may peti-  
21 tion a court of competent jurisdiction for an order delaying or en-  
22 joining a disbursement of funds or for other protective relief on the  
23 grounds that financial exploitation of a vulnerable person is otherwise  
24 likely to occur.

25 **“SECTION 6. Qualified individuals, broker-dealers and state invest-  
26 ment advisers are not liable under state law for the following actions,  
27 if performed in good faith, with reasonable cause and with the exercise  
28 of reasonable care:**

29 **“(1) Disclosing information under section 3, 4 or 7 of this 2017 Act;**

30 **“(2) Failing to notify a vulnerable person of a disclosure of infor-**

1 **mation under section 3, 4 or 7 of this 2017 Act; or**

2 **“(3) Delaying a disbursement under section 5 of this 2017 Act.**

3 **“SECTION 7. (1) Upon request of the Department of Consumer and**  
4 **Business Services, the Department of Human Services or a law**  
5 **enforcement agency, a broker-dealer or state investment adviser shall**  
6 **provide copies of records related to any suspected financial exploita-**  
7 **tion of a vulnerable person to the requester. The records may include**  
8 **historical records if relevant to suspected financial exploitation of a**  
9 **vulnerable person.**

10 **“(2) A record made available to an agency under this section is not**  
11 **a public record for purposes of ORS 192.410 to 192.505.**

12 **“(3) Nothing in this section limits the authority of the Department**  
13 **of Consumer and Business Services to access or examine the books and**  
14 **records of broker-dealers and state investment advisers as otherwise**  
15 **provided by law.**

16 **“SECTION 8. ORS 59.991 is amended to read:**

17 **“59.991. (1) Except as provided in [subsection (3)] subsections (3) and (4)**  
18 **of this section, violation of any provision of ORS 59.005 to 59.451, 59.710 to**  
19 **59.830, 59.991 and 59.995 or any rule adopted by the Director of the Depart-**  
20 **ment of Consumer and Business Services under ORS 59.005 to 59.451, 59.710**  
21 **to 59.830, 59.991 and 59.995, except ORS 59.315 (2) or 59.810, is a Class B**  
22 **felony.**

23 **“(2) Violation of ORS 59.315 (2) or 59.810 is a Class A misdemeanor.**

24 **“(3) This section does not apply to a failure to file a notice and pay a fee**  
25 **under ORS 59.049 (1), (2) or (3), nor to a failure to file a notice and pay a**  
26 **fee pursuant to ORS 59.165 (7), nor to a failure to pay a fee pursuant to ORS**  
27 **59.175 (8), nor to a violation of any rule adopted by the director under ORS**  
28 **59.049 (1), (2) or (3), 59.165 (7) or 59.175 (8).**

29 **“(4) Notwithstanding subsection (1) of this section, violation of**  
30 **section 3 of this 2017 Act or of any rule adopted by the director for**

1 **administration of sections 2 to 7 of this 2017 Act is a Class A**  
2 **violation.”.**

3

---